

OFFICE OF THE INSPECTOR GENERAL
City of Chicago



REPORT OF THE INSPECTOR GENERAL'S OFFICE:

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

JANUARY 2012

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January 13, 2012

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

Enclosed for your review is the public report on the operations of the Office of Inspector General (IGO) during the fourth quarter of 2011, filed with the City Council pursuant to Section 2-156-120 of the Municipal Code of Chicago.

This is the ninth quarterly report this office has produced under my tenure, and the third the IGO has presented to the new Mayor and City Council. These reports present summaries of sustained IGO investigations, policy recommendations, audits, and hiring compliance efforts in order to keep you apprised of IGO activities and operations. They are also intended to foster public confidence in the integrity of City government by enhancing public awareness and understanding of the role and functions of the IGO as the City's oversight agency.

The work described in this report protects City taxpayers, informs City policymakers, and furthers the office's mission of rooting out corruption, waste, and mismanagement while promoting effectiveness and efficiency in City government.

To accomplish that mission in a meaningful and timely manner, the IGO requires three things.

First, we need people – namely, skilled investigators, analysts, auditors, attorneys, and administrators, motivated by a strong desire to serve the public interest. In the past, I have used this venue to note our long inability to hire. The Mayor's staff has promised this office the ability to hire consonant with the 2012 budget appropriation as is necessary to fulfill our statutory mission and duties. The office has 67 appropriated positions for 2012, with 51 employees currently on staff. We anticipate that number shrinking further through retirement and regular attrition in the coming months. Filling our vacancies, therefore, will consume a significant amount of the office's attention in the first half of 2012. I encourage interested parties to review our openings [here](#).

Second, we need financial support, and the ability to allocate our resources in the manner that best supports our mission. Working with both the current and former administrations, we have reduced our non-personnel budget by 22% since 2009.¹ In keeping with the City's broader effort at finding efficiencies and savings, we have made significant cuts and have succeeded to date in minimizing their negative effects on our work.

¹ 2009 non-personnel budget of \$1.113 million down to \$864,867 for 2012. An earlier version of this letter erroneously claimed 30% in savings during this time.

Third, and most importantly, this office needs complete and unfiltered information. Without it, the IGO's ability to thwart corruption, waste, and mismanagement is impaired, and the City itself is worse off. This means the IGO needs department heads to consider how their responses to IGO recommendations and requests for information impact the City's reputation for transparency, integrity, and respect for the law.

This is why our office took issue with the Fire Commissioner's since-rescinded order forbidding firefighters from fulfilling their statutory duty to cooperate in response to IGO inquiries unless first approving their responses himself.²

It is also why the Fire Commissioner's decision to administer only a verbal reprimand against a Battalion Chief who recklessly exposed the City to liability over a period of two years by allowing his adult son to sleep at a station house and to travel with him in an official City vehicle responding to emergency calls is viewed with concern by this office. In interviews with IGO investigators, the Battalion Chief's numerous subordinates said they knew of their superior's long-term misconduct, yet did not report his misconduct for fear of reprisal due to his seniority.³

It is why this quarterly report notes that pre-emptive discipline ordered (but never executed) by a senior Department of Streets & Sanitation (DSS) official who knew about an ongoing IGO investigation wasted a significant amount of scarce IGO investigative resources.⁴

These decisions create an appearance of leadership unconcerned with their duty to report misconduct, as directed in Executive Order No. 2011-5⁵, as well as the statutory duty of all employees and officials to cooperate fully with the IGO. The appearance of such an attitude at the senior level filters down to rank and file City employees and freezes out those who would want to blow the whistle on waste, fraud, or abuse of City resources. Furthermore, it fosters public mistrust of government.

We also need City leadership to follow through on statutory mandates to ensure this office has unfettered access to City records, documents, personnel, and data. When those mandates are ignored, more than just IGO investigative capacity can be put at risk.

I refer to the ongoing lawsuit between the IGO and the City.

In January 2007, the IGO began investigating a sole-source contract awarded to a former employee in the Mayor's Office. The investigation, focusing on the possible violation of City ethics and contracting rules, is centered on the possible on-the-job misconduct of current and former City employees. As such, it is clearly within the IGO's jurisdiction under Chapter 2-56 of the Municipal Code. When asked to produce records relevant to the investigation, first by statutory request and then by administrative subpoena, the City's Law Department produced some documents but redacted others on the basis of attorney-client privilege and/or the work product doctrine.

² <http://chicagoinspectorgeneral.org/wp-content/uploads/2012/01/Hoff-letter-re-Directive-final.pdf>

³ See IGO Case # 11-0307 on pg. 10

⁴ See IGO Case # 11-0326 on pg. 6

⁵ http://www.cityofchicago.org/content/dam/city/depts/mayor/supp_info/ExecutiveOrders1_6.pdf

The IGO brought an action to enforce the subpoena through the courts. The impasse and resulting legal action which occurred under the prior Administration has now been fully joined and advanced by the current Administration in the form of an appeal to the Illinois Supreme Court.

On December 23, 2011, the City filed its brief seeking to overturn the decision of the Illinois Appellate Court which held, among other things, that on the underlying facts of the case, the Inspector General has the capacity to bring suit to enforce his subpoenas and that the courts had jurisdiction to hear and adjudicate such a matter.

In seeking to overturn the Appellate Court's jurisdictional ruling, the Mayor has adopted wholesale the position of the prior Administration and taken it further in asserting that:

- 1) The IGO is not an independent agency;
- 2) The IG is supervised by the Mayor;
- 3) The IGO does not have independent authority to ask the Court to enforce its own ordinance-authorized independently issued subpoenas. Rather, such enforcement authority 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;
- 4) There is no IGO recourse to courts to enforce its subpoenas;
- 5) The courts lack the authority to enforcement and legal conflict issues, and the Mayor himself is the sole and final arbiter regarding disclosure of records even in the context of an investigation into possible misconduct involving the Mayor's office.

Once filed, the IGO's response brief will be posted to our website and further reported in the next quarterly report.

We continue to strive to make transparency and accountability a hallmark of IGO operations. This is why we expanded the Quarterly Report to include narrative summaries of cases, and why we continue to publish IGO policies online under our Open Chicago project.

To further those efforts this quarter, the IGO has published rules and regulations for IGO investigations. These spell out the legal guidelines under which the IGO does its work. We previously posted FAQs to the IGO website that we will periodically update to ensure those who must deal directly or indirectly with an IGO investigation understand their procedural rights and responsibilities under the law. The new rules and regulations are the first step of a continuing process. The regulations themselves obligate the office to evaluate and update the rules on a two year cycle, consonant with best practices seen at the federal level.

Lastly, I am often asked 'who watches the watchdogs?' To better ensure our accountability to elected officials and the public, I have committed that the IGO will undergo a triennial quality assessment peer review. The first review – to be conducted by the National Association of Inspectors General – is scheduled for later this year. It will assess how well the office is meeting the national standards for government oversight bodies, and point to still more improvements we can make in operations and our service to the public.

The mission of this office is to identify ways in which City operations can improve their performance. The IGO, therefore, has an even greater obligation to constantly be looking at its own operations to find ways to better serve the City. I look forward to continuing this work in the weeks and months to come.

Respectfully,

A handwritten signature in blue ink, consisting of a large, stylized 'J' followed by a horizontal line.

Joseph M. Ferguson
Inspector General

REPORT OF THE INSPECTOR GENERAL'S OFFICE:

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January 13, 2012

www.chicagoinspectorgeneral.org

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This quarterly report provides an overview of the operations of the Inspector General’s Office (IGO) during the period from October 1, 2011 through December 31, 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 Investigation Section conducts both criminal and administrative investigations into the performance of governmental officers, employees, departments, functions, and programs, either in response to complaints or on the office’s own initiative.

1. Complaints

The IGO received 374 complaints over the preceding quarter. The following table provides detail on the actions the IGO has taken in response to these complaints.

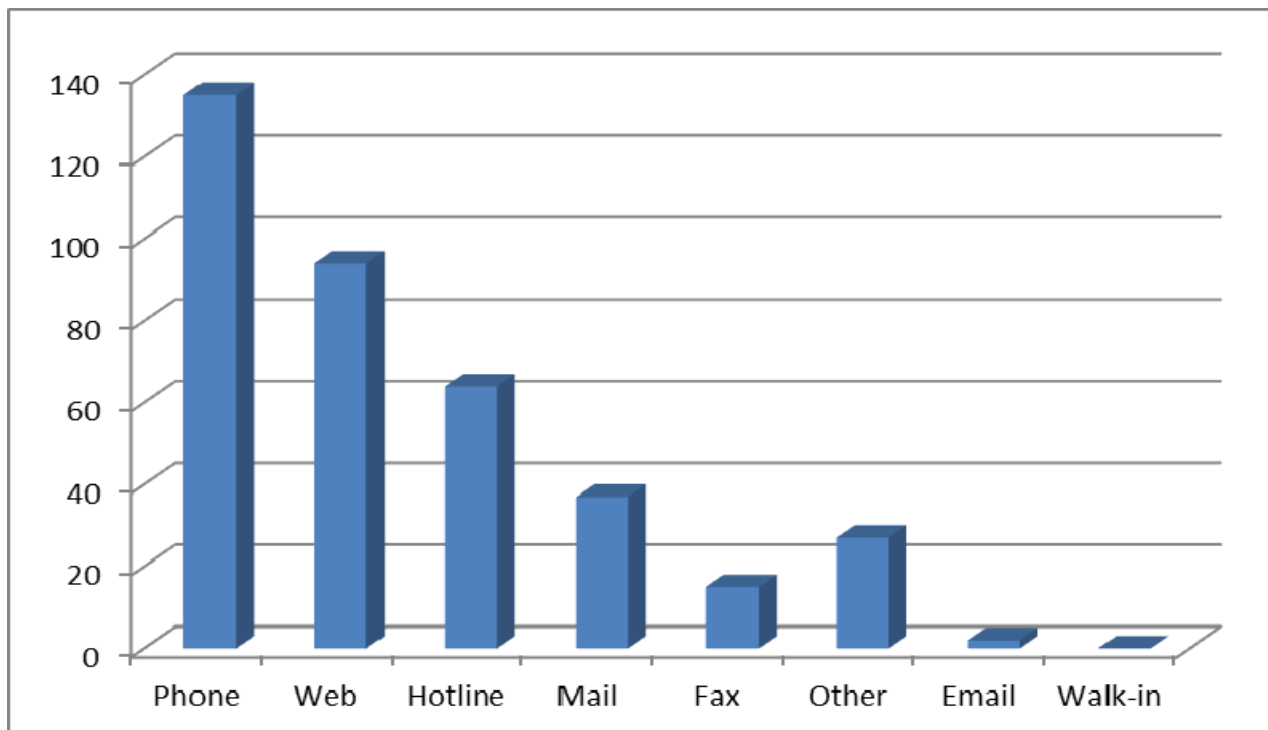
Table #1 – Complaint Actions

Status	Number of Complaints
Declined	278
Investigation	51
Referred	42
Other	3
Total	374

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 Method¹



2. Newly Opened Investigations

Over the quarter, the IGO opened 93 investigations. Of these, 92 were opened based on allegations of misconduct, 1 was based on allegations of waste or inefficiency and none were opened for other reasons. Of these opened matters, 42 were immediately referred to other departments or investigative agencies. Thus, of all the complaints received in the quarter, 51 (7.33%) proceeded to a full IGO investigation. Of the newly opened investigations, 4 were found to be not sustained before the end of the quarter, while 47 remain open. The table below categorizes the 93 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	84

¹ Staff and fiscal constraints prompted the IGO to close its public office in the loop.

Contractors, Subcontractors, and Persons Seeking City Contracts	7
Appointed Officials	1
Elected Officials	1
Investigations of Persons Seeking Certification of Eligibility	0
Other	93

3. Cases Concluded in Quarter

During the quarter, 101 investigative matters were concluded, 42 of which were the aforementioned referrals to City departments or other investigative agencies. Of the remaining concluded matters, 11 were closed as sustained and 48 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 93 investigations initiated this quarter, the IGO has a total of 210 pending investigations. At this time last year, the IGO had a total of 280 pending cases.

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 210 pending investigations, 77 investigations have been open for at least twelve months. At this time last year, the IGO had a total of 87 investigations open for at least twelve months.

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
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.	23
Complex investigation. May involve difficult issues or multiple subjects.	39
Additional complaints were added during the course of the investigation.	0
Under review by the Legal Section or the Director of Investigations prior to closing.	12
On hold, in order not to interfere with another ongoing investigation.	3
Total	77

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 reports² – 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, Cook County State'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 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 3 cases listed below were closed prior to the 4th Quarter 2011, but disciplinary action had not yet been finalized at the time the 3rd Quarter 2011 report was published.

IGO Case # 10-0027

² 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."

An IGO investigation found a Senior Budget Analyst with the Office of Budget and Management (OBM), violated the City’s residency requirement. From approximately July 2010 to April 2011, the employee resided outside the City, at a house the employee owns in Riverdale, Illinois. Although the employee, after being questioned by the IGO, has since moved back to the City, the Municipal Code residency requirement is strictly worded, providing that any employee “who shall fail to comply with the provisions of this section shall be discharged from the service of the city in the manner provided by law.” The employee also failed to report a change of address for nearly two years after moving out of the previously declared City address to another City residence and later submitted a false change of address notification, both grounds for discharge. In addition, the employee did not purchase City stickers for two vehicles during the period of time that the employee actually did reside in the City, a violation of the Chicago Municipal Code. The IGO therefore recommended that OBM discharge the employee and designate the employee as ineligible for rehire with the City.

OBM agreed and terminated the employee.

This case led the IGO to review the City’s Residency Waiver policy, which can be read about on page 11.

IGO Case # 10-0808

The IGO determined that on June 8, 2010, a tree trimmer with the Bureau of Forestry of the Department of Streets and Sanitation (DSS) took the mandatory 2010 Ethics Training for three other DSS employees. The three DSS employees all admitted that they did not take the training themselves in 2010, and two of them recalled that they were given a certificate of completion by the tree trimmer after providing him with their Social Security Numbers. Forensic computer evidence established that on June 8, 2010, the tree trimmer’s computer was used to sign into the ethics training website for all three employees, and that the three training sessions were completed in close sequence spanning a total of 28 minutes, with each completed in an unusually quick time-frame of 6-9 minutes apiece.

The City of Chicago Governmental Ethics Ordinance states that “[a]ny employee who is found to have knowingly falsified his/her compliance with [the Ethics Education Training Course] shall be subject to discharge.” The investigation did not establish that any of the three DSS employees was responsible for or a knowing party to the falsification of his respective compliance. Indeed, the June 8, 2010 incident was promptly reported to the IGO by one of these employees, and all three DSS employees cooperated fully with the IGO’s investigation. As such, no findings or disciplinary recommendations were made against the three DSS employees.

The tree trimmer, however, (i) breached his fiduciary duty to the City of Chicago by completing the training for the three DSS employees, in violation of Ethics Ordinance, §2-156-020, and City of Chicago Personnel Rule XVIII, Paragraph 45; (ii) demonstrated unbecoming conduct by completing the training for the three DSS employees, in violation of Paragraph 50 of the Personnel Rules, and (iii) made inaccurate and incomplete statements during the IGO investigation, in violation of Paragraph 8 of the Personnel Rules. We recommended that he be terminated and placed on the City’s “ineligible for hire” list.

DSS concurred with the IGO's findings, but rejected the termination recommendation, instead levying a 20 day suspension.

IGO Case #11-0326

An IGO investigation revealed that in the days leading up to the City's latest run-off elections, a Department of Streets and Sanitation (DSS) ward superintendent collected election signs throughout the ward and, while on City time, separated the signs of the ward's incumbent alderman from those of other candidates, discarded the other candidates' signs, and stored the alderman's signs in the DSS garage, intending to return them to the alderman. In an interview with the IGO, the ward superintendent admitted the conduct and acknowledged that such political campaign work while on City time is prohibited.

The individual holds a supervisory position as ward superintendent and is expected to set a positive example for the other employees working in the ward. Instead, the individual's actions, especially storing the alderman's signs in a DSS facility, created the perception that City employees may conduct political activity on City time on behalf of aldermen. By conducting political activity while on City time, the ward superintendent violated the City's Personnel Rules and Governmental Ethics Ordinance, as well as the Illinois Local Governmental Employees Political Rights Act. Accordingly, the IGO recommended that DSS suspend the individual for five days without pay.

In its response, DSS reported that on March 29, 2011 (two weeks after the IGO interviewed the ward superintendent), the ward superintendent informed a senior DSS official of the misconduct. DSS did not indicate whether the ward superintendent informed the senior DSS official of the IGO interview or investigation. DSS simply reported that the senior DSS official immediately issued a one-day suspension based on the nature of the violation, the individual's prior work history, lack of previous discipline, and "cooperative conduct in bringing the violation to the attention of the department." DSS therefore issued the discipline based solely on the ward superintendent's personal statement and without the benefit of the IGO's investigation report. As of the date of DSS's response to the summary report, the one-day suspension had yet to be scheduled, six months after it was imposed.

The IGO views the swift action by the senior DSS official as obstructive to the investigative process. The official, aware of the investigation, did not apprise the IGO of the discipline, rendering the IGO investigation meaningless.

City Departments took disciplinary action on the following 6 administrative cases the IGO sustained this quarter. They are summarized below.

IGO Case # 07-1294

An IGO investigation established that a building/construction inspector with the Department of Buildings (DOB): i) provided preferential treatment to a building owner by initiating and

coordinating contact between the building owner and an expediter in order to remediate building code violations; ii) provided an unsubstantiated compliance approval for a different building in connection with an administrative hearing proceeding, without having conducted the assigned inspection; and iii) provided deliberately incomplete statements to the IGO about the inspector's relationships with the building owner and an expediter, despite telephone records, testimony and recordings which reflected extensive interaction between them.

These acts of misconduct undermined the inspector's integrity, fairness, and competence, which are fundamental qualities necessary of a DOB inspector. For this reason, the IGO recommended the inspector's discharge.

The DOB agreed with the IGO recommendation. After being presented with charges seeking her discharge, the inspector resigned.

IGO Case #08-1982

On October 4, 2011, the IGO issued a review of the process by which private charitable entities are named as beneficiaries in Tax Increment Financing (TIF) redevelopment agreements (RDAs) through the inclusion of "public benefits" clauses. Public benefits clauses are terms in TIF RDAs (as well as City grant agreements and land sale contracts), which obligate the recipients of the City subsidy to make donations to specific charities or public programs as a condition of receiving the City subsidy.

The IGO's review revealed that the City has no internal accountability for the selection of non-profit entities to be included in public benefits clauses, nor any published guidelines or criteria by which to evaluate programs named in these clauses. As a result, the IGO found the City's public benefits program to be vulnerable to mismanagement and the appearance of preferential treatment for select charities. Of the 73 RDAs the City identified as including public benefits clauses from 1985 through 2009, 27 agreements directed cash contributions to private non-profits. An IGO analysis revealed an organization with close ties to the City, After School Matters (or its KidStart Program), was the most frequent private recipient of public benefits clauses, having been named as a recipient 16 times, representing 59% of all of the public benefits clauses directing money to private entities. TIF recipients interviewed by the IGO established that, in the vast majority of cases, the private nonprofit recipients of public benefits were unilaterally chosen by the City. City employees responsible for negotiating TIF agreements, however, were unable to articulate the criteria by which specific non-profits are chosen to receive corporate donations through public benefits clauses, or how such decisions are made. City employees interviewed for this review could only report that decisions are made collectively by the City's Department of Housing and Economic Development, the Mayor's Office, and aldermen.

The IGO did not review and thus did not raise any question about the value of work done by After School Matters. Nevertheless, the lack of transparency and accountability in the public benefits process raises an appearance of preferential treatment for select, private non-profits and undermines public confidence in whether the TIF process is being used appropriately.

The IGO concluded that one resolution might be for the City to cease naming private entities as recipients of private donations under public benefits clauses. If, however, the City continues to leverage TIF subsidies to private corporations for the benefit of private non-profits, the IGO recommended that 1) the City establish an open process, using publicly available criteria, for the selection of eligible public benefits clause beneficiaries; and 2) TIF recipients be permitted to choose which eligible private charities they wish to support as a condition of the TIF subsidy.

The IGO further noted the Mayor’s Task Force on TIF Reform did not specifically address public benefits clauses in its final report and therefore encouraged the Mayor and City Council to include the review in their efforts to improve the TIF process. In its report, the IGO noted that the City detailed two of its employees to work full-time on behalf of After School Matters. The two employees have returned to full-time City service.

IGO Case # 10-0294

The IGO conducted an investigation of the payment practices of two companies which worked as a contractor and sub-contractor on two O’Hare and Midway Residential Sound Insulation Program (RSIP) contracts. The sub-contractor is a Minority, Women-Owned and Disadvantaged Business Enterprise (M/W/DBE).

The investigation revealed that the contractor: (1) failed to conduct background checks on its employees as required by the RSIP contracts’ General Conditions; and (2) orchestrated a DBE “pass through” scheme with the sub-contractor on both RSIP contracts, wherein the contractor purchased windows and doors from non-DBE suppliers and used the sub-contractor as an unnecessary middle-man in an effort to obtain DBE credit. The investigation also revealed that the contractor made deceptive statements to the City regarding the sub-contractor’s function on the RSIP contracts.

Based on these findings, the IGO recommended that the contractor’s Vice-President and President be permanently debarred. In addition, the IGO recommended that the contractor be permanently debarred. The IGO also recommended that the Department of Procurement Services (DPS) (1) remove the supply of windows from the sub-contractor’s M/WBE specialty area; (2) refer its ultimate findings regarding the sub-contractor specialty area to Metra, which has certified the company as a DBE since 1994, so that Metra can remove the supply of windows from the sub-contractor’s DBE specialty area; (3) collect damages from the contractor for its DBE shortfall on the two RSIP contracts to the extent permitted by law; and (4) adjust its historic DBE compliance figures to eliminate any inappropriate DBE credits given to the contractor or sub-contractor for the two RSIP contracts.

The IGO also recommended that, going forward, the Department of Procurement Services (DPS) only approve compliance plans for RSIP contracts that seek compliance on the construction aspects of the contract, not the window supply aspect. Given the nature of the window distribution industry and the specific requirements of these contracts, absent being an actual supplier of windows, there is no way to achieve compliance in this specialty area.

DPS subsequently sent a letter to the contractor and the contractor's Vice-President and President asking for an explanation as to why they should not be permanently debarred in accordance with the IGO's recommendation. DPS also sent a letter to the subcontractor asking the company why its certification in window supply should not be removed.

In addition, DPS reported that it was working with the Department of Law to determine the feasibility, legality and best approach to initiating an action to collect damages against the contractor for its DBE shortfall on the two RSIP contracts. DPS also agreed to adjust its historic DBE compliance figures to eliminate any inappropriate credits on the two RSIP contracts. Finally, DPS noted that prior to the issuance of the IGO's report for Case #10-0294, it had changed its policy with respect to compliance plans for RSIP contracts so that DBE participation with respect to window supply was no longer required.

The IGO will report on the outcome of the debarment process in a later quarterly.

IGO Case # 10-0483

The IGO initiated an investigation concerning an allegation that a Foreman of Sewer Cleaners with the Department of Water Management (DWM) was selling counterfeit movies from a DWM facility. As part of this investigation, an undercover confidential source purchased counterfeit movies from the employee at the employee's office. This transaction was video recorded. The IGO attempted to interview the employee, and after being informed about the substance of the investigation, the employee requested to have counsel present and the interview was postponed. However, the employee resigned instead of scheduling a second interview with IGO investigators.

The evidence obtained in the investigation supported a finding that the employee violated state law when by selling illegal copies of movies at a City work site. Based on this illegal conduct committed on City property, the IGO would have recommended discharge. The employee avoided being discharged by resigning.

In light of the foregoing, the IGO recommended DWM: (1) issue a written decision concurring with the IGO's sustained findings; (2) request DHR place a copy of this concurrence in employee's personnel file along with a copy of the Summary Report, and; (3) request DHR code the employee as resigned under inquiry.

The IGO also requested DHR: 1) place and maintain a copy of this report in the employee's personnel file for review in the event that the employee applies for re-employment with the City; and 2) notify the IGO in the event that the employee may be considered for employment by the City.

DWM concurred with the IGO's findings and recommendations. Based on DWM's request, DHR i) coded the employee as "resigned under inquiry"; ii) placed a copy of the summary report in the employee's personnel file; and, iii) agreed to notify the IGO should the employee ever be considered for re-employment with the City.

IGO Case # 10-1363

The IGO determined that a Chicago Department of Public Health (CDPH) Public Health Nurse II (PHNII) falsified her City attendance records and work activity reports. Specifically, the PHNII claimed on official work records that on May 5, 2011, May 18, 2011 and June 10, 2011, she conducted a total of 17 patient home visits. However, the IGO's surveillances of the PHNII revealed she only made three such visits on those dates. The IGO's surveillances also showed—and the PHNII ultimately admitted—that she stayed at her mother's house and went shopping at Target while on City time.

Based on these findings, the IGO would have recommended that the PHNII be discharged. However, shortly after his/her interview with the IGO, the PHNII resigned from City employment.

Therefore, the IGO recommended that CDPH: (1) issue a written decision concurring with the IGO's sustained findings; (2) request DHR place a copy of his concurrence in the PHNII's personnel file along with a copy of the IGO's Summary Report, and; (3) request that the DHR code the PHNII as resigned under inquiry.

The IGO also requested that DHR: (1) place and maintain a copy of its report in the PHNII's personnel file for review in the event that he/she applies for re-employment with the City; and (2) notify the IGO in the event that the PHNII is being considered for employment by the City.

In addition, the IGO recommended that CDPH take appropriate action to determine whether the City inappropriately received funds from the State of Illinois for the PHNII's falsified activity reports and whether any such funds should be returned to the State. Finally, the IGO recommended that CDPH refer its ultimate findings regarding the PHNII to the Illinois Department of Financial and Professional Regulation (IDFPR) so that the IDFPR could take appropriate action with respect to her nursing license.

CDPH concurred with the IGO's recommendations and requested that DHR place a copy of CDPH's concurrence in the PHNII's file along with a copy of the IGO's summary report and code the PHNII as resigned under inquiry. CPPH also concurred with the IGO's recommendation that CDPH work with the State of Illinois to determine whether fund needed to be reimbursed to the State as a result of the PHNII's falsified activity reports and refer its findings to the IDFPR.

Lastly, CDPH noted that it would investigate the adequacy of the supervision the PHNII received and strengthen its field staff monitoring and audit functions. We note that such a proactive response to IGO findings and recommendations are a hallmark of the CDPH Commissioner's leadership, which has acted aggressively to stem a longstanding culture of neglect of duty.

IGO Case # 11-0307

The IGO determined that a Chicago Fire Department (CFD) Battalion Chief repeatedly violated CFD and City rules over a two-year period by allowing his adult son to (1) stay overnight at a

CFD firehouse; and (2) ride with him to fire emergencies in a CFD vehicle. The Battalion Chief also violated CFD rules by failing to document his son's visits to the CFD firehouse.

During investigative interviews, CFD employees assigned to the firehouse where the serial transgressions occurred indicated they knew the Battalion Chief's actions were inappropriate, but feared to report him because of his senior position.

For violating CFD and City rules, exposing the City and CFD to significant liability, and setting a poor example for his subordinates, we recommended a 20 day suspension for the Battalion Chief.

CFD Commissioner Robert S. Hoff acknowledged that the Battalion Chief displayed poor judgment, but rejected the IGO's recommendation and instead served the Battalion Chief an oral reprimand for his actions.

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."³ 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 was one sustained case that produced policy recommendations, as follows:

(A) IGO Case # 10-0027

A recent IGO investigation of an employee's alleged violation of the City's residency requirement prompted an IGO review and analysis of the City's practice of granting "residency waivers". In the past, these waivers allowed City employees to live outside of the City for limited periods of time.

The review found the current language of the City's Personnel Rule IV, Section 5, which provides that the Department of Human Resources (DHR) Commissioner may waive the City's residency requirement for particular applicants or jobs, conflicts with and generally has been applied in violation of the City's residency ordinance, Municipal Code of Chicago Section 2-152-050. The City's residency ordinance provides—with no exceptions—that all officers and employees of the City must reside within the City or else be discharged from City employment. The residency ordinance, which carries the force and effect of law, supersedes the administrative personnel rules promulgated by the DHR Commissioner and thus appears to prohibit any "waiver" of the residency requirement.

DHR had historically relied upon Personnel Rule IV, Section 5, to grant temporary residency waivers for employees of a critical or specialized nature. These waivers were most commonly used to provide new employees a limited period of time to relocate to Chicago. DHR is

³ *Chicago Municipal Code*, sec. 2-56-030(c) (American Legal 2009).

generally entitled to deference in the construction of its own rules, provided that its construction comports with the language of the rules and the applicable City ordinances. But however reasonable residency waivers may be as a matter of policy, DHR's interpretation and construction of Personnel Rule IV, Section 5, appears to have operated as an exception to the City's residency ordinance, a law that permits no exceptions. Accordingly, discretionary administrative waivers of the residency requirement are presently not allowed as a matter of City law and will remain so absent an ordinance change. The IGO took no position on the merits of such a change to the residency ordinance. The IGO noted merely that in its current form—and contrary to the language of the City's current Personnel Rules—the residency ordinance does not permit any form of administrative waiver of the residency requirement.

The IGO therefore recommended that if the City Council and the Mayor believe that residency waivers should be allowed as a matter of policy, they should amend the residency ordinance. As the IGO believes the City's waiver policy and procedures violate the mandatory residency requirement for holding City employment, the IGO recommended that DHR and the Office of the Mayor cease granting waivers for City employees unless and until the residency ordinance is amended. If the City does amend the residency ordinance, the IGO further recommended that DHR clarify the relevant personnel rules and procedures to correspond with the ordinance, as amended, and ensure that all DHR employees and Human Resources Liaisons are properly trained on the residency requirement and any applicable waiver procedures.

On October 18, 2011, DHR responded that it will no longer grant residency waivers. If the residency ordinance is amended such that waivers are permitted, DHR will make any necessary changes to the Personnel Rules and any other relevant policies and procedures and ensure that all DHR employees and departmental HR Liaisons are properly trained.

3. Disciplinary and Other Corrective Action Recommendations

In the 9 sustained cases described above, the IGO made 17 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	0
Suspension less than or equal to 10 days	1
Suspension 11 to 29 days	0
Suspension equal to 30 days	1
Suspension over 30 days	0
Termination	3
<i>Other Corrective Action</i>	
Debar	3
Do not (re)hire	4
Other	4

Cost Recovery	1
Total	17

(A) *Departmental Action*⁴

Of the 17 recommendations contained in this quarter's 9 summary reports:

- In 11 instances, departments imposed the same discipline/corrective action recommended by the IGO.
- In 3 instances, a department imposed less discipline/corrective action than the IGO recommended.
- In no instance did a department impose more discipline/corrective action than the IGO recommended.
- In 3 instances, subjects of the investigation resigned during the inquiry.

(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)⁵ and grievance arbitrations concerning our disciplinary recommendations.

To date, none of the subjects involved in the 9 investigations 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. 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

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

⁴ This data is as of April 14, 2010.

⁵ HRB definition: A "three-member board is appointed by the Mayor and is charged with the responsibility of conducting hearings and rendering decisions in instances of alleged misconduct by career service employees. The Board also presides over appeal hearings brought about by disciplinary action taken against employees by individual city departments."

City of Chicago. Department of Human Resources – Structure.

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

2. Developments in Prior Criminal Cases

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

(A) *Crooked Code Update*

This quarter, another defendant in Operation Crooked Code was tried before a federal jury and found guilty. 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 twenty-one individuals convicted under Operation Crooked Code, fifteen of whom were current or former City employees.

a. *Dominick Owens*

On November 18, Dominick Owens, a City zoning inspector, was found guilty of two counts of bribery.

Owens was found to have accepted two separate bribes in July 2006 of \$600 each in exchange for certificates of occupancy at four residential properties while working as a zoning inspector for the City.

In the first instance, a cooperating witness asked Owens for two certificates of occupancy for properties located at 6109 N Wolcott and 3713 South Wallace. On July 10, 2006, Owens entered a request in a City database for an occupancy inspection at the two addresses and then marked those same requests as "completed" in the system 12 minutes later. Then, under surveillance, the cooperating witness passed Owens \$600 in cash.

Owens is due to be sentenced on February 7, 2012.

E. HIRING OVERSIGHT

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, 2010.⁶ 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. IGO Hiring Oversight also receives complaints, including allegations of unlawful political discrimination and retaliation and other improper influence in connection with any aspect of City employment, and refers any such complaint that warrants investigation to the IGO Investigation section.

In the eight months since the May 2011 transition to Mayor Emanuel's administration, IGO Hiring Oversight has observed a commendable effort by the Department of Human Resources (DHR) and the Department of Law (DOL) to finalize and obtain court approval for new hiring procedures designed to better help ensure that all City employees are selected based on their

⁶ See *Chicago Municipal Code*, sec. 2-56-035

knowledge, skills and ability to perform effectively on the job. Specifically, in June 2011, the City filed the “2011 City of Chicago Hiring Plan.” In October 2011 the City filed the “2011 Chicago Police Department Hiring Plan for Sworn Titles,” and in December 2011 the City filed the “2011 Chicago Fire Department Hiring Plan for Uniformed Titles.” These three plans set forth the general principles which govern hiring in the City of Chicago consistent with and as required by the *Shakman* Accord. DHR and DOL have also developed and have conducted or are beginning to conduct training on various aspects of these new hiring procedures, which is an essential aspect of any successful hiring plan.

In addition, DHR and DOL have been receptive to IGO Hiring Oversight’s recommendations made over the past eight months, and, as is necessary for a successful compliance function, have been prompt and responsive in its requests for documents and information. While instances still may occur that require escalations, reviews, and investigations, as discussed within this report, it is clear that both DHR and DOL have made much effort to implement the Hiring Plan, as well as its compliance and governance system, with success.

There are, however, two ongoing impediments compromising IGO Hiring Oversight’s ability to provide stringent oversight of the City’s hiring processes and to confidently ensure the City complies with the *Shakman* Decrees. The first of these is serious understaffing in the IGO Hiring Oversight Section. Currently, the unit is comprised of two Assistant Compliance Officers and an Assistant Inspector General who has been partly diverted from investigations to undertake certain responsibilities of the vacated deputy position previously held by Commissioner Choi. Inhabiting the full compliance and governance role for the City’s Hiring Plans – including the CFD and CPD plans, which increase the monitoring and auditing roles of IGO Hiring Oversight significantly – requires more staff. The IGO expects to be able to fill the existing budgeted vacancies early in 2012, and views these hires as 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. Recently, the Illinois Supreme Court granted the Law Department’s petition to appeal the Illinois Appellate Court’s 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*, 948 N.E.2d 775 (Ill. Ct. App. 2011) (now *Ferguson v. Patton*, Sup. Ct. No. 112488). The investigation underlying the lawsuit implicates, among other things, possible *Shakman* violations. If the new Administration succeeds in its argument to the Illinois Supreme Court that the IGO’s authority to enforce its subpoenas is subordinate to the authority and decisions of the Law Department and that there should be no IGO recourse to the courts to resolve such enforcement and legal conflict issues, IGO Hiring Oversight’s ability to provide vigorous oversight of the City’s compliance with the *Shakman* Accord will be severely handicapped for two important reasons.

First, if the City has the ability to shield communication regarding hiring-related misconduct from either IGO Hiring Oversight or IGO Investigation by claiming Attorney-Client privilege, the IGO cannot fully inhabit its compliance and governance duties as required by the Hiring Plans and the *Shakman* Accord. Investigations – like the one underlying the lawsuit – will be

stalled or stymied by the refusal to provide crucial communications to the IGO.⁷ Second, if the City succeeds in its argument that IGO cannot enforce its subpoenas independently and that the mayor should be the sole arbiter of disputes between the IGO and City departments, the IGO will not be able to conduct its compliance functions independently. As the City’s Hiring Plan states “[a] strong and effective compliance and governance system is critical to the success of this Hiring Plan.” Such an effective system requires an agency that can investigate unlawful political hiring even in the Law Department and the Mayor’s Office – an effort that would be fruitless if the Inspector General must be subordinate to their authority.

As we enter 2012, we have hope that both of these impediments to full oversight will be resolved. As stated above, IGO Hiring Oversight enjoys a collaborative relationship with both the DOL and DHR, and both departments have made clear their commitment to helping the City achieve substantial compliance with the *Shakman* Accord and creating a fair, transparent and effective hiring system. We will provide an update in the next quarterly report regarding both our staffing issues and *Ferguson v. Patton*.

QUARTERLY REPORTING OF HIRING OVERSIGHT DATA

On June 24, 2011, the City of Chicago filed the 2011 City of Chicago Hiring Plan (“General Hiring Plan”). The General Hiring Plan, which was agreed to by the parties and approved by the Court on June 29, 2011, replaced the 2007 City of Chicago Hiring Plan which was previously in effect.

Under Chapter XII of 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. IGO Hiring Oversight is also required to report on review and audit information from both the Chicago Fire Department and the Chicago Police Department Hiring Plans, however, because these Plans were filed during the last quarter, IGO Hiring Oversight is not reporting on review and audit information for those two departments at this time. In our next quarterly report we will begin reporting information from these departments.

This quarter, IGO Hiring Oversight conducted the following reviews:

1. *Contacts by Hiring Departments. Review of all reported or discovered instances where hiring departments contacted DHR to lobby for or advocate on behalf of actual or*

⁷ The investigation underlying this lawsuit is not the only investigation with Shakman implications that has been stalled during the pendency of this lawsuit. In fact, in an increasing number of IGO investigations (some that concern Shakman), both the Law and other City departments have been shielding documents and communications from the IGO based on a claim of Attorney-Client privilege. For example, during this past quarter, a City Department claimed that communications were privileged because an attorney who worked within the department – not an Attorney in the Law Department – was involved in the transactional department decision under investigation, citing the pending *Ferguson v. Patton* litigation as the basis for that claim. The withholding of such documents from the IGO runs counter not only to City ordinance, but also counter to the Shakman Accord’s paralleling requirements that all City departments “fully cooperate with the IGO’s investigation” by, among other things “promptly providing any and all requested documents and information to the IGO.” Agreed Settlement Order and Accord, pg. 24. Without giving the IGO full, unfettered access to documents and information, the City may be poorly situated to credibly claim that it has created effective procedures to identify and remedy instances of non-compliance in the Shakman realm.

potential Applicants or Bidders for Covered Positions or to request that specific individuals be added to any referral or eligibility list except as permitted in this Hiring Plan.

In the last quarter, IGO Hiring Oversight received and reviewed reports of direct departmental contact from DHR. All of these reports except one consisted of departments forwarding contact information for job-seekers looking for employment. In the one remaining direct contact report, a department personnel liaison was contacted by a union official inquiring why two specific applicants were not included on a referral list sent to the department. As a result, the personnel liaison contacted DHR to inquire about the status of these two individuals. DHR instructed the personnel liaison to have the applicants and/or the union contact DHR directly to find out their application status.

2. Exemptions. *Review of adherence to exemption requirements and Exempt Lists and propriety of Exempt List⁸ modifications.*

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. We will conduct an audit of the Exempt List in the 1st Quarter of 2012 to ensure it has been properly maintained throughout the transition.

3. Senior Manager Hires. *Review of hires using Chapter VI, the Senior Manager Hiring Process.⁹*

Of the 64 hire packets we reviewed this past quarter, seven were for Senior Manager positions. Three of these seven packets contained errors, two of which were due to missing or invalid documentation. These errors did not constitute hiring plan violations. The third error, however, did constitute a hiring plan violation as the department failed to provide advanced notification of interviews to IGO Hiring Oversight for the Senior Manager position. IGO Hiring Oversight and DHR notified the department of this violation and received a detailed explanation for the error. While this error did violate the notification provision of the hiring plan, we were satisfied that the lack of notification was an inadvertent error not made to evade monitoring, and IGO Hiring Oversight allowed the hire sequence to continue through the approval process.

In addition to this violation, IGO Hiring Oversight has seen an increase in instances of departments either providing late notifications or failing to provide any notifications of hiring activities. It is imperative that, as the overseers of City hiring, IGO Hiring

⁸ The Exempt List documents all positions labeled *Shakman-Exempt*. The link to the current Exempt List can be viewed [here](#).

⁹ Senior Managers are (1) not covered by a collective bargaining agreement; (2) at-will employees; (3) not *Shakman Exempt*; and (4) perform significant managerial responsibilities. These positions are filled pursuant to a Court-approved process.

Oversight receive advance notification of all hiring activities from City departments as required in Section II.C.8 of the City's General Hiring Plan.

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

Consensus selections were reached during all Consensus Meetings that occurred during the 4th Quarter of 2011.

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

The City made no emergency appointments during the 4th Quarter of 2011.

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

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

We are currently reviewing all modifications to job descriptions, minimum qualifications, and screening/hiring criteria. In the last quarter, the City has changed the minimum qualifications or included equivalencies for positions in the Department of Cultural Affairs and Special Events, Chicago Fire Department, and the Chicago Public Library. IGO Hiring Oversight reviewed the changes and raised no objections to them.

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

IGO Hiring Oversight currently reviews most candidate and bidder lists. In the past quarter, we reviewed 39 lists and provided commentary to DHR whenever potential issues arose. Of the 39 referral lists reviewed in the past quarter, three contained errors. All three 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 detailed information to DHR management so that they may address these errors, and we are tracking DHR's progress in reducing these mistakes.

3. Testing. *Test Administration and Scoring.*

IGO Hiring Oversight continues to receive prompt notification from DHR regarding approvals of new tests, proposed changes to existing tests, and the dates of testing administrations. 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.

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

We are currently reviewing most hiring sequences and have worked directly with DHR staff and management to address errors when they arise. In reviewing these sequences, we examine hiring packets, which 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 64 hire packets. Of the 64 hire packets reviewed, 11 contained at least one error (this includes the Senior Manager hire packets described above). These errors included missing or invalid documentation (for example, an expired driver's license) and missing Hire Certifications. Further, three of these errors constituted violations of the General Hiring Plan, which are described below.

General Services Hiring Sequence #1

While conducting a review of the hire packet for a position in the Department of General Services (DGS), IGO Hiring Oversight discovered that the Hiring Manager¹⁰ for the position was not present at the Consensus Meeting¹¹ as required by Section V.B.11 of the General Hiring Plan. When this was brought to DHR's attention, it was discovered that it was a longstanding practice within DGS to not have the Hiring Manager present for Consensus Meetings. In response to our concerns, DHR instructed DGS to discontinue this practice immediately. Because IGO Hiring Oversight monitored the Consensus Meeting and did not see any attempts to manipulate the sequence, DHR allowed this particular hire to continue through the approval process.

General Services Hiring Sequence #2

IGO Hiring Oversight reviewed a hire packet for a foreman position in the Department of General Services (DGS), for which the selection decision was based on the results of a two part test and an interview (Part III). During the review, IGO Hiring Oversight

¹⁰ The Hiring Manager is responsible for managing the selection process for positions requiring an interview. In the event the interview panel cannot come to selection consensus, the Hiring Manager shall make the final candidate selection decision.

¹¹ A Consensus Meeting is a discussion that is led by the Recruiter, held at the conclusion of the interview process. During the Consensus Meeting, the interviewers and the Hiring Manager review their respective interview results and any other relevant information to arrive at a hiring recommendation.

observed that according to the interview notification and test results, one of the candidates (Candidate A) was scheduled for a Part III interview despite failing Part II of the foreman promotional process. Documentation in the hiring packet showed that Candidate A had attended Part III and filled out a Background Check Consent Form but was not listed as one of the interviewed candidates in the Shakman certifications completed by the interviewers. Nothing in the hiring packet explained these inconsistencies.

In order to reconcile this conflicting information, IGO Hiring Oversight contacted the DHR and DGS personnel involved in the sequence. Through these inquiries, IGO Hiring Oversight discovered that instead of providing DGS with just a list of the candidates who passed Part II, the DHR Recruiter mistakenly sent DGS a list of all the candidates' names and their Parts I and II test scores. Because DGS could not determine which candidates were eligible to move to the Part III, they sent Part III notification letters to every candidate. As a result, Candidate A took the Part III even though he had failed Part II and was not eligible to move forward in the process. This error was eventually identified by a DHR Testing Administrator, but not until after Candidate A had taken the Part III.

DHR's forwarding of the test scores to DGS constituted a violation of Section V.B.4 of the General Hiring Plan and risked jeopardizing the integrity of the hiring sequence as it could give interviewers enough information to handicap Part III scores to guarantee the success of a preselected candidate. In addition to the violation itself, IGO Hiring Oversight was also concerned about DHR's failure to provide notice of the violation and the hiring packet's lack of any documentation addressing it.

In order to create a complete hiring packet for this sequence, IGO Hiring Oversight recommended that DHR obtain "Interviewed Candidate" Shakman certifications from the interviewers for Candidate A and add them to the hiring packet; the hire packet include our correspondence with DHR and any other documentation explaining the irregularity within the hiring packet; and DHR remind staff that hiring departments should never receive test scores for in-process hiring sequences. We also emphasized the importance of providing advance notice to IGO Hiring Oversight of any possible Hiring Plan violations when they are discovered as doing so creates a legally defensible hiring record and prevents a time-consuming review by IGO Hiring Oversight when the facts are already known.

Office of the Treasurer Hiring Sequence

IGO Hiring Oversight reviewed a hire packet for a student intern position with the Office of the City Treasurer (Treasurer's Office). While this position included an interview, the hiring packet did not contain any Consensus Meeting documentation. When IGO Hiring Oversight questioned DHR about the missing documentation, it was discovered that a Consensus Meeting was not held for this position. This constituted a violation of Section V.B.11 of the General Hiring Plan, which requires that Consensus Meetings take place for all interviewed positions. In addition to this violation, IGO Hiring Oversight found that DHR has never held Consensus Meetings for interviewed student intern sequences but instead was using an alternate process not detailed in the General Hiring Plan.

Following our recommendation, DHR has suspended this alternate hiring process and implemented the one detailed in the General Hiring Plan for all interviewed student intern positions.

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

Of the 64 hire packets reviewed in the last quarter, four were missing at least one required hire certification from DHR and/or the Hiring Department. After reporting the omissions to DHR, the missing certifications were provided and included in the packets.

While reviewing a particular hire packet, IGO Hiring Oversight noticed irregularities on certifications that violated the *Shakman* Accord. The certifications appeared to be photocopies of an original certification signed by the department head that left blank the field for the candidate's name. The blank name field was subsequently filled out on the photocopied certifications and included in the packet. We immediately notified DHR and the *Shakman* Decree Monitor about the irregularity, stating that such certifications had been used in the past as evidence of criminal fraud. DHR informed us that one of its Recruiters admitted to photocopying and altering the certifications in an effort to streamline the hiring process. In response to this discovery, DHR stated that it informed the Recruiter that such violations were "extremely serious" and that the Recruiter understood the importance of maintaining the integrity of the certifications. No evidence was found that the certifications were photocopied as an attempt to circumvent the *Shakman* Accord or the Hiring Plan.

6. Acting Up.¹² *Review of the City's compliance with Chapter XI and any implementing procedures.*

IGO Hiring Oversight reviews the City's compliance with Chapter XI of the General Hiring Plan, the Acting-Up Policy, and all waivers processed by DHR. Our current oversight of Acting Up is seriously hamstrung by inconsistencies across operating departments in the tracking of Acting Up. Under current practices, operating departments independently assign and track acting up and provide monthly reports to DHR. The information provided to DHR, however, cannot be independently verified without herculean effort because different departments use different software and various methods to track it. While some departments may keep track of Acting Up through adjustments in employees' payroll records, other departments use the City's timekeeping software. To complicate matters further, departments have developed their own tracking codes within the software, and the use of these codes have mutated to such an extent that

¹² Acting-up is where an employee is directed to, and does perform, or is held accountable for, substantially all of the responsibilities of a higher position.

a code originally designed to track Acting Up may also be used to track other actions such as training and overtime pay.

Without being able to verify the accuracy of a department's tracking of Acting Up, the entire practice is vulnerable to manipulation by managers wanting to reward favored employees with higher-rated pay and valuable experience that would benefit them in the City's promotional processes.

DHR is currently in the process of drafting a new Acting Up Policy to address various other operational problems under current practices. We have been providing feedback throughout this process and will continue to advise DHR as it prepares to roll out the policy.

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

Department	Position	Number of Waivers	Date of Response	Duration of Waiver
Fleet and Facility Management	Foreman of Hoisting Engineers	2	10/19/2011	12/31/2011
Water	Chief Mason Inspector	1	10/31/2011	Additional 250 hours

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

In the last quarter, IGO Hiring Oversight reviewed three settlement agreements. The first settlement, reached between the Department of Streets and Sanitation and the County, Municipal Employee's, Supervisor's, and Foreman's Union, Local 1001, allowed the most senior laid off asphalt helpers from CDOT to fill Season Field Investigator (FVI) vacancies, due to a lack of FVI's to recall. The second settlement, reached between the Department of Water Management and the International Union of Operating Engineers, Local 399, allowed the promotion of the most senior Operating Engineers, who were equally qualified as those originally selected, as required by the CBA. The last settlement, reached between the Independent Police Review Authority and AFSCME, allowed the promotion of an Investigator originally passed over for disciplinary reasons.

QUARTERLY REPORTING OF CONTRACTING ACTIVITY

IGO Hiring Oversight is required to receive notifications of all draft contracts and other agreements with Temporary Employment Agencies, not-for-profit agencies, for-profit contractors and other organizations and entities providing services to the City under Section 2b

of the City’s “Contractor Policy” (Exhibit C to the General Hiring Plan). We may choose to review the drafts for the purpose of assessing whether the draft contract or agreement terms are in compliance with the Policy. IGO Hiring Oversight received notifications of and reviewed 4 draft contracts in the last quarter. The following chart details the contract notifications we received and reviewed in the last quarter:

Name of the Contractor, Agency or other Organization	Name of Contracting Department	Duration of such Contract or Agreement	Approved by DHR?¹³
Bold Planning Solutions	OEMC	Through May 2013	n/a
Kobotech Inc.	DCASE	06/01/2011 – 12/31/2011	n/a
Naomi Avendano	Law	Conclusion of case (late 2012)	Yes
Professional Dynamic Network	Treasurer	Through 1/13/2012	Yes

In conjunction with IGO Hiring Oversight’s contract compliance activities, IGO Hiring Oversight also provided assistance to numerous departments by reviewing sections and suggesting edits to two RFPs that had potential *Shakman* concerns.

IGO Hiring Oversight continues to work with DPS and contracting departments to ensure compliance with the notification requirement of the City’s Contractor Policy.

REPORTING OF OTHER IGO HIRING OVERSIGHT ACTIVITY

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

IGO Hiring Oversight received three escalations in the last quarter. We are also reporting on an escalation received in the 3rd quarter which concluded this last quarter.

Department of Law Escalation – 3rd Quarter

IGO Hiring Oversight was contacted on August 25, 2011 by a senior-level Department of Law (DOL) Official, who reported issues with the candidate materials for an ongoing Assistant Corporation Counsel (ACC) hire sequence. The DOL Official reported that the DOL recently completed an interview sequence with numerous ACC candidates, and the Corporation Counsel had selected six candidates for hire. She explained that when the DOL Director of Personnel was gathering the candidate materials to send to the DHR to process the hires, it became clear

¹³ Only temporary personnel contracts must be approved by DHR.

that there were some missing forms as well as some candidate assessment forms that appeared to be filled out twice by the interviewers. IGO Hiring Oversight recommended that the hire sequence be “frozen” until we could complete an inquiry into the circumstances of the issues with the candidate materials.

IGO Hiring Oversight obtained and reviewed numerous documents pertaining to the hire sequence and interviewed eleven DOL employees. After our review, we did not recommend that the DOL redo the hire sequence, as it appeared all hiring decisions were made with the benefit of all of the Candidate Assessment Forms (before they went missing). None of the hiring paperwork was recreated with intent to change the outcome of the hiring decisions or to circumvent either the Law Department Hiring Plan or the *Shakman* Accord. When it became clear to senior leadership of the Law Department that certain paperwork had been recreated, the discovery was promptly reported to IGO Hiring Oversight.

IGO Hiring Oversight recommended that DOL personnel who are involved in hiring sequences in any way receive updated interview training, and that DOL develop uniform paperwork procedures for hire sequences that are clearly communicated to DOL employees. DOL implemented all of our recommendations and reported that all DOL employees have received updated training on the DOL Hiring Plan.

Animal Care and Control Escalation

IGO Hiring Oversight was contacted on October 11, 2011 by a DHR Recruiter (Recruiter), who reported concerns with the reposting of a Supervisor of Animal Control Officers position in Animal Care and Control (ACC). ACC interviewed an internal and an external candidate for the position. At the Consensus Meeting, the interview panel selected the internal candidate for hire and the external candidate for Pre-Qualified Candidate List (PQC),¹⁴ despite the fact that the Hiring Manager wanted to select the external candidate for hire and the most senior interviewer did not even want to place the external candidate on the PQC. While processing hiring materials for the internal candidate, the Recruiter discovered that this candidate was ineligible for the position due to the City’s attendance policy. The Recruiter informed ACC of this candidate’s disqualification and requested documentation to move forward with the processing of the external PQC candidate, which ACC agreed to provide the following day. The next morning, ACC contacted the Recruiter and stated they would not be moving forward with hiring the external candidate and wanted to repost the position entirely. At this point, the Recruiter escalated the hire sequence to IGO Hiring Oversight.

IGO Hiring Oversight conducted a review of the hire sequence and obtained statements from the Hiring Manager and the most senior interviewer for the position. During the review, we found that this situation occurred because of a failure of the ACC interviewers to be aware of the rules and regulations for interviewed positions detailed in the General Hiring Plan and because of a failure of the Recruiter to communicate these rules and regulations to the ACC interviewers. After our review, we concluded that ACC’s decision to not move forward with the external candidate and repost the position was not an attempt to circumvent either the General Hiring

¹⁴ A Pre-Qualified Candidate is an Applicant who meets the minimum qualifications and hiring criteria, is found to be suitable for the position, and would have hired as the result of a hiring sequence but for the lack of a vacancy.

Plan or the *Shakman* Accord, nor was this decision based on political or other improper factors. As a result, we recommended that DHR allow ACC to repost the position and that DHR Recruiters emphasize the role of the Hiring Manager and the goals of Consensus Meetings to hiring departments going forward. DHR agreed with our recommendations and ACC has since conducted a new hire sequence which was monitored by IGO Hiring Oversight.

Department of Transportation Escalation

IGO Hiring Oversight was contacted on November 7, 2011 by a DHR Recruiter, who reported that the Department of Transportation (CDOT) changed the interviewers for a student intern position without providing advance notice to DHR as required by Section II.C.7 of the General Hiring Plan. IGO Hiring Oversight requested a justification letter from CDOT regarding their failure to provide the required advanced notification. Following our recommendation, DHR allowed the hire sequence to go through the approval process and also included a copy of CDOT's justification as well as our recommendation in the final hire packet.

Office of the City Treasurer Escalation

IGO Hiring Oversight was contacted on November 7, 2011 by a DHR Recruiter, who reported that interview assessment forms for a student intern hiring sequence in the Office of the City Treasurer (Treasurer's Office) contained unmarked ratings, double-marked ratings, and different colors of ink on the same page. After reviewing the hiring documentation and communicating with the interviewers, we found no evidence that the interviewers attempted to manipulate the hiring sequence or that political reasons or improper factors affected the process. Following our recommendation, DHR allowed the hire sequence to go through the approval process.

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

Complaints made to IGO Hiring Oversight may be resolved in several different ways depending upon the nature of the complaint. If there is an allegation of misconduct, the complaint may be referred to the Investigation 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 Investigation 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 29 complaints in the past quarter. Of those complaints, 17 were referred from the *Shakman* Monitor's Office. The chart below summarizes the disposition of these 29 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 3 rd Quarter	12
Complaints Received in the 4 th Quarter	29
Total closed in the 4 th Quarter	32
Closed by Referral to IGO Investigation	6
Closed by Referral to DHR	4
Closed with Recommendations to the Hiring Department and/or DHR	0
Pending with IGO Hiring Oversight as of 1/1/2012	9

3. Private Secretaries

The City's General Hiring Plan has a provision that allows certain Exempt employees to hire private secretaries without going through the general hiring process so long as individuals involved in the action certify that no political reasons or improper factors affected their hiring decisions. Because these positions have less protection than other positions covered by the *Shakman* Accord, they are particularly vulnerable to manipulation by City officials who wish to hire an individual without going through the general hiring process. In November 2011, we worked with DHR to set up an oversight function whereby we receive advance notice of all private secretary appointments. We also reviewed all private secretary appointments since the May 2011 mayoral transition and found no misconduct in these sequences.

F. AUDITS/PROGRAM REVIEWS

The IGO Audit/Program and Policy Review Section conducts 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. One audit was released this quarter. The following are the quarterly statistics for the IGO's audits and reviews.

a. AUDITS

1. Downtown Affordable Housing Density Bonus Process Audit

The IGO released an audit of processes related to the Downtown Affordable Housing Density Bonus (DAHDB) on October 19, 2011.

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

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

We determined that internal controls were not adequate to ensure a proper review of development projects prior to the issuance of building permits and the adequate training of individuals with core responsibilities respecting the collection of payments. However, we did find that the internal controls ensuring the collection of density bonus payments were adequate.

The deficiencies in internal controls resulted in the following negative consequences:

- Planned Development projects were not appropriately reviewed for compliance with ordinance;
- A training issue resulted in a gap in controls related to collection of payments; and
- There were no controls to ensure: (a) consistency in the overlapping review processes of the Department of Housing and Economic Development and the Department of Buildings, and (b) that the review process fully complied with the Zoning Ordinance.

Based on the audit findings, the IGO made recommendations to the Department of Housing and Economic Development to ensure greater accountability and coordination of processes with the Department of Buildings, including, among other things, detailed process mapping and assessment of consolidation of review and approval processes, consideration of clarifying amendments to the Zoning Ordinance and improvements in specified controls.

Table #5- Audit/Program and Policy Review/Special Project Statistics

Status	Number
Audits/Reviews Initiated	3
Audits Published	1
Audits/Reviews Terminated	6
Audits/Reviews Pending	24

b. PROGRAM AND POLICY REVIEW

The Program and Policy Review unit conducts independent, objective, non-partisan research on the economy, efficiency, and effectiveness of City programs. This includes analyzing the performance of City programs and comparing the costs and benefits of City services. The Unit's research and analysis is intended to promote continuous improvement in the delivery of City services and serve as a resource for the City Council, civic and advocacy organizations, and the public.

1. Open Chicago Update

In March 2011, the IGO launched Open Chicago, an initiative designed to increase the understanding of City government for all stakeholders (City residents, the media, and members

of the City Council), and to promote efficiency, effectiveness and integrity in the City's operations that can come only from accountability achieved through meaningful public scrutiny.

View all the information available via Open Chicago here:

<http://chicagoinspectorgeneral.org/major-initiatives/open-chicago/>

i. 2012 Budget Information

During the City Council hearings on the City's 2012 Budget in October and November 2011, City Departments submitted information to the City Council based on aldermanic questions of the departments made prior to and during the hearings. The material includes each commissioner's opening statement during the budget hearings and detailed information regarding departmental operations.

Following a request from the IGO that City departments either provide the IGO with copies of all documents submitted to the City Council as part of the 2012 City Council department budget hearings or publish this information on their public websites, the City posted this information on the City's Office of Budget and Management's website.

If you have ideas about other public documents that you believe the City should make public, questions about data and information that has been published, or other comments, questions, or criticisms, submit them via our [online suggestion box](#) or email them to openchicago@chicagoinspectorgeneral.org.