

OFFICE OF INSPECTOR GENERAL
City of Chicago



REPORT OF THE OFFICE OF INSPECTOR GENERAL:

***AUDIT OF CONTRACTOR COMPLIANCE
WITH THE
CHICAGO BASE WAGE ORDINANCE***

**Originally issued November 2017, but retracted and
replaced in July 2018 with this corrected report.**

JULY 2018

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OFFICE OF INSPECTOR GENERAL *City of Chicago*

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July 03, 2018

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

In November 2017, the City of Chicago Office of Inspector General (OIG) completed an audit to determine if security guard and janitorial service contractors and subcontractors complied with the Chicago Base Wage Ordinance. Similar to living wage laws adopted by cities nationwide, the purpose of the Ordinance is to ensure that City contractors and related subcontractors pay their employees in excess of poverty-level wages, both as a matter of principle and as a means of stimulating the local economy.

Our original report inaccurately reported that three subcontractors were not compliant with the Chicago Base Wage Ordinance. In June 2018, the Department of Procurement Services (DPS) provided documentation that identified an error in OIG's analysis and showed the subcontractors were in virtually complete compliance with the Ordinance. The contractors and subcontractors had provided OIG a set of employee data, some of which related to City of Chicago contracts and some of which did not. OIG inadvertently included both categories of data in our original analysis. We regret that our existing quality control procedures did not discover and address this error. Although we are confident that this situation is an outlier, and that our reports are otherwise accurate and reliable, OIG is taking steps to implement an additional, mandatory review of source data by management in order to reduce the risk of similar errors in the future.

Upon re-conducting the analysis, OIG found that while four prime contractors and three subcontractors reviewed in the audit had paid the hourly base wage rate required by the ordinance, one subcontractor paid 12 employees between \$0.02 and \$0.03 less per hour. Those underpayments, however, were retroactively paid.

Pursuant to the original audit, DPS had requested proof from the contractors that their subcontractors had paid the correct wage to all covered employees throughout the life of the contract. The contractors found some minor underpayments by subcontractors in time periods outside the scope of OIG's analysis, and provided proof to DPS that the affected employees had been made whole.

OIG had also recommended that DPS implement procedures to prevent and detect future wage violations. The errors described above notwithstanding, OIG found that the City lacked a standardized process with sufficient controls to provide reasonable assurance that prime contractors and subcontractors comply with the Chicago Base Wage Ordinance. DPS stated it relies on contracting departments to ensure base wage compliance as part of their contract management and monitoring practices. DPS acknowledged, however, that managing departments

do not generally collect certified payroll records from contractors and that, in fact, information collected varies widely from department to department. DPS also acknowledged that managing departments may approve annual price increase requests without inquiring about wages or receiving confirmation that the contractor is in compliance with the Ordinance. Therefore, in our original report OIG recommended that DPS move the City to adopt a more proactive approach to promoting wage rate compliance and that DPS provide guidance on monitoring wage rate compliance to all departments that manage contracts with wage requirements. Such guidance should include specific procedures that departments should use to confirm proper base, overtime, and training wages paid by both prime contractors and subcontractors. Finally, OIG recommended that DPS should implement procedures to determine whether departments are effectively monitoring wage rate compliance.

In response, DPS promptly sent a memorandum to City department heads reminding them of their role in monitoring contractor compliance and requesting that departments alert DPS to any irregularities discovered. DPS also met with the Mayor's Office, Department of Finance, Department of Law, and user departments to discuss methods for actively monitoring contractors' wage rate compliance from which DPS advanced a recommendation to standardize invoicing requirements and review procedures across user departments. We applaud DPS for initiating the response to OIG's recommendations to the City to better assure monitoring of contract compliance.

We thank DPS management for their cooperation throughout the audit and their commitment to promoting contract compliance, despite the errors in our original report.

Respectfully,

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

Joseph M. Ferguson
Inspector General
City of Chicago

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Acronyms

2FM	Department of Fleet and Facility Management
CDA	Chicago Department of Aviation
CPI	Consumer Price Index
CPI-U	Consumer Price Index - All Urban Consumers
CPO	Chief Procurement Officer
DPS	Department of Procurement Services
FMPS	City of Chicago Financial Management and Purchasing Systems
MCC	Municipal Code of Chicago
OIG	City of Chicago Officer of Inspector General

I. EXECUTIVE SUMMARY

The Office of the Inspector General (OIG) conducted an audit to determine if contractors and subcontractors complied with the Chicago Base Wage Ordinance. Similar to living wage laws adopted by cities nationwide, the purpose of the Ordinance is to ensure that City contractors and related subcontractors pay their employees in excess of poverty-level wages, both as a matter of principle and as a means of stimulating the local economy.

Specifically, we reviewed wages paid by four security guard and janitorial service prime contractors identified by the Department of Procurement Services (DPS), as well as those contractors' subcontractors. OIG found that while the four prime contractors and three subcontractors reviewed in this audit consistently paid their employees the hourly base wage rate required by MCC § 2-92-610, one subcontractor paid 12 employees between \$0.02 and \$0.03 less per hour. Those underpayments, however, were retroactively paid.

II. BACKGROUND

In 1998, the City enacted the Chicago Base Wage Ordinance, MCC § 2-92-610. Similar to living wage laws adopted by cities nationwide, the purpose of the Ordinance is to ensure that City contractors and related subcontractors pay their employees in excess of poverty-level wages, both as a matter of principle and as a means of stimulating the local economy.¹ It states that,

each July 1 [...] the base wage shall be adjusted, using the most recent federal poverty guidelines for a family of four as published annually by the United States Department of Health and Human Services, to constitute the following: the poverty guideline for a family of four, divided by 2,000 hours or the current base wage, whichever is higher.²

As of July 1, 2017, the Ordinance required a base wage of \$12.30 per hour.³ The Ordinance requires this base wage for full-time security guards, parking attendants, day laborers, home and health care workers, cashiers, elevator operators, custodial workers, and clerical workers employed through contracts or subcontracts with the City, if the contract requires 25 or more non-City full-time employees.⁴

DPS identified the following six City contracts as subject to the Ordinance:

Contract	Contractor	Subcontractor(s)	Amount Paid 2014-2016
26158	Triad Consulting Services, Inc.	ABM Janitorial Services	\$38,837,913
14731	Universal Security, Inc.	Majestic Protective Service, Inc.	21,572,661
12687	SkyTech Enterprises, Ltd.	Moore Security Services	14,968,367
26159	Dayspring Professional Janitor	N/A	8,470,503
12554	G4S Secure Solutions, (USA), Inc.	All Points Security Services, Digby's Detective and Security Services	7,876,797
12744	World Wide Protection Group, Inc.	Moore Security Services, Steiner Security	6,795,346

Source: DPS identified the relevant contracts and contractors. OIG reviewed the contracts and subsequent contract changes to identify the subcontractors and queried the City of Chicago Financial Management and Purchasing Systems (FMPS) to determine the amount paid.

¹ See the preamble to the 2002 Base Wage Ordinance amendment, *Journal of Proceedings of the City Council of Chicago, Illinois*, Regular Meeting – Wednesday, November 6, 2002, 96506, accessed September 25, 2017, <http://chicityclerk.com/file/6301/download?token=kiHKcszb>. For research on living wage ordinances in U.S. cities, see, for example, Benjamin Sosnaud, “Living Wage Ordinances and Wages, Poverty, and Unemployment in US Cities,” *Social Science Review*, 90, no. 1 (2016): 3-34, accessed September 21, 2017, <http://www.journals.uchicago.edu/doi/full/10.1086/686581>.

² MCC § 2-92-610(A)5.

³ City of Chicago, Department of Procurement Services, “2017 Notice Regarding Executive Order 2014-1 and the Chicago Base Wage Ordinance,” June 16, 2017, accessed August 16, 2017, https://www.cityofchicago.org/content/dam/city/depts/dps/RulesRegulations/Notice_EO2014-1_BWO2017_61617.pdf

⁴ The Ordinance exempts City contracts with non-profit organizations.

A. Authority of the Department of Procurement Services

The Ordinance gives the City's Chief Procurement Officer (CPO) the authority to promulgate administrative rules and regulations to promote compliance. It also gives the CPO the authority to conduct investigations to determine whether there has been a violation, where the CPO has reason to believe that any employee has been paid less than the base wage and/or upon notification of a complaint from such employee.

All contracts subject to the Ordinance include a provision describing the contractor's responsibility to pay covered employees no less than the base wage as defined in MCC § 2-92-610.⁵ The contracts require the contractor to, "include provisions in all subcontracts requiring its subcontractors to pay the base wage to Covered Employees."⁶ Furthermore, contractors must, "provide the City with documentation acceptable to the CPO demonstrating that all Covered Employees, whether employed by the Contractor or by a subcontractor have been paid the Base Wage, upon the City's request for such documents."⁷ Finally, the contracts state, "Failure to comply with the requirements [...] will be an event of default [and] may result in ineligibility for any award of a City contract or subcontract for up to three (3) years."

In 2016, exercising the authority provided by the Ordinance, DPS investigated two base wage-related complaints. One complaint was against SkyTech Enterprises (SkyTech) (contract 12687) and its subcontractor, Moore Security Services, Inc. (Moore), and the other was against World Wide Protection Group, Inc. (World Wide) (contract 12744) and its two subcontractors, Moore and Steiner Security Services, Inc. The investigations substantiated the complaints. In December 2016, DPS management reported to OIG that the City, SkyTech, and its subcontractor reached an agreement that provided back pay for unpaid base wages to covered employees. DPS management also stated that the City, World Wide, and its two subcontractors reached a similar agreement.

B. Other Wage Requirements

In September 2014, Executive Order 2014-1 expanded base wage coverage to a much broader range of employees and set the base wage rate at \$13.00 per hour.⁸ The Executive Order applies to contracts advertised on or after October 1, 2014, and covers all employees working under City contracts or subcontracts regardless of job duties, full-time/part-time status, or number of employees.

⁵ See Appendix A for the contract language related to the Chicago Base Wage Ordinance.

⁶ City of Chicago, "Contract Number 26158," June 1, 2012, pdf. 105, accessed September 26, 2017, <https://webapps1.cityofchicago.org/VCSearchWeb/org/cityofchicago/vcsearch/controller/contracts/begin.do?agencyId=city>.

⁷ City of Chicago, "Contract Number 26158," June 1, 2012, pdf. 105, accessed September 26, 2017, <https://webapps1.cityofchicago.org/VCSearchWeb/org/cityofchicago/vcsearch/controller/contracts/begin.do?agencyId=city>.

⁸ City of Chicago Mayor Rahm Emanuel, "Executive Order No. 2014-1," September 3, 2014, accessed September 26, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dps/RulesRegulations/ExecutiveOrderNo2014-1.pdf>.

In December 2014, City Council passed the Chicago Minimum Wage Ordinance (MCC Chapter 1-24), which establishes a minimum wage for all workers in Chicago, not just employees on City contracts, at a rate higher than the statewide minimum wage set forth in 820 ILCS 105, which is \$8.25. The Chicago Minimum Wage was set at \$10.00 per hour for non-tipped employees effective July 1, 2015, with fixed annual increases through July 1, 2019, after which the minimum wage will, subject to certain conditions, automatically increase in proportion to the increase, if any, in the Consumer Price Index for All Urban Consumers (CPI-U).⁹ As of July 1, 2017, the hourly minimum wage was \$11.00.¹⁰

Although both the Ordinance and the Executive Order currently require hourly rates above the minimum wage, the minimum wage rate is projected to slightly exceed the Ordinance rate beginning in July 2019.¹¹ The rate required under the Executive Order is projected to continue to exceed the minimum wage by at least one dollar. When contracts covered by the Ordinance expire, new contracts for those services will be subject to the Executive Order, thus employees of City contractors or concessionaires will continue to be compensated at a rate higher than the minimum wage.

⁹ MCC § 1-24-020(f) specifies additional factors in the annual calculation, including the local unemployment rate and maximum CPI increase, and whether or not the employee receives tips.

¹⁰ City of Chicago, Office of the Mayor, "City of Chicago Minimum Wage," accessed September 8, 2017, https://www.cityofchicago.org/city/en/depts/mayor/supp_info/minimum-wage.html.

¹¹ See Appendix B for actual and projected Minimum Wage, Ordinance, and Executive Order hourly wage rates through 2024.

III. OBJECTIVE, SCOPE, AND METHODOLOGY

A. Objective

The objective of the audit was to determine if security guard and janitorial service contractors and subcontractors complied with the Chicago Base Wage Ordinance.

B. Scope

This audit reviewed wages paid to covered employees by security guard and janitorial service contractors and subcontractors for 4 to 6 weeks during July, August, and September in 2014, 2015, and 2016. We selected these months because annual base wage increases take effect July 1, therefore all changes should be reflected in the reviewed payrolls. All audited wages were subject to the Ordinance but not the Executive Order because, as of November, 2016, the City did not have any security guard or janitorial service contracts subject to the Executive Order.¹²

As mentioned in the background section, DPS had already conducted investigations into potential Base Wage Ordinance violations by SkyTech and World Wide and had reached agreements that provided restitution to covered underpaid employees. Therefore, OIG limited our audit work to the remaining four contracts subject to the Ordinance.

C. Methodology

OIG relied on DPS to identify contracts subject to the Base Wage Ordinance. To learn about the City's processes for enforcing compliance with MCC § 2-92-610, OIG interviewed senior management at DPS and the City departments responsible for managing security guard and janitorial service contracts.

To determine if covered employees were paid at least the base wage, OIG obtained the contractors' and subcontractors' payroll registers for 4 to 6 weeks in 2014, 2015, and 2016, and compared wages paid to covered employees during each payroll period during the review period to the base wage as defined in MCC § 2-92-610. Upon notification from DPS in June 2018, OIG determined that some employees on the payroll registers did not work on City of Chicago contracts but had been erroneously included in OIG's original analysis. OIG completed the tests again, removing the out-of-scope employees, and reissued the report.

To verify that the registers reflected the actual payments disbursed to employees, OIG selected a judgmental sample of payments from the payroll registers and compared them to the employer's bank statements to ensure the amount reported was the amount paid.

D. Standards

We conducted this audit in accordance with generally accepted Government Auditing Standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our

¹² Executive Order 2014-1 applies only to contracts advertised on or after October 1, 2014.

findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

E. Authority and Role

The authority to perform this audit is established in the City of Chicago Municipal Code § 2-56-030 which states that OIG has the power and duty to review the programs of City government in order to identify any inefficiencies, waste, and potential for misconduct, and to promote economy, efficiency, effectiveness, and integrity in the administration of City programs and operations.

The role of OIG is to review City operations and make recommendations for improvement.

City management is responsible for establishing and maintaining processes to ensure that City programs operate economically, efficiently, effectively, and with integrity.

IV. FINDING

Finding: Seven of the eight contractors and subcontractors reviewed in this audit were compliant with the Chicago Base Wage Ordinance. The remaining subcontractor had minor underpayments that were retroactively paid.

While four prime contractors and three subcontractors reviewed in this audit consistently paid their employees the hourly base wage rate required by MCC § 2-92-610, OIG found that one subcontractor paid 12 employees between \$0.02 and \$0.03 less per hour. Those underpayments, however, were retroactively paid.

V. APPENDIX A: CONTRACT LANGUAGE CONCERNING THE BASE WAGE ORDINANCE

The following text is the standard contract language that appears in contracts related to the six security and custodial contracts subject to the Base Wage Ordinance.

- A. Section 2-92-610 of the Municipal Code of Chicago provides for a living wage for certain categories of workers employed in the performance of City contracts, specifically non-City employed security guards, parking attendants, day laborers, home and health care workers, cashiers, elevator operators, custodial workers, and clerical workers (“Covered Employees”). Accordingly, pursuant to Section 2-92-610 and regulations promulgated thereunder:
1. if the contractor has twenty-five (25) or more full-time employees, and
 2. if at any time during the performance of the contract the Contractor and/or any subcontractor or any other entity that provides any portion of the Services (collectively “Performing Parties”) uses twenty-five (25) or more full-time security guards, or any number of other full-time Covered Employees, then,
 3. the Contractor must pay its Covered Employees, and must assure that all other Performing Parties pay their Covered Employees, not less than the minimum hourly rate as determined in accordance with this provision (the “Base Wage”) for all work performed pursuant to the Contract.
- B. The Contractor’s obligation to pay, and to assure payment of, the Base Wage will begin at any time during the Contract term when the conditions set forth in A.1 and A.2 are met, and will continue thereafter until the end of the Contract term.
- C. As of July 1, 2011, the Base Wage is \$11.18 per hour. Each July 1st, thereafter the Base Wage will be adjusted, using the most recent federal poverty guidelines for a family of four (4) as published annually by the U.S. Department of Health and Human Services, to constitute the following: the poverty guidelines for a family of four (4) divided by two thousand (2000) hours or the current base wage, whichever is higher. At all times during the term of this Contract, Contractor and all other Performing Parties must pay the Base Wage (as adjusted in accordance with the above). If the payment of prevailing wages is required for work or services done under this Contract, and the prevailing wages for Covered Employees are higher than the Base Wage, then the Contractor must pay the prevailing wage rates.
- D. The Contractor must include provisions in all subcontracts requiring its subcontractors to pay the Base Wage to Covered Employees. The Contractor agrees to provide the City with documentation acceptable to the Chief Procurement Officer demonstrating that all Covered Employees, whether employed by the Contractor or by a subcontractor, have been paid the Base Wage, upon the City’s request for such documentation. The City may independently audit the Contractor or subcontractors to verify compliance herewith. Failure to comply with the requirements of this Section will be an event of default under this Contract, and further, failure to comply may result in ineligibility for any award of a City contract or subcontract for up to three (3) years.

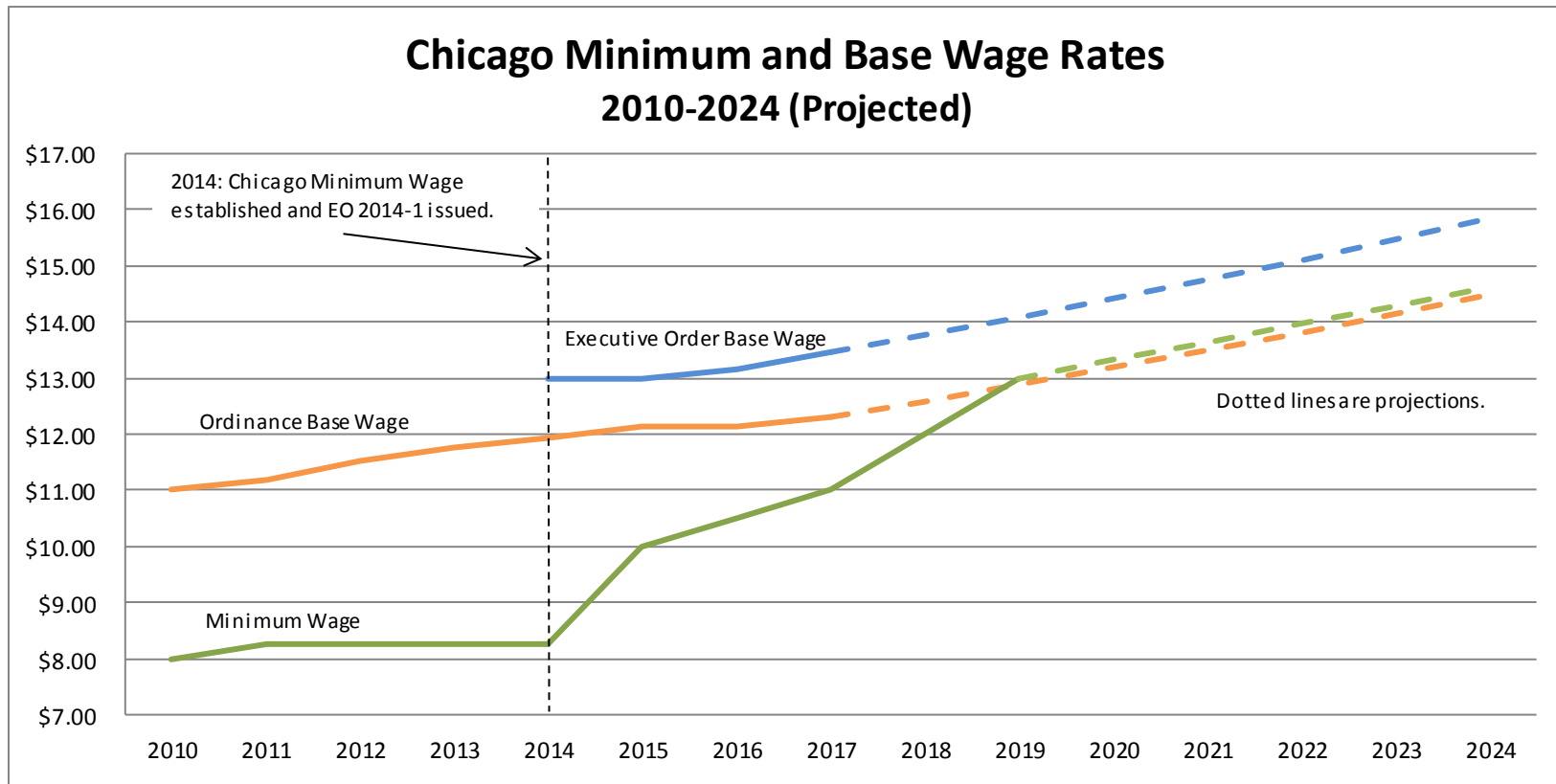
- E. Not-for-Profit Corporations: If the Contractor is a corporation having Federal tax-exempt status under Section 501(c)(3) of the Internal Revenue Code and is recognized under Illinois not-for-profit law, then the provisions of Section A through D above do not apply.

VI. APPENDIX B: CHICAGO MINIMUM AND BASE WAGE RATES AND PROJECTIONS

The following graph and table show actual and projected minimum wage, Ordinance base wage, and Executive Order base wage rates from 2010 through 2024. The Chicago Minimum Wage Ordinance (MCC Chapter 1-24), enacted in 2014, established a minimum wage that is higher than the rate set by the State Minimum Wage Law (820 ILCS 105). Effective July 1, 2015, the Chicago minimum wage was \$10.00 per hour for non-tipped employees, with fixed annual increases through July 1, 2019, after which the minimum wage will, subject to certain conditions, automatically increase in proportion to the increase, if any, in the CPI-U.¹³ The Executive Order base wage rates are determined in June of each year based on CPI, with new rates effective annually on July 1. Ordinance base wage rates are also reset each July 1 based on federal poverty guidelines published annually by the U.S. Department of Health and Human Services, which increase in relation to the CPI change two years prior.

OIG projected future rates using the Congressional Budget Office CPI-U forecasted increases of 2.3% for 2018 and 2019, and 2.4% thereafter. The Ordinance base wage is projected to exceed the minimum wage until 2019, when the minimum wage is projected to be slightly higher. The Executive Order base wage is projected to continue to exceed the other two rates by at least one dollar.

¹³ MCC § 1-24-020(f) specifies additional factors in the annual calculation, including the local unemployment rate and maximum CPI increase, and whether or not the employee is tipped.



	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Executive Order Base Wage	n/a	n/a	n/a	n/a	\$ 13.00	\$ 13.00	\$ 13.15	\$ 13.45	\$ 13.76	\$ 14.08	\$ 14.41	\$ 14.76	\$ 15.11	\$ 15.48	\$ 15.85
Ordinance Base Wage	\$ 11.03	\$ 11.18	\$ 11.53	\$ 11.78	\$ 11.93	\$ 12.13	\$ 12.15	\$ 12.30	\$ 12.58	\$ 12.87	\$ 13.18	\$ 13.50	\$ 13.82	\$ 14.15	\$ 14.49
Minimum Wage	\$ 8.00	\$ 8.25	\$ 8.25	\$ 8.25	\$ 8.25	\$ 10.00	\$ 10.50	\$ 11.00	\$ 12.00	\$ 13.00	\$ 13.31	\$ 13.63	\$ 13.96	\$ 14.29	\$ 14.64

Note: Figures in grey are projections.

Sources: MCC § 1-24-020, 820 ILS 105, Congressional Budget Office Economic Projections 2017-2027,¹⁴ and annual DPS base wage notices.

¹⁴ U.S. Congressional Budget Office, “The Budget and Economic Outlook: 2017 to 2027,” Appendix C, (Washington DC, January 2017), accessed June 19, 2017, <https://www.cbo.gov/publication/52370>.

CITY OF CHICAGO OFFICE OF INSPECTOR GENERAL

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MISSION

The City of Chicago Office of Inspector General (OIG) is an independent, nonpartisan oversight agency whose mission is to promote economy, efficiency, effectiveness, and integrity in the administration of programs and operations of City government. OIG achieves this mission through,

- administrative and criminal investigations;
- audits of City programs and operations; and
- reviews of City programs, operations, and policies.

From these activities, OIG issues reports of findings and disciplinary and other recommendations to assure that City officials, employees, and vendors are held accountable for the provision of efficient, cost-effective government operations and further to prevent, detect, identify, expose and eliminate waste, inefficiency, misconduct, fraud, corruption, and abuse of public authority and resources.

AUTHORITY

The authority to produce reports and recommendations on ways to improve City operations is established in the City of Chicago Municipal Code § 2-56-030(c), which confers upon the Inspector General the following power and duty:

To promote economy, efficiency, effectiveness and integrity in the administration of the programs and operations of the city government by reviewing programs, identifying any inefficiencies, waste and potential for misconduct therein, and recommending to the mayor and the city council policies and methods for the elimination of inefficiencies and waste, and the prevention of misconduct.