

OFFICE OF THE INSPECTOR GENERAL
City of Chicago



REPORT OF THE INSPECTOR GENERAL'S OFFICE:

QUARTERLY REPORT OF THE INSPECTOR GENERAL'S OFFICE

FIRST QUARTER 2011

APRIL 2011

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

Enclosed for your review is the public report on the operations of the Office of Inspector General (IGO) during the first quarter of 2011, filed with the City Council pursuant to Section 2-156-120 of the Municipal Code of Chicago. In order to keep you apprised of IGO activities and operations, the enclosed report again includes summaries of sustained IGO investigations, policy recommendations, and hiring compliance efforts.

As always, the sustained case summaries do not reveal the identities of the subjects of investigations in keeping with the IGO's ordinance-prescribed confidentiality obligation. However, each summary provides detail on the general nature and subject matter of the IGO investigations, the results of those investigations to include IGO disciplinary and program recommendations, and the final departmental actions on those recommendations. Please note that this report does not summarize cases reported out this quarter by the IGO for which a disciplinary response from the subject department is still pending.

Beyond the standard misconduct and discipline recommendations, this report also specifies policy and program recommendations advanced during the quarter. Some of these recommendations have been addressed by the City, while some await feedback. We continue to ask that City officials and the broader community contact the IGO with suggestions in order to help us continue to improve the program and policy recommendation process.

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

This quarter's report reflects the IGO's continuing efforts to fully inhabit its ordinance. As this is the last IGO Quarterly report to issue during the current Administration, it bears mention that it is Mayor Daley who brought the ordinance and this office into existence. No doubt there have been days, especially in the last six years, that he and his senior staff may have had more than a twinge of regret in his having done so. Such conflicted feelings are inherent in the relationship between an administration and an engaged IGO. The fact remains that it was the Mayor who, 22 years ago, recognized the need for and codified independent oversight to foster good government

and, circumstances notwithstanding, acceded to the evolution of the IGO as a more aggressive and engaged presence in the life of the City.

As noted previously, however, the independence of this office remains contingent. The IGO can choose its hires without the involvement of the Mayor's Office, but it cannot make its hires without sign-off of the Mayor's office. In contrast to best practices that have evolved over the last 22 years since the IGO ordinance was first enacted, the IGO budget remains unprotected and, thus, vulnerable to retribution for investigations and findings deemed to strike too close to sacred cows. This office is empowered to independently issue subpoenas, but it is presently engaged in a court action over whether it can enforce those subpoenas – the Law Department of this Administration says it may not, and instead must rely upon the good graces of the Law Department itself, without recourse or review by a court, even in instances in which the Law Department itself has a conflict of interest. This office still cannot directly communicate investigative information to the City's sister agencies and many associated law enforcement agencies. Moreover, its jurisdiction does not fully extend to core City functions administered by the so-called "sister agencies," which variously are headed by the Mayor and/or mayoral appointees. In short, the concept of effective independent oversight, while firmly fixed as a critical component of honest and effective government, is still a work in progress.

In addition to the work remaining on the structural efficacy and integrity of independent oversight in the City is the distance still to be traveled in effecting the shift in culture. The current Administration inherited the remnants of the patronage system and culture that was declared unlawful in the *Shakman* case. Indeed, the Administration itself was a product of that system. While the Administration has undertaken some truly noteworthy work in purging City government of that system, 22 years later the *Shakman* case, itself 42 years old, is still chugging along and a finding of substantial compliance in the City's hiring program still pending. Indeed, and with no small irony, the investigation underlying this office's ongoing lawsuit against the Law Department over the IGO's right to enforce its investigative subpoenas and over whether the IGO ordinance means what it says in requiring all City officials and officers to make available to the IGO records of the City, is a matter with direct *Shakman* implications.

Another lingering cultural backwater is demonstrated in investigative matters reported out most quarters, including this one. Effectiveness and integrity in government hinges on the honesty of its workers. In the course of our work, we observe first hand that most City employees are honest and hardworking, and unfairly painted otherwise whenever one or some in their midst are publicly revealed not to be honest and hardworking. But so long as the City employees and vendors who lie during IGO investigations (*see* IGO case # 10-0062) and steal from the City and its taxpayers (IGO case # 08-0578) are permitted to keep their jobs, there will be continuing fuel for the unfair characterizations of all City workers.

It remains unfortunately commonplace for City employees to lie to IGO investigators during official investigations and then have those lies excused by supervisors. Under City ordinance, lying to the IGO is punishable by termination, and further constitutes misdemeanor obstruction punishable by a term of imprisonment of up to six months. The IGO works from the premise that City employees should be held to a high standard of integrity; they represent the City, to which they have a fiduciary duty under City ordinance, and they serve all of its residents. Lying

during an investigation often causes significant delays in successfully completing investigations and necessitates the expenditure of additional City investigative resources. As such, the IGO will continue to recommend more stringent discipline for those who have been found to be lying to IGO investigators in the hope that it will, at some point soon, reach a more receptive audience.

In the meantime, we look forward to forging a relationship with the new administration which has been outspoken in promoting a reform agenda, including strengthening the tools, jurisdiction and resources of the IGO. And we will continue to work vigorously and independently to uncover waste, fraud, abuse, and inefficient use of City resources and to generate proposals and recommendations for making the City operate more efficiently and effectively. We will strive to improve the quality of our work, and will continue to work to increase public awareness and understanding of our mission and of City government at large.

Respectfully,

A handwritten signature in blue ink, appearing to read 'J. Ferguson', with a stylized flourish at the end.

Joseph M. Ferguson
Inspector General

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This quarterly report provides an overview of the operations of the Inspector General's Office (IGO) during the period from January 1, 2011 through March 31, 2011. The report includes statistics and narrative description of the IGO's activity that the IGO is required to report per the City's Municipal Code.

A. MISSION OF THE INSPECTOR GENERAL'S OFFICE

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

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

B. INVESTIGATIONS

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

1. Complaints

The IGO processed the intake of 365 complaints this preceding quarter. The following table provides detail on the actions the IGO has taken in response to these complaints.

Table #1 – Complaint Actions

Status	Number of Complaints
Declined	270
Investigation	50
Referred	32
Audits/Special Projects	13
Total	365

As the table shows, for the vast majority of complaints, the IGO declined to investigate the allegation. The primary reason that the IGO declines a complaint is due to a lack of resources. That determination involves a form of cost/benefit evaluation by the Director of Investigations which, among other factors, gauges potential magnitude or significance of the allegations

advanced in the complaint both individually and programmatically, investigative resources needed to effectively investigate the matter, and actual investigative resources presently available. More serious forms of misconduct, greater monetary losses, and significant operational vulnerabilities suggested by the allegations receive priority. A subset of matters of lesser individual significance, but regular occurrence will also be opened. The chart below breaks down the complaints the IGO has received during the past quarter by the method in which the complaint was reported.

Chart #1 - Complaints by Method

Method	Number of Complaints
Phone	147
Web	70
Hotline	50
Other	41
Email	2
Walk-in	7
Fax	14
Mail	34
Total	365

2. Newly Opened Investigations

Over the quarter, the IGO opened 82 investigations. Seventy-eight (78) were opened based on allegations of misconduct, three were based on allegations of waste or inefficiency and one was opened for other reasons. Of these opened matters, 32 were immediately referred to other departments or investigative agencies. Thus, of all the complaints received in the quarter, 50 (13.7%) proceeded to a full IGO investigation. Of the newly opened investigations, three were found to be not sustained before the end of the quarter, while 47 remain open. The table below categorizes the 82 matters logged by the IGO based on the subject of the investigation.

Table #2 – Subject of Investigations

Subject of Investigations	Number of Investigations
City Employees	72
Contractors, Subcontractors, and Persons Seeking City Contracts	5
Appointed Officials	2
Elected Officials	2
Other	1
Investigations of Persons Seeking Certification of Eligibility	0

3. Cases Concluded in Quarter

During the quarter, 94 investigative matters were concluded, 32 of which were the aforementioned referrals to City departments or other investigative agencies. Of the remaining concluded matters, 16 were closed as sustained and 46 were closed not sustained. A case is sustained when the preponderance of the evidence establishes that misconduct has occurred. A case is not sustained when the IGO concludes that the available evidence is insufficient to prove wrongdoing under applicable burdens of proof.

4. Pending Investigations

Including the investigations initiated this quarter, the IGO has a total of 268 pending investigations.

5. Investigations Not Concluded in Twelve Months

Under the Municipal Code, § 2-56-080 (2010), the IGO must provide quarterly statistical data on pending investigations opened for more than twelve months. Of the 268 pending investigations, 99 investigations have been open for at least twelve months. The table below shows the general reasons that these investigations are not yet concluded. The IGO has been unable to fill vacancies since last fall, and will continue to struggle with old cases until appropriate personnel resources are in place.

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

Table #3 – Reasons for Open Investigations Older than Twelve Months

Reason	Number of Investigations
Additional complaints were added during the course of the investigation.	0
Complex investigation. May involve difficult issues or multiple subjects.	59
Lack of sufficient investigative resources over the course of the investigation. Investigators' caseloads were too high to enable cases to be completed in a timely manner.	17
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.	20
Total	99

C. SUSTAINED ADMINISTRATIVE CASES

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

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

1. Synopses of Cases

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

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

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

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

² Per *Chicago Municipal Code*, § 2-56-110 (2010), "All investigatory files and reports of the office of inspector general should be confidential and shall not be divulged to any person or agency, except to the United States Attorney, the Illinois Attorney General or the State's Attorney of Cook County, or as otherwise provided by this chapter. The inspector general is authorized to issue public statements concerning in the following circumstances: ... (c) in a public summary of each investigation resulting in sustained findings of misconduct. The public summary shall briefly state, without disclosing the name of any individual who was the subject of such investigation, (i) the nature of the allegation or complaint; (ii) the specific violations resulting in sustained findings; (iii) the inspector general's recommendation for discipline or other corrective measures; and (iv) the city's response to and final decision on the inspector general's recommendation." The synopses provided in this quarterly report in no way waive the confidential status of the IGO's investigative files and reports.

³ Departments may request an extension of up to 30 days. *Chicago Municipal Code*, § 2-56-065 (2010)

The ten cases listed below were closed prior to the 1st Quarter, 2011, but disciplinary action had not yet been finalized by the time the 4th Quarter 2010 report was published.

IGO Case # 06-0318

An IGO investigation determined that the owner of a City contractor (Company A) exceeded the personal net worth (PNW) eligibility cap for doing business with the City as a Disadvantaged Business Enterprises (DBE).

Company A, which provides rental, sale, service and operation of construction cranes, has been certified as a Woman-owned and Disadvantaged Business Enterprise (W/DBE) since 1992. The IGO's investigation concluded that Company A should be decertified as a DBE because the owner's personal net worth (PNW) was over \$1.3 million, exceeding the \$750,000 DBE eligibility cap.

The owner's stated PNW did not include marital property, specifically 50% of the value of another company (Company B) owned by the spouse of Company A's owner. Company B was valued at over \$1.5 million. Including 50% of Company B's value in Company A's owner's PNW placed it over the DBE limit. When initially certifying and later recertifying Company A, the City did not know about Company B because the City requires applicants to disclose only assets titled in the applicant's name (here, the owner of Company A). The IGO recommended that the value of Company B should have been factored into the subject's PNW because Company B was established with marital assets and would be considered a joint marital asset under relevant Illinois law.

The IGO recommended that the City implement this approach when evaluating PNW for married DBE applicants and for married Minority and Woman-owned Business Enterprise (M/WBE) applicants in the construction program. Specifically, instead of only requiring disclosure of assets titled in the name of the applicant, the City should also require a PNW statement from the applicant's spouse in order to determine whether assets titled in the name of the spouse actually constitute marital assets, 50% of the net value of which should be included in the applicant's PNW. This approach would ensure that the City's M/W/DBE programs are sufficiently "narrowly tailored" to limit eligibility to only truly economically disadvantaged persons.

The IGO also recommended that the City stop requesting individual financial information (such as tax returns) from non-construction M/WBE applicants, as that program has no PNW limit. The IGO suggested this change would limit the amount of extraneous personal information that the City would need to safeguard and store.

In its response, the City's Office of Compliance (Compliance) noted the Chicago Transit Authority (CTA) hosted Company A's DBE certification and was therefore the only entity that could officially rescind its certification. Compliance also reported that Company A had recently been notified that it would graduate from the DBE program because its annual revenues exceeded the program standards.

As to the IGO's recommendations that the City request and consider spousal PNW information, Compliance correctly pointed out that federal guidance on the DBE program had changed and now makes clear that spousal PNW should not be requested. However, Compliance noted that it maintains the authority to request such relevant information when there has been an asset transfer to the spouse within the previous two years, where Compliance suspects the applicant has fraudulently transferred assets to his spouse in order to qualify as a disadvantaged person, or when there is an affiliation relationship between the applicant's business and a spouse's business.

Compliance also stated that it requests individual financial information from non-construction M/WBE certification applicants (such as tax returns) not for the basis of determining PNW, but to determine whether the applicant owns any affiliate firms that should also be taken into account when calculating the applicant firm's gross receipts. Compliance also uses tax returns to substantiate the information contained in the firm's financial statements. The IGO believes that Compliance should draw on this available information to also inform its PNW eligibility assessments.

IGO Case # 07-0141

An IGO investigation determined that a Ward Superintendent and Ward Clerk either completed, or caused or allowed a third party to complete, the 2006 online ethics training on behalf of four Department of Streets and Sanitation (DSS) employees. The subjects both denied such activity, but the evidence refutes their denials.

First, each of the four employees acknowledged to the IGO that they did not personally complete the training, and did not give permission to anyone to complete the training for them. Second, computer records show that the on-line ethics training for these four employees was completed on the same date, within an hour and a half of each other, at a time when neither GPS records from their assigned trucks nor other documentation show them to have been in or in the vicinity of the ward office from which the purported training was undertaken. Third, both the Ward Superintendent and the Ward Clerk had access to the ward office computer on which the training took place. Fourth, the Ward Superintendent and the Ward Clerk were the only two ward personnel with access to the personal identifiers of the four employees necessary to complete the training.

The IGO recommended the discharge of both employees for falsification of official records and for providing false or deliberately misleading information to the IGO during an official investigation. In its Summary Report the IGO noted that the fact that this conduct occurred with respect to ethics training "reflects a serious integrity deficit...and mandates an unqualified recommendation of discharge with a classification of not eligible for re-hire."

DSS suspended the Ward Superintendent and the Ward Clerk for 20 and 10 days, respectively.

IGO Case# 07-1238

An IGO investigation revealed that in 1998 the Department of Procurement Services (DPS) certified Company A as a City-certified M/WBE business engaged in the sale, lease and service

of industrial and construction equipment and supplies despite knowing that Company A had no equipment to sell or lease, and had no employees to service equipment. Company A never hid those facts from DPS and, in fact, was quite open about it. Company A held direct City contracts as well as subcontracts.

Company A's owner is the daughter of the owner of another City-certified M/DBE (Company B) engaged in the rental and servicing of industrial and construction equipment. Company B has numerous equipment leasing contracts with the City and has heavily used Company A to satisfy the WBE participation goal on Company B contracts. Both companies share the same work site in Chicago, although Company B has other locations as well.

Company A cannot sell or lease construction equipment because it does not own any construction equipment and cannot service construction equipment because it has no employees. Almost every piece of equipment that Company A supplied on its City contracts and subcontracts was leased from Company B. Equipment that Company A has sold to the City was purchased on the open market and re-sold to the City because Company A is not the exclusive distributor of any equipment. Any service work Company A "provides" is subcontracted out, usually to Company B. On its subcontracts with Company B, Company A obtained parts and equipment on an ad-hoc basis and immediately rented or sold the equipment to Company B with a mark-up price so that Company B could meet its WBE participation goal. These sham transactions fulfill no commercially useful function (a requirement for M/W/DBE compliance) and increase the City's cost for leasing equipment by adding an utterly extraneous middleman.

In addition, the IGO determined that the owners of both companies defrauded the City by claiming that Company B would meet its WBE goals through equipment and services provided by Company A. The owners of both companies knew that Company A did not have the equipment or the personnel to be a legitimate supplier of construction equipment or services. Company B disregarded the provisions included in all of Company B's prime contracts which dictated that it is the responsibility of the prime contractor to determine the capability of the MBEs and WBEs to perform in their area of specialty.

The IGO recommended that Company A and B, and their respective owners be permanently debarred from City contracts, and that Company A also be decertified. The IGO also recommended that the MWBE participation credited to Company B be reversed for utilizing Company A. At best, Company A is a broker (which is not certifiable under DPS regulations), not a supplier or distributor, of construction equipment and service. At worst, Company A is a WBE front for Company B.

The IGO further recommended that DPS initiate proceedings to recover from Company B 5% of payments made by the City - the amount that Company B falsely claimed was being subcontracted to a legitimate WBE but instead went to Company A.

Compliance agreed with the recommendation that Company A be decertified and to adjust the participation amounts to eliminate the WBE credits. Compliance further agreed to amend its C2 compliance system to adjust the MWBE participation credit awarded based on Company A's

MWBE certification on all active contracts. However, Compliance advised that it was unable to change the participation credits on contracts that have already closed.

DPS agreed with the IGO and has initiated the process to permanently debar Companies A and B, as well as their respective owners.⁴

IGO Case # 07-1341

An IGO investigation determined that the Emergency Housing Assistance Program (EHAP) lacked a clear set of operating policies and procedures and was not operating on the same “first-come first-served” basis for all, but instead gave preferential treatment to late-filing applicants referred by aldermanic or other City Department offices. Formerly managed by the Department of Community Development (now the Department of Housing and Economic Development (DHED)), EHAP provides grants to low-income homeowners to repair porches, roofs, and heating units.

Specifically, the IGO found that certain EHAP projects were given priority simply because the requests had been made by aldermen or other City departments, even if the requesters had not sought special treatment. The investigation revealed that a former DCD Deputy Commissioner (now a senior official in a different City department) knew that certain applicants were improperly given “emergency” priority in order to leapfrog timely-filing applicants, who had followed the City’s established rules. Despite having knowledge of and being in a position to correct that improper practice, the Deputy Commissioner did nothing and failed to properly administer the program.

The IGO recommended a one-week suspension for the former DCD Deputy Commissioner, a series of policy changes related to the administration of the EHAP program, and improved public outreach concerning this important program to all stakeholders, including homeowners and those who refer properties for EHAP projects.

The Mayor’s Chief of Staff (rather than the department head) responded that it disagreed with the findings in the IGO report, had made what it regarded to be appropriate changes to the EHAP program and declined to impose any form of discipline on the Deputy Commissioner responsible for the program at the time of the violations, noting that the practices highlighted by the IGO predated the tenure of the subject Deputy Commissioner..

IGO Case # 07-1952

An IGO investigation determined that an MWBE certified vendor (Company A) lacked sufficient staff to perform the services for which it was certified, and in fact served no commercially useful function and instead acted merely as a pass-through for companies that actually performed the work.

⁴ The DPS employee responsible for re-certifying Company A was laid off in Nov 2009.

Further, Company A was subcontracted to perform significant amounts of work for Company B, another contractor in charge of projects receiving City assistance, for the purposes of meeting MWBE participation goals. However, Company B knew that Company A was unable to perform most of the work, and knew that Company A subcontracted its work to non-certified firms. Frequently, Company B even procured the non-certified firms that did the work for Company A. Company B claimed credit for the entire amount of the work it subcontracted to Company A even though very little, if any work or service, was actually performed by Company A. Thus, Company B's claimed MWBE utilization credit was wholly inaccurate. Additionally, a high-ranking DPS official had recertified Company A despite possessing substantial information that Company A did not warrant such certification.

This employee has since left City service; the IGO recommended that he be considered ineligible for future hire.

The IGO also recommended that Compliance decertify Company A and that it be debarred from future City business permanently. The IGO recommended that Company B be debarred for three years.

The IGO also recommended, among other things, that the City evaluate all City-assisted construction projects involving Company A to verify actual MWBE utilization, and that the City provide copies of the "Special Conditions" regarding MWBE "Commitment in Construction Contracts" to all concerned parties during pre-construction meetings for City-assisted projects.

Compliance indicated its intent to decertify Company A and removed it from the DBE program. DPS has initiated the process to permanently debar Company A and to debar Company B for a period of three years.

IGO Case # 08-0255

An IGO investigation revealed widespread time fraud practices among numerous employees of the Chicago Department of Public Health (CDPH). The IGO initiated the investigation after receiving a complaint that a CDPH Public Information Office (PIO) employee was falsifying her time by clocking in (known in City parlance as "swiping") at a KRONOS clock location located close to her home. (This improper practice results employees receiving pay and benefits for their commuting time.) The complaint further alleged that the employee regularly shopped during her work day. The IGO investigation of the initial allegations revealed signs of broad scale time falsification, lack of adherence to City and CDPH rules and policies, and lack of supervision at the DePaul Center. The City policy on swiping and CDPH lunch and break rules were the most commonly flouted. The investigation accordingly was expanded to probe the broader scope of this conduct at the DePaul Center headquarters.

The investigation confirmed broad scale rules violations centering most notably in the CDPH PIO. This office, which was staffed by a Bureau Chief, two Information Coordinators, a Project Coordinator, a Supervisor of Information Services, a Senior Public Information Coordinator, and two Administrative Assistants, functioned with no discernable supervision or discipline. The two Information Coordinators and the Project Coordinator were often absent from the worksites

either shopping, attending to personal upkeep, or returning to their residences for hours at a time, all while on City time.

The investigation found that several employees of the PIO engaged in continuous and habitual violations of CDPH and City policies. All were made possible by a near total absence of meaningful supervisory oversight. Some of the PIO personnel also engaged in abuse of sick leave, a practice which may have been tacitly condoned by superiors. Employees of the CDPH Finance and Administration Office were aware of the misconduct and abusive practices in the PIO, but allowed it to continue unabated. All of the misconduct identified in the investigation occurred during the tenure of the immediately preceding Commissioner of CDPH.

The IGO recommended various disciplinary actions for 17 CDPH employees, ranging from termination to written reprimand. Additionally, the ability of a vast sweep of CDPH PIO personnel to orient their workdays to personal convenience and attendance to personal affairs without apparent impact on function – however that may be defined at this juncture – suggested minimally that this office can meet its core function with a substantially smaller staff and, possibly, that the office could be eliminated and/or its modest actual function merged into another operational component of CDPH so as to realize substantial fiscal savings and administrative efficiencies. The IGO therefore recommended that CDPH audit PIO functions and performance to reassess the need and/or scope of need for the function and also to determine whether its core function, to the extent deemed necessary, requires staffing at its present level.

CDPH took disciplinary action on 21 employees, including the following:

- Two managers were terminated and two other managers received unpaid suspensions of one week and two weeks, one of whom received discipline greater than the IGO recommendation.
- Ten CDPH staff members have been disciplined, including one received discipline greater than the IGO recommendation.
- CDPH concurred with the IG recommendation that two former employees be "ineligible for re-hire" by the City. Another employee who resigned prior to being notified of disciplinary action will be listed as "resigned under inquiry."
- CDPH also disciplined four other supervisors not specifically cited in the IGO report.

CDPH also retrained its employees on timekeeping policies, and initiated a review of its break policies.

IGO Case # 08-0578

An IGO investigation determined that three Office of Emergency Management & Communications (OEMC) Foremen of Linemen falsified their mileage reimbursement requests.⁵ Thirteen surveillances of Foreman A's personal vehicle, 8 surveillances of Foreman B's personal vehicle,

⁵ The letters "A", "B", and "C" will be used to distinguish them. Foreman of Linemen C retired from the City in June 2009.

and 3 surveillances of the Foreman C's personal vehicle were conducted while parked at their 1345 W. Madison Avenue work location.

The investigation found that on 11 of the 13 surveillance days (or 85% of the time), Foreman A falsified his mileage reimbursement entries by claiming he drove a total of 388 miles in his car during his work hours when surveillance established that his car never moved. Based on the false entries for those surveillance days, Foreman A improperly claimed and received a total of \$226 in mileage reimbursement payments from the City.

The investigation also found that on 7 of 8 surveillance days (or 87% of the time), Foreman B falsified his mileage reimbursement entries by claiming he drove a total of 243 miles in his personal car during work hours when surveillance established in fact that his car never moved. Based on the false entries for those surveillance days, Foreman B improperly claimed and received a total of \$139 in mileage reimbursement from the City.

Lastly, the investigation found that on 3 of 4 surveillance days, Foreman C falsified his mileage reimbursement entries by claiming he drove a total of 101 miles in his personal car during work hours when surveillance established his car never moved. Based on the false entries for those surveillance days, Foreman C improperly claimed and received a total of \$59 in mileage reimbursement.

Foremen A and B, when separately interviewed by the IGO each admitted falsifying their reimbursement forms. In fact, Foreman A estimated that 80 percent of his mileage reimbursement requests going back some years were false. To explain their actions, each repeatedly invoked "past practice" to indicate that this was the way that things had always been done, and as though it was an entitlement of the Foreman position to falsely claim and collect this unjustified payout.

City records show that Foreman A received \$4,734 and \$3,311 for mileage reimbursement for the calendar years 2008 and 2009, respectively. Foreman B received paid \$4,392 and \$3,871 for the calendar years 2008 and 2009, respectively. Notably, beginning in the immediate wake of their IGO interviews, mileage amounts claimed by Foremen A and B dropped 70% and 69%, respectively.

The IGO also conducted surveillance of the General Foreman of Lineman who supervised Foreman of Linemen A, B and C.⁶ Surveillance observed the General Foreman swiping in for work at a fire station near his residence on eight of twelve days, and at a police station near his residence on a ninth day. This conduct violated OEMC's time-keeping policy requiring employees to swipe in at their assigned location. By not swiping at his assigned location, the General Foreman falsely indicated to the City that he/she was at work when he/she was not. In addition, after one of the improper fire station swipes, surveillance observed the General Foreman return to his residence and remain there for 55 minutes while on the clock.

The IGO recommended (i) termination of Foremen A and B; (ii) placement of Foreman C on the City's do-not-hire list; and (iii) that the City pursue cost recovery for the amounts each improperly collected on the surveillance days. The IGO's Summary Report noted that "there can be no form

⁶ The General Foreman of Linemen retired from the City in January 2010.

of rationalization of or justification for such manifest misconduct by two long-time City employees which both seem to appreciate was wrong and from which each obtained personal gain at the taxpayer's expense."

If the General Foreman were still employed by the City, the IGO would have recommended his termination for: (i) violating OEMC's timekeeping policy, (ii) falsifying his time by returning to his residence after swiping in for work, and (iii) his failure to adequately supervise Foremen A, B, and C including appropriate monitoring their mileage reimbursement requests. Since the General Foreman is no longer a City employee, we recommended that he/she be placed on the City's do-not-hire list.

The IGO noted that one obvious monitoring tool missing from the monthly mileage reimbursement forms during the period under investigation was odometer readings for the vehicles for which reimbursement was being sought. On March 14, 2010, approximately 18 days after the IGO interviews of Foremen A and B, OEMC issued a memorandum to all OEMC employees "receiving car checks" directing the inclusion of "start" and "end" odometer readings on Daily Time Sheets and Mileage Sheets. OEMC is credited for its prompt corrective action.

In addition, the investigation found a problem with OEMC's monitoring of its assigned badge reader policy. ("Badge readers" are the devices used for "swiping".) Specifically, the IGO asked an OEMC official to provide the location of the General Foreman of Linemen's assigned badge reader. The official could not do so, and claimed that only the General Foreman of Linemen and the General Foreman's former supervisor (who resigned from City employment following an IGO investigation of an unrelated matter) knew it. If true, this indicates that the assigned badge reader policy monitoring and enforcement is episodic, if done at all. Therefore, the IGO recommended that OEMC implement monitoring in the form of periodic audits of the time-keeping system, and that the authorized badge reader locations for every employee be put in writing.

When advised by OEMC that he faced possible discipline, Foreman A advised the Executive Director of the OEMC, that when he told the IGO that his actions were based on "past practice" what he meant was that it was the past practice of his position to do inspections in the field before and after work, while not swiped in and not being paid, for which he was claiming mileage reimbursement.

The Executive Director of OEMC, on the stated rationale that it was not in the best interest of the City "to terminate hardworking employees who have dedicated themselves to making sure that the citizens of Chicago are provided with the highest level of public safety, merely because they failed to specifically record their mileage as accumulated", rejected the IGO's recommended discipline and instead suspended both Foremen A and B for 30 days.

The Executive Director also tasked OEMC's Deputy Director of Internal Secure Communications Network with sign-off approval of any mileage reimbursement request. Further, the Executive Director ordered an immediate audit of mileage reimbursements in his section and the conducting of odometer reading audits periodically throughout the year.

Prior to the imposition of department discipline, at the Inspector General personally, the OEMC Executive Director agreed to delay final action to allow the IG to bring this matter to the direct personal attention of the Mayor. The IG was (and remains) concerned about the setting of a precedent that affirmative acts of theft of public money through the knowing and repeated submission of false reimbursement forms might warrant anything less than immediate termination. Immediately after agreeing to delay final action, the OEMC Executive Director nevertheless imposed final discipline. While this rendered the present matter a final agency action, the IG directed a letter⁷ to the personal attention of the Mayor raising the aforementioned concerns. The Mayor provided no response of any kind to the IG's letter.

IGO Case # 08-2139

An IGO investigation determined that three current and former Chicago Department of Transportation (CDOT) employees improperly attended dinners worth hundreds of dollars, golf outings, and sporting events paid for by CDOT contractors in 2007 in violation of §2-156-040 of the City of Chicago Ethics Ordinance. These events are defined as “gifts” and were paid for by CDOT contractors who plainly have an “economic interest in a specific City business, service, or regulatory transaction.” § 2-156-040(c). These employees each had the ability to “substantially affect” the gifting contractors’ business.

The IGO recommended that two employees receive one-day suspensions and that one employee receive a three-day suspension.

CDOT suspended the three employees as recommended.

IGO Case # 09-1185

An IGO investigation determined that ten on-duty firefighters using two fire apparatuses left a Southside firehouse at the direction of two Lieutenants and assisted an off-duty firefighter with exterior home renovations. The Lieutenants claimed that two fire apparatuses arrived, stayed for over an hour, and contributed ten on-duty firefighters to the home improvement project as part of an “exterior overhaul drill.” Investigation revealed, however, that no one involved in the exercise followed established Chicago Fire Department (CFD) procedures for such drills. were followed. In failing to follow these procedures and subsequently using fire equipment on an occupied residential home, the Lieutenants exposed the City to host of problems and potential liability. The IGO found that the Lieutenants, as well as the off-duty firefighter, should also have been aware that ten on-duty firefighters assisting an off-duty firefighter on a home improvement project constitutes preferential treatment in fact and appearance. Further, the IGO found that the Lieutenants used City property for unauthorized purposes and made false, inaccurate, or deliberately incomplete statements in an official inquiry, investigation, or other official proceeding.

The IGO recommended that the two Lieutenants and the off-duty firefighter be suspended without pay for 30 days.

⁷ The letter can read on the IGO website at: <http://chicagoinspectorgeneral.org/uncategorized/memo-to-the-mayor-on-igo-case-08-0578/>

The CFD imposed suspensions of 3 days for one of the Lieutenants and the off-duty firefighter. The other Lieutenant retired before being disciplined.

IGO Case # 09-1211

An IGO investigation determined that a Payment Services Representative (PSR) with the Clerk's Office used her position and knowledge of City Clerk's systems to purchase fewer City Wheel Tax License Emblems (City Stickers) than required for the vehicles she owned. The PSR purchased a smaller number of stickers than needed and then reported them stolen, which allowed her to purchase reduced rate replacement stickers. She then displayed both the allegedly stolen stickers as well as the replacement stickers on her different vehicles and obscured the license plate number on the stickers to conceal her fraud. In doing so, the PSR cheated the City out of hundreds of dollars in revenue. In addition, when questioned about her actions, she repeatedly lied and provided misleading testimony to the IGO. Based on these findings, the IGO recommended that the PSR be discharged and considered ineligible for re-hire.

The IGO also found that the lax Clerk's Office protocols concerning replacement City Stickers presented a significant risk for the type of fraud perpetrated in this case. To close this loophole, the IGO recommended that the Clerk's Office retain some record or notation of the documentation presented by citizens who seek replacement City Stickers.

The Clerk's Office agreed with the IGO's findings and recommendation. The PSR was allowed to resign after she was presented with charges.

Final City action was taken on nine administrative cases the IGO sustained this quarter. They are summarized below.

IGO Case # 09-0555

An IGO investigation determined that an MBE second-tier subcontractor working on numerous TIF-funded development projects violated the City's Municipal Code and regulations regarding the use of MBE certified companies on construction projects. The IGO determined that the MBE subcontractor did little more than pass purchase orders and payments between steel mills and steel fabrication shops, receiving a commission for doing so. The steel fabrication shops would then request MBE credit for the full price of the raw steel purchased at the mills. The MBE did not have the financial viability to take ownership of large quantities of raw steel, nor did it have the ability to coordinate and pay for the transportation of the raw steel from the mill to the fabrication shop. The MBE had to rely on financial guarantees from other companies in order to pass-through purchase orders in its own name, and acted as a subcontractor for MBE utilization credit when it was either not certified in the appropriate category or not certified at all, thereby violating City regulations. The IGO determined that the subcontractor acted as an impermissible "broker," making it ineligible for certification.

The IGO recommended that Compliance decertify the MBE subcontractor as an MBE vendor. In addition, the IGO recommended that DHED should re-calculate the MBE utilization numbers on all City-assisted projects for which MBE credit was given for using the MBE subcontractor and assess monetary damages for shortfalls.

Compliance has initiated decertification of the MBE subcontractor and DHED committed to re-calculating the MBE utilization numbers on all City-assisted projects for which MBE credit was given for using the MBE subcontractor and assessing monetary damages for shortfalls.

IGO Case # 09-1049

An IGO investigation found that a DSS Ward Superintendent received a \$1,000 from an Alderman's political fund each year 2001 to 2009.⁸ The Alderman logged each of the payments with the Illinois State Board of Elections (ISBE) as either a gift or bonus. Accepting these payments violated DSS's prohibition on accepting cash gifts. Further, the Ward Superintendent failed to report that he received these gifts in any of these years on his annual Statement of Economic Interests (SEI) forms filed with the Cook County Clerk's Office.

When confronted, the Ward Superintendent did not contest any of the evidence. Instead he claimed his failure to comply with DSS's policy and the applicable Cook County disclosure requirements was a combination of misunderstanding and laziness. Although the Ward Superintendent is a supervisor responsible for knowing DSS's policies and, in this instance, even in charge of disseminating a holiday reminder that specifically addresses the department's gift policy, he claimed to have mistakenly thought the prohibition on accepting cash gifts applied to laborers but not to him. Further, he never sought clarification on DSS's policies related to gifts and cited no reason for his misapprehensions other than his own indifference to learning about them. The Ward Superintendent also explained that he never fully understood the disclosure requirements on the SEIs because, year after year, he simply "glossed over" the forms and never took them all that seriously. He said that for many years he and the Alderman exchanged gifts around the holidays.

The IGO recommended the Ward Superintendent be terminated. DSS instead imposed a 20-day suspension. The Department's response acknowledged its employee's "unawareness" and "inattentiveness" to the DSS policy and Cook County reporting form, but stated that the "type of holiday gift exchange that took place" did not warrant termination.

In this case, the City employee, who received a yearly \$1,000 payment from an alderman's political fund, was disciplined for violating City personnel rules as well as violating a Cook County ordinance. The IGO's ordinance precluded possible related investigation into the alderman. Further, the IGO was unable, to "promptly transmit [complaints alleging misconduct by any member of the city council] said complaint to the legislative inspector general" as directed by ordinance because, to date, no legislative inspector general has been named. Moreover, we note that had there been a legislative inspector general to whom we were required

⁸ IGO found a record of a payment issued from the Alderman's fund in 2007 but no record of it being deposited by the DSS employee that year.

to transmit the complaint, it is very possible that their knowledge of the IGO's investigation might have affected our ability to conduct our investigation in a covert fashion.

IGO Case # 09-1244

An IGO investigation determined that a plumber with the Department of Water Management (DWM) resided outside the City limits. The IGO recommended discharge.

The Department advised that it is seeking the plumber's discharge.

IGO Case #09-1472

An IGO investigation determined that a now-former CDPH clerk altered City payroll documents to reflect a lower salary and submitted false applications in order to obtain State-assisted childcare benefits for the employee's two children. After initially denying any wrongdoing, the clerk eventually admitted the fraudulent conduct to the IGO. However, prior to the issuance of the summary report, the clerk was discharged for other unrelated reasons.

The IGO would have recommended discharge for the fraudulent activity if the clerk still worked at CDPH and instead recommended that the Clerk be considered ineligible for future City employment.

CDPH agreed with the recommendation and is working with DHR to place the former employee on the City's Do-Not Rehire list.

IGO Case # 10-0062

The IGO investigated an allegation that an Office of the City Clerk (OCC) employee was using his City-owned computer to illegally copy movies and sell them to co-workers. That allegation was not-sustained. However, the investigation revealed that the employee (who repeatedly lied to the IGO during the investigation): (1) provided a contracted female custodian at City Hall with the password to his City-owned computer (in violation of City personnel rules) for her to surf the Internet; (2) maintained a collection of Playboy magazines in open view at his City Hall office; and (3) uploaded and stored on his City-owned computer several sexually explicit and inappropriate photographs – photographs depicting a sexual act, photographs of the breasts and buttocks of unsuspecting women in public, others showing male and female genitals, and many of nude and partially nude women. Among them were partially nude photographs of the custodian taken while she was at the employee's workspace in City Hall. The custodian denied being aware that the Clerk employee was taking partially nude photographs of her (taken with the camera in his cellular telephone) and told IGO investigators she would consider pressing charges against the employee.

The employee denied intentionally transferring the inappropriate photographs onto his City-owned computer and said he only intended to view them during his “down time” at work. An IGO computer forensics review of the employee’s hard drive, however, showed that he intentionally loaded these images onto his computer and created files there to store them. The employee admitted the partially nude photographs of the custodian were taken in his City Hall office but claimed he did not remember taking them. He also claimed to recall seeing the custodian change clothes in his (the Clerk’s Office employee’s) office a few times – citing their longstanding friendship – and then later denied making that statement. About the Playboy magazines, the employee could not recall whether they were his or belonged to a former co-worker who had left them behind.

The IGO recommended the employee be terminated. The IGO further recommended for the City (via the Department of Procurement Services and Department of General Services) to require the custodial services company to remove the custodian from working at any City facilities as well as to train its custodians about the applicable rule forbidding them from using any City property.

The vendor reported that it removed the custodian from City facilities and would re-train its employees.

In the OCC’s response to the IGO, the First Deputy City Clerk stated that only six of the 46 photographs IGO flagged “could be deemed inappropriate without any equivocation.” He further stated that, the OCC employee purportedly demonstrated to his supervisor how these images automatically uploaded from external storage devices to his computer without him affirmatively commanding the transfer. The fact that the OCC employee made storage files for these very same images on his City computer was apparently not addressed by this demonstration.

The First Deputy’s response also stated that the employee’s supervisor reported the employee “freely admitted to me that he lied to the inspector general’s investigators.” But the Clerk’s Office evidently found the lies forgivable because the employee said telling the truth “would cause trouble” for his “good friend” the custodian. The Clerk’s Office response noted that the employee allowed the custodian access to his computer and City password merely because she wanted to view online videos of her dancing troupe and the employee saw no harm in that.

Absent from Clerk’s Office response was any reckoning with the facts surrounding the partially nude photographs of the custodian taken in City Hall with the employee’s cellular telephone camera, especially given that the custodian claimed they were taken without her knowledge and she was considering reporting it to the police. Nor was there any mention in Clerk’s Office response about the numerous Playboy magazines found and observed in the employee’s office. Yet citing the “totality of circumstances,” which included its employee’s long service to the City and the fact that “this case did not result in any of the photos becoming public,” the Clerk’s Office concluded the “City suffered no overt harm” and imposed the 29-day suspension.

Subsequent to imposition but prior to service of the suspension, the subject Clerk’s office employee received a \$10,569.23 compensatory time buyout.

IGO Case # 10-0603

An IGO investigation determined that a CDPH Public Health Nurse III violated the City's Personnel Rules by residing outside City limits. The nurse also gave false or deliberately misleading information to IGO investigators during her interview. The Public Health Nurse III resigned while under investigation.

Had the Public Health Nurse III remained a City employee, the IGO would have recommended her termination from City employment. Instead, the IGO recommended that he/she be considered ineligible for future hire by the City. CDPH agreed and requested that DHR consider the nurse ineligible for rehire.

IGO Case # 10-0778

An IGO investigation determined that in an attempt to get out of a parking ticket, an OEMC employee told multiple police officers that she worked for the Chicago Police Department's Internal Affairs Division (IAD). After observing a CPD Officer write a parking ticket for illegally parking in a bus stop, the OEMC employee pursued the ticketing officer, claiming that she worked at IAD, and that she wanted the ticket "taken care of." In so doing, the OEMC employee showed the CPD Officer her City of Chicago identification card. The OEMC employee then called the CPD Officer's supervisor, maintaining to that supervisor and others that she was an IAD employee during several transfers of her call before being able to speak with a Lieutenant.

The Lieutenant reviewed the circumstances surrounding the ticket, and determined that the citation was not issued in error. When looking for the OEMC employee's contact information on the CPD database in order to return the ticket to her, the Lieutenant discovered that the OEMC employee worked for OEMC, not IAD. When the IGO confronted the OEMC employee about the incident, she admitted to misrepresenting her employment to the CPD and admitted that she asked the parking ticket to be "taken care of."

The IGO recommended that the OEMC employee be discharged for violating the City Personnel Rule that bars "having other City employees perform services or directing other city employees to perform services for unauthorized purposes."

OEMC agreed, and termination proceedings have been initiated.

IGO Case # 10-0861

An IGO investigation determined that three DSS employees used a City vehicle during work hours to pick up one of the employees' children from daycare and take them home. All three employees admitted to the unauthorized personal use of the vehicle while on City time and acknowledged that department policy prohibits non-City employees from riding in City vehicles. None of the employees reported the misconduct.

The IGO recommended that the employee whose children were transported be suspended for one day and the other two employees receive written reprimands.

DSS issued all three employees written reprimands.

IGO Case # 10-1157

An IGO investigation found that approximately 200 MTD positions are unnecessary to regular City operations and the City is required to continue using them only because of an overly restrictive Collective Bargaining Agreement (CBA). The IGO estimated that eliminating these positions would save the City approximately \$18 million this year.

The IGO report includes recommendations to the City Council and Mayor for future CBAs that would better enable the City to both efficiently deliver services to residents and respond to uncertain fiscal situations. These include:

- The City Council should consider an ordinance limiting CBAs to four years, tracking the term of the Mayor and City Council.
- Before ratifying a CBA, the City Council should require a comprehensive analysis of a CBA's impact on the delivery of City services, staffing requirements, and management rights.

Also, in order to address the inefficient use of MTDs, the IGO recommends that the City examine amending the current CBA to include two additional provisions.

- First, the IGO recommends a reopener clause to allow for the renegotiation of the CBA based on the financial condition of the City.
- Second, the IGO recommends that a "Four Corners" provision be added to ensure that all the terms of the agreement between the union and the City be placed within the text of the CBA. This means one comprehensive document should be presented and acted on in its entirety by the City Council, and no "side letters" or "Memoranda of Understanding" not expressly incorporated into the CBA would govern the employment relationship. The CBA should also refrain from restrictive references to "unit work" or "traditional work" without allowing the City the ability to reorganize services based on technological change or operational need.

The City disputed the IGO's report. In its response, the City stated the IGO's recommendations regarding changes to CBAs would "severely hamstring the City's flexibility in negotiations, and its ability to work with the unions to respond to operational needs as they arise." Further, the City noted that the "suggestion to track CBA's along the terms of elected officials would also unnecessarily politicize the union negotiation process."

The City also stated in its response that the "report completely ignores or is apparently unaware of the numerous gains in collective bargaining the administration has made over the years, with the cooperation of the unions, providing the City with enhanced operational flexibility, and in response to financial pressures on the City's budget. It also fails to recognize the comprehensive,

ongoing analysis that the City's OBM and operating departments do undertake throughout the negotiation process.

The City also pointed to examples of how the City had used side letters to protect City taxpayers in the last several years.

2. Policy Recommendations arising from IGO Investigations

One of the functions of the IGO is to recommend "to the mayor and the city council policies and methods for the elimination of inefficiencies and waste, and the prevention of misconduct."⁹ If IGO investigations reveal misconduct that is not being addressed by a City policy or procedure, the IGO recommends policy changes to the Mayor and the relevant department either in the summary reports that detail the investigation or in separate policy-focused reports. In the 9 cases sustained this quarter and summarized above, there were two policy recommendations, as well as one update from a policy recommendation made last quarter.

(A) Courtesy Parking

An IGO investigation (IGO Case # 10-0134) determined that the Chicago Department of Aviation (CDA) has for years operated a practice called "courtesy parking" by which CDA employees, their friends and family, and others received free parking at the 850 Building at O'Hare Airport unrelated to any official City business. In addition, the people receiving the free parking were transported by on-duty CDA security officers in City vehicles to and from the parking location and the airport terminals. This parking perk, not available to the public, is improper, undermines the taxpayers' trust in the operations of City government, and potentially constitutes a taxable benefit that should be declared by those benefiting from it.

As a result of these findings, the IGO recommended that the CDA permanently end free courtesy parking at the 850 Building and at all CDA facilities unless it directly relates to official City business.

The CDA response noted that since the initiation of the IGO investigation it had written Standard Operating Procedures (SOP) to establish concise policies establishing who will receive parking accommodations, and defining appropriate circumstances under which those parking accommodations will be received. This includes local, State, and Federal agencies using the airport for official business. Further, transportation to and from the designated parking area will be the sole responsibility of the traveling party/agency, and CDA vehicles are prohibited from being used to transport such person to and from the terminals.

(B) Chicago Department of Aviation Funeral Details

An IGO investigation (IGO Case #10-0273) found that the CDA had a custom of assigning on-duty Aviation Security Officers (ASOs) to work funeral details, including those of current ASOs and their family members, while driving City vehicles but lacked any formalized written policy

⁹ *Chicago Municipal Code*, sec. 2-56-030(c) (American Legal 2009).

governing such assignments. On at least two occasions in 2010, as many as three or more security personnel at Midway Airport were assigned to funeral details while on City time. As a result, more than 20% of Midway's regular sworn security contingent was diverted from its regular security duties for as much as an entire work day.

The IGO recommended that the CDA discontinue the provision of on-duty funeral details in favor of purely volunteer funeral or honor guard participation by off-duty personnel. The performance of traffic control using CDA vehicles for off-site funerals falls outside the ASOs' limited authority as "special police" to maintain security at the City's airports. In light of the City's ongoing fiscal challenges and the CDA's recent efforts to relieve staffing shortages among ASOs, the assignment of on-duty security personnel to participate in off-site funerals may be reasonably viewed as a waste of limited City resources. Finally, the lack of any policy or procedure for approving funeral detail assignments left the department open to the risk that CDA Security may become understaffed as a result of a funeral detail and further increased the possibility and perception that such details are provided on an improper basis. If the CDA continued to use on-duty ASOs for funeral details, the IGO recommended that the department establish a written policy governing these assignments and that any such policy be limited in scope and consistent with those policies already existing within the Chicago Police and Fire Departments.

In its response, the CDA stated that it "believes it is appropriate and a gesture of solidarity" for ASOs to "support one another during a difficult time such as the death of an ASO or the death of an ASO's family member." Nevertheless, effective December 22, 2010, the CDA implemented a new Standard Operating Procedure, titled "Funeral/Visitation Policy." This new policy provides that with the exception of an on-duty death of an ASO, no on-duty ASOs may be assigned to participate in a funeral for a fellow ASO or an ASO's family member and no CDA Security vehicles may be provided. In the event of an on-duty death of an ASO, the CDA Security Division will provide two CDA Security vehicles and two ASOs for the funeral procession if requested by the deceased ASO's family. ASOs assigned to the detail will be off-duty but compensated (i.e., "hired back" in accordance with the current labor bargaining agreement), so as to maintain sufficient staffing at the airports. If requested, the CDA Security Division will also provide an Honor Guard Detail for the visitation and funeral services. This detail will consist of volunteers, and no overtime compensation will be provided.

(C) Response from the City Regarding a Gift Ban for City Employees

Since the publication of the last quarterly report, the IGO received a response from the Mayor's Office, CDOT, and the City's Board of Ethics (the Board) regarding the IGO's recommendation that the City implement a gift ban for City employees.

CDOT indicated that while it had some concerns, the department would institute a gift ban for CDOT employees.

The Board, however, recommended that the Mayor "decline to institute a 'city-wide no-gift policy.'" The Board explained that a "no-gift" policy "does not reflect how people act," "would limit the ability of City employees to take prudent business trips," would create problems such as

“driving gifting underground,” “fostering a climate of cynicism about government ethics,” and “fostering the ‘view’ . . . that City employees are essentially corrupt and cannot be trusted to use good judgment.” The Board pointed out that no other jurisdiction they surveyed has a true “no-gift” policy, and that enacting one would “foster a climate in which City personnel are encouraged to report on each other for trivial infractions.” The Board was particularly concerned that a no-gift policy might require the Board or the IGO to investigate “employees who accept flowers, a desktop gumball dispenser, a tuna fish sandwich during a business meeting or bottle of water during a deposition, from vendors and would-be vendors.”

As to the IGO report’s contention that the Ordinance created doubt and uncertainty because only those who could “substantially affect” a contractor’s business must refuse gifts, the Board disagreed. Although the Board admits that whether an employee may substantially affect a transaction varied “depending on the particular circumstances,” they assert that this is not a problem, because an employee could always ask the Board for a determination. The Board characterizes the IGO’s report as showing that “40 City employees . . . violated or may have violated the Ordinance’s gifts restrictions, but seemed to do so in ignorance that they were doing so.” The Board then submitted its view this “be seen not as evidence of a system or law in disrepair or that is ‘immensely difficult to enforce.’ Rather . . . this is evidence that the system works.” The Board goes on to admit that “a no-gift policy makes sense for some department” but suggests that “the decision to enact one be left to each individual department head.”

The Mayor’s Office has asked that the Executive Director of the Board and the IGO meet to discuss the report to publish a collaborative recommendation for review. The IGO views the Board’s position as a categorical rejection of the IGO’s recommendation that renders “collaboration” a non-productive undertaking at this time. The IGO therefore is considering alternatives on which it will report publicly and on which it may confer with the Board to the extent deemed potentially productive.

3. Disciplinary and Other Corrective Action Recommendations

In the 18 sustained cases summarized above, the IGO made 68 discipline or other corrective action recommendations. The number of recommendations can exceed the number of cases because cases can have more than one subject. The table below details the discipline or corrective action the IGO recommended.

Table #4 – Discipline Recommendations

Type of IGO Recommended Discipline	Number of Recommendations
<i>Employee Discipline</i>	
Reprimand	3
Suspension less than or equal to 10 days	16
Suspension 11 to 29 days	0
Suspension equal to 30 days	3
Suspension over 30 days	0
Termination	12
<i>Other Corrective Action</i>	
Debar	7
Do not (re)hire	16
Other	7
Cost Recovery	4
Total	68

(A) Departmental Action¹⁰

Of the 68 recommendations contained in this quarter's 18 summary reports:

- In 36 instances, departments imposed the same discipline/corrective action recommended by the IGO.
- In 21 instances, a department imposed less discipline/corrective action than the IGO recommended.
- In 5 instances, a department imposed more discipline/corrective action than the IGO recommended.
- In 6 instances, subjects of the investigation resigned during the inquiry.

In 4 instances, a department imposed discipline/corrective action when the IGO did not recommend any discipline.

(B) Results of Appeals or Grievances

¹⁰ This data is as of April 14, 2010.

Under the City's Personnel Rules and/or applicable collective bargaining agreements a City employee may be entitled to appeal or grieve a departmental disciplinary action, depending on the type of corrective action taken and the employee's classification. The IGO monitors the results of administrative appeals before the Human Resources Board (HRB)¹¹ and grievance arbitrations concerning our disciplinary recommendations.

To date, none of the subjects involved in the investigations completed this quarter have appealed their discipline to the HRB.

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

D. CRIMINAL CASES

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

1. Synopses of Cases

Two of the IGO cases concluded this quarter were criminal prosecutions and are discussed below.

(A) IGO Case #05-1709

In 1999, the City entered into a contract with U.S. Occupational Health, Inc. (USOH) to perform medical examinations and testing of CPD and CFD candidates and personnel, among others. The agreement required USOH to perform comprehensive medical examinations and testing of CPD and CFD personnel and candidates to determine if they were physically fit to perform the duties of the positions they held or were seeking to hold. The testing included comprehensive pulmonary function tests, cardiology tests, (including electrocardiograms) chest and spinal x-rays, and required that board-certified specialists in pulmonology, cardiology and radiology interpret the results of the appropriate tests. The contract provided for an initial term of two years, allowed for 3 one-year extensions, and ultimately expired in June 2004. However, USOH continued to provide services at the previously contracted rates until October 2005. Throughout the tenure of its contract, USOH claimed to have provided medical examinations and/or testing on more than 10,000 individuals.

A joint IGO and FBI investigation determined that USOH schemed to defraud the City by falsely representing that the test results had been reviewed by board-certified specialists when they had not been. In furtherance of the scheme, the IGO determined that USOH improperly used

¹¹ HRB definition: A "three-member board is appointed by the Mayor and is charged with the responsibility of conducting hearings and rendering decisions in instances of alleged misconduct by career service employees. The Board also presides over appeal hearings brought about by disciplinary action taken against employees by individual city departments."

City of Chicago. Department of Human Resources – Structure.

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

signature stamps or signed on behalf of board-certified specialists to falsely indicate that the test results had been properly reviewed. USOH submitted these fraudulent test reports to the City and received payment, and as a result of the fraud the City is estimated to have overpaid USOH approximately \$600,000. In addition, the City was required to send hundreds of City employees for retesting, and the City is seeking \$4,000,000 in a separate civil lawsuit.

On February 16, 2011, a federal indictment was issued against USOH alleging a violation of Title 18, Section 1341 of the U.S. Criminal Code (Mail Fraud). On March 18, 2011, USOH entered a plea of guilty to the information and a judgment of guilty was entered. Sentencing has been set for June 17, 2011.

(B) IGO Case # 07-2077

On January 6, 2011, Jesse Brunt (the president and founder of “Brunt Bros. Transfer Inc.”), Brunt Brothers, and Anthony Duffy, the former manager of one Illinois corporation and president of another, were all indicted on three counts of Federal Mail Fraud stemming from an alleged MBE “pass-through” scheme. The indictment charged that Brunt Brothers fraudulently received more than \$3 million from the City after being hired to clean and videotape City sewers south of 63rd Street, when, in fact, it did not actually perform the work specified by the contract.

The indictment also seeks a forfeiture of \$3 million. On January 19, 2011, all defendants entered a plea of not guilty. A trial date has not yet been set.

The IGO partnered with the Federal Bureau of Investigation and the U.S. Attorney’s Office in the investigation.

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

2. Developments in Prior Criminal Cases

During the quarter, there were no resolutions in pending criminal cases charged prior to this quarter. A number of pending matters are scheduled for sentencing or disposition in the coming quarter.

E. AUDITS/REVIEWS

The IGO Audit Section and the IGO’s Special Assistants conduct independent and professional audits, reviews, and evaluations of the operations of City departments, programs, functions, and those doing business with the City. These engagements focus on the integrity, accountability, economy, efficiency and effectiveness of each audit/review subject. Two audits/reviews were released this quarter. The following are the quarterly statistics for the IGO’s audits and reviews.

Table #5- Audit Statistics

Status	Number
Audits/Reviews Initiated	12
Audits/Reviews Closed	2
Audits/Reviews Pending	21

1. Impact of City's Furlough Program on Employee Pensions

The IGO released a report on February 8, 2011 noting that the City had publicly overstated savings realized from its furlough program by \$11.05 million. Additionally, the IGO report found that the furlough program will result in increasing the funding shortfall of City employees' pension funds by approximately \$24.55 million dollars.

Since mid-2009, the City has used furloughs (mandatory unpaid time off) as a way to cut costs, resulting in a reported savings of approximately \$134 million.

However, the IGO found that the City actually saved \$11.05 million less than has been reported. Furloughs reduce City employee contributions to the pension funds without any corresponding reduction to the pension benefits of affected employees. With no such corresponding reduction in pension liabilities, the estimated \$11.05 million decrease in pension funding caused by the furloughs will have to be balanced by increased funding in the future and therefore should not be reported or considered as savings.

Further, the City's mandatory contribution to the City's pension funds is based on employee contributions. The \$11.05 million decrease in the employee contributions due to the furlough program also results in an additional \$13.5 million decrease in present City payments to the funds. This totals \$24.55 million in reductions to the funding of the City's pension plans. The reductions in both the employee and City contributions from the furlough program increases the already grave funding gap in the City's pension funds. The IGO's conclusions assume the City is responsible for payment of pension benefits promised to City workers, but notes substantial ambiguity around whether the City in fact is legally required to do so.

This report was not a criticism of the furlough program. It was provided to correct the existing record regarding reported savings, and to clarify its full impact on pension funding, which should be incorporated into calculations regarding any future furloughs.

2. CDPH Pharmaceutical Audit Follow-Up

The City of Chicago Office of Inspector General (IGO) released the findings of a follow-up report from a February 2009 audit that showed significant deficiencies in the Chicago Department of Public Health's (CDPH) inventory management at its pharmacy warehouse.

The report shows that although the warehouse is now closed, and CDPH clinics now order and store their own inventory, the CDPH has still failed to implement 10 of 11 IGO recommendations it had initially agreed to address.

In a February 2, 2009 press conference addressing the IGO audit report, then-CDPH Commissioner Dr. Terry Mason said the problems found by the IGO had been fixed in December 2008 because the warehouse operations had closed. However, the follow-up report reveals Dr. Mason's statement to be inaccurate. The warehouse was not closed until December 31, 2010, fully two years later than was publicly claimed.

The 2009 audit determined that CDPH procedures for keeping track of vaccine, drug, and clinical supply inventory were highly defective. This led to inefficient reorder points, waste due to expired goods, unreliable physical inventory, and poorly maintained documentation. The procedures did not require the warehouse or fiscal administration section to reconcile inventory records. Additionally, warehouse practices failed to segregate incompatible duties which could allow for errors or irregularities to occur and go unnoticed. As a result, the items received and distributed by the warehouse were not properly safeguarded against theft and loss. In fact, a full and complete audit of the warehouse inventory was impossible because adequate records were not available for significant portions of the inventory.

The IGO appreciates there was significant turnover in CDPH leadership a year after the publication of the audit in February 2009. With that said, it is clear the departmental leadership transition appears to have neglected appropriately briefing incoming executives on the operational deficiencies found by the IGO audit and how to address those deficiencies. As such, the IGO believes that lax oversight from the Administration is to blame rather than current department leadership.

The IGO again recommended that CDPH management implement all recommendations from the 2009 audit as soon as possible. The IGO will conduct a second follow-up in the coming months.

F. NEW IGO INITIATIVES

1. Open Chicago

Citing the importance of promoting and enhancing transparency in City government the IGO announced "Open Chicago," a new transparency initiative on March 29, 2011.

Hosted on the IGO's website, this initiative is aimed at increasing the public's understanding of City government and to further the IGO's mandate of promoting economy, efficiency,

effectiveness and integrity in the administration of the programs and operations of the City government.

Open Chicago has three main components: (i) increasing the transparency of the IGO's audits and program reviews; (ii) publishing and linking to public, non-confidential City data and documents on the IGO's website; and (iii) identifying best practices in government transparency and accountability

The goal of Open Chicago is to make City government more transparent. When appropriate, the IGO will ask the City departments responsible for public data to publish the data themselves. If City departments agree to these requests and publish the information in a manner that meets the Open Chicago criteria for true transparency, the IGO will simply link to this information on its website.

In response to the first Open Chicago request from the IGO, the City published its Collective Bargaining Agreements with local unions, Single Audit Reports on Federal Grants, as well as the list of property the City leases. The IGO has provided these links on its website. Previously, the IGO posted an Excel version of the City's budget.

The IGO will periodically update its Open Chicago page with new datasets.

G. HIRING COMPLIANCE

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

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

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

Quarterly Review and Audit of Hiring Data as required under Section XIII.F of the Hiring Plan:

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

We received four reports of direct departmental contact from DHR this quarter. One report did not constitute a departmental contact, as the department simply forwarded information received

from an outside entity out of an abundance of caution. Another report simply involved a department asking for an explanation of the Foreman hiring process, and it did not involve discussion regarding specific individuals. The remaining two reports involved inquiries regarding specific applicants. In one of those instances, the department inquired why an applicant was not deemed eligible to sit for an exam. DHR provided an explanation as to why the applicant was not eligible. In the other instance, the department inquired why a particular applicant was not included on the referral list¹² and expressed the belief that the omission was an error. DHR confirmed that the applicant was not minimally qualified for the position and conveyed the information to the department.

As we have noted in previous quarterly reports, we advise departments to refrain from contacting DHR regarding specific applicants or candidates. Regardless of intent, doing so risks the perception that the department is attempting “to lobby for or advocate on behalf of actual or potential applicants or bidders for non-Exempt positions.” This is clearly prohibited by Section II.8 of the City’s Hiring Plan.

We have also recommended that, (1) DHR staff be trained to advise departments to instruct applicants and candidates to make the inquiry themselves and refrain from engaging in discussions regarding individuals, and; (2) departments be trained not to directly contact DHR regarding specific applicants and candidates and be provided with contact information to provide any applicants and candidates who wish to contact DHR. We anticipated that these training measures would be taken once the revised General Hiring Plan was filed with the *Shakman* court, which still has not occurred. Thus, we expect that these points will be incorporated into the training materials for the revised General Hiring Plan, which should reduce these occurrences.

Finally, we note that DHR appears to be diligent in reporting all direct contract from hiring departments.

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

Modifications of job descriptions, minimum qualifications, or screening/hiring criteria: We are currently reviewing all job descriptions, minimum qualifications, and screening/hiring criteria, to allow us to note and review these modifications. At the same time, we continue to work with DHR to develop a formal process of notification to have timely notice of modifications when we begin to audit referral lists and hiring packets.

Referral lists: We are currently reviewing all candidate and bidder lists, with the exception of referral lists for Senior Manager positions, before they are sent to the hiring department. In the past quarter, we reviewed 44 lists and provided commentary to DHR where potential issues arose. Twelve of the 44 referral lists reviewed in the past quarter contained errors. Nine of the errors occurred in the area of candidate assessment. We recognize that aspects of candidate

¹² A referral list is a list that is generated by DHR of applicants/bidders who meet the predetermined minimum qualifications for a position.

assessment can be subjective and that there can be a difference of opinion in the evaluation of a candidate's qualifications. Therefore, our designation of "errors" is limited to cases in which applicants who, based on the information they provided: (1) did not quantitatively meet the minimum qualifications and were referred; (2) failed to provide all of the required information and/or documents listed on the job posting and were referred; or (3) quantitatively did meet the minimum qualifications and were not referred. Two of the errors were due to inaccuracies in the job postings for two positions, causing DHR to reject minimally qualified applicants. In both cases, the job posting stated that specific documentation was required at the time of application when, in fact, the documentation was actually required at the time of processing. As a result, one position had to be reposted, and a new referral list was generated for the other position to include those minimally qualified applicants who were originally rejected. The final error involved a job posting where DHR generated a referral list yet failed to screen and review 99 of the 126 applicants who completed an application for the position. DHR reviewed the initially unscreened candidates and generated a new referral list.

Test administration and scoring: We continue to review all tests before they are administered, and we receive notification whenever testing occurs. We monitored three tests in the last quarter and did not observe any problems regarding test development, administration, or scheduling. While we continued to attend interviews and consensus meetings, we also focused our resources on attending a larger number of test administrations in the past quarter and will continue to do so moving forward. Our coordination of oversight activities with the Monitor's Office has reduced duplicative efforts which we hope will lead to a scale back in the Monitor's direct observation oversight in these areas.

Overall hiring/promotion decisions: We are reviewing most hiring packets, which are supposed to contain all of the documents in the hiring process, including all documents and notes maintained by individuals involved in the selection process. In the past quarter, we reviewed 37 hire packets and provided commentary to DHR whenever potential problems arose. Eight of the 37 hire packets reviewed contained at least one error. All of these errors involved missing documentation, such as driver's licenses, transcripts/diplomas, interview notification forms, justification memos, and candidate assessment documentation (for example, copies of the scored writing exercises and interviewer notes).

*Review of any justification memos or written rationale memos as described in Section X.B.10 where no consensus selection was reached during the Consensus Meeting.*¹³

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

Quarterly review of in-process and/or completed hiring sequences¹⁴ by selecting a random sample of hiring sequences opened and/or closed during that quarter within the City's infrastructure departments, along with a random sampling from six additional City departments.

¹³ A Consensus Meeting is a discussion led by DHR that takes place at the conclusion of the interview process during which the hiring department reviews all relevant information and arrives at a hiring recommendation.

We are currently reviewing most hiring sequences and have worked directly with DHR staff and management to address errors when they arise. In addition to reviewing hiring sequences, we monitored the interviews for three positions filled under the General Hire Process and one position filled under the Senior Manager Process. We did not observe any problems with two of the positions filled under the General Hire Process or with the one position filled under the Senior Manager Process. However, we did observe problems with the third position filled under the General Hire Process, which is detailed below:

DBACP Hiring Sequence Suspension: IGO Hiring Oversight suspended the hire sequence for a position with the Department of Business Affairs and Consumer Protection (DBACP) after monitoring the interviews and consensus meeting for the position. We suspended the hire sequence due to serious concerns regarding possible favoritism toward an internal candidate.

The selected candidate was a current DBACP employee. This candidate performed poorly on both a writing exercise and in the interview, and it appeared that the interviewers inflated this candidate's scores to the detriment of the other candidates. During the consensus meeting, the interviewers indicated that they selected this candidate based on their prior knowledge of his work performance and made little mention of the candidate's actual performance in the hiring process. In order for the City's hiring process to be fair for all internal and external candidates, interviewers are supposed to base their assessment of candidates based on their performance in the interview and selection process. Although the hire process does allow for written performance evaluations to be considered for internal candidates under certain circumstances, this did not occur in this instance.

We issued a memorandum to DHR recommending that DBACP redo the interview sequence with two different interviewers. DHR is currently working with DBACP to restart the interview process.

Quarterly Reviews Required under Section XIII.H of the Hiring Plan to Ensure the Following:

*Compliance with the Court-approved Exempt List.*¹⁵

The Exempt List was last updated on January 18, 2011 and is available online at DHR's website.¹⁶ We conducted our annual audit of the Exempt List in this quarter, and the results of that audit are detailed below.

¹⁴ A hiring sequence refers to the steps in the hiring process that result in the selection of a candidate and filling of a position(s).

¹⁵ The Exempt List documents those positions that are exempted from the requirements of the Hiring Plan.

¹⁶ The link to the current Exempt List is:

http://www.cityofchicago.org/content/dam/city/depts/dhr/supp_info/Shakman_ExemptList_updated_Jan_2011.pdf.

The Exempt List denotes the specific job titles, or Classes, that are Exempt, as well as the number of positions allowed for each Class. For example, the Exempt List provides that all Deputy Commissioner positions, including Classes such as Deputy Budget Director, Deputy Comptroller, and Deputy Commissioner, are Exempt and that the total number of Deputy Commissioner positions currently allowed is 206. Under the Agreed Settlement and Accord, the City may add or delete titles from what is known as Schedule G¹⁷ of the Exempt List. Of the 1,272 Exempt positions that are currently allowed, 586 are included in Schedule G, which includes Deputy Commissioner positions, Public Affairs titles, Intergovernmental Affairs Liaisons, and Ward Superintendents. The total number of positions in any of the categories of positions included in Schedule G may not increase by more than 10% of the initial number of positions in that category. DHR is required to notify both the *Shakman* Decree Monitor and the *Shakman* plaintiffs of any such changes in writing and post on the City's website the revised number of Exempt positions by the end of each calendar quarter.

In order to track currently occupied Exempt positions at the City, DHR maintains a spreadsheet with the names and titles of all Exempt employees that is supposed to reflect the Classes and number of positions on the current Exempt List. For our audit, we compared the information in this spreadsheet to both the current Exempt List as well as DHR's computerized records which track the employment status of all employees at the City.

In doing so, we found several instances where there were discrepancies between the number of positions for a particular class included on the published Exempt List and the number of positions for the same class on the spreadsheet that is maintained by DHR. We discovered some discrepancies between the Class on the spreadsheet that is maintained by DHR and the Class of the employee as reflected in DHR's computerized records. Finally, there were some employees who were not included on the spreadsheet maintained by DHR, even though their computerized personnel records indicated that they were in Exempt positions.

DHR provide documentation to appropriately account for the discrepancies we found during our audit and has indicated they will make the necessary corrections. We did not find evidence of willful manipulation or political hiring. Nevertheless, we are concerned because these discrepancies indicate lax record-keeping on the part of DHR. Maintaining the Exempt List is important not only to ensure that the City does not exceed the allowed number of Exempt positions, but also to ensure that Exempt status is appropriate for any position that is filled using the Exempt Hiring Process. The fact that DHR was able to provide documentation to explain discrepancies does not excuse its duty to maintain an accurate record of Exempt employees. IGO Hiring Oversight will conduct a second audit later this year after the change in administration.

*Compliance with the Court-approved Acting-Up Policy.*¹⁸

¹⁷ Schedule G is the section of the Exempt List that covers Exempt employees in all City departments, excepting department heads, elected officials, and their employees.

¹⁸ 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. The City has a policy detailing the process by which employees are permitted to act-up that is intended to prevent abuse and fairly provide all eligible employees the opportunity.

We continue to receive a monthly acting-up report from each department and process waiver requests. The Acting-Up Policy currently sets a limit of 520 hours of acting-up per employee per calendar year. However, it also allows for departments to request waivers to allow an employee to act up in excess of the 520 hour limit. The 520-hour limitation reset on January 1, 2011; therefore, we only received one waiver request in the 1st quarter of 2011 for which a response has yet to be issued. We will report on the response to this waiver request in the next quarterly report.

*Compliance with the Court-approved Senior Manager Hiring Process.*¹⁹

Six of the 37 hire packets we reviewed this past quarter were for Senior Manager positions. Three of those packets did not contain any errors. The other three packets showed no evidence of hiring violations, but they did have missing documentation. In addition, we suspended two Senior Manager sequences, which are detailed below:

CDPH Hiring Sequence Suspension: IGO Hiring Oversight suspended a Senior Manager hiring sequence for a position in CDPH. We suspended the sequence due to concerns with the position being misclassified. Under the Senior Manager Process, hiring departments may revise the minimum qualifications of the position upward, meaning that they can require additional education, training, or experience. With this sequence, the changes made caused us to question whether the position would be performing the functions of the job title. In addition, the revised minimum qualifications seemed overly restrictive and resulted in a referral list of only two candidates. Further, it was not clear that one of those candidates met the revised minimum qualifications.

We recommended that DHR have its Classification Division determine whether the title and minimum qualifications are appropriate. DHR advised it will review the position.

DWM Hire Sequence Suspension Update: As stated in the IGO's January 11, 2011 quarterly report, we suspended a Senior Manager hiring sequence for a position in DWM. When DHR submitted the packet to our office for review, we noted several concerns with the hire sequence. The most notable issue we identified with this sequence was that the granting of second interviews and the final hiring decision did not seem to be based on the candidates' performance during the hire process. A representative from the Monitor's office attended the interviews and voiced similar concerns.

After meeting with DWM and explaining the concerns we had with the hire sequence, we issued a memorandum to DHR recommending the hire sequence be redone with new interviewers. DHR is currently working with DWM to restart the interview process. We also indicated in our memorandum that DHR should have identified issues with the hire sequence prior to submitting

¹⁹ 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.

it to our office for review. The City's Hiring Plan outlines an escalation procedure which should have been used in this circumstance.

That the City has obtained the required Certifications attesting that no political reasons or factors were considered in the applicable employment action as required in Section II.3.

Because we are currently reviewing most hire packets, we are able to check for required Certifications for almost all hiring sequences. All of the hire packets reviewed this quarter contained the required Certifications attesting that no political reasons or factors were considered in the applicable employment action.

The City's Use of Contractors and Contract Employees

IGO Hiring Oversight Reviews of Contracting Activity: IGO Hiring Oversight continues to process requests for the approval to use Personal Service Contractors and Temporary Agencies to perform City services. The following chart provides information on requests we approved during the preceding quarter:

Contracting Department	Contractor	Type of Contract	Duration
City Treasurer	Professional Dynamic Network, Inc.	Temporary employee(s)	Through April 29, 2011
Department of Law	Ruth Masters	Personal Services Contract	Conclusion of case
Department of Law	Ruth Masters	Personal Services Contract	Conclusion of case
Department of Law	Anne McInnis Erickson	Personal Services Contract	Conclusion of case
Department of Public Health	M3 Medical Management Services Ltd.	Temporary employee(s)	Two months

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

IGO Hiring Oversight Audit: IGO Hiring Oversight is currently conducting an audit of contract employees in six departments. We have received preliminary information from those departments and have started meeting with them to discuss the information they provided.

The Department of Cultural Affairs and Special Events (DCASE, formerly the Department of Cultural Affairs (DCA)) and the Chicago Office of Tourism and Culture (COTC, formerly the Chicago Tourism Fund (CTF)): We last reported that a new contract with the DCA and CTF was

signed on January 1, 2011. The contract restructured the operational relationship between the two since-renamed and reorganized entities. The restructure was purportedly intended to create an independent contractor relationship that would ultimately cure the myriad long-running *Shakman* violations in the previous operational model. As a result, there have been changes in both entities to effectuate that reorganization. While this office, working in conjunction with the Monitor's Office, wishes to afford DCASE and COTC sufficient time to fully transition to the new operational mode, publicly reported information has raised substantial concerns about the manner in which the initial transition was effected. IGO Hiring Oversight has initiated a review to determine whether means by which the organizational reconfiguration occurred and the result comported with *Shakman* in letter and spirit and has truly resolved the common law employee issues that previously existed. We will provide an update in our next report.

Processing of Complaints

Complaints made to IGO Hiring Oversight may be resolved in several ways, depending on the nature of the complaint. If there is an allegation of misconduct, the complaint may be referred to the Investigations Section of the IGO. If there is an allegation of a breach of policy or procedure, IGO Hiring Oversight may conduct an inquiry into the matter to determine if such a breach occurred. If a breach of policy or procedure is found, IGO Hiring Oversight may resolve the matter by making corrective recommendations to the appropriate department or referring the matter to the Investigations Section of the IGO. If no breach of policy or procedure is found, IGO Hiring Oversight may refer the matter to DHR and/or the appropriate department for resolution or close the complaint.

IGO Hiring Oversight received 40 complaints in the past quarter. Of those complaints, 32 were referred from the *Shakman* Monitor's Office. The chart below summarizes the disposition of these 40 complaints as well complaints from 2010 which were not closed when we issued our last report.

Status	Number of Complaints
Complaints Pending from 2010	57
Complaints Received in the 1 st Quarter of 2011	40
Referred to IGO Investigations	2
Referred to DHR	9
Closed with Recommendations to the Hiring Department and/or DHR	0
Closed in the 1 st Quarter	90
Pending with IGO Hiring Oversight as of 4/1/2011	7

As we noted in our previous reports, many complaints are currently being directed to the *Shakman* Monitor's Office and/or EthicsPoint, the vendor that conducted complaint intake for the Office of Compliance, which previously was responsible for the City's Hiring Oversight function. The IGO recently updated its website which includes information on how to submit complaints of unfair hiring and employment practices at the City. Complaints can be made on-line, via e-mail, phone, fax, or by mail. We will be working over the next several months to

create more awareness of IGO Hiring Oversight's role in monitoring City hiring and employment practices and the means of making complaints.

Current Status of the City's Compliance Efforts

It has been one year since IGO Hiring Oversight assumed responsibility for monitoring the City's hiring and employment compliance with the law and protocols imposed under the *Shakman* Accord. At this time, we feel that it is important to provide an overview on where the City currently stands in moving towards the goal of achieving substantial compliance under the Accord.

There are three elements that are essential in reaching substantial compliance: (1) developing the policies and procedures needed to govern the City's hiring and employment actions (2) implementing those policies and procedures; and (3) establishing a successful track record of compliance.

During the past year, our efforts have been focused on completing the necessary policies and procedures while also monitoring the City's current hiring and employment action processes. Until these components are in place and fully implemented, it is not possible to establish a proven track record of compliance. Nevertheless, we will discuss below the City's current status in policy and procedure development necessary for compliance, as well as the City's performance thus far in implementation. This will significantly focus on DHR, as that department has the primary role in administering the City's hiring and related employment processes.

Structural Components

The basic structural components that the City is still working to establish are: 1) revisions to the General Hiring Plan; 2) the Use of Non-City Employees to Perform Services for the City Policy; 3) a Hiring Plan for the Chicago Police Department (CPD); 4) a Hiring Plan for the Chicago Fire Department (CFD); 5) the Acting-Up Policy and; 6) revised Personnel Rules.

Hiring Plan

Implementation of the General Hiring Plan requires that it be filed with and approved by the federal court in the *Shakman* case. In an August 2010 conference with the court, the parties committed to a September 9, 2010 deadline for court submission of the General Hiring Plan. The deadline was not met as negotiations between the parties continued throughout the Fall of 2010. IGO Hiring Oversight, which is not a party, played a facilitative role in the ongoing negotiations between the litigants. Final revisions were made to the plan on January 19, 2011 in anticipation of it being filed on January 20, 2011. These changes incorporated suggestions from the City, the *Shakman* Monitor, and the *Shakman* Plaintiffs. On January 20, 2011, the Monitor's Office raised concerns about one of the attachments relating to the City Council and requested that the City not file it as an agreed Hiring Plan as originally intended. The City, likewise hoping seeking to file an agreed plan, agreed to delay filing. Further negotiations ensued between the Monitor's Office, and counsel for the City, the Plaintiffs and the City Council. Because IGO oversight

does not extend to the City Council, the IGO did not participate in those still ongoing negotiations. The IGO believes that the General Hiring Plan could and should be filed without the City Council attachment, which could be filed at a later date.

The February 2011 mayoral election results compounded this delay because the current administration has expressed a reluctance to file the General Hiring Plan with a new administration coming in. As such, implementation and training on the revised General Hiring Plan remains stalled, with no projected target date or deadline in sight.

Use of Non-City Employees to Perform City Services Policy

As with the revisions to the General Hiring Plan, all of the parties were in agreement on a final version of the Use of Non-City Employees to Perform Services for the City Policy, which will be filed as an attachment to the General Hiring Plan. Implementation of this policy will also have to wait until the General Hiring Plan is filed with the court. However, our office is currently working on developing training for when the policy is officially implemented.

CPD and CFD Hiring Plans

Initial drafts of the CPD and CFD Hiring Plans have been circulated to all parties. However, given the status of the General Hiring Plan and continued negotiations, additional work on those plans will also need to wait until the new administration begins.

Acting-Up Policy

Our office is close to finalizing a draft of a revised Acting-Up Policy for circulation among the parties. This will include feedback from a select number of infrastructure departments.

Once the above components are finalized or are close to being finalized, we will be able to devote time to revising sections of the Personnel Rules that address hiring and other employment actions.

Implementation

A fully-functional DHR is critical for proper implementation in order for the City to establish a track record of compliance once all the structural components have finally been established. When IGO Hiring Oversight assumed the responsibility of monitoring and overseeing the City's hiring and related employment processes from the Office of Compliance, we observed a commingling of duties between the two entities, which often resulted in the Office of Compliance performing DHR's functions. The result was confusion as to the respective roles of both entities, which prevented DHR from fully performing its duties. Over the course of the past year, we have been working with DHR in identifying issues and concerns so that DHR can act as the true gatekeepers of the City's hiring processes.

We are currently reviewing most hiring sequences and have provided detailed information to DHR management regarding errors. In the past quarter, we observed an increase of 12.5% in the

percentage of referral lists containing errors and an increase of 57% in the percentage of hire packets containing errors from the previous quarter. The increase in errors occurred during a time when hiring activity was slow, which should have allowed DHR additional time for more detailed reviews that should have *lowered* the error rate. More specifically, in the previous quarter, we reviewed 70 referral lists, 17 of which contained errors, whereas in this quarter, we reviewed 44 referral lists, 12 of which contained errors. The error rate thus increased from 24.2% to 27.2%. Similarly, in the previous quarter, we reviewed 103 hire packets, 14 of which contained errors, and in this quarter, we reviewed 37 hire packets, 8 of which contained errors. The error rate thus increased from 13.6% to 21.6% this quarter. Given the significant reduction in the numbers of referral lists and hire packets from the previous quarter to this quarter, as well as the feedback previously provided, we expected to see a reduction in the number of errors.

The errors in the referral lists are particularly concerning because the generation of referral lists is a critical component of DHR's role in the hire process. As outlined above in Section I, the majority of these errors occurred in the area of candidate assessment, which has been a consistent problem that we have identified in our reviews. We identified two errors that related to DHR's failure to adhere to its own internal procedures relating to job postings and what documentation is required from applicants at the time of application (as opposed to later in the process). In one instance, a new referral list had to be generated. In the other instance, the position had to be re-posted, adding weeks to the hiring process.

Because the hire packet is the file that details the selection process for a particular position, the errors we see typically involve missing or incomplete documentation. This quarter, some of the missing documents included copies of driver's licenses, transcripts, and diplomas, all of which are used to verify that candidates meet the qualifications of the position. The hire packet for one Senior Manager position was missing the justification memorandum from the department head explaining the reasons for hiring the selected candidate, which is a key component of that hire process.

Our review of the DWM hire sequence, discussed above in Section II, raises additional concerns about DHR's role in monitoring hiring processes and procedures. In that instance, the problems we identified were not related to missing or incomplete documentation. Rather, there were indications in the documentation that the selection was based on prior knowledge of the candidate, as opposed to the candidates' performance in their interviews. We notified DHR of these concerns, and suspended the hire process. DHR should have escalated this problem to IGO Hiring Oversight before we received the hire packet.

Our Exempt List audit discussed in Section II found a number of discrepancies indicating lax record keeping on the part of DHR. Many of the discrepancies we found in the audit were similar in nature to discrepancies we found in our audit of the Exempt List last year.

These issues raise concerns regarding the ability of DHR staff to correctly administer the hiring process and of DHR management to address issues repeatedly relayed to them by IGO Hiring Oversight, as well as its capacity to effectively monitor and regulate the performance of its staff. The errors and issues we continue to find in our reviews often result in delays to the hiring process. As a result, there is a discernable lack of hiring department confidence in DHR, leading

to the hiring departments coming to IGO Hiring Oversight with questions and concerns about hiring rather than DHR. While IGO Hiring Oversight personnel are more than capable of addressing these questions, this responsibility falls directly within the purview of DHR. In order to achieve *Shakman* compliance, DHR must be able to handle these basic inquiries regarding what should be simple and straightforward process so that IGO Hiring Oversight can fulfill its primary mission: review, monitoring, and auditing the key processes of the City's hiring and related employment practices.

Finally, we note that we continue to review most hiring sequences at both the referral list stage and the hire packet stage, though the Hiring Plan only requires that we review a random sampling of in-process and/or completed hiring sequences each quarter. We are aware that these reviews also slow down the hire process. However, we are unwilling to move to the contemplated audit model until we begin to see marked improvement in DHR's performance in administering the Hiring Plan.