



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



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

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***QUARTERLY REPORT OF THE OFFICE OF INSPECTOR GENERAL  
THIRD QUARTER 2013***

**OCTOBER 15, 2013**

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

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October 15, 2013

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

Enclosed for your review is the public report on the operations of the City of Chicago Office of Inspector General (OIG) during the third quarter of 2013, filed with the City Council pursuant to Section 2-56-120 of the Municipal Code of Chicago.

This quarter brought the start of additional responsibilities and functions for the OIG. Earlier this year the City Council approved a second round of amendments to the Ethics Ordinance based on recommendations by the Mayor's Ethics Reform Task Force. The amendments, which took effect on July 1, placed investigative authority for ethics, lobbyist, and campaign finance violations under the jurisdiction of the OIG respecting executive branch personnel and activities, and the Legislative Inspector General for legislative branch personnel. This resolved longstanding procedural and jurisdictional discord occurring under the prior version of the Ethics Ordinance. We are excited to have a role in invigorating this important enforcement area in the coming months and in 2014.

During the third quarter, the OIG also began preparing for a new calendar year. On September 30, we published a draft of our 2014 Annual Plan for the Audit and Program Review Section. The plan outlines potential audits for 2014 and summarizes the audit work completed in the first three quarters of 2013. The draft is posted for public comment on our website until November 15. We strongly encourage your suggestions of topics and areas of review in our continuing efforts to identify ways for the City to promote economy, effectiveness, efficiency, and integrity in City operations and programs. In addition, the OIG recently released amendments to our Rules and Regulations, reflecting new areas of inquiry and the growth of our office. The rules and regulations are available at:

<http://chicityclerk.com/announcements/notice-office-inspector-general/>

A couple of features of the third quarter report merit additional attention. First, the office continues to expand its use of Advisories. These are shorter reports to the City of possible operational risks or deficits identified in the course of audits, investigations, and reviews, but for which the OIG may be presently unable to undertake more detailed information-gathering and analysis. The Advisories provide an overview of an issue or concern along with suggestions for how the City might address them in the near term in order to prevent waste, inefficiency, or risk respecting the use of taxpayer resources in the delivery of services to city residents.

While expanding its footprint in these areas, the OIG continues to investigate and, when appropriate, partner in the prosecution of misconduct. This is best reflected in the federal court sentencing this quarter of two individuals who engaged in fraud on the City's Minority/Women's Business Enterprise (M/WBE) program. Such prosecutions are often treated as simply another chapter in the City's long running public corruption narrative. However, we believe that such cases are better understood as a manifestation of an anti-corruption narrative, constituted of far more robust procurement as well as major program management oversight and enforcement.

As always, I encourage you to do your part in eliminating waste, fraud, abuse, and inefficiency in City government. Please continue to send the OIG your complaints and your ideas for audits. Our work can only go so far without the help of Chicago residents, City employees, and vendors. Do not hesitate to alert our office if you have suggestions for improving City or OIG operations or our reporting mechanisms, or if you have any questions or concerns about OIG inquiries.

Respectfully,

A handwritten signature in blue ink, appearing to read 'J. Ferguson', is positioned below the word 'Respectfully,'.

Joseph M. Ferguson  
Inspector General  
City of Chicago

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This quarterly report provides an overview of the operations of the Office of Inspector General (OIG) during the period from July 1, 2013 through September 30, 2013. The report includes statistics and narrative descriptions of the OIG’s activity that it is required to report per the City’s Municipal Code.

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

The mission of the OIG is to root out corruption, waste, and mismanagement, while promoting effectiveness and efficiency in City government. The OIG is a watchdog for the taxpayers of the City, and has jurisdiction to conduct investigations and audits into most aspects of City government.

The OIG accomplishes its mission through investigations, audits, advisories, and hiring reviews. OIG summary reports of investigations 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 and advisories are sent to the responsible management officials for comment and then are released to the public through publication on the OIG website. The OIG will issue reports as required by the Hiring Plan and as otherwise necessary to carry out its hiring oversight functions.

**B. INVESTIGATIONS**

The OIG 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 OIG received 556 complaints during the preceding quarter. The following table provides detail on the actions the OIG has taken in response to these complaints.

**Table #1 – Complaint Actions**

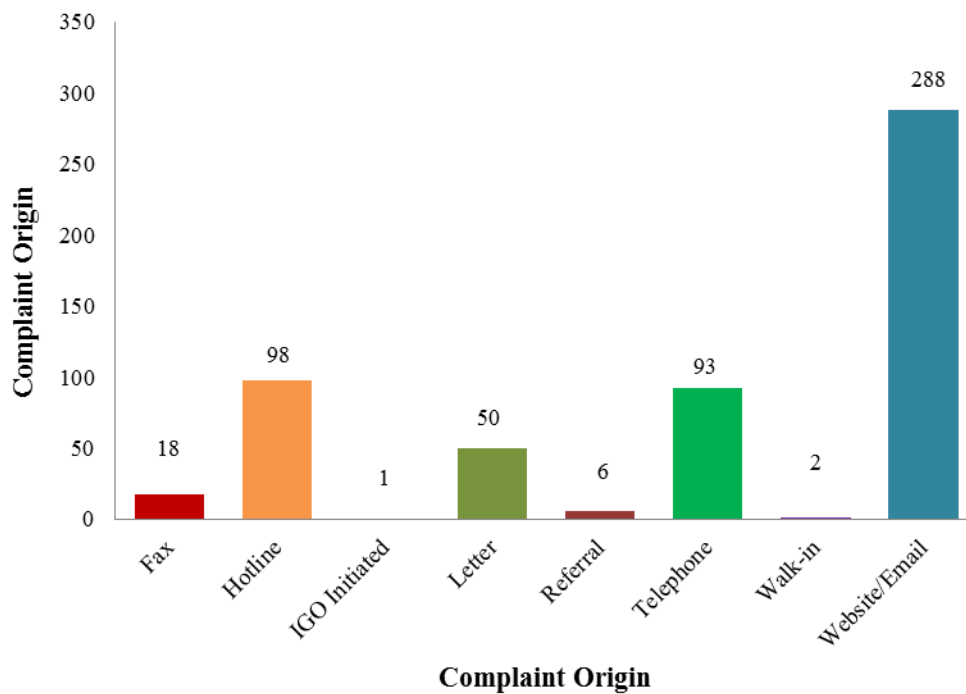
<b>Status</b>	<b>Number of Complaints</b>
Declined	404 <sup>1</sup>
Investigation	23
Referred	112
Other/Pending Review	17
<b>Total</b>	<b>556</b>

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<sup>1</sup> Two complainants accounted for 114 of the declined complaints.

As the table shows, for the vast majority of complaints, the OIG declined to investigate the allegation. The primary reason that the OIG declines a complaint is due to a lack of resources. That determination involves a form of cost/benefit evaluation by the Deputy Inspector General for 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 OIG has received during the past quarter by the method in which the complaint was reported.

**Chart #1 - Complaints by Method**



**2. Newly Opened Investigations**

During the quarter, the OIG opened 131 investigations. 128 were opened based on allegations of misconduct, and two were based on allegations of waste or inefficiency, and one was opened for other reasons. There was one OIG-initiated complaint this quarter. Of these opened matters, 106 were immediately referred to other departments or investigative agencies. Thus, of all the investigations opened in the quarter, 25 (19%) proceeded to a full OIG investigation. Of the newly opened investigations, three were found to be not sustained before the end of the quarter, none were found to be sustained before the end of the quarter, and 22 remain open.

The table below categorizes the 131 matters logged by the OIG 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	10
Appointed Officials	0
Elected Officials	6
Licensee	1
Other	21
<b>Total</b>	<b>131</b>

**3. Cases Concluded in Quarter**

During the quarter, 145 investigative matters were concluded, 106 of which were the aforementioned referrals to City departments or other investigative agencies. Of the 106 referred investigative matters, 83 were referred to a City department and 23 were referred to a sister agency.<sup>2</sup> Of the remaining concluded matters, 10 were closed as sustained, 26 were closed not sustained, and three were closed administratively. A case is sustained when the preponderance of the evidence establishes that misconduct has occurred. A case is not sustained when the OIG concludes that the available evidence is insufficient to prove wrongdoing under applicable burdens of proof. A case is closed administratively when (1) another agency or department is investigating the matter, (2) another agency or department took action, or (3) the matter was consolidated with another investigation.

**4. Pending Investigations**

Including the 131 investigations initiated this quarter, the OIG has a total of 177 pending investigations.

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

Under the Municipal Code, § 2-56-080, the OIG must provide quarterly statistical data on pending investigations opened for more than twelve months. Of the 177 pending investigations, 76 investigations have been open for at least twelve months.

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<sup>2</sup> Effective July 1, 2013, the OIG Ordinance was amended to provide for a number of additional reporting requirements. See MCC § 2-56-120.

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

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

<b>Reason</b>	<b>Number of Investigations</b>
Additional complaints were added during the course of the investigation.	2
Complex investigation. May involve difficult issues or multiple subjects.	38
Lack of sufficient investigative resources over the course of the investigation. Investigators’s caseloads were too high to enable cases to be completed in a timely manner.	26
On hold, in order not to interfere with another ongoing investigation.	3
Under review by the Legal Section or the Director of Investigations prior to closing.	7
<b>Total</b>	<b>76</b>

**6. Ethics Ordinance Complaints<sup>3</sup>**

During this quarter, the OIG received six ethics ordinance complaints. The OIG declined one ethics ordinance complaint because it lacked foundation; one ethics ordinance complaint was referred to another City Department; two ethics ordinance complaints were opened for investigation; and two ethics ordinance complaints are pending intake review.

**C. SUSTAINED ADMINISTRATIVE CASES**

OIG sustained cases can 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 OIG produces summary reports of investigation<sup>4</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 US Attorney’s Office, or the Illinois Attorney General’s Office, as appropriate. The OIG may issue summary reports of investigation recommending administrative action based on criminal conduct.

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<sup>3</sup> Beginning July 1, 2013, the OIG ordinance, MCC § 2-56-120, was amended establishing a new requirement that the OIG report the number of ethics ordinance complaints declined each quarter and the reasons for the declination.

<sup>4</sup> Per MCC § 2-56-060, “Upon conclusion of an investigation the inspector general shall issue a summary report thereon. The report shall be filed with the mayor, and may be filed with the head of each department or other agency affected by or involved in the investigation.”



## 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 OIG's findings, each description includes the action taken by the department in response to the OIG's recommendations. Departments have 30 days to respond to OIG recommendations. This response informs the OIG 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 OIG 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 OIG waits to report on cases regarding current City employees until the subject's department has acted on the OIG'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 three cases listed below were closed prior to the issuance of the OIG's 2nd Quarterly Report in 2013, but disciplinary action had not yet been finalized by the time that quarter's report was published.

### OIG Case # 07-0024

In the course of an OIG investigation, a senior official in the Chicago Police Department (CPD) made intentionally false and deliberately incomplete material statements to the OIG while under oath. The senior official's false and deliberately incomplete statements and failure to cooperate with the OIG violated the Chicago Municipal Code, CPD Rules and Regulations, and the City's Personnel Rules. Because such misconduct irreparably tainted the senior official's credibility and may have disqualified the senior official from effectively executing the duties of a sworn officer, the OIG recommended that the senior official be terminated and deemed ineligible for hire.

The CPD Superintendent responded by reporting that he had forwarded the OIG's report and investigative file to CPD's Internal Affairs Division (IAD). After an OIG investigator provided IAD a sworn affidavit attesting to the senior official's false statements made during the OIG interview, IAD proceeded with its own investigation. Concurrently, CPD demoted the senior official. The IAD investigation concluded in a recommendation for termination. Upon notification of the IAD findings and recommendation, the senior official resigned under inquiry. CPD reported that the investigative report would be retained and the department would seek adjudication and final administrative action should the senior official return to the department.

OIG Case # 09-1372

The OIG concluded an investigation establishing that a Department of Buildings (DOB) building inspector gave preferential treatment to the owner of a City construction company. The building inspector referred the construction company owner's porch repair services to a City resident while inspecting that resident's property. According to the construction company owner, the building inspector provided him referrals because he repaired the building inspector's friend's porch free of charge. The construction company owner and the building inspector first met when the building inspector was conducting an official check at the owner's residence.

The OIG's investigation further revealed that the building inspector had a pattern and practice of providing preferential treatment while working as a City building inspector. More specifically, the building inspector admitted: (1) referring property owners to specific contractors during property inspections in violation of DOB's inspection reporting policy; (2) scheduling inspections by personal phone for a close friend and former brother-in-law, who was a licensed City contractor at the time; (3) conducting at least three inspections of properties for which the former brother-in-law's company was the contractor of record; and (4) conducting an inspection of a restaurant, even though the building inspector described the restaurant's owner as being "like a brother." Based on the building inspector's consistent and repeated disregard for the DOB's rules and policies, the OIG recommended that DOB impose discipline, up to and including termination, consistent with the serious, serial nature of the misconduct.

DOB subsequently issued the building inspector a 45-day suspension. Through a settlement agreement DOB executed with the building inspector and his Union, the building inspector accepted a 45-day suspension and agreed to waive any rights to contest the discipline.

OIG Case # 12-1360

An OIG investigation found that a Department of Streets and Sanitation (DSS) supervisory employee issued sanitation code tickets with pictures taken on days other than those cited on the tickets. The picture dates included days when the employee was off duty. With each such ticket, the employee falsely certified that the pictures were true and accurate depictions of the location and conditions at the date and time cited on the ticket, in violation of the City's Personnel Rules and DSS policy. Included in these violations, the OIG identified 25 tickets supported by a picture that was also used to support a previous ticket. Based on these findings, the OIG recommended that DSS terminate the employee and deem the employee permanently ineligible for rehire.

The OIG also recommended that DOL work with DSS to determine if the employee wrote any additional tickets for days the employee was on vacation or off duty during the relevant time period. The OIG recommended that DOL review all of the tickets identified in the investigation, including 12 tickets that were subsequently paid in full or in part by the respondents, and take appropriate remedial action to address any tickets not supported by credible evidence. During the investigation, the DSS employee described multiple reliability issues with City-issued technology, including a City camera, BlackBerry, and Chicago Mobile Asset Technology. The

OIG therefore recommended that DSS review the functionality of these devices to ensure the most efficient and effective use of these tools and resources.

DSS agreed with the OIG's findings and recommendations and reported that the supervisory employee resigned in lieu of discharge. The employee has been designated as ineligible for rehire. The Department of Law (DOL) reported that it conducted a review of the employee's tickets since July 2012 and did not find any additional tickets written for days the employee was on vacation or off-duty. DOL reported that it will not pursue fines for the tickets identified in the OIG's investigation. It will also seek to vacate any outstanding judgments entered on the tickets and, where applicable, mail respondents a refund application.

City Departments took corrective action on seven administrative cases the OIG sustained this quarter. They are summarized below.

#### OIG Case # 11-0621

The OIG concluded an investigation establishing that Company A, an MBE- and DBE-certified firm, violated City of Chicago Department of Procurement Services (DPS) Regulations. Company A essentially functioned as a broker to non-certified vendors on projects funded through the Department of Housing and Economic Development (DHED). The City does not recognize MBE or DBE participation credit for brokers. The OIG recommended that DHED and DPS determine whether any past MBE participation credit that was incorrectly attributed to Company A as supplier or distributor should be rescinded and that DPS determine whether Company A's admitted labor and equipment sharing practices violated the spirit of the City's certification program.

DPS and DHED agreed that no participation credit should be granted for services performed by a firm outside its areas of specialty. Since Company A was not certified as a supplier or distributor, it also agreed that any claim for such MBE or DBE credit by Company A for the services it provided on City-funded projects should be denied.

DHED reported that its records only show that Company A participated in the three projects identified in the OIG investigation and confirmed that no MBE or DBE credit was granted for those projects.

Finally, DPS agreed that while Company A's labor and equipment sharing arrangements may not always violate program rules the facts established by this investigation showed that Company A's labor and equipment-sharing practices did violate the spirit of the certification program. The arrangement essentially allowed Company A to serve as a pass-through entity, providing no commercially useful function, which defeats the purpose of the certification program, and deprives another certified firm of taking part in the project.

To avoid future occurrences of this situation, DPS indicated a preference for a case-by-case determination of whether labor and equipment sharing practices were legitimate rather than a blanket prohibition on all labor and equipment sharing arrangements. DPS cited the fact that many certified firms are small and there may be occasions where they have to hire temporary

labor or lease equipment in order to participate in projects. In an effort to provide guidance to ensure program goals, DPS has amended the Special Conditions Regarding Minority Owned Business Enterprise Commitment and Women Owned Business Enterprise Commitment to include the following:

Indications that a subcontractor is not performing a commercially useful function include, but are not limited to, labor shifting and equipment sharing or leasing arrangements with the prime contractor or a first tier subcontractor.

#### OIG Case # 11-0999

An OIG investigation found that an employee with the Chicago Department of Aviation violated the City's residency requirement by living in Lansing, Illinois. Based on these findings, the OIG recommended that the City terminate the CDA employee, in accordance with MCC § 2-152-050.

CDA discharged the employee, who has appealed to the City's Human Resources Board. The appeal is pending.

#### OIG Case # 12-0584 & # 12-0585

An OIG investigation found that a not-for-profit organization ("contractor") contracted with the Department of Housing and Economic Development (DHED) to administer the City's Tax Increment Financing Neighborhood Improvement Program (TIF-NIP) erroneously awarded two home improvement grants to two city employees whose income exceeded the limits set by the City. The OIG found that the contractor, as a matter of course, failed to take overtime earnings into consideration and did not document income calculations when determining eligibility.

The investigation also found that, while DHED is responsible for effective administration of the TIF-NIP program, both DHED and the contractor had difficulty articulating how the contractor should be calculating an applicant's income. And, as of last fall, DHED had not audited the program in over two years. Without a clear understanding of the appropriate methods for calculating income, DHED was ill-equipped to provide a meaningful review of the contractor's work. The OIG recommended that DHED clarify the specific procedures contractors should use to calculate and verify applicants's annual household income, implement regular audits of TIF-NIP grant files, and require that the contractor provide employee training and performance evaluation. Finally, the OIG recommended that DOL review the two grants improperly awarded to determine whether to pursue contract remedies provided for in the TIF-NIP contract agreements, including recovery of the grant funds improperly awarded.

DHED responded that it agreed with the OIG's findings and reported that it had since developed a TIF-NIP manual that provides specific guidelines on procedures, income requirements, and audit schedules and had conducted training for the contractor's staff. DHED reported that it would audit active TIF-NIPs by the end of September 2013 and would provide annual training for the contractor on program policies. DOL and DHED reported that after consultation with DOL, DHED requested repayment from the contractor in the total amount of \$30,000 to the City

for the two grants improperly awarded. The contractor agreed to the request and repaid the \$30,000 on September 19, 2013.

#### OIG Case # 12-0913

An OIG investigation established that, while working together on a Department of Water Management (DWM) crew, three employees used a DWM truck to deliver sod to a personal residence, a violation of the City's prohibition on personal use of City vehicles. Each member of the crew reported that while driving in the DWM truck they happened upon approximately 10 rolls of sod obstructing the street. On the Foreman's initiative, the crew stopped, loaded the sod onto the DWM truck, and delivered it to the Foreman's house where all three unloaded the sod and left it in the Foreman's personal possession. In total, the crew spent approximately 25 minutes away from City business, without authorization. The OIG recommended that DWM impose discipline against each of the three employees commensurate with the gravity of their violations, their past disciplinary and work history, department standards, and any other relevant considerations.

DWM responded that it concurred with the OIG's findings and issued a written reprimand to the Foreman and verbal warnings to the two other crew members.

#### OIG Case # 13-0041

The OIG and Office of the *Shakman* Monitor have conducted several investigations into allegations of improper political hiring during the late 1990s through the early 2000s. This investigation established that, in 2001, an employee of the Department of Fleet and Facility Management (2FM) submitted candidate score sheets for job interviews that the evidence shows never happened.

The OIG interviewed several of the internal job candidates who were not selected for the higher-paying City position in 2001. Several of these candidates reported to the OIG that they were never interviewed for the job by the 2FM employee or anyone else. However, the hiring file includes score sheets for these candidates completed by the 2FM employee stating that the applicants were interviewed but did not rate as highly as the two candidates who were eventually selected for the open positions. The unsuccessful candidates had never seen the score sheets before their interviews with the OIG.

Both of the job candidates hired for the available positions were politically-connected. One of them was included on the "clout list" of politically-connected City job applicants maintained by the intergovernmental affairs office.

The OIG recommended that 2FM impose discipline against the employee that reflected the severity of the misconduct up to and including the termination of employment.

2FM suspended the employee for 14 days.

## **D. CRIMINAL CASES, ADMINISTRATIVE APPEALS, GRIEVANCES, AND RECOVERIES**

The OIG investigates both administrative and criminal allegations.

In criminal cases, the OIG partners with a prosecuting agency, such as the US or State’s Attorney’s Office, which prosecutes the case. For the purposes of OIG quarterly reports, criminal cases are concluded when the subject of the case is indicted.

In administrative cases, a City employee may be entitled to appeal or grieve a departmental disciplinary action, depending on the type of corrective action taken and the employee’s classification under the City’s Personnel Rules and/or applicable collective bargaining agreements. The OIG monitors the results of administrative appeals before the Human Resources Board (HRB)<sup>5</sup> and grievance arbitrations concerning our disciplinary recommendations.

### **1. Synopses of Criminal Cases**

No cases the OIG concluded this quarter produced criminal charges.

### **2. Developments in Prior Criminal Cases**

During the quarter, there were developments in one of the OIG’s prior criminal investigations.

#### *A. United States v. Guy Potter and Matthew Giovenco (OIG case # 06-0253)*

On September 10, 2013, a Federal District Court judge sentenced two defendants to federal prison for fraudulently running a sham minority-owned cable television installation business that obtained \$8.3 million in subcontracts from a cable company that serves residents on the city’s north side. The defendants, Guy Potter and Matthew Giovenco, controlled and operated the now-defunct ICS Cable, Inc., which they and others fraudulently disguised as a minority-owned business to obtain City-mandated minority sub-contracts under the lakefront cable franchise held by RCN Telecom Services of Illinois LLC. Potter and Giovenco are not minorities. A joint investigation by the OIG, FBI, Cook County State’s Attorney’s Office, and the US Attorney’s Office discovered the fraud. The two were convicted of mail fraud in April. Potter, 67, of Versailles, Ky., and formerly of Bensenville, was sentenced to 4½ years beginning on October 31, and Giovenco, 43, of Grayslake, was sentenced to three years in prison beginning on December 2. US District Judge Rebecca Pallmeyer imposed the sentences and ordered both defendants to forfeit \$2.2 million in profits and pay \$217,580 in restitution to RCN.

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<sup>5</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)

Jerone Brown served as the sham minority owner and president of ICS. Brown's mother, Cherone Mayes, paid a \$500 bribe to a City employee to expedite the MBE certification for ICS. Both Brown and Mayes, who are Chicago residents, testified as government witnesses, after pleading guilty, and are awaiting sentencing in December 2013.

RCN's cable franchise agreement required it to sub-contract 40% of the cable installation and disconnection services to City certified minority-owned businesses. Between April 2003 and October 2006, Potter and Giovenco, assisted by Brown and Mayes, fraudulently obtained at least \$8.3 million from RCN by falsely representing that Brown owned and operated ICS. All four defendants supported the false representations to RCN with an MBE certification for ICS that they obtained by making false representations to the City regarding Brown's purported ownership and control of ICS. In fact, Potter and Giovenco alone controlled ICS and made most, if not all, financial and managerial decisions for the business.

### **3. Synopses and Results of Administrative Appeals or Grievances**

To date, the OIG has been notified that three employees involved in investigations summarized in this report have appealed the disciplinary action taken against them to the HRB.

The OIG will continue to provide updates as appropriate on appeals or grievances concerning OIG disciplinary recommendations in future quarterly reports.

#### *(A) OIG Case # 10-0027*

In an earlier Quarterly Report, the OIG reported that the Office of Budget and Management (OBM) discharged an employee after an OIG investigation revealed that the employee had violated the City's residency requirement, MCC § 2-152-050. The employee also failed to report a change of address for nearly two years, submitted a false change of address notification, and did not purchase City stickers for two vehicles while living in the city.

The employee later filed a complaint with the Illinois Department of Labor alleging that her discharge was in violation of her rights under the Victims's Economic Security and Safety Act (VESSA), 820 ILCS 180/1-999, because she was a victim of domestic violence and the City did not provide her with an accommodation in the form of a residency waiver. VESSA is intended to provide employment protection, including provision for reasonable accommodations, for victims of domestic violence.

On December 21, 2012, after a full hearing, an administrative law judge (ALJ) issued proposed findings of fact, opinions, and recommendations, finding in the employee's favor. The City filed exceptions and a supporting brief. On July 22, 2013, the IDOL Executive Director issued his Final Decision and Order, which agreed with the ALJ that the City did not provide an interactive process and failed to make a reasonable accommodation under VESSA. The Executive Director, however, concluded that the City had not retaliated against the employee or acted with any discriminatory intent. The Order directed the City to either reinstate the employee or pay her back-pay and one year of front-pay. The Order also mandated that the City post VESSA rights

and conduct training. DOL reported to the OIG that DHR has since created a new VESSA policy and conducted VESSA training.

*(B) OIG Case # 10-0129*

As earlier reported, the OIG conducted an investigation establishing that a Chicago Department of Public Health (CDPH) building inspector responsible for inspecting the residences of children who have tested positive for elevated blood lead levels was observed wasting several hours at his/her home and running personal errands. The employee concealed his/her misconduct by submitting falsified daily timesheets that claimed he/she was working at the same times surveillances observed him/her engaging in time-fraud. In addition, the employee failed to submit a Dual Employment Form until the date of his/her interview with OIG investigators – at least 17 months after his/her employment as a private security guard. The OIG recommended that the employee be terminated.

CDPH terminated the employee on February 11, 2013. The employee appealed the termination to the HRB. After a three-day hearing, the Hearing Officer found that the evidence showed the employee spent work hours at home and running personal errands as alleged. The hearing officer did not find that the employee was inattentive to his/her work duties or that he/she failed to report secondary employment – both of which were additional findings in the OIG's investigation.

The hearing officer recommended that the discharge be reduced because of the employee's work history and in consideration of an illness and death in his/her family. The HRB approved this finding and the employee's discharge was reduced to an unpaid suspension of five months.

*(C) OIG Case # 10-1532*

As reported in a prior Quarterly Report, the Department of General Services (now part of the Department of Fleet and Facilities Management), discharged an employee after an OIG investigation revealed that the employee repeatedly falsified City timekeeping and other work records in order to operate a personal side business painting houses while on City time. In addition, the employee lied to OIG investigators and later instructed a witness not to cooperate with the investigation.

The employee appealed the discharge to the City's Human Resources Board (HRB). In August 2012, a hearing officer found that the City had presented sufficient evidence to support the discharge, finding that, based upon the totality of circumstances, the department was within its right to consider and reject progressive discipline in this instance. In October 2012, the HRB adopted the hearing officer's findings in full and upheld the discharge. The employee appealed the discharge to the Circuit Court of Cook County. On September 24, 2013, after full briefing and oral argument, the Circuit Court upheld the decision of the HRB.



#### 4. Recoveries

OIG investigations and audits can lead to financial recoveries for the City. This quarter, one attempt to seek cost recovery was unsuccessful.

(A) *OIG Case # 10-0078*

In July 2011, the OIG issued a summary report in OIG Case # 10-0078 recommending termination of 54 firefighters assigned to the Fire Prevention Bureau (called “inspectors”) for submitting fraudulent mileage reports. The OIG reviewed reimbursement requests submitted in 2009 that revealed the practice of filing false mileage reports was longstanding, widespread and was allowed to thrive through weak or non-existent controls against fraud.

The Chicago Fire Department (CFD) terminated four firefighters and suspended 46 firefighters for a varying number of days. Four additional firefighters resigned before CFD announced its terminations and disciplinary actions. Subsequently, an arbitrator found that the firefighters intentionally submitted mileage reimbursement claims for costs they had not incurred, but nonetheless overturned the terminations and reduced the suspensions.

In April 2013, the City, through the Department of Law, sent the subjects of the investigation demand letters for repayment of the money obtained through their false reimbursement claims. The letters indicated that failure to remit the amount requested would result in the City filing an administrative legal action.

The firefighters’s union objected and petitioned the same arbitrator, who claimed to retain jurisdiction on matters related to the arbitration. The union argued, among other things, that the City’s demand letters amounted to double jeopardy on the basis that the City had already suspended the firefighters and had not sought cost recovery as part of the discipline resulting from the investigation.

The City argued that it has the authority under the Chicago Municipal Code to seek repayment of funds paid to the firefighters through their undisputed false reimbursement requests and that such authority is independent of CFD’s disciplinary process. The arbitrator disagreed, and found that the City’s demand was connected to his previous arbitration award and, therefore within his continuing jurisdiction. Having decided that he had jurisdiction over the City’s demand letters, the arbitrator further ruled that the City’s repayment demand constituted double jeopardy against the firefighters and was a remedy the City waived by not pursuing it through the disciplinary process.

**E. AUDITS**

In addition to confidential disciplinary investigations, the OIG produces a variety of public reports including independent, objective, analysis and evaluations of City programs and operations with recommendations to strengthen and improve the delivery of City services. These engagements focus on the integrity, accountability, economy, efficiency, and effectiveness of each subject. We have summarized two audits that were released this quarter.

In the third quarter of 2013, the OIG also released on our website both our 2013 audit plan and our draft 2014 audit plan. The 2014 Plan includes information on audits that the OIG is currently considering for 2014, follow-up audits that are likely to occur in 2014, and audits completed year to date. The OIG is soliciting comments from City Council, City Hall, and the public for a period of 45 days from the date of publication, or until November 15 (comments should be sent to [CommentsAP2014@chicagoinspectorgeneral.org](mailto:CommentsAP2014@chicagoinspectorgeneral.org)). The OIG will consider all comments in finalizing its 2014 Audit Plan, which it will publish in December, 2013. The 2014 Audit Plan will set forth intended subjects for audit but will not provide an order of priority. Work contemplated by the Plan will remain fluid with audits added and adjusted according to a variety of factors such as new events and information as well as resources available.

(A) *Department of Streets and Sanitation Grid-Based Garbage Collection Audit*

On July 8, 2013, the OIG released an audit report regarding the City's transition from a ward-based to a grid-based garbage collection system. The performance audit attempted to evaluate the transition to the grid-based system and identify how management would continue to drive efficiency gains in the future.

However, the Commissioner for the City Department of Streets and Sanitation (DSS) walked out of a meeting when OIG auditors pressed him for information regarding his plans to monitor operations. He did not respond to a subsequent OIG request to resume the discussion.

The commissioner's refusal to cooperate left the OIG unable to:

- Determine the impact of the transition on the number of trucks and personnel involved in the garbage collection process;
- Review DSS's plans to ensure maximum efficiency of garbage collection under the new system;
- Validate DSS's efforts to correct deficiencies in its ward-based supervisory structure to meet current operational and management needs.

Due to the commissioner's refusal, the OIG recommended that:

- The City substantiate the \$18 million in savings claimed in an April 2013 announcement by publicly releasing the underlying data, calculations, and supporting documents used to estimate the total savings;
- DSS establish and apply specific performance measurements to better understand whether and how the grid-based garbage collection system is improving;
- DSS review the current supervisory structure (developed at the time of the ward-based system) and implement necessary changes to not only address the self-identified operational issues and inefficiencies, but also ensure optimally effective and efficient oversight of the grid-based garbage collection system.

(B) *OIG Follow-up Report on 2012 Audit of Chicago Police Department Tuition Reimbursement Program*

On July 24, 2013, the OIG released a follow-up audit to its December 2012 audit of processes related to the Chicago Police Department (CPD) Tuition Reimbursement Program (TRP). The purpose of the audit was to determine if CPD's Department of Human Resources (HR) was effectively administering the \$6.5 million program in accordance with the program rules and to identify former employees who failed to meet program service requirements in order to initiate collection efforts to recover the taxpayer-funded tuition reimbursements.

Based upon the results of the audit, the OIG recommended that CPD HR strengthen the administration of the TRP to ensure that program rules are accurately and consistently applied, reimbursement calculations are correct, and former employees who owe tuition reimbursement repayments to the City are promptly identified. At that time, CPD HR responded with a commitment to implement corrective actions.

In June 2013, the OIG inquired with CPD HR regarding the current status of those corrective actions. CPD HR responded on July 17, 2013. The OIG's follow-up inquiry did not observe or test implementation of new policies and procedures and thus makes no determination as to their effectiveness, which would require a new audit with full testing of the procedures.

**F. ADVISORIES**

Advisories describe a management problem observed by the OIG in the course of other activities including Audits and Investigations. These are problems that we believe the City should be apprised of in an official capacity. We have summarized four advisories that were released this quarter.

(A) *OIG Case # 11-0324, Advisory Regarding Time Wasted by Sanitation Laborers in the Department of Streets & Sanitation*

On June 6, 2013, the OIG sent DSS Commissioner Charles L. Williams an advisory concerning time wasted by DSS sanitation laborers. The advisory arose out of an OIG investigation revealing that the DSS laborers working out of the DSS facility located at 1756 West 74<sup>th</sup> Street

(the “Ward Yard”), the center of operations for the 15<sup>th</sup> and 18<sup>th</sup> Ward’s refuse collection, were not engaged in work activity for significant portions of their shifts.

After receiving a complaint, the OIG conducted four separate surveillances of that Ward Yard during 2011 and 2012. During those surveillances, the OIG, on separate occasions, observed the following activity:

- three sanitation laborers sitting in their personal vehicles during the last 30 minutes of their shift, one of whom was reading a newspaper. The OIG also saw several other individuals who appeared to be sanitation laborers sitting in their vehicles;
- two sanitation laborers sitting in their personal vehicles during the last 30 to 45 minutes of their shift. Another laborer was standing just outside a vehicle watching television on a screen located inside that vehicle, which was registered to another sanitation laborer who worked at the Ward Yard;
- three sanitation laborers sitting in their personal vehicles during the last 30 to 45 minutes of their shift.

As part of its investigation, the OIG also interviewed three sanitation laborers who worked out of the Ward Yard. During those interviews, the laborers admitted that they generally arrive back at the Ward Yard 30 to 45 minutes before the end of their shift and “hang out” until their shift is over. One of the sanitation laborers told the OIG he reads in his car at the beginning of his shift while he is waiting for the motor truck driver (MTD) to arrive at the Ward Yard, and also at the end of his shift after he returns to the Ward Yard. A different sanitation laborer told the OIG that instead of prepping alleys (e.g., sweeping the alleys or placing refuse that is on the ground into carts) or completing “in-between load assignments” (tasks assigned by the supervisor such as picking up garbage in medians or under bridges), he and another laborer often sit in his car for an hour and a half during the middle of their shift waiting for the MTD to return from the dump. All of the laborers stated that the sanitation laborers working out of the Ward Yard rarely receive in-between load assignments from their supervisor.

The OIG interviewed one of the two supervisory personnel operating out of the 74<sup>th</sup> Street Ward Yard. The supervisor acknowledged that he sees sanitation laborers sitting in their cars at the end of their shifts a couple of times a week. The supervisor said the laborers do not have assignments at the end of the day because there “is only so much you can shovel or sweep around the ward yard.” In addition, although the supervisor claimed that he did give in-between load assignments, he could not explain: (1) why the DSS Daily Report Refuse Collection sheets that are used to record such assignments did not reflect any assignments for the four days the OIG conducted surveillances; or (2) why the sanitation laborers the OIG interviewed said they rarely received such assignments.

The OIG acknowledged in its advisory that the actions described above took place prior to the 15th and 18th Wards’s transition to the grid collection system. However, it still brought the matter to DSS’s attention in case DSS wanted to conduct a review of DSS garbage truck crews and supervision systems to ensure these issues to do not continue.

In response, DSS acknowledged that the OIG’s advisory illustrated some of the problems of the ward-based garbage collection system DSS used to employ. DSS’s response noted, though, that the recent shift from ward-based collection to grid-based collection was designed to provide a more efficient garbage collection system. The response further stated that DSS would use the advisory to “serve as a training tool for Sanitation Laborers and supervisory personnel alike, so that inefficiencies and waste may be further reduced in the city-wide grid based garbage collection model.”

(B) *OIG Case # 11-0449, Advisory Regarding the Training of Department of Streets & Sanitation Dispatch Personnel*

On June 14, 2013, the OIG sent Department of Streets and Sanitation (DSS) Commissioner Charles L. Williams an advisory concerning the training of DSS dispatch personnel. The advisory arose from an OIG investigation that found several of the DSS dispatch personnel operating out of the City Incident Center (the CIC) located at 1411 West Madison lacked a basic proficiency in at least one of the four dispatch systems DSS uses. The absence of such requisite skills creates inefficiencies in DSS’s dispatching and produces disparate workloads for dispatchers, potentially causing unnecessary delays in the provision of important City services.

Specifically, a DSS equipment dispatcher admitted he was not familiar with the Police Computer Aided Dispatch system (PCAD), which helps DSS coordinate the City’s provision of tow trucks upon the receipt of police tow requests. He said he only received minimal, informal training on the system. A DSS Equipment Dispatcher In Charge (EDIC) confirmed that the above-described dispatcher cannot operate the PCAD system and conceded that the dispatcher also does not use the customer service request (CSR)/311 dispatch system.<sup>6</sup> Instead the dispatcher relays the CSR/311-type information over the phone to another dispatcher who then enters the information into the CSR/311 system. The EDIC further relayed that two other DSS dispatchers do not use the PCAD system due to a lack of training and said that he himself was only minimally effective at operating the PCAD system himself. The EDIC agreed that a dispatcher’s inability to properly operate all the DSS dispatch systems creates inefficiencies and resulted in unequal dispatcher workloads, but suggested that employees with seniority should be given some slack.

DSS’s Chief Dispatcher stated that DSS dispatchers are expected to be proficient in all of the dispatch systems that DSS uses. The Chief Dispatcher claimed that all the equipment dispatchers received training on the PCAD system. According to the Chief Dispatcher, if certain dispatchers needed additional training, they should have asked for it. The EDIC acknowledged, however, that DSS has been somewhat negligent in ensuring that its dispatchers are properly trained with respect to all the dispatch systems that DSS uses.

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<sup>6</sup> The CSR/311 dispatch system helps coordinate the City’s response to, among other issues, downed power lines, water main breaks, and pot holes.

The OIG suggested that DSS consider taking action to ensure that all its dispatchers are sufficiently trained in the necessary dispatch systems, including, if appropriate, tracking the dates, subject matter, and recipients of such trainings.

In response, Commissioner Williams informed the OIG that all employees currently occupying the “equipment dispatcher” title would receive an “in-depth training and review” on: (1) computer aided dispatch; (2) customer service request dispatch; (3) incident report logging; (4) “stream” and CMAT training; and (5) refreshers on basic electronic office tools for report generation and departmental communication. In addition, Commissioner Williams stated that all new hires into the equipment dispatcher title would be required to demonstrate “complete system proficiency” prior to the expiration of the 60-day evaluative window allowed by the relevant CBA. Commissioner Williams further noted that DSS is currently working to fill a vacant equipment dispatcher title which would give DSS an opportunity to ensure equal workload distribution and conduct the above-described training regimen. According to Commissioner Williams, the Chief Dispatcher will be responsible for conducting the training of the current equipment dispatchers and for evaluating the new hires.

*(C) OIG Case # 10-1473, Advisory re: Local Hiring Ordinance*

On July 3, 2013, the OIG sent the Mayor an advisory regarding the City’s Local Hiring Ordinance. This ordinance requires 50% of the total hours worked by persons on the site of a taxpayer-supported construction project having a value of \$100,000 or more be performed by City residents employed by contractors or subcontractors on the project. The OIG initiated a review to examine (1) contractor/subcontractor compliance with the Local Hiring Ordinance and (2) City monitoring and enforcement of the Local Hiring Ordinance, by focusing on a single completed project that had been closed out by the City, with the local hiring numbers finalized and any liquidated damages assessed.

The OIG discovered the following:

- The Department of Housing and Economic Development (DHED) initially determined the project fell 1.02% short of the local hiring requirement, with City residents accounting for 48.98% of the 496,133.11 total hours worked. The project had construction hard costs totaling \$74,720,925. Based on the terms specified in its agreement with the City, the developer was assessed \$38,107.67 in liquidated damages. However, the OIG review of the certified payroll records concluded there were 498,946.11 total worker hours, or 2,813 more total hours than DHED determined to be the case. The OIG found that the project actually fell about 3.96% short of the total worker hours performed by actual City residents, meaning the project should have been assessed damages of \$147,947.43, or \$109,839.76 more than the City assessed against the developer.
- Provisions of the Local Hiring Ordinance delegate responsibility for ensuring compliance to both the Department of Procurement Services (DPS) and the “supervising departments,” (DHED in this case) but are generally silent on how that shared responsibility is to be implemented or coordinated.

- Neither the Local Hiring Ordinance nor the contract provisions between the City and the developer or the developer and the contractors specify the type of supporting documentation a contractor must maintain in order to claim an employee as a City resident for Local Hiring Ordinance purposes. In the absence of such standards, program enforcement is at best challenged, at worst defeated, and reliant entirely on the good faith of contractors and developers.

Accordingly, OIG suggested:

- Establishing rules and regulations mandating that contractors and/or subcontractors obtain and maintain specific verifiable identification documentation from their employees as a condition of obtaining credit for complying with the Local Hiring Ordinance. For example, the City might require an employer to maintain on file a copy of a current State Driver's License or Identification Card for each employee for whom it is claiming Local Hiring Ordinance credit, along with a certification by the employer that it personally observed and copied the actual DL or ID produced by the employee. This would create regulations similar to those mandated by the federal government with the Employment Eligibility Verification Form I-9, created to document and verify employment identity and eligibility. A portion of the Form I-9 is completed by employers and requires that they physically examine identification documents submitted by employees to ensure that they are genuine. For employees lacking official identification, the Illinois Secretary of State's (SOS) website provides an extended list of documents it accepts in some combination to establish state residency for purposes of obtaining a driver's license or state identification card that the City might adapt as an alternative means for contractors to substantiate an employee's City residency.
- Conducting periodic spot check reviews of the supporting documents in the possession of the contractors and/or subcontractors to confirm compliance with the Local Hiring Ordinance.
- Promulgating policies and procedures regarding the joint responsibilities of DPS and supervising departments for ensuring compliance with the Local Hiring Ordinance.

The responses of the departments are as follows:

- DHED said it will work with other departments in promulgating policies and procedures regarding the joint responsibilities for ensuring compliance with the Local Hiring Ordinance, including the establishment of rules and regulations mandating that all contractors and subcontractors obtain specific verifiable identification documentation from their employees as a condition of obtaining credit for complying with the Local Hiring ordinance. In addition, DHED said it will develop a plan to perform onsite spot-check reviews of the information mandated for compliance given the current staff constraints.

- DPS said it appreciated the OIG pointing out an area where there could be improvement in City processes. As suggested by the OIG, DPS developed rules and regulations regarding compliance with the Local Hiring ordinance for departments that procure construction contracts outside of the DPS process. In addition, DPS said that normally it had not been the practice of DPS to monitor, audit, or close out these types of contracts. That role has been performed by DHED. However, DPS and DOL worked closely with DHED in order to ensure that DHED complies with the Local Hiring ordinance. Furthermore, DPS said any comments the OIG made in its advisory apply to a very small universe of contracts (albeit for large dollar amounts) that have traditionally been the responsibility of DHED to monitor and close out.

DPS also said that all of the contracts for which the Local Hiring ordinance is applicable also are subject to the Illinois Prevailing Wage Act. Under the Act, it is mandatory that all contractors and subcontractors make and keep records of all laborers, mechanics, and other workers employed by them on the project; the records shall include each worker's name, address, telephone number when available, and social security number.

*(D) Advisory Regarding City's Late Payments of Supplementary Vacation*

On July 26, 2013, the OIG sent the Mayor an advisory regarding the timeliness of the City's vacation payouts to separated employees. An OIG review of City payroll records from the last four years found that the City is consistently late in paying earned vacation payouts, taking, on average, over 50 days to pay former employees money owed. The OIG found that only 14% of former employees received their earned vacation pay within 16 days of leaving the City. While former employees in nearly one-third of City departments were paid within an average of 30 days, former employees in a few City departments received final payouts, on average, more than three months after leaving City service.

The Illinois Wage Payment and Collection Act generally requires employers to pay all amounts owed to separated employees no later than the next regular payday. However, the Act expressly allows collective bargaining agreements to set different deadlines, and as a "home rule municipality," the City may legislate regarding matters of local concern, unless the state legislature has specifically precluded it. The City's Annual Salary Ordinance, which addresses compensation for classified career service employees, and some of the City's collective bargaining agreements, states that vacation pay shall be paid "as soon as practicable following the last day worked." The OIG noted that while no court has addressed whether the City's Annual Salary Ordinance trumps the state Wage Payment and Collection Act in this regard, the language in the Annual Salary Ordinance ostensibly means that the City holds itself to a vague "as soon as practicable" standard and not the state-law deadline.

The OIG found that the City's process for administering vacation payouts lacks comprehensive ownership and accountability. No single department is responsible for ensuring payment is timely, and the City does not track the timeliness of vacation payouts. A senior manager in the Office of Budget and Management (OBM) reported that payment inconsistencies are due largely to differences in the time departments take to submit paperwork to OBM and departments's



failure to maintain accurate timekeeping records. Such drastic inconsistencies, however, further call into question whether the City is meeting its own “as soon as practicable” standard.

Accordingly, the OIG suggested that the City consider reviewing the process for issuing vacation payouts with all relevant City departments, including OBM and Finance, to identify any areas of the process that may be expedited or automated; identifying ways to increase accountability at the department level; and exploring ways to track the timeliness of vacation payouts to separated employees.

On behalf of Mayor Emanuel, Chief of Staff Lisa Schrader responded that vacation payouts immediately became an area of focus for the Mayor upon taking office and that City policy now effectively caps the amount of payouts for all non-union-represented employees. She stated that the Mayor takes seriously the prompt and efficient administration of employee compensation, including vacation payouts. The Chief of Staff reported that the City will conduct a review of administrative practices regarding supplementary vacation payouts, with the goal of greater promptness and uniformity in process across departments. As a first step, the Chief of Staff will send a memo to all department heads and departmental human resource liaisons requiring that they compile and send all required paperwork for processing a departing employee’s request for payment to OBM within five business days of that employee’s last day.

In addition, at the request of the Chief of Staff, DOL reviewed the case law related to the issue and concluded that the timing of supplementary vacation payouts for departing City employees is a matter that falls within the City’s home-rule authority, and thus the City’s use of the “as soon as practicable” standard is both legally and functionally appropriate. DOL noted that home rule allows the City to meet the local need for administrative flexibility in light of the City’s status as “a uniquely large employer with multiple departments, multiple divisions within departments, and a huge variety of work functions being carried out on a daily basis.”

#### **G. HIRING COMPLIANCE**

On June 24, 2011, the City of Chicago filed the 2011 City of Chicago Hiring Plan (“General Hiring Plan”). The General Hiring Plan, agreed to by the parties and approved by the court on June 29, 2011, replaced the 2007 City of Chicago Hiring Plan that was previously in effect. The City of Chicago also filed the 2011 Chicago Police Department Hiring Plan (CPD Hiring Plan) on October 14, 2011, and the 2011 Chicago Fire Department Hiring plan (CFD Hiring Plan) on December 15, 2011. Collectively, the General Hiring Plan, the CPD Hiring Plan, and the CFD Hiring Plan will be referred to as the “City’s Hiring Plans.”

Under Chapter XII of the General Hiring Plan, Chapter XI of the CPD Hiring Plan, and Chapter IX of the CFD Hiring Plan, OIG Hiring Oversight is required to review and audit various components of the hiring process and report on them on a quarterly basis.

The following provides information about mandated review activity conducted by OIG Hiring Oversight in the last quarter:

1. *Contacts by Hiring Departments.* Review of all reported or discovered instances where hiring departments contacted the Department of Human Resources (DHR) to lobby for or

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

In the last quarter, DHR made no reports of direct departmental contacts to the OIG. In addition, the OIG did not discover any instances of direct departmental contacts.

2. *Exemptions. Review of adherence to exemption requirements and Exempt Lists and propriety of Exempt List<sup>7</sup> modifications.*

DHR last updated the Exempt List on February 8, 2013, which classifies 1,280 City positions as *Shakman-Exempt*. Specifically, these 1,280 *Shakman-Exempt* positions cover various titles that the City is allowed to fill using the *Shakman-Exempt* Hire Process outlined in Chapter VIII of the General Hiring Plan. OIG Hiring Oversight currently receives notification of and reviews all *Shakman-Exempt* appointments and modifications to the Exempt List. In addition to these ongoing reviews, OIG Hiring Oversight conducts annual audits of the Exempt List to ensure the City is complying with the Exempt List requirements and to determine whether DHR is maintaining an accurate record of *Shakman-Exempt* employees and titles.

In the first quarter of 2013, OIG Hiring Oversight completed the 2013 annual Exempt List audit (2013 Audit). The 2013 Audit identified various discrepancies between the Exempt List, the City's personnel database, and DHR's personnel tracking system. OIG Hiring Oversight issued a memorandum to DHR detailing the results of the 2013 Audit at the end of the first quarter of 2013 and DHR provided a response in the beginning of the last quarter. In its response, DHR provided justifications for the various discrepancies and updated the City's personnel database as well as its own personnel tracking system to reconcile the identified discrepancies. After reviewing DHR's response, OIG Hiring Oversight had no further comments or concerns regarding the City's Exempt List and personnel records.

3. *Senior Manager Hires. Review of hires using Chapter VI, the Senior Manager Hiring Process.<sup>8</sup>*

Of the 30 hire packets received this last quarter, seven were for senior manager positions. Of the seven Senior Manager hire packets reviewed, none contained errors. We did not monitor interviews for any Senior Manager hiring sequences this last quarter.

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<sup>7</sup> The Exempt List is a list of all City positions that are exempted from the requirements governing Covered positions (*Shakman-Exempt*). *Shakman-Exempt* Positions are those where any factor may be considered in actions covered by the City's Hiring Plans and Other Employment Actions, unless otherwise prohibited by law.

<sup>8</sup> 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.

4. Written rationale. Review of any written rationale when no consensus selection was reached during a Consensus Meeting.<sup>9</sup>

Consensus selections were reached during all Consensus Meetings that occurred during the 3<sup>rd</sup> Quarter of 2013.

5. Emergency Appointments. Review of circumstances and written justifications for any emergency hires made pursuant to the Personnel Rules and MCC § 2-74-050(8).

The City reported no emergency appointments during the 3<sup>rd</sup> Quarter of 2013.

In the last quarter, OIG Hiring Oversight conducted audits of the following matters to ensure compliance with the hiring processes:

1. Modifications to Class Specifications<sup>10</sup>, Minimum Qualifications, and Screening and Hiring Criteria.

OIG Hiring Oversight currently reviews most modifications to class specifications, minimum qualifications, and screening/hiring criteria. In the last quarter, the City changed the minimum qualifications or included equivalencies for six positions in the following City departments: (1) the Department of Water Management; (2) the Department of Streets and Sanitation; (3) the Chicago Department of Public Health; (4) the Department of Fleet and Facilities Management; and (5) the Department of Housing and Economic Development. Additionally, DHR submits to OIG Hiring Oversight a monthly report of updated or newly created class specifications. OIG Hiring Oversight reviewed the changes and the monthly report and did not object to them.

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

Each quarter, OIG Hiring Oversight examines a sample of referral lists and provides commentary to DHR whenever potential issues arise. Of the two referral lists reviewed in the last quarter, neither presented any concerns. We recognize that aspects of candidate assessment can be subjective and that there can be differences of opinion in the evaluation of a candidate's qualifications. Therefore, our designation of "errors" is

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<sup>9</sup> A Consensus Meeting is a discussion that is led by the DHR 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.

<sup>10</sup> Class Specifications are descriptions of the duties and responsibilities of a Class of Positions that distinguish one Class from another. They are, in effect, the general descriptions utilized to determine the proper level to which a Position should be assigned, and they include the general job duties and minimum qualifications of the Position. Class Specifications shall include sufficient detail so as to accurately reflect the job duties.

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.

3. *Testing. Test Administration and Scoring.*

OIG Hiring Oversight reviews test development materials, test administration materials, test administrations, and final test scores prior to candidate selection on an ad hoc basis. In the last quarter, OIG Hiring Oversight did not review any test development materials or monitor the administration of any tests.

In addition to reviewing test documentation and monitoring test administrations on an ad hoc basis, OIG Hiring Oversight implemented a process to conduct quarterly audits of completed test administrations.<sup>11</sup> OIG Hiring Oversight has conducted its audit of testing administration materials<sup>12</sup> for 13 completed test administrations covering five City departments from the second quarter of 2013. OIG Hiring Oversight issued a memorandum to DHR detailing the completed test administration audit findings to which DHR provided a response. Based on our review, we identified errors affecting two test administrations. These errors were not considered violations of the City's Hiring Plan nor did these errors affect the candidates's placement on the position eligibility lists or the final candidate selection decisions.

a. Chicago Department of Transportation (CDOT)

OIG Hiring Oversight determined that an answer on the established answer key was factually incorrect. Specifically, the answer key incorrectly listed the answer to Question #5 as "D," when in fact the correct answer should have been "A." The Testing Manager agreed with our assessment and rescored the Part I tests using the correct answer key for Question #5. Ultimately, the rescore did not affect the candidates's placement on the eligibility list or the final selection decision for the position.

b. Department of Water Management (DWM)

OIG Hiring Oversight determined that a candidate's overall average score for the multi-part test had been calculated incorrectly. Specifically, one of the interviewers for the Part III test incorrectly calculated their final scores for two of the candidates. The Testing Administrator did not identify the error made by the interviewer and used the incorrect

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<sup>11</sup> A test administration is considered to be completed when a test has been administered and the final candidate scores have been sent from the DHR Testing Division to the DHR Recruiting Division for candidate selection and processing.

<sup>12</sup> Testing administration materials include (1) the test booklet(s); (2) the answer key; (3) the finalized test results sent to the DHR Recruiter; (4) the answer sheets completed by the candidates; (5) Candidate sign in/sign out sheets; and (6) the rating sheets completed by the interviewers as part of the Foreman Promotional Process.

scores to calculate the overall candidate scores for Parts I-III. As a result, the overall scores for the two aforementioned candidates were incorrect. Ultimately, these scoring errors did not affect the candidates's placement on the eligibility list or the final selection decision for the position. Additionally, when compiling the testing file for our review, the Testing Administrator for this sequence included an incorrect answer key. This did not affect the test scoring, however, since it appears the Testing Administrator used the correct answer key when scoring the test. In response to our audit findings, DHR stated they currently make a good faith effort to ensure calculations are correct to the extent they are able; However, they believe the ultimate responsibility for correctly making calculations is with the department interviewers and that is where the responsibility should remain.

In the third quarter of 2013, OIG Hiring Oversight conducted its second audit of the testing administration materials for 23 completed test administrations covering seven City departments. OIG Hiring Oversight issued a memorandum to DHR detailing the completed test administration audit findings to which DHR provided a response. Based on our review, we identified errors affecting three test administrations. These errors were not considered violations of the City's Hiring Plan, nor did these errors affect the candidates's placement on the position eligibility lists or the final candidate selection decisions.

a. Chicago Department of Transportation (CDOT)

OIG Hiring Oversight determined that the grading of a candidate's answer sheet did not conform to the answer key for the written portion of the test. As a result, the candidate's overall average score for the multi-part test was also calculated incorrectly. The Testing Manager agreed with our assessment and rescored the candidate's written test and recalculated their overall average score. Ultimately, the rescore did not affect the candidate's placement on the eligibility list or the final selection decision for the position.

b. Chicago Department of Aviation (CDA)

The individual scores for the Part III test were not included in the testing administration materials and OIG Hiring Oversight had to request these scores from Testing as part of our follow-up questions. OIG Hiring Oversight views individual test score documentation as a required part of the test administration materials and therefore we are considering the missing Part III test scores to be an error.

c. Department of Fleet and Facility Management (2FM)

OIG Hiring Oversight determined that the grading of a candidate's answer sheet did not conform to the answer key for the Part I test and the grading of another candidate's answer sheet did not conform to the answer key for the Part II test. As a result, both candidates's overall average scores for the multi-part test were also calculated incorrectly. The Testing Manager agreed with our assessment and rescored both candidates's tests and recalculated their overall average score. Ultimately, the rescore did not affect the candidates's placement on the eligibility list or the final selection decision for the position.

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 OIG Hiring Oversight.*

Each quarter, OIG Hiring Oversight examines a sample of hire packets, which include all documents and notes maintained by individuals involved in the selection and hiring process. A portion of the hire packets are examined on an ongoing basis prior to the hires being completed. The remaining hire packets are examined after the hires have been completed. During the third quarter of 2013, OIG Hiring Oversight completed a review of hire packets for 51 hiring sequences, which covered 197 selected candidates and 13 City Departments. Only one of those packets contained an error, which is discussed in more detail below in the *Hire Certifications* section.

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 hire packets for 51 hiring sequences reviewed in the last quarter, one contained missing, invalid, or late Hiring Certifications from DHR and/or the Hiring Department.

6. *Monitoring Activities.* *Intake Meetings, Tests, Interviews, Screening Board Meetings, Merit Board Meetings, and Consensus Meetings*

OIG Hiring Oversight conducts in-person monitoring of City hiring activities to identify potential errors or violations of the City's Hiring Plans. During the last quarter, our office monitored two interviews and two consensus meetings. OIG Hiring Oversight did not observe any other errors or violations of the Hiring Plan while monitoring these activities.

7. *Acting Up.*<sup>13</sup> *Review of the City's compliance with Chapter XI and any implementing procedures.*

OIG Hiring Oversight reviews the City's compliance with Chapter XI of the General Hiring Plan,<sup>14</sup> the Acting Up Policy, and all Acting Up waivers processed by DHR.

DHR is currently working to finalize its Acting Up Policy. As the policy approaches its final form, OIG Hiring Oversight has worked with DHR, the Department of Finance, the Department of Law, and the *Shakman* Monitor's Office to ensure that it contains

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<sup>13</sup> 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.

<sup>14</sup> Chapter VIII of the CFD Hiring Plan and Chapter X of the CPD Hiring Plan follow the same guidelines as Chapter XI of the General Hiring Plan.

language that will enable the OIG to efficiently audit Acting Up data to determine whether departments are administering and reporting on Acting Up properly. After the policy is finalized, DHR will provide targeted training to operating departments to ensure that it is administered uniformly. To prepare for implementation, OIG Hiring Oversight is finalizing an audit policy to meet the auditing requirements of the City’s Hiring Plans.

The following chart details waivers to the City’s 90 continuous calendar days Acting Up limit approved by DHR in the last quarter:

<b>Department</b>	<b>Position</b>	<b>Number of Employees</b>	<b>Date of Response</b>	<b>Waiver Expiration</b>
Water Management	Operating Engineer-Group A	3	7/22/2013	10/22/2013
Water Management	Assistant Chief Operating Engineer	1	7/29/2013	10/23/2013
Water Management	Foreman of Pipe Yard Salvage	1	8/19/2013	10/29/2013
Water Management	Operating Engineer-Group A	2	8/8/2013	11/7/2013
Water Management	Assistant Chief Operating Engineer	1	9/26/2013	12/31/2013
Fleet and Facilities Management	Foremen of Hoisting Engineers	1	9/26/2013	12/1/2013
Water Management	Foreman of Pipe Yard Salvage	1	9/26/2013	12/21/2013
Fleet and Facilities Management	Garage Attendant in Charge	3	9/27/2013	12/24/2013
Water Management	General Foreman of Electrical Mechanics	1	9/27/2013	12/31/2013
Fleet and Facilities Management	Foreman of Laborers	3	9/27/2013	12/31/2013

8. *Arbitrations and Potential Resolution of Grievances by Settlement.* Audit 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.

OIG Hiring Oversight is required to conduct audits of all arbitration decisions and grievance settlement agreements that arise out of Accord complaints or that may impact the procedures under the City’s Hiring Plans or Other Employment Actions.<sup>15</sup> Currently,

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<sup>15</sup> Other Employment Action is any change in the terms and conditions of employment in addition to those detailed in this Hiring Plan and includes, but is not limited to: hiring, firing, promotion, demotion, lay-off, reinstatement,

OIG Hiring Oversight is only notified of arbitration decisions and settlement agreements that require approval from DHR and/or the Department of Law (Law). However, settlement agreements that do not result in arbitration or require a change in the City's Personnel Database (CHIPPS) are mostly handled on the departmental level. Therefore, OIG Hiring Oversight does not receive notification of these settlement agreements even when they may have impact on Other Employment Actions.

In the first quarter of 2013, OIG Hiring Oversight met with the Labor Relations and the Labor Litigation Divisions in Law to gain a better understanding of the grievance and settlement process and to establish a framework enabling OIG Hiring Oversight to audit departmental level labor relations activities. Since those meetings, the City created and implemented a universal grievance tracking database which will be used by all City Labor Relations Liaisons (LRLs)<sup>16</sup>. OIG Hiring Oversight will be able to access grievance information through this database in order to meet the auditing requirements of the City's Hiring Plans. OIG Hiring Oversight will continue receiving notifications from Law and DHR of arbitration awards and settlement agreements requiring their approval. In addition, OIG Hiring Oversight initiated an audit of labor relations activities as they pertain to the City's Hiring Plans and Other Employment Actions in the following City departments: (1) the Chicago Public Library; (2) the Chicago Department of Transportation; (3) the Department of Water Management; and (4) the Chicago Department of Public Health. The results of this audit will be detailed in the next quarterly report.

In the last quarter, OIG Hiring Oversight did not receive any settlement agreements from DHR or Law.

### **Quarterly Reporting Of Contracting Activity**

OIG Hiring Oversight is required to review City departments's compliance with the City's "Contractor Policy" (Exhibit C to the General Hiring Plan). In our previous quarterly report, we expressed concern that the City was failing to notify OIG Hiring Oversight of all draft contracts and other agreements "prior to offering any contract or other agreement terms to any Temporary Employment Agencies, not-for-profit agencies, for-profit contractors and other organizations and entities providing services to the City," as required under Section II.B.2.b. of the Contractor Policy.

Following meetings with the Department of Law and the Department of Procurement Services, there was a substantial increase in the number of notices of draft contracts that

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reemployment, transfer, reclassification, granting overtime, assignment, withholding of any job benefit, or imposition of any employment sanction or detriment.

<sup>16</sup> Each City departments has designated LRLs who are responsible for managing the grievance and settlement process and working directly with Unions regarding labor disputes and maintaining all grievance related documentation.



we received. Over time, however, these notifications have dropped off. In instances where we expressed concern about a new contract we have not received, the City has been prompt in responding to our request to review the contract.

We did receive notice of several draft contracts and agreements in the last quarter. Per the Contractor Policy, 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. The following chart details these contract notifications:

<b>Name of the Contractor, Agency or other Organization</b>	<b>Name of Contracting Department</b>	<b>Duration of such Contract or Agreement</b>	<b>Approved by DHR?</b>
Kobotech	DCASE	Unknown	n/a
Sebis Direct	Finance	60 months	n/a
UIC on behalf of Ceasefire	CDPH	8/10/12- 9/30/13	n/a
Owner Controller Insurance Program	Finance	Unknown	n/a
Chicago Infrastructure Trust and Finance	Finance	1/1/13- 12/31/13	n/a

**Reporting Of Other OIG Hiring Oversight Activity**

- 1. Review of Escalations. Recruiters and Analysts in DHR must escalate concerns regarding improper hiring to OIG Hiring Oversight. OIG 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 OIG.*

OIG Hiring Oversight received three escalations in the last quarter, one of which is still pending. The details of the pending escalation will be reported in a future quarterly report once OIG Hiring Oversight’s review is complete.

Department of Law

A DHR Recruiter contacted OIG Hiring Oversight on July 18, 2013, to report it recently held a consensus meeting for a position in the Department of Law (DOL) and discovered that the interviewers (1) wrote what DHR considered to be inappropriate comments on the candidate assessment forms, and (2) improperly scored the candidates’s writing sample by taking into account factors that were not part of the scoring rubric. DHR also reported that DOL did not appear to provide sufficient time for candidates to schedule interviews. After reviewing the hiring documentation, OIG Hiring Oversight found no evidence that DOL attempted to manipulate the hiring sequence or that Political Reasons or other Improper Factors affected the process.

OIG Hiring Oversight recommended that DHR (1) provide additional training to the DOL interviewers regarding appropriate notes; (2) work closely with DOL hiring units in the

future to ensure writing sample evaluations comport with the guidelines of the established scoring rubric and that the scoring rubric is sufficiently detailed to capture the necessary skills relevant to the position; and (3) monitor future DOL hire packets for issues similar to this escalation to determine whether the training described above should be administered to a broader DOL audience. Additionally, we recommended that DHR develop a policy regarding scheduling of interviews. DHR agreed with most of OIG Hiring Oversight's recommendations, but declined to develop the recommended policy.

#### Chicago Department of Transportation

OIG Hiring Oversight was contacted on August 23, 2013, by a DHR Recruiter who reported that interviewers in the Chicago Department of Transportation (CDOT) did not use the proper candidate assessment forms and scoring rubric for a written exercise. After reviewing the hiring documentation, OIG Hiring Oversight found no evidence that CDOT attempted to manipulate the hiring sequence or that Political Reasons or other Improper factors affected the process.

OIG Hiring Oversight's recommended that DHR (1) instruct the interviewers to transfer their notes from the Word document to the candidate assessment forms, (2) provide ratings for written exercise, and (3) provide the interviewers for this sequence with additional training regarding their obligations under the City's Hiring Plan and the importance of accurately completing candidate assessment documentation. DHR agreed with the OIG's recommendations and included the CDOT Human Resource Liaisons in the training sessions.

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

Complaints made to OIG 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 OIG. If there is an allegation of a breach of policy or procedure, OIG 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, OIG Hiring Oversight may resolve the matter by making corrective recommendations to the appropriate department or referring the matter to the Investigations Section of the OIG. If no breach of policy or procedure is found, OIG Hiring Oversight may: 1) refer the matter to DHR and/or the appropriate department for resolution; or 2) close the complaint.

OIG Hiring Oversight received 42 complaints in the third quarter. In the past, the office's Investigations and Hiring Oversight divisions used separate systems for receiving and tracking complaints. Beginning in January 2013, both divisions began using the same system for these purposes. Because of this integration, virtually all of the complaints OIG Hiring Oversight receives are initially reviewed by the Investigations division before being sent to OIG Hiring Oversight for review. This process resulted in fewer complaints being referred back to Investigations for further review. The chart

below summarizes the disposition of complaints received in the last quarter as well as those which were not closed when we issued our last report.

<b>Status</b>	<b>Number of Complaints</b>
Complaints Pending from 2 <sup>nd</sup> Quarter of 2013	13 <sup>17</sup>
Complaints Received in the 3rd Quarter of 2013	42
Total closed in the 3 <sup>rd</sup> Quarter	42
Closed by Referral to OIG Investigations	0
Closed by Referral to DHR	0
Closed with Recommendations to the Hiring Department and/or DHR	0
Pending with OIG Hiring Oversight as of 9/30/2013	13

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<sup>17</sup> Last Quarter three cases were duplicates, two of the three appear to have been counted. One was inadvertently not counted and is included in this Quarter’s reported numbers.