



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



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

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***QUARTERLY REPORT OF THE INSPECTOR GENERAL'S OFFICE***  
***SECOND QUARTER 2011***

**JULY 2011**

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## OFFICE OF THE INSPECTOR GENERAL City of Chicago

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July 15, 2011

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

Enclosed for your review is the public report on the operations of the Office of Inspector General (IGO) during the second quarter of 2011, 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 again includes summaries of sustained IGO investigations, policy recommendations, audits and hiring compliance efforts.

This is the seventh quarterly report this office has produced under my tenure, and the first that the IGO has presented to the new Mayor and City Council. IGO investigators, auditors, and policy analysts continue to work to fully inhabit the mission and mandate of the IGO pursuant to its ordinance. Their work, summarized in this report, reflects the potential value this office holds for City government. IGO staff identifies misconduct, waste and inefficiencies, and recommends measures to better ensure that the City prevents such pitfalls in the future. This report includes recommendations that could lead to increased savings for the City by re-examining and streamlining archaic processes and procedures, fuller integrity in City government by ensuring those who flout City personnel rules are appropriately disciplined, and more effective City policy by ensuring target goals are properly measured. "Could" is the operative word in that paragraph.

The IGO's ordinance-directed role is to point out misconduct, inefficiencies, and ineffectiveness and to make *recommendations* regarding policies and practices to improve City operations. It is up to the City's elected leadership to effect the change needed to make the IGO's recommendations worth their cost. As more of these recommendations are engaged, debated and, where deemed appropriate, acted on, the better investment the IGO is for the City.

As this letter has noted in the past, the IGO, as currently configured, only has contingent independence. While the IGO can choose whom it wants to hire on its own, it cannot make its hires without approval from the Mayor's office. The IGO budget remains unprotected and, thus, vulnerable to retribution. This office still cannot directly communicate investigative information to the City's sister agencies, such as the Chicago Public Schools and its IGO, as well as many associated law enforcement agencies. The IGO's jurisdiction does not fully extend to core City functions administered by still other "sister agencies" such as the Public Building Commission and the Chicago Park District through which hundreds of millions of dollars of taxpayer money flow and are expended annually. Lastly, this office is empowered to independently issue subpoenas, but is presently engaged in a court action over whether it can enforce those subpoenas – the City's Law Department says it may not; that the IGO is *not* an independent agency, and that certain of its investigative and enforcement capacities instead are contingent

upon the discretion of the Law Department itself and where there is conflict, *the Mayor*, without recourse or review by a court, even in instances in which the Law Department and, concomitantly, the Mayor, has a conflict of interest. The new Administration recently filed a petition with the Illinois Supreme Court adopting the positions of the Daley Administration in all these respects.

A recent study by the Business and Professional People for the Public Interest (BPI) demonstrated that while the IGO's ordinance ensures a modicum of independence and effectiveness, "the office continues to face substantial limitations."<sup>1</sup> The report also notes the operational shortfalls the IGO faces described above. As noted in past quarterly reports, the concept of effective independent oversight in Chicago is still a work in progress.

What kind of IGO does the new City Council and Mayor want to have serving the City? Moreover, what kind of relationship do they want to foster with this office? Our work can serve to educate Chicago taxpayers and City employees without follow-up action from City leadership. However, without follow-up action and response from City leadership, the full value, both financially and ethically, of IGO audits, investigations, and program reviews will never be realized.

One such value that is easily misunderstood is the IGO Hiring Compliance section. While we applaud the selection of the former IGO deputy in charge of this function to lead the City's Human Resources Department, her departure and subsequent hire of two other IGO staffers further depleted the already understaffed IGO Hiring Oversight Section. It will be virtually impossible for the City to demonstrate compliance with the *Shakman* strictures without a fully resourced Hiring Compliance unit and without the structural independence in law and fact necessary to assure unimpeded investigation of all misconduct, including in the *Shakman* realm.

As always, the sustained case summaries in our report do not reveal the identities of the subjects of investigations in keeping with the IGO's ordinance-prescribed confidentiality obligation. However, each summary provides detail on 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 this quarter by the IGO for which a disciplinary response from the subject department is still pending.

Beyond the standard misconduct and discipline recommendations, this report also specifies policy and program recommendations advanced during the quarter. Some of these recommendations have been addressed by the City, while others await feedback. We will continue our efforts to engage City officials and the broader community in dialogue about suggestions for further work in order to help us continue to improve the program and policy recommendation process.

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<sup>1</sup> Business and Professional People for the Public Interest, "Inspectors General and Government Corruption: A Guide to Best Practices and an Assessment of Five Illinois Offices", May 16 2011, pg. 31, <http://www.bpichicago.org/documents/BPIIGReport2011.pdf>. BPI is also serving as pro bono counsel for the IGO in pending litigation with the City Law Department.

This 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.

The IGO remains ready and able to pursue the charges prescribed in its ordinance, and to serve as we are best able to ensure integrity in City government. We look forward to developing the professional relationships necessary for effective oversight in government with the new administration and City Council, and hope to continue to receive the feedback we need to improve our own work.

Respectfully,

A handwritten signature in blue ink, appearing to read 'J. Ferguson', with a long horizontal flourish extending to the right.

Joseph M. Ferguson  
Inspector General

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***July 15, 2011***

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This quarterly report provides an overview of the operations of the Inspector General’s Office (IGO) during the period from April 1, 2011 through June 30, 2011. The report includes statistics and narrative description of the IGO’s activity that the IGO is required to report per the City’s Municipal Code.

**A. MISSION OF THE INSPECTOR GENERAL’S OFFICE**

The mission of the IGO is to prevent and root out fraud, corruption, waste, and mismanagement, while promoting economy, efficiency, effectiveness and integrity in City government. The IGO is a watchdog for the residents of the City, and has jurisdiction to conduct inquiries into most aspects of City government.

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

**B. INVESTIGATIONS**

The IGO Investigations Section conducts both criminal and administrative investigations into the performance of governmental officers, employees, departments, functions, and programs, either in response to complaints or on the office’s own initiative.

**1. Complaints**

The IGO received 475 complaints over the preceding quarter. The following table provides detail on the actions the IGO has taken in response to these complaints.

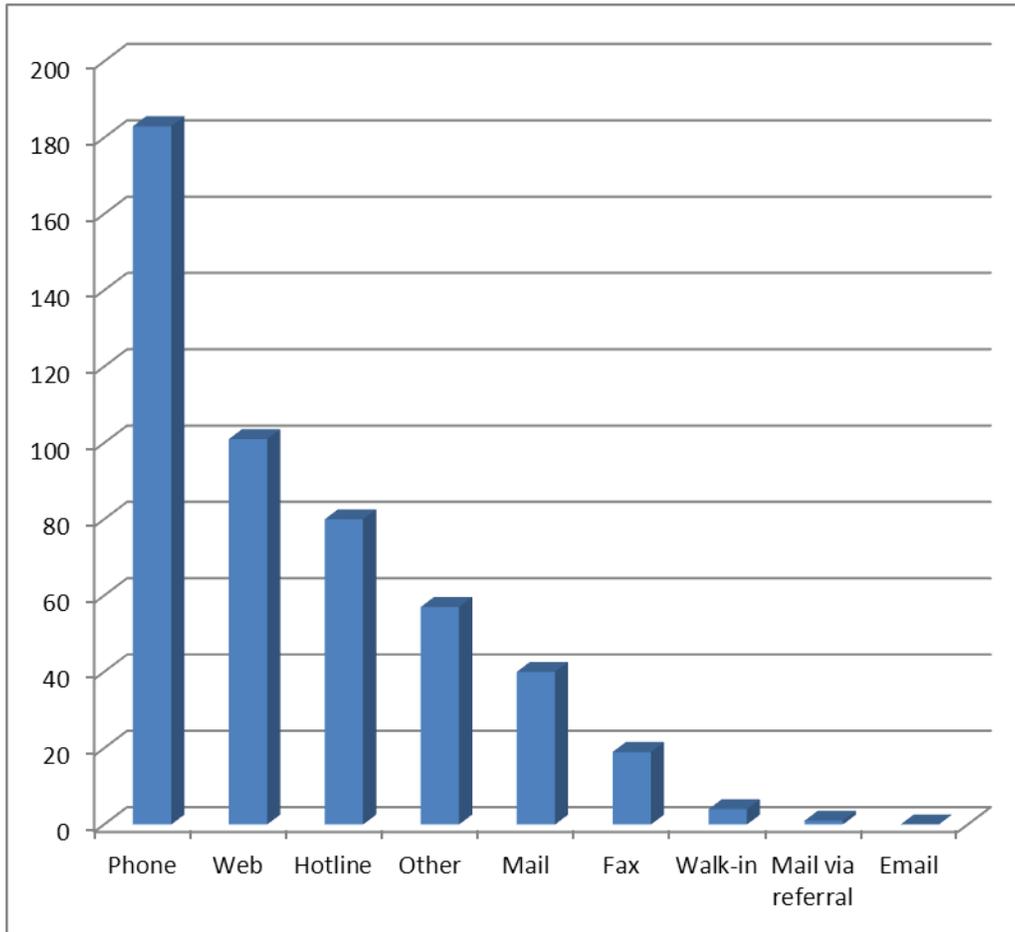
**Table #1 – Complaint Actions**

<b>Status</b>	<b>Number of Complaints</b>
Declined	370
Investigation	68
Referred	37
<b>Total</b>	<b>475</b>

As the table shows, for the vast majority of complaints, the IGO declined to investigate the allegation. The primary reason that the IGO declines a complaint is due to a lack of resources. That determination involves a form of cost/benefit evaluation by the Director of Investigations which, among other factors, gauges potential magnitude or significance of the allegations advanced in the complaint both individually and programmatically, investigative resources needed to effectively investigate the matter, and actual investigative resources presently available. More serious forms of misconduct, greater monetary losses, and significant

operational vulnerabilities suggested by the allegations receive priority. A subset of matters of lesser individual significance, but regular occurrence will also be opened. The chart below breaks down the complaints the IGO has received during the past quarter by the method in which the complaint was reported.

**Chart #1 - Complaints by Method**



**2. Newly Opened Investigations**

Over the quarter, the IGO opened 105 investigations. All were opened based on allegations of misconduct and none were based on allegations of waste or inefficiency and none were opened for other reasons. Of these opened matters, 37 were immediately referred to other departments or investigative agencies. Thus, of all the complaints received in the quarter, 68 (14%) proceeded to a full IGO investigation. Of the newly opened investigations, three were found to be not sustained before the end of the quarter, while 65 remain open. The table below categorizes the 105 matters logged by the IGO based on the subject of the investigation.

**Table #2 – Subject of Investigations**

<b>Subject of Investigations</b>	<b>Number of Investigations</b>
City Employees	93
Contractors, Subcontractors, and Persons Seeking City Contracts	8
Appointed Officials	1
Elected Officials	1
Investigations of Persons Seeking Certification of Eligibility	0
Other	2

**3. Cases Concluded in Quarter**

During the quarter, 104 investigative matters were concluded, 37 of which were the aforementioned referrals to City departments or other investigative agencies. Of the remaining concluded matters, 16 were closed as sustained and 51 were closed not sustained. A case is sustained when the preponderance of the evidence establishes that misconduct has occurred. A case is not sustained when the IGO concludes that the available evidence is insufficient to prove wrongdoing under applicable burdens of proof.

**4. Pending Investigations**

Including the investigations initiated this quarter, the IGO has a total of 269 pending investigations.

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

Under the Municipal Code, § 2-56-080 (2010), the IGO must provide quarterly statistical data on pending investigations opened for more than twelve months. Of the 269 pending investigations, 104 investigations have been open for at least twelve months. The table below shows the general reasons that these investigations are not yet concluded. The IGO has been unable to fill vacancies since last fall, and is presently operating at staffing levels approximately 25% below its 2011 budget appropriation. The office therefore will continue to struggle with clearing older cases until appropriate personnel resources are in place.

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

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

<b>Reason</b>	<b>Number of Investigations</b>
Additional complaints were added during the course of the investigation.	0
Complex investigation. May involve difficult issues or multiple subjects.	58
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.	21
On hold, in order not to interfere with another ongoing investigation.	4
Under review by the Legal Section or the Director of Investigations prior to closing.	21
<b>Total</b>	<b>104</b>

**C. SUSTAINED ADMINISTRATIVE CASES**

IGO sustained cases can either be administrative, criminal, or both. Administrative cases generally involve violations of City rules, policies or procedures and/or waste or inefficiency. For sustained administrative cases, the IGO produces summary reports<sup>1</sup> – a thorough summary and analysis of the evidence and a recommendation for disciplinary or other corrective action. These reports are sent to the Office of the Mayor, the Corporation Counsel, and the City departments affected or involved in the investigation.

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

**1. Synopses of Cases**

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

In addition to the IGO’s findings, each description includes the action taken by the department in response to the IGO’s recommendations. Departments have 30 days to respond to IGO recommendations. This response informs the IGO of what action the department intends to take. Departments must follow strict protocols, set forth in City’s Personnel Rules, Procurement Rules

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<sup>1</sup> Per *Chicago Municipal Code*, sec. 2-56-060 (American Legal 2009), “Upon conclusion of an investigation the inspector general shall issue a summary report thereon. The report shall be filed with the mayor, and may be filed with the head of each department or other agency affected by or involved in the investigation.”

and/or applicable collective bargaining agreements, prior to imposing disciplinary or corrective action. Only when this process is complete and discipline has been imposed, or corrective action taken on a City employee or contractor does the IGO consider the department to have acted.

This process can often take several weeks. In deference to the deliberative processes of City Departments and contractual rights of employees relating to discipline, the IGO waits to report on cases regarding current City employees until the subject’s department has acted on the IGO’s report. For cases in which a department has failed to respond within 30 days (or 60 days if a full extension has been granted), the response will be listed as late.

The 2 cases listed below were closed prior to the 2nd Quarter 2011, but disciplinary action had not yet been finalized by the time the 1st Quarter 2011 report was published.

IGO Case # 09-0806

An IGO investigation found that a Deputy Commissioner with the Department of Streets and Sanitation (DSS) regularly had City employees run personal errands for him while the employees were on City time. The errands included picking up cigars, refilling the Deputy Commissioner’s car with gas, and driving his vehicle from City Hall to a DSS facility. The IGO also found that the Deputy Commissioner arranged for two DSS employees to be chauffeured to work by other City employees on City time.

The IGO recommended that the Deputy Commissioner be terminated by DSS. In addition, the IGO recommended that the two DSS employees who accepted rides to work from City employees be suspended for two weeks and one week respectively. The IGO also recommended a three-day suspension and a one-day suspension for the two City employees who served as chauffeurs for the DSS employees. The IGO recommended a one-week suspension for the former DSS Assistant General Superintendent who helped arrange rides for the two DSS employees in the event he returned to City service.

The IGO further recommended that DSS consider the elimination of the “shuttle program,” which allows certain City employees to park at a City facility in the Loop and then be shuttled to City Hall by a City employee in a City vehicle.

DSS imposed a suspension of 25 days for the Deputy Commissioner, 10-day suspensions for each of the two DSS employees who were chauffeured to work, a three-day suspension for one of the City employees who operated as a chauffeur, but imposed no penalty for the other. DSS also directed that the Assistant General Superintendent be suspended for five days if he returns to City employment. Finally, DSS terminated the shuttle program.

IGO Case # 10-0866

An IGO investigation determined that a Department of Water Management (DWM) supervisor deviated from established Department of Human Resources (DHR) and DWM policies by allowing a subordinate employee to continue to work after having lost his/her driving privileges for an extended period of time due to an off-duty arrest for driving under the influence of

alcohol. The subordinate employee’s job description required that he/she possess a valid driver’s license. The supervisor also allowed the employee’s co-workers to drive him/her to and from job sites. The DWM policy in place at the time required that the employee be placed on an unpaid leave of absence until his/her driving privileges were restored.

The IGO recommended that the supervisor be suspended for two days.

DWM issued a written reprimand to the supervisor rather than the recommended two-day suspension, claiming that because the subordinate employee was hired into a job that did not require a driver’s license and was subsequently reclassified into a job title that did require one, the DHR policies were “unclear at best.”

City Departments took disciplinary action on the following 8 administrative cases the IGO sustained this quarter. They are summarized below.

IGO Case # 09-0967

An IGO investigation found that a high-ranking Office of Compliance (Compliance) employee conducted a manifestly incomplete and sub-standard investigation of another high-ranking City official’s involvement with a City employee’s “acting up” request. As a result, the Compliance employee—who later became a Deputy Commissioner in another City department—produced a factually inaccurate memo that was used as the basis for the termination of the high-ranking City official. In addition, the Compliance employee appeared to use her investigation as a pretense to recommend the City official’s firing because she thought that was the outcome her superiors desired. Moreover, the Compliance employee appeared to have a pre-existing bias against the City official she investigated and based her termination recommendation on reasons that were wholly beyond her purview and authority.

The IGO concluded that the Compliance employee was not competent to hold any position requiring her to engage in, conduct, or supervise investigations or investigative inquiries. Accordingly, the IGO recommended that the Compliance employee be removed to a position not involving any such duties, or, if no such position was available, be discharged from City employment.

DHR rejected the IGO’s discharge recommendation and, instead, allowed the former-Compliance employee to resign her position as a Deputy Commissioner. According to a review of City personnel records, the former-Compliance employee’s “Termination Reason” is listed as “Resignation Change of Administration.” The IGO disagrees with the manner in which this resignation was coded.

IGO Case # 09-1556

An IGO investigation determined that Company A, a City vendor under contract with the Chicago Department of Aviation (CDA) and currently under a Deferred Debarment Agreement relating to prior violations of the City Procurement Code, claimed over \$7 Million of credit for utilizing Company B, a City-certified Minority Business Enterprise (MBE), while Company A

controlled nearly all aspects of Company B. The investigation determined that Company B was not a viable and independent business entity whose president did not control the managerial and operational aspects of Company B without substantial reliance on Company A. The investigation also determined that the president of Company A knew that Company B was not an independent business and that Company A controlled many aspects of Company B's operations. In addition, the IGO learned that Company A failed to conduct or require contractually-required background checks of its subcontractors' employees.

The IGO recommended that Compliance decertify Company B and recalculate the actual MBE credit for Company A. The IGO also recommended that the Department of Procurement Services (DPS) permanently debar both Company A and its principal, and Company B and its principal, from doing business with the City. In addition, the IGO recommended that DPS initiate proceedings to recover 24% of the payments made to Company A (more than \$7 Million), which represent the charges attributed to Company B which were claimed as qualifying for MBE credit, despite Company A's knowledge that payments were merely passed-through to Company B.

Compliance sent Company B a preliminary decertification letter as well as a letter proposing its removal from the Disadvantaged Business Enterprise (DBE) program.

DPS issued a Notice of Proposed Debarment to Company A and its principal both for violations of City Procurement rules as well as for violations of the terms of the Deferred Debarment Agreement entered in 2007. DPS issued a Notice of Proposed Debarment (permanent) to Company B and its principal.

#### IGO Case #09-1584

An IGO investigation determined that the City's Minority and Women Owned Business Enterprise program (MWBE) reporting requirements—through the Certification and Compliance (C2) system as well as the traditional MWBE Status Reports and MWBE Utilization Reports—failed to collect key data necessary to ensure accurate MWBE participation figures. As a result, the reported MWBE participation on a City contract with Company A was overstated. In initial documents submitted to the City, Company A reported that its subcontract with a certified MBE subcontractor, Company B, could be counted in its entirety as MWBE participation. In later documents submitted to the City, however, Company B reported that it had subcontracted with several non-MWBE second-tier subcontractors. The MWBE Utilization Reports submitted by Company A throughout the contract term did not reflect Company B's use of these non-MWBE second and lower-tier subcontractors or Company B's reduced MWBE participation. The investigation further established that during the pre-award MWBE compliance review and throughout the performance of the contract, DPS failed to identify or question two potential red flags in Company A's proposed compliance plan. At the outset, DPS failed to question Company A about Company B's claim that 100% of its approximately \$5 million subcontract would be further subcontracted to other MWBE firms. And later, DPS failed to question Company B's use of more than 20 lower-tier subcontractors or how its approximately \$2 million contract extension would affect Company A's compliance plan.

The IGO recommended that Compliance conduct an independent evaluation and adjust the actual MWBE participation for the contract. The IGO recommended that Compliance revise its reporting requirements for prime contractors in order to collect additional data regarding second and lower-tier subcontractors used by MWBE firms. The IGO further recommended that user departments, responsible for the day-to-day management of the contract, become more actively involved in monitoring compliance to identify obvious inconsistencies between a contractor’s MWBE reporting and what occurs on-site. Finally, the IGO recommended that DPS, through the Deputy Procurement Officer or Contracts Negotiators, provide a more thorough scrutiny of proposed compliance plans during the pre-award compliance review, as well as the contract term, to effectively respond to red flags and determine whether a given compliance plan is truly viable.

In May 2011, Compliance responded that it agreed with the IGO’s report and was taking steps to implement the IGO’s recommendations. With respect to the contract at issue, Compliance stated that it agreed with the IGO’s preliminary calculations of actual MWBE credit and would inform DPS of the need to adjust the participation credit. Compliance reported that it was in discussions with DPS concerning how to best gather information regarding a vendor’s use of second and lower-tier subcontractors. Compliance further reported that in response to the IGO’s recommendations and those made in the IGO’s May 2010 Review of the Minority and Woman-Owned Business Enterprise Program, Compliance had taken the following actions:

- Invited contract administrators from user departments to a training and overview of C2 in March 2011;
- Requested every user department which attended the training to review its contracts in C2 and provide data updates to Compliance to increase the accuracy of data in C2;
- Activated a new feature in C2 to allow general/prime contractors to report any new subcontractors or firms participating on their contracts;
- Began drafting a “commercial useful function” guide to be distributed at all pre-construction meetings for contractors and resident engineers; and
- Requested the development of two new enhancements for C2: (1) A disclosure statement every user would complete upon logging into C2 and/or completing a transaction in C2, informing the user of the applicability of the City of Chicago false statement ordinance; and (2) a subcontractor audit response notification, requiring all subcontractors to report the amount paid to them, the scope of work completed, and if any of the work was subcontracted to another firm.

Shortly after Compliance provided this response, the contract compliance function was transferred to DPS. In June 2011, DPS responded that it agreed with the IGO’s report, and, as in its response to IGO Case #10-1402, DPS reported that with the IGO’s assistance, DPS will develop a comprehensive training program for all compliance and certification staff to train staff in spotting common signs of fraud and differentiating between viable and non-viable proposed compliance plans. After implementation of the training program, DPS will require Contracts Negotiators to review and sign-off on all initial compliance plans. DPS will also require all DPS staff to attend the comprehensive certification and compliance training jointly administered by DPS and the IGO.

IGO Case # 10-0614

An IGO investigation revealed that a former, long-time City employee, now working at as a high-ranking official of an active City vendor, testified in federal court that he/she had participated in a long-running scheme to rig the City’s hiring and promotion process for *Shakman*-covered positions in favor of political allies. As part of the scheme, the former City employee falsified interview ratings forms and requests to hire, and repeatedly stated that hiring and promotion decisions were based on merit, when in fact he knew they were based on political considerations.

The IGO recommended to DPS that the former City employee be found ineligible to do business with the City under Chicago Ordinance 1-23.

DPS declined, finding that the conduct to which the former employee admitted did not constitute a criminal offense.

The IGO disagrees and is taking steps to seek a further review of this matter.

IGO Case # 10-0941

The IGO investigated MWBE participation on Public Building Commission (PBC) administered construction projects.

Despite the PBC’s failure to allow the IGO access to complete records of City funded construction projects, the IGO reviewed 15 PBC projects either fully or substantially completed in 2009 to calculate actual MWBE utilization and compare it with MWBE participation statistics reported by the PBC. Using project lien waivers to calculate amounts actually paid to legitimate MWBE subcontractors, the IGO found that actual MBE participation on these 15 projects was 39 percent less and WBE participation was 3 percent less than what the PBC publicly reported.

The IGO’s report also made two recommendations. First, the IGO recommended that the Mayor, as the head of the PBC, direct the PBC to comply with future IGO document and information requests on City-funded projects as it is statutorily and contractually obligated to do. Second, the PBC should more diligently monitor MWBE compliance in order to ensure the program properly accounts for efforts to foster economic opportunity for historically disadvantaged minority and women owned businesses in Chicago.

IGO Case # 10-1233

The IGO determined that a Department of Finance employee resided in a south suburb in violation of the City’s employee residency requirement. During the interview of the employee, the employee admitted that he/she did not reside in the City and to knowingly violating the residency requirement. The employee resigned from City employment shortly after the IGO issued its findings to the Department of Finance.

The IGO recommended that the employee be placed on the City’s ineligible for hire list.

IGO Case # 10-1613

An IGO investigation determined that an applicant to the City's Tax Increment Financing (TIF) program forged two letters purportedly from major lending institutions and submitted those letters to the City in an attempt to fraudulently obtain \$1 million in TIF funding for a not-for-profit corporation. The application was ultimately rejected by the Department of Housing and Economic Development (DHED), and the applicant received no City funds. The investigation also determined that contrary to existing City policy, DHED employees reported the attempted fraud to the Department of Law (DOL) but did not directly report the matter to the IGO. A DHED employee stated that he was not aware of the duty-to-report policy. In addition, immediately after being informed of the matter, the IGO contacted DHED staff and suggested particular investigative techniques designed to gather the necessary evidence of the attempted fraud in a manner that would leave open the potential for criminal prosecution. DHED staff initially agreed but changed their minds at the last second, effectively eliminating the possibility that the matter could be pursued criminally.

The IGO recommended that DPS permanently debar the individual and the not-for-profit corporation from future City business and referred the matter to DOL to determine whether to pursue an enforcement action for violations of the City's false statements and/or false claims ordinances. The IGO also recommended that DHED issue to all department employees a formal communication of their responsibility to directly report "wrongdoing," including corrupt or potentially criminal activity to the IGO as well as their duty to cooperate with the IGO in any IGO investigation per City of Chicago Executive Order 2005-2; M.C.C. § 2-56-090.

DPS has initiated the process to permanently debar the individual and the not-for-profit corporation. DHED responded by noting that staff promptly reported the attempted fraud to DOL, which in turn reported to the IGO. DHED also issued a memorandum reminding all DHED staff of the duty-to-report policy and reported that it would review the policy at an all-staff meeting and will repeat such reviews at least annually.

IGO Case # 11-0225

An IGO investigation determined that a high level manager with the Department of Cultural Affairs and Special Events (DCASE) refused to answer questions posed to him/her as part of an IGO investigation relating to an inquiry into a serious crime, despite repeated advisements that, as a City employee, he/she had a duty to cooperate with the IGO. The DCASE manager resigned his/her City position approximately two weeks following his/her interview with the IGO and days ahead of the IGO's summary report to DCASE.

If the DCASE manager had not resigned, the IGO would have recommended that he/she be terminated. Since he/she is no longer a City employee, the IGO recommended that he/she be placed on the City's ineligible for hire list.

## 2. Policy Recommendations arising from IGO Investigations

One of the functions of the IGO is to recommend “to the mayor and the city council policies and methods for the elimination of inefficiencies and waste, and the prevention of misconduct.”<sup>2</sup> If IGO investigations reveal misconduct that is not being addressed by a City policy or procedure, the IGO recommends policy changes to the Mayor and the relevant department either in the summary reports that detail the investigation or in separate policy-focused reports. In addition to the previously summarized ten cases, there were three sustained cases that produced policy recommendations, as follows:

### IGO Case # 08-0721

Last quarter, the IGO completed an investigation which discovered that certain City vendors were providing communications devices to City employees in order to facilitate the delivery of services required of them under contract. The vendors stated that they needed to provide them because the inspectors did not have City-assigned communications devices, and their work responsibilities included field work which took them away from offices with telephones.

The IGO recommended that the City provide communications devices to employees who require them for their work.

The IGO has not received any response to date. This was not reported in the Q1 report.

### IGO Case #09-1562

The IGO released a report on June 21, 2011, concluding a review of all overtime and holiday premium payments to “exempt” members of the Chicago Fire Department (CFD) who are not covered by the Chicago Fire Fighters Union Local 2 Agreement with the City of Chicago. The IGO’s review of all such payments made from 2005 through 2010 revealed that of the 44 exempt titles within the department, the CFD pays deputy district chiefs (DDCs) and assistant deputy chief paramedics (ADCPs) overtime and holiday premium payments and, for much of the past 6 years, has paid 1.5 overtime to an additional 5 titles within the personnel and internal affairs departments. Collectively, these payments have dramatically risen since 2006 and have remained at significantly high levels for the past 4 years. Moreover, for each of the past six years, the collective payment of overtime and holiday premium pay to employees bearing those seven exempt titles negated all furlough savings for those employees.

Most troubling, however, was the fact that the CFD paid and continues to pay overtime and holiday premiums, along with other cash benefits guaranteed by the Local 2 Agreement, to a significant number of employees not entitled to such benefits under the contract. Although the CFD does not authorize overtime or holiday premiums for the vast majority of its exempt titles, the department has provided these benefits to seven non-union titles—most significantly to DDCs and ADCPs—at its discretion and at a significant expense to taxpayers. The IGO views the payment of these benefits to salaried, mostly high-ranking, supervisory/managerial employees as unnecessary and a substantial drain on limited public resources.

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

The IGO strongly recommended these payments be discontinued. Regardless of whether the CFD discontinues these discretionary benefits or chooses to continue these payments, the IGO recommended that the CFD draft a written policy, similar to the Chicago Police Department directives, clearly and expressly detailing the compensation provided to exempt CFD members. Such a policy would ensure consistent and transparent application of the department's compensation for exempts. Finally, the IGO recommended that the CFD conduct an analysis to determine how the large increase in cash overtime and holiday premium payments can be curtailed or altogether eliminated, while maintaining operationally-necessary staffing.

The report followed the IGO's preliminary review in June 2010 of all overtime and holiday premium payments to exempt CFD employees for the years 2008, 2009, and the first quarter of 2010. Based on the initial findings, the IGO provided a number of recommendations to the CFD for ways to address what in early 2010 appeared to be an unabated increase in overtime and holiday premium costs for exempt members. In March 2011, the CFD accepted the IGO's invitation to provide an update and further response to these recommendations, noting that the department had conducted a global audit of overtime costs and begun reviewing ways to reduce overtime for internal affairs investigators. The CFD also noted several areas of disagreement.

The IGO appreciates the dialog that has ensued and commends the CFD's initial efforts to address rising overtime costs as well as the department's stated desire for help and support to become better fiduciaries of public resources. However, the IGO notes that CFD has not yet fully accomplished the goal of ameliorating these problems.

#### IGO Case #10-1402

An IGO investigation determined that the MWBE compliance plan for a City contract was premised upon the use of MWBE certified insurance brokers who were incorrectly receiving MWBE credit for premium payments on insurance policies placed with larger, non-certified insurance companies. As a result, the reported MWBE participation on the contract was overstated. The investigation uncovered no affirmative misconduct and established that the vendor made a good faith effort to comply with the City's MWBE program and fully disclosed the nature of the payments for which it was claiming MWBE credit. The City's MWBE program, however, as managed by both DPS and the Office of Compliance, failed to provide clear guidance regarding the use of MWBE brokers of professional services, failed to conduct a meaningful review of the proposed compliance plan during contract negotiations, and failed to catch the obvious discrepancy reported in Utilization Reports after the contract began.

The IGO recommended that DPS and Compliance recalculate and adjust the MWBE participation counted toward the contractual goals to include only the commissions paid to the MWBE brokers, and, if necessary, renegotiate the compliance plan for the contract. Additionally, the IGO recommended that DPS revise the City's MWBE Broker Policy to clarify the broker regulations with respect to professional-service brokers. The IGO recommended that DPS consider requiring prime contractors and subcontractors to disclose the nature of the anticipated participation and the value of that participation by the certified firm. The IGO further recommended that DPS, through the Deputy Procurement Officer or Contracts Negotiators,

provide a more thorough scrutiny of proposed compliance plans during the pre-award compliance review to determine whether a given compliance plan is truly viable and further consider requiring DPS Contracts Negotiators, who have a better knowledge of the contract and are better able to assess the feasibility of a proposed compliance plan, to review and sign-off on all initial compliance plans. Finally, the IGO recommended that Compliance make the necessary adjustments to ensure that all City contracts are immediately activated in the C2 system to permit more meaningful monitoring of MWBE compliance.

In May 2011, Compliance responded that it agreed with the IGO's report and was working with DPS to either adjust the compliance goals of the contract as issue or adjust the MWBE participation on the contract to reflect realistic participation amounts. Compliance also agreed that all vendors subcontracting with MWBE professional-service brokerage firms should be reviewed to ensure the actual level of MWBE participation is accurately reflected but noted the review may take several months to complete. Compliance further pledged to develop a method to educate all professional-service brokers on what payments may be counted for MWBE participation. Finally, Compliance reported that it had activated all City contracts with completed compliance plans in the C2 system. Shortly after Compliance's response, all contract compliance functions were transferred to DPS.

In June 2011, DPS responded that it also agreed with the IGO's recommendations and reported that it would seek to clarify the broker policy with respect to brokers of professional services. DPS stated that it was in discussions with Legislative Counsel and Government Affairs (LCGA) regarding changes to the status of brokers in the City's MWBE programs, noting that as currently written, the City ordinance prohibits the participation of brokers in the City's MWBE programs. After these discussions, DPS will work to ensure that professional-service brokers are educated as to which payments may be counted for MWBE participation. DPS also revised the MWBE reporting requirements to include subcontracting to non-MWBE firms and to require an MWBE subcontractor to detail the scope of work for the project and how it will perform a commercially useful function. DPS reported that, with the IGO's assistance, DPS will develop a comprehensive training program for all compliance and certification staff to better spot common signs of fraud and to differentiate between viable and non-viable compliance plans. All DPS staff will be required to attend this training. After the training program is implemented, DPS will require Contracts Negotiators to review and sign off on all initial compliance plans. DPS will work to activate all contracts in the C2 system and will roll out a schedule for additional C2 training for vendors. With respect to the particular contract at issue, DPS responded that it would recalculate and adjust the MWBE participation and renegotiate the compliance plan for the contract.

### **3. Disciplinary and Other Corrective Action Recommendations**

In the 13 sustained cases described above, the IGO made 28 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
<b><i>Employee Discipline</i></b>	
Reprimand	0
Suspension less than or equal to 10 days	5
Suspension 11 to 29 days	1
Suspension equal to 30 days	0
Suspension over 30 days	0
Termination	2
<b><i>Other Corrective Action</i></b>	
Debar	6
Do not (re)hire	1
Other	13
Cost Recovery	0
<b>Total</b>	<b>28</b>

(A) *Departmental Action*<sup>3</sup>

Of the 28 recommendations contained in this quarter’s 13 summary reports:

- In 19 instances, departments imposed the same discipline/corrective action recommended by the IGO.
- In 6 instances, a department imposed less discipline/corrective action than the IGO recommended.
- In 1 instance, a department imposed more discipline/corrective action than the IGO recommended.
- In 2 instances, subjects of the investigation resigned during the inquiry.

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

(B) *Results of Appeals or Grievances*

Under the City’s Personnel Rules and/or applicable collective bargaining agreements a City employee may be entitled to appeal or grieve a departmental disciplinary action, depending on the type of corrective action taken and the employee’s classification. The IGO monitors the results of administrative appeals before the Human Resources Board (HRB)<sup>4</sup> and grievance arbitrations concerning our disciplinary recommendations.

<sup>3</sup> This data is as of April 14, 2010.

<sup>4</sup> HRB definition: A “three-member board is appointed by the Mayor and is charged with the responsibility of conducting hearings and rendering decisions in instances of alleged misconduct by career service employees. The Board also presides over appeal hearings brought about by disciplinary action taken against employees by individual city departments.”

City of Chicago. Department of Human Resources – Structure.

[http://www.cityofchicago.org/city/en/depts/dhr/auto\\_generated/dhr\\_our\\_structure.html](http://www.cityofchicago.org/city/en/depts/dhr/auto_generated/dhr_our_structure.html) (accessed April 13, 2010)

To date, none of the subjects involved in the 12 investigations that were summarized in this report have appealed his/her discipline to the HRB, and no hearings have been set.

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

**D. CRIMINAL CASES**

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

**1. Synopses of Cases**

One of the IGO cases concluded this quarter produced criminal charges and is discussed below.

*(A) IGO Case #06-0253*

A joint IGO, FBI, Cook County State’s Attorney’s Office, and U.S. Attorney’s Office investigation led to the indictment of four defendants on mail fraud charges for their roles in a sham minority cable installation business called ICS Cable, Inc. (ICS) that obtained \$8.3 million from a City cable television provider. The defendants include: (i) Guy Potter, 64, of Versailles, Ky and (ii) Matthew Giovenco, 41, of Grayslake, Il, two non-minority operators who controlled the cable installation business, (iii) Jerone Brown, 30, of Chicago, who served as the minority “front” or purported minority owner of ICS, and (iv) Cheronne Mayes, 49, a retired City of Chicago employee who paid a \$500 bribe to another City employee to expedite the minority-owned business certification for ICS, which enabled it to obtain City-mandated minority sub-contracts from the cable provider. The indictment also includes forfeiture allegations against Potter and Giovenco totaling \$2.2 million in criminally-derived property.<sup>5</sup>

In addition, a fifth defendant, Leon Moore, 41, a former City employee, was charged separately by information with lying to the FBI about whether he accepted a bribe for expediting the minority-owned business certification.

**2. Developments in Prior Criminal Cases**

During the quarter, there were resolutions in several of the IGO’s prior criminal investigations.

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<sup>5</sup> An investigative agency involved in the investigation and prosecution of a matter resulting in a forfeiture judgment are generally eligible for an equitable share of the proceeds recovered, *provided* that the investigative agency is designated as a law enforcement agency. Until the IGO receives such designation, the City will be unable to collect from this potentially significant revenue stream.

(A) *Former Refuse Container Repair Company President & VP Found Guilty in Scheme to Defraud City of Chicago*

A former president and vice president of a refuse container repair company were sentenced for their roles in a conspiracy to commit mail and wire fraud in connection with bids on a contract with the City.

Douglas E. Ritter, the former president of Urban Services of America, was sentenced to serve 16 months in prison and pay \$35,303 in restitution for his participation in a conspiracy to defraud the City on a contract for the repair of refuse carts.

Steven Fenzl, the former company vice president, was also sentenced to serve 16 months in prison. Fenzl was also ordered to pay a \$40,000 criminal fine and \$35,302 in restitution for his participation in the scheme.

In 2005, Fenzl and Ritter conspired 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.

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.

(B) *Crooked Code Update*

Two people were sentenced for their role in Operation Crooked Code this quarter. Operation Crooked Code involved extensive cooperation between the IGO, U.S. Postal Inspection Service (USPIS), the Federal Bureau of Investigation (FBI), and the U.S. Attorney's Office. To date, there have been twenty one individuals convicted under Operation Crooked Code, fifteen of whom were current or former City employees.

a. *Vasile Fofiu*

Vasile Fofiu, a plumber who once worked for fellow defendant Beny Garneata, was charged with bribery for his role in Operation Crooked Code. On April 1, 2011, he entered into a pre-trial diversion agreement for a one year period. If he complies with the conditions of the agreement, the U.S. Attorney's Office will dismiss the indictment.

*b. Teofil Scorte*

Teofil Scorte, a contractor also charged with bribery, pled guilty in 2009. On April 29, 2011, he was sentenced to two years' probation, fined \$5,000, assessed a \$100 special fee, and will be required to perform 150 hours of community service.

**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.<sup>6</sup>

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

On April 21, 2011, then Mayor-elect Rahm Emanuel announced his nomination of Deputy Inspector General Soo Choi as the Commissioner for the City's Department of Human Resources (DHR). Ms. Choi was confirmed by the City Council on June 8, 2011. Ms. Choi had served the IGO and the public well in leading the formation of the IGO's Hiring Oversight section, and is bringing to her new position direct knowledge of the legal, structural, and operational problems in the City's employment system. Soon after her appointment, Commissioner Choi hired IGO Associate Compliance Officer Christopher Owen as her First Deputy Commissioner, and IGO Associate Compliance Officer Rebecca Strisko as her Deputy Commissioner over Employment Services.

The IGO office will continue to provide stringent oversight of the City's hiring processes to ensure the City complies with the *Shakman* Decrees. Robust oversight, however, is currently compromised by two serious impediments. The first is serious understaffing in the IGO Hiring Oversight Section. The IGO committed to performing these functions with fewer resources than had been allocated to them prior to their transfer to the IGO. But during the 15 months existence of the Section, the City has never permitted the IGO to fully staff the unit even as authorized by its budget. This unit currently is made up of just two Assistant Compliance Officers, meaning that the unit operates at only 33% of its allocated staffing. An Assistant Inspector General has been partly diverted from investigations to undertake certain responsibilities of the vacated deputy position previously held by Commissioner Choi. In full recognition of the City's overall fiscal situation, about which the IGO has provided extensive analysis and recommendations in the past year, the IG proposed a reconfiguration of the Hiring Oversight Section that would permit it to meet its statutory mandate in a manner that would save the City additional money against the Section's 2011 budget authorization. The proposal was not accepted and was

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<sup>6</sup> See *Chicago Municipal Code*, sec. 2-56-035

deferred. The effect is an underfunded mandate. While IGO Hiring Oversight will continue to provide rigorous oversight, additional resources are essential in order to provide the oversight required to ensure compliance with the law and protocols required under the *Shakman* Accord.

The second impediment is the continuing legal dispute regarding IGO access to information and documents in the possession of the City's Law Department. In April, the Illinois Appellate Court issued a ruling recognizing the IGO's ability to hire a private attorney to seek judicial enforcement of a subpoena served on the Corporation Counsel. *Ferguson v. Georges*, --- N.E.2d ---, 2011 WL 1679847 (Ill. App. 1st Dist. April 29, 2011). The Appellate Court remanded the case to the Circuit Court of Cook County for further litigation regarding the Corporation Counsel's refusal to provide materials related to an official IGO investigation into possible misconduct in the awarding of a sole source contract whose performance implicated potential violations of the *Shakman* Accord. The new Administration has filed a petition for leave to appeal the matter, to the Illinois Supreme Court (Petition No. 112488). In so doing, the new Administration has adopted wholesale the position of the prior Administration in asserting that the IGO (1) is not a legally independent agency; (2) that the IGO's authority to enforce its subpoenas is subordinate to the authority and decisions of the Law Department, even when the Law Department has a direct legal conflict of interest in the matter; and (3) that there should be no IGO recourse to the courts to resolve such enforcement and legal conflict issues, which instead must be resolved by the sole discretion of the Mayor.

Part of the IGO's statutory directive respecting *Shakman* is the vigorous independent and unimpeded investigation of possible *Shakman* violations. As demonstrated by the ongoing litigation, the City (1) does not regard the IGO as independent, but rather as subordinate and the exercise of certain of its authority contingent to the discretion of the Law Department and the Mayor and; (2) remains unwilling to provide the IGO access to all materials relevant to these (and other) investigations despite unqualified statutory language directing as "the express duty of every officer, employee, department, [and] agency . . . of the City, to cooperate with the inspector general in any investigation or hearing . . . [and that] [e]ach department's premises, equipment, personnel, books, records and papers shall be made available as soon as practicable to the inspector general." Municipal Code of Chicago § 2-56-090. Until the IGO is given the full unfettered access to investigative materials that contemplated by its establishing ordinance, its vigorous oversight of *Shakman* violations will be handicapped.

#### QUARTERLY REPORTING OF HIRING OVERSIGHT DATA

On June 24, 2011, the City of Chicago filed a new General Hiring Plan ("New Plan"), a result of lengthy negotiations between the parties in the *Shakman* case and the Federal Court Appointed Monitor ("Monitor's Office"). The New 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. IGO Hiring Oversight, which is not a party, played a facilitative role in the negotiations between the litigants. Negotiations are still ongoing for the Chicago Fire Department Hiring Plan and the Chicago Police Department Hiring Plan.

Under both the old and the new City of Chicago General 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. While the New Plan is already in effect at this time, and IGO Hiring Oversight is monitoring according to this New Plan, this quarterly report will summarize the past quarter's reviews and audits as per the former Hiring Plan, which was in effect for the majority of the second quarter of 2011. This report will also provide additional information on IGO Hiring Oversight's recent work.

*Quarterly Data as required under Section XIII.F of the (Former) Hiring Plan:*

*a. Review of all instances where hiring departments engaged in prohibited contact, as defined in Section II.8, with the Department of Human Resources ("DHR") for the purpose of discussing individual actual or potential applicants or bidders for any non-Exempt position.*

In the past quarter, we received six reports of direct departmental contact from DHR. Four reports did not constitute departmental contacts, as the departments simply forwarded information received from an outside entity out of an abundance of caution. Another report involved a department asking for an explanation of the scoring for Part III of a Foreman hiring process, and it did not involve discussion regarding specific individual applicants. The remaining report involved an inquiry regarding a specific applicant. The department inquired as to why a particular applicant was included on a referral list and expressed the belief that the applicant did not meet the minimum qualifications. DHR confirmed that the applicant was minimally qualified for the position and conveyed the information to the department.

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

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

Referral lists: We are currently reviewing all candidate and bidder lists. In the past quarter, we reviewed 67 lists and provided commentary to DHR whenever potential issues arose. Of the 67 referral lists reviewed in the past quarter, 12 contained errors. Eleven of the errors occurred in the area of candidate assessment. We recognize that aspects of candidate assessment can be subjective and that there can be a difference of opinion in the evaluation of a candidate's qualifications. Therefore, our designation of "errors" is limited to cases in which applicants who, based on the information they provided (1) did not quantitatively meet the minimum qualifications and were referred; (2) failed to provide all of the required information and/or documents listed on the job posting and were referred; or (3) quantitatively did meet the minimum qualifications and were not referred. We have provided the details regarding these errors to DHR management so that they can address these mistakes with their staff, and we will be tracking DHR's progress. The twelfth error was due to an inaccuracy in the job posting for

the position, where the minimum qualifications did not match the current job specification for the position.

Test administration and scoring: In the past quarter, we have moved from reviewing all tests developed by DHR to an “audit model” for monitoring tests. We receive prompt notification from DHR regarding approvals of new tests, proposed changes to existing tests, and the dates of testing administrations. In our audit of tests developed in the past quarter, we did not observe any problems. We will continue reviewing a sampling of test administrations in the next quarter.

Overall hiring/promotion decisions: IGO Hiring Oversight is currently reviewing the majority of “hiring packets” from DHR, which are supposed to contain all of the documents in the hiring process, including all documents and notes maintained by individuals involved in the selection process. In the past quarter, we reviewed 73 hire packets. Of the 73 hire packets reviewed, 15 contained at least one error. These errors included missing or invalid documentation (for example, an expired driver’s license), missing Hire Certifications, and in one instance, the 12 month time limit for the referral list had lapsed, and the packet did not contain an extension from the DHR Commissioner (applications are valid for one year from the expiration date of the job posting and cannot be used after that unless approved by the DHR Commissioner). As with the referral list errors, we have provided detailed information to DHR management so that they may address these errors, and we will track DHR’s progress in reducing these mistakes.

*c. Review of any justification memos or written rationale memos as described in Section X.B.10 where no consensus selection was reached during the Consensus Meeting.*

Consensus selections were reached during all Consensus Meetings that occurred during this 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.*

We are currently reviewing most hiring sequences and have worked directly with DHR staff and management to address errors when they arise. In addition to reviewing hiring sequences, we monitored the interviews for a position filled under the Law Department Hire Process and did not observe any issues.

During the interview monitoring and hiring sequence review, occasionally issues arise that compel IGO Hiring Oversight to recommend the suspension of a hire sequence. Below, we have provided an update to a BACP hire sequence suspended last quarter and report on a DWM hire sequence suspension:

BACP Hiring Sequence Suspension Update: Last quarter IGO Hiring Oversight suspended the hire sequence for a position with the Department of Business Affairs and Consumer Protection (“BACP”) after monitoring the interviews and consensus meeting for the position. We suspended the hire sequence due to serious concerns regarding possible favoritism toward an internal candidate. We issued a memorandum to DHR recommending that BACP redo the interview

sequence with two different interviewers. BACP agreed to our recommendation and re-interviewed the referred candidates using two new interviewers.

DWM Hiring Sequence Suspension: IGO Hiring Oversight recommended the suspension of a hire sequence for a position in the Department of Water Management (“DWM”) after it was reported that one of the interviewers did not disclose a possible conflict of interest regarding the interviewer’s relationship with one of the candidates. We relayed our concerns to DHR, and they have ordered DWM to redo portions of the testing sequence using new interviewers. DHR is currently working with DWM to redo these steps. We will provide an update in our next quarterly report.

*Quarterly Data as Required under Section XIII.H of the (Former) Hiring Plan:*

*a. Compliance with the Court-approved Exempt List.*

IGO Hiring Oversight conducted an annual audit of the Exempt List in the first quarter of 2011, the results of which are reported in in the IGO’s 1<sup>st</sup> Quarter 2011 Report . The Exempt List was last updated in April 2011 and is on DHR’s website. Because of the new administration taking office in May 2011, there have been numerous changes in the individuals holding these positions. As a consequence of this large turnover, we will conduct an additional audit of the Exempt List in the 4th Quarter of 2011 to ensure it has been properly maintained.

*b. Compliance with the Court-approved Acting-Up Policy.*

As part of the transition from the Former Hiring Plan to the New Hiring Plan, IGO Hiring Oversight no longer administers the City’s Acting-Up Policy. The function of administration of the Acting-Up Policy has now moved to DHR. Under this new structure, IGO Hiring Oversight provides oversight functions for acting up, including reviewing all waiver requests processed by DHR. 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. In April 2011, prior to the May 2011 change in administration, IGO Hiring Oversight approved one waiver request for an individual to act up into the title of Equipment Dispatcher in Charge in the Department of Fleet Management. After the May 2011 change in administration, IGO Hiring Oversight has reviewed one waiver request that was granted by DHR, a request for an individual to act up into the title of General Foreman of Painters.

IGO Hiring Oversight will continue to conduct audits to review the City’s compliance with Acting-Up and any implementing procedures.

*c. Compliance with the Court-approved Senior Manager Hiring Process.*

Of the 73 hire packets that IGO Hiring Oversight reviewed this past quarter, seven were for Senior Manager positions. One packet contained an error, which was due to missing documentation. This did not constitute a hiring violation. In addition, during the Senior Manager hiring sequence review, occasionally issues arise that compel IGO Hiring Oversight to

recommend the suspension of a hire sequence. Below we provide detail on a Senior Manager hire that was halted and provide an update on issues involving Senior Manager hiring sequences described in a previous report:

**Finance Department Selected Candidate Disqualification:** After IGO Hiring Oversight raised concerns about a City employee who was selected to fill a senior management position in the Department of Finance (Finance), DHR stopped the hire sequence and disqualified the selected employee after finding the employee was not minimally qualified for the position and should not have been eligible for an interview. Upon receiving the hire packet for this position, IGO Hiring Oversight compared the selected employee's resume against the City's personnel files and determined that the employee's resume misrepresented the candidate's experience with the City in order to appear to meet the position's minimum qualifications for job experience. As a result of this suspended hire sequence, DHR has indicated that it will have a process going forward of reviewing current and previous employees' personnel records before they are hired into new positions.

**CDPH Hire Sequence Suspension Update:** As stated in the IGO's April 14, 2011, quarterly report, IGO Hiring Oversight suspended a Senior Manager hiring sequence for a position in the Chicago Department of Public Health ("CDPH"). We suspended the sequence due to concerns with the position being misclassified. Under the Senior Manager Process, hiring departments may revise the minimum qualifications of the position upward, meaning that they can require additional education, training or experience. With this sequence, the changes made caused us to question whether the position would be performing the functions of the job title. In addition, the revised minimum qualifications seemed overly restrictive and resulted in a referral list of only two candidates, and it was not clear that one of those candidates met the revised minimum qualifications.

We issued a memorandum to DHR recommending that their Classification Division review the position to determine whether the title and minimum qualifications are appropriate. After reviewing the position, DHR reclassified the position and is in the process of creating a new job posting to fill it.

**DWM Hire Sequence Suspension Update:** As stated in the IGO's April 14, 2011, quarterly report, we suspended a Senior Manager hiring sequence for a position in the Department of Water Management ("DWM"). When DHR submitted the packet to our office for review, we noted several concerns with the hire sequence. The most notable issue we identified with this sequence was that the granting of second interviews and the final hiring decision did not seem to be based on the candidates' performance during the hire process. A representative from the Monitor's Office attended the interviews and echoed similar concerns.

After meeting with DWM and explaining the concerns we had with the hire sequence, we issued a memorandum to DHR recommending that the hire sequence be redone with new interviewers. DHR agreed with these recommendations. IGO Hiring Oversight attended the new interview sequence and observed no hiring violations.

*Reporting of Other IGO Hiring Oversight Activity:*

IGO Hiring Oversight Reviews of Contracting Activity: After the transition to the new administration, the processing and approval of requests to use Personal Service Contractors and Temporary Agencies to perform City services now rests with DHR. Under the new structure, IGO Hiring Oversight provides oversight functions for the use of Contractors, including receiving notification of all contract approvals, reviewing proposed contract and program drafts for *Shakman*-related issues, and providing guidance on the use of other non-City personnel.

IGO Hiring Oversight Contract Employee Audit: As discussed in our previous quarterly reports, IGO Hiring Oversight has identified six departments to be audited on their use of contract employees and has requested current information from those departments. Over the next quarter we will begin to review the information provided by the departments, obtain the actual payment vouchers, and interview department personnel. We will provide an update in the next quarterly report.

Review of Escalations: Under the New Hiring Plan, Recruiters and Analysts in DHR must escalate concerns regarding improper hiring to IGO Hiring Oversight. IGO Hiring Oversight evaluates the circumstances surrounding the escalation and may do one or more of the following: investigate the matter, conduct a review of the hiring sequence, refer the matter to the DHR Commissioner or appropriate Department Head for resolution, and/or refer the matter to the Investigations Section of the IGO. In the past quarter, IGO Hiring Oversight received one escalation from DHR. This escalation was referred to IGO Investigations.

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 47 complaints in the past quarter. Of those complaints, 34 were referred from the *Shakman* Monitor's Office. The chart below summarizes the disposition of these 47 complaints as well complaints from the previous quarter which were not closed when we issued our last report.

Status	Number of Complaints
Complaints Pending from the 1 <sup>st</sup> Quarter	7
Complaints Received in the 2 <sup>nd</sup> Quarter	47
Complaints Reopened in the 2 <sup>nd</sup> Quarter	2
Referred to IGO Investigations	8
Referred to DHR	2
Closed with Recommendations to the Hiring Department and/or DHR	0
Closed by HCM in the 2 <sup>nd</sup> Quarter	30
Pending with IGO Hiring Oversight as of 6/30/11	16

Many complaints are still being directed to the *Shakman* Monitor’s Office and/or EthicsPoint, the vendor that conducted complaint intake for the Office of Compliance, which previously was responsible for the City’s Hiring Oversight function. IGO recently updated its website, which includes information on how to submit complaints of unfair hiring and employment practices at the City. Complaints can be made on-line, via e-mail, by phone, via fax, or by mail. We are currently working with the *Shakman* Monitor’s Office and City departments to create more awareness of IGO Hiring Oversight’s role in monitoring City hiring and employment practices and the procedure for making complaints to IGO Hiring Oversight.

**F. AUDITS/REVIEWS**

The IGO Audit Section, the IGO’s Special Assistant, and investigators 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. Three audits/reviews were released this quarter. The following are the quarterly statistics for the IGO’s audits and reviews.

**Table #5- Audit Statistics**

Status	Number
Audits/Reviews Initiated	9
Audits/Reviews Closed	3
Audits/Reviews Pending	27

1. Office of Emergency Management & Communications Expenditure Audit

On April 7, 2011, the IGO released an audit of the City’s Office of Emergency Management & Communications (OEMC). The IGO performed an audit of OEMC payments disbursed from January 1, 2008 to September 30, 2009 in order to review contract management and pay disbursement procedures. In seeking to determine whether OEMC had effective and efficient

operations and internal controls, as well as adequate policies and procedures in place, the IGO found that internal controls were not adequate to prevent waste and misconduct. This resulted in substandard disbursement and contract management processes.

Specifically, the audit found deficiencies in internal controls resulting in the following negative consequences:

- **Voucher Manipulation:** OEMC’s non-payroll disbursements between January 1, 2008 and September 30, 2009 totaled \$72,880,188. The sample reviewed during the audit included \$38,633,405, or 53% of the total amount disbursed. The audit found that at least \$13,678,786 (35%) of the commodities purchased in the sample did not match the goods and services of the original invoices and/or that the actual commodities purchased were not related to the contracts from which they were paid.
- **Missing Inventory:** During the review of vouchers, the IGO identified a sample of goods received totaling \$134,583. The IGO met with OEMC representatives to validate the existence of these goods. The IGO discovered that \$19,001 (15%) of these goods were missing, including 38 laserjet printers, 10 computer carrying cases, seven notebook computers and a digital camera.
- **Common Law Employees:** During the audit period, the auditors identified 50 individuals contracted through seven different vendors who were identified as contractors/consultants. Based on discussions with OEMC personnel, the auditors suspected some of these contractors/consultants to be common law employees in violation of the Shakman Accord. A parallel IGO disciplinary investigation focusing on one of the seven vendors and determined that eleven of the contractors/consultants associated with that one vendor alone were, in fact, common law employees.

The IGO credited OEMC officials for beginning to implement appropriate policy and procedural changes for the broad scale, systemic deficiencies discussed in the audit.

## 2. Tree Guarantee Audit

On April 28, 2011, the IGO released an audit of the City’s Tree Guarantee Process. The audit evaluated how well the City tracked and enforced its tree guarantees from January 1, 2008 through September 30, 2010. The IGO found that the City had insufficient controls to prove that it was effectively and efficiently managing the tree guarantee process.

The supplier agreements BOF has with its tree suppliers stipulate that all trees purchased by the City have a two year guarantee period. This ensures that suppliers, and not the City, pay for the replacement of deficient, unhealthy, or dead trees.

Specifically, the audit found:

- BOF and suppliers reported substantially fewer tree guarantee replacements than expected based on the amount of trees planted during the audit period. 19,885 trees subject to guarantee during the audit period were purchased at a total cost of \$10,797,555. 107 trees,

approximately .5% of the total trees planted, were replaced. Using a conservative estimated replacement rate of 5%, the IGO estimates a potential loss of guarantee tree replacements of \$481,641.

- BOF and suppliers reported different numbers of trees planted during the audit period. The IGO compared BOF records to invoices billed by suppliers and paid for by the City. During the audit period in 2008, the BOF recorded 54 more trees planted than suppliers indicated they planted. For 2009, the BOF recorded 620 more trees than suppliers said they planted. For 2010, suppliers reported 11 more trees than the BOF said were planted.
- The BOF failed to properly track tree planting and tree replacements for over three years. The BOF failed to ensure its mapping and tree tracking software systems properly interfaced, leading to an inability to properly track tree plantings and tree replacements.

### 3. MWBE Update

On June 7, 2011, the IGO released an updated Report of its May 2010 Review of the City’s Minority & Women Owned Business Enterprise (MWBE) program. The updated Report showed that City leadership largely ignored IGO recommendations made in the May 2010 review. It also found that despite the best efforts of Office of Compliance employees, the MWBE program is still rife with widespread fraud, abuse, and mismanagement.

The Report recommended that the City take specific actions in order to address the problems that continue to plague the MWBE program. These actions include:

- Shifting the City’s focus away from MWBE certification to monitoring MWBE compliance
  - Accurately tracking and reporting actual payments to MWBEs
  - Establishing meaningful contract-specific goal setting for program participation
  - Granting waivers from MWBE goals for construction contracts where appropriate to allow for honesty in contractor bidding and ensure better MWBE compliance
  - Collecting penalties from firms that do not satisfy MWBE requirements
  - Increasing staffing in the City’s administration of the MWBE program, and returning the program’s administration to the City’s Department of Procurement Services (DPS)
  - Making the City’s user department personnel accountable for the program to provide for better monitoring of MWBE contracts
  - Gathering the necessary statistical evidence for the non-construction MWBE program to put it on sound legal footing
  - Ending the Target Market Program to limit the City’s liability

The May 2010 Review, which can be found online at the IGO’s website, detailed significant problems in the MWBE program, which have impacted more than \$1 billion in City contracts since 2003. These problems included:

- Actual payments to MWBEs and Disadvantaged Business Enterprises (DBEs) were at least 15% less than the City had publicly reported in contracts reviewed by the IGO.

- Non-construction MWBE participation rates, which comprises 70% of the dollar value of MWBE participation since 1995, were also significantly lower than publicly reported.
- The MWBE program was poorly administered by the City, as evidenced by its failure to collect, analyze, or report actual payments to and performances of MWBEs.

The IGO has yet to receive a substantive response from the City respecting the findings and recommendations advanced in this report.