



OFFICE OF THE INSPECTOR GENERAL
City of Chicago



REPORT OF THE INSPECTOR GENERAL'S OFFICE:

QUARTERLY REPORT OF THE INSPECTOR GENERAL'S OFFICE

SECOND QUARTER 2010

JULY 2010

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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 Inspector General's Office (IGO) during the second quarter of 2010, filed with the City Council pursuant to Section 2-156-120 of the Municipal Code of the City of Chicago.

In order to continue to keep you apprised of IGO activities and operations, the enclosed report once again includes summaries of sustained IGO investigations. Given the confidentiality of IGO investigations as prescribed by City ordinance, the summaries do not reveal the subjects of investigations, but do detail the general nature and subject matter of the IGO investigations and the results of those investigations. This report does not summarize cases reported out by the IGO for which subject department response is still pending. Rather, we summarize only investigations and recommendations reported out by this office on which the City has taken final action.

With its inaugural report in April, the IGO expanded the scope of its quarterly reports in the hopes of increasing public understanding of the IGO as well as transparency into the IGO's internal operations. Feedback from City officials and the broader community has generally been positive. We have also received some constructive suggestions on improvements which we have incorporated. The enclosed report expands beyond the prior quarter's focus on investigative activities of the office to include summaries of IGO audits, program reviews, and activities in our newly inherited hiring oversight role.

The report is being sent again 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.

Uncovering waste, fraud, abuse, and inefficiency of City resources remain paramount. This document is meant to promote the shared goal of providing the public with a clearer, more informed understanding of City government. The IGO continues to solicit any suggestions or comments you may have on how future reports might be improved.

Respectfully,

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

Joseph M. Ferguson
Inspector General
City of Chicago

TABLE OF CONTENTS

A. MISSION OF THE INSPECTOR GENERAL’S OFFICE.....1

B. INVESTIGATIONS1

1. COMPLAINTS1

2. NEWLY OPENED INVESTIGATIONS.....2

3. CASES CONCLUDED IN QUARTER3

4. PENDING INVESTIGATIONS3

5. INVESTIGATIONS NOT CONCLUDED IN TWELVE MONTHS3

C. SUSTAINED ADMINISTRATIVE CASES.....3

1. SYNOPSES OF 2ND QUARTER CASES4

2. SYNOPSES OF 1ST QUARTER CASES9

3. POLICY RECOMMENDATIONS ARISING FROM IGO INVESTIGATIONS.....11

(A) *Increase Monitoring of Delegate Agency Tax Liability*.....11

(B) *Require Employees to Promptly Disclose Arrests*12

4. DISCIPLINARY AND OTHER CORRECTIVE ACTION RECOMMENDATIONS12

(A) *Departmental Action*.....13

(B) *Results of Appeals or Grievances*13

D. CRIMINAL CASES13

1. SYNOPSES OF CASES14

2. DEVELOPMENTS IN PRIOR CRIMINAL CASES14

(A) *Former Executive Pled Guilty to Conspiring to Defraud the City in Bid-Rigging Attempt*.....14

(B) *City Ward Superintendent Found Guilty of Tampering with Absentee Voter Ballots*.....14

E. HIRING COMPLIANCE.....14

1. USE OF CONTRACTORS AND CONTRACT EMPLOYEES14

2. ACTING UP.....15

3. DEPARTMENT OF HUMAN RESOURCES15

F. AUDITS/REVIEWS16

1. DIRECT VOUCHER AUDIT SUMMARY16

2. MWBE PROGRAM REVIEW SUMMARY17

3. TIF AUDIT SUMMARY18

This quarterly report provides an overview of the operations of the Inspector General’s Office (IGO) during the period from April 1, 2010 through June 30, 2010. The report includes statistics that the IGO is required to report per the City’s Municipal Code, as well as a narrative description of the IGO’s activity.

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 effectiveness and efficiency in the City of Chicago. The IGO is a watchdog for the taxpayers of the City, and has jurisdiction to conduct investigations, program reviews and audits over most aspects of City government.

The IGO accomplishes its mission through investigations, audits, inspections, 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 may be sent to the responsible management officials for comment and then are released to the public through publication on the IGO website.

B. INVESTIGATIONS

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

1. Complaints

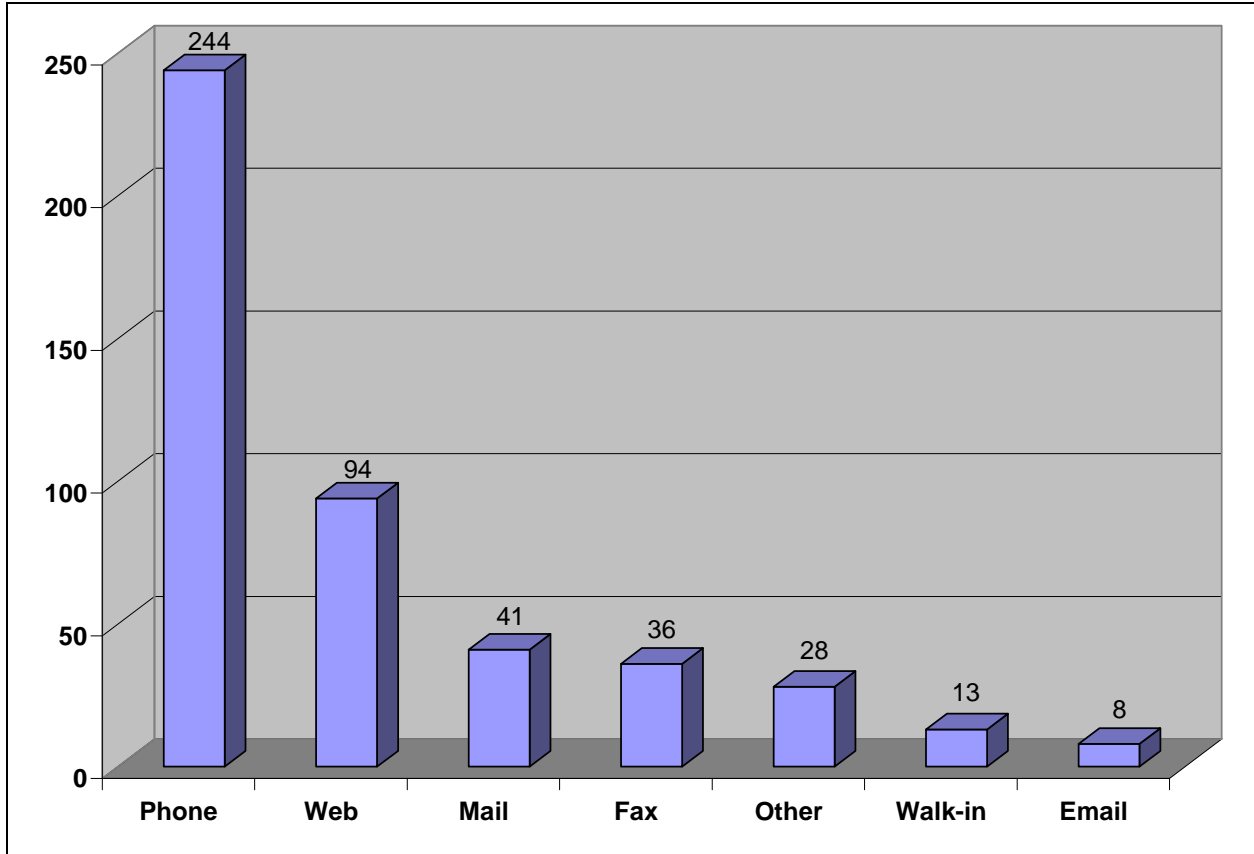
The IGO received 464 complaints over the preceding quarter. The following table provides detail on the actions the IGO has taken in response to these complaints.

Table #1 – Complaint Actions

Status	Number of Complaints
Declined	322
Investigation	83
Referred	59
Total	464

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. The chart below breaks down the complaints the IGO has received during the past quarter by the method with which the complaint was reported.

Chart #1 - Complaints by Method



2. Newly Opened Investigations

During the quarter, the IGO opened files on 142 complaints, of which 141 involved allegations of misconduct as opposed to 1 allegation of waste or inefficiency. Of these opened matters, 59 were immediately referred to other departments or investigative agencies. Thus, of complaints received in the quarter, 83 proceeded to full IGO investigation, or 17.9% of all complaints received. Of the 83 newly opened investigations, 14 were found to be not sustained before the end of the quarter, while 69 remain open. The table below categorizes the 142 matters opened by the IGO based on subject.

Table #2 – Subject of Investigations

Subject of Investigations	Number of Investigations
City Employees	126
Contractors, Subcontractors, and Persons Seeking City Contracts	6
Appointed Officials	4
Elected Officials	4
Other	2

3. Cases Concluded in Quarter

During the quarter, 160 matters were concluded. 59 of these were the aforementioned referrals to City departments or other investigative agencies. Of the remaining concluded matters, 25 were closed as sustained and 76 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 the applicable burdens of proof.

4. Pending Investigations

Including the 69 pending investigations initiated this quarter, the IGO has a total of 301 pending investigations.

5. Investigations Not Concluded in Twelve Months

Under the Municipal Code, the IGO must report on any investigations that are not concluded within twelve months of being opened. Of the 301 pending investigations, 133 investigations have been open for at least twelve months. The table below shows the general reasons that these investigations are not yet concluded.

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

Reason	Number of Investigations
Additional complaints were added during the course of the investigation.	4
Complex investigation. May involve difficult issues or multiple subjects.	71
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.	38
Total	133

C. SUSTAINED ADMINISTRATIVE CASES

IGO sustained cases can be administrative, criminal, or both. Administrative cases generally involve violations of City rules, policies or procedures, and/or waste or inefficiency. For sustained administrative cases, the IGO produces summary reports¹ – a thorough summary and analysis of the evidence and a recommendation for disciplinary or other corrective action. These

¹ Per *Chicago Municipal Code*, sec. 2-56-060 (amended May 12, 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.”

reports are sent to the Office of the Mayor, the Corporation Counsel, and the City departments affected by 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 2nd Quarter Cases

The following are brief synopses of investigations completed and reported as sustained matters during the quarter. 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.

Given that this process can take several weeks, for some cases departments will not have had a chance to fully act on IGO recommendations. In deference to the deliberative processes of City Departments and contractual rights of employees during disciplinary proceedings, the IGO will not 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.

To date, the City has taken action on the following 13 administrative cases reported out as sustained by the IGO.

² Per *Chicago Municipal Code*, sec. 2-56-110 (amended May 12, 2010), "Except as otherwise provided herein 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 in the following circumstances: . . . (c) in a public summary of each investigation resulting in sustained findings of misconduct. The public summary . . . without disclosing the name of any individual who was the subject of such investigation . . ." 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. See *Chicago Municipal Code*, sec. 2-56-065 (amended May 12, 2010).

IGO Case # 06-0607

An IGO investigation revealed that a Department of Streets and Sanitation (DSS) employee falsified a City document and improperly manipulated City procedures to provide City services (specifically, a private garage teardown) to a relative whose property did not qualify for the services. The IGO also found that a DSS supervisory employee failed to examine the qualifications of the subject employee before placing the subject employee in his/her position.

The IGO recommended that the subject employee be suspended for 45 days and the supervisory employee be suspended for 3 days.

DSS suspended the subject employee for 45 days and the supervisory employee received verbal counseling.

IGO Case # 06-0705 and # 06-0706

Two IGO investigations were initiated in response to allegations the Commission on Animal Care and Control (ACC) mistakenly euthanized dogs. The IGO found evidence that four dogs were mistakenly euthanized between February and July 2006. In addition, the IGO found evidence that ACC euthanasia rules and policies were not followed during these incidents. Among other things, the IGO found low level ACC personnel administered euthanasia narcotics without appropriate and legally required supervision. This practice occurred with the knowledge of supervisory personnel, including a staff veterinarian through whose license ACC possessed, maintained, and administered Drug Enforcement Administration schedule II narcotic euthanasia drugs.

The IGO recommended that eight ACC employees be disciplined as follows: (i) two supervisors be terminated, (ii) one supervisor be suspended for 30 days, (iii) one supervisor receive a written reprimand, (iv) one non-supervisory employee be terminated, (v) one non-supervisory employee be suspended for 30 days, and (vi) two non-supervisory employees be suspended for 3 days.

ACC correspondingly disciplined the employees as follows: (i) two supervisors were terminated as recommended; (ii) one supervisor's suspension was pending; (iii) one supervisor received an oral reprimand rather than the recommended written reprimand; (iv) one non-supervisory employee was terminated as recommended; (v) one non-supervisory employee's suspension was pending; and (vi) two non-supervisory employees were suspended, one for 3 days as recommended and the other for 1 day contrary to the IGO recommendation of 3 days.

IGO Case # 06-0934

An IGO investigation found that a supervisory Fire Department (CFD) employee in the internal affairs division mishandled a firefighter's harassment complaint. The supervisory employee neglected and/or bypassed department policies and procedures regarding the handling of such complaints. Only after a subsequent Chicago Police Department (CPD) investigation identified that the offender was a fellow firefighter did the supervisory CFD employee act and open a harassment investigation.

The IGO recommended that the supervisory employee receive a written reprimand.

CFD gave the supervisory employee an oral reprimand.

IGO Case # 07-0041

An IGO investigation determined that a City laborer improperly collected a City paycheck while serving a two month prison sentence following an off-duty DUI conviction in 2005. The laborer never informed the City of his/her conviction and prison sentence and never requested a leave of absence from the City prior to his/her imprisonment. Instead, two co-workers falsified the laborer's time records by entering sick and vacation days in the City's time-keeping system during the laborer's imprisonment. The laborer's immediate supervisor claimed that he/she assumed that the laborer had been reassigned to a different City location, but provided no basis for that assumption.

The IGO recommended that the laborer be terminated. The two co-workers who falsified the time-keeping records retired prior to the conclusion of the IGO's investigation. The laborer's immediate supervisor recently resigned from City employment following his/her interview with IGO investigators regarding a separate IGO investigation. The IGO recommended that none of them be re-hired by the City.

The laborer was terminated by the City.

IGO Case # 07-0503

An IGO investigation determined that an expediter doing business with the City sold to a resident forged letters of intent for plumbing services needed to procure a City plumbing permit. A review of court documents as part of the investigation revealed that the expediter engaged in the illegal activities while awaiting sentencing on a federal conviction for having previously paid cash bribes to a Department of Construction and Permits employee (*United States v. Pleasant*, 06CR297) (N.D. Ill.).

The IGO recommended that the convicted expediter be permanently barred from obtaining a City license to work as an expediter. The IGO further recommended that the convicted expediter be placed on the City's do-not-hire list.

The City agreed with the recommendation that the convicted expediter be permanently barred from obtaining a City license to work as an expediter.

IGO Case # 07-1395

An IGO investigation into a Department of Family and Support Services (DFSS) delegate agency⁴ determined that the delegate agency had falsely attested that its payroll taxes had been paid on time, that the delegate agency's president had employed relatives in high salaried positions, some of whom were not qualified for the positions they held, and that and some of these family members had received "reimbursement" checks without documentation or adequate explanation for their receipt of City funds.

The IGO investigation built on and expanded findings of an earlier City internal audit. More specifically, the IGO investigation supported the City audit's findings, uncovered specific incidents of fraud and falsification, and further determined that these violations illustrated how the delegate agency fell short of meeting its contractual obligations to the City.

The IGO recommended that the City debar the delegate agency and its president for one year. Further, if granted another City contract in the future, the IGO recommended the City require the delegate agency to employ outside administrative and fiscal assistance until the City is confident that the delegate agency could consistently and responsibly maintain its books and meet its legal obligation in administering its City-funded activities. The IGO also made a policy recommendation to require all delegate agencies to provide federal and state tax waivers to permit the City to conduct annual reviews for tax delinquencies with the IRS and Illinois Department of Revenue as a condition of receiving funding. This would allow the City's Department of Finance to conduct yearly reviews and ensure that delegate agencies stay current with all tax obligations.

DFSS agreed with the IGO recommendation of a one year debarment, noting that it does not currently have a contract with the delegate agency.

Department of Procurement Services (DPS), however, responded that it has no authority over a delegate agency and thus no official action has been taken at this time. The IGO does not agree with this assertion and is of the opinion that delegate agencies are simply a category of City vendor, and like any vendor can be debarred for cause.

IGO Case # 08-0783

An IGO investigation revealed a Department of Transportation (CDOT) employee⁵ (Employee A) violated an Ethics Ordinance prohibition forbidding a City employee from exercising contract management authority in a situation where the employee's relatives are employed by or has contracts with those performing work under the scope of the contract. The investigation further

⁴ In general, the term "delegate agency" refers to a non-governmental organization engaged in the provision of social services to low and moderate-income residents and communities, funded through grants administered and distributed through various City departments.

⁵ At the time of this violation, Employees A, B, and C were employed by the Bureau of Electricity. On January 1, 2010, the Bureau of Electricity was renamed the Division of Electrical Operations after being moved from DSS to CDOT.

revealed that Employees B and C failed to report Employee A's impermissible activity pursuant to the City of Chicago Personnel Rules.

The IGO recommended Employee A be suspended without pay for 5 working days for this misconduct. The IGO further recommended that Employees B and C each receive written reprimands.

Employee A resigned after the release of the IGO summary report, while Employees B and C were given oral reprimands.

IGO Case # 08-1061

An IGO investigation determined that a Foreman of Motor Truck Drivers (Foreman) in DSS abused his/her City position by using a City vehicle and his city ID to act as a City inspector in an attempt to coerce a private property owner into paying for porch construction performed by a friend of the foreman's brother. The property owner had withheld payment for the work claiming it was shoddy. The Foreman, while on duty, drove to the property in a City vehicle and displayed his City identification, entered on the private property and examined the porch, while pressing the property owner to pay for the work or face potential legal ramifications.

The IGO recommended that the foreman be suspended for 60 days.

DSS suspended the foreman for 60 days.

IGO Case # 08-1537

An IGO investigation determined that a supervisory employee of ACC used his/her position to avoid supervisory scrutiny concerning time usage, in particular to avoid swiping at KRONOS clocks. This employee also improperly utilized sick leave to attend secondary employment. The IGO recommended that this employee be suspended for 30 days.

ACC suspended this employee for ten calendar days.

In addition, another ACC employee was found to be incompetent in his/her duties regarding timekeeping responsibilities, improperly accessing the KRONOS timekeeping system to edit his/her own records, and making false statements to IGO investigators during this investigation of time fraud. This employee had been the subject of a prior IGO investigation that likewise resulted in sustained findings of serious misconduct, including lying to IGO investigators, and a recommendation of significant discipline. In that prior matter, IGO Case # 06-0702, the Department suspended the employee for 29 days, which was negotiated down to 15 days in settlement of the employees appeal to the Human Resources Board. For this latest round of serious infractions, the IGO recommended that the employee be terminated.

ACC suspended this employee for seven calendar days.

IGO Case # 08-1817

An IGO investigation revealed that a Motor Truck Driver (MTD) employed with the Department of Water Management (DWM) struck and damaged a parked private vehicle with a City truck, failed to report the accident as required by DWM rules, and took extensive efforts to cover up the accident, including an attempt to privately negotiate with the owner of the struck vehicle a settlement that would have avoid disclosure of the accident to the MTD's superiors. The investigation also revealed that a DWM Construction Laborer (Laborer) who was riding on the truck during the accident, and had clear reason to have known of the accident, also failed to report the accident. The IGO further determined that a DWM Foreman who was notified by another DWM employee of the accident shortly after its occurrence similarly failed to report it.

The IGO recommended that the MTD be terminated, the Laborer be suspended for 1 week, and the Foreman be suspended for 1 day.

The MTD and the Foreman resigned after the release of the IGO summary report but prior to the imposition of discipline. For administrative reasons with which the IGO concurs, final action on the laborer remains pending.

IGO Case # 08-2141

An IGO investigation determined that an employee of the Department of Fleet Management (Fleet) was stealing automotive parts from a City facility and selling the parts to a metal recycling facility for personal gain.

The IGO recommended that this employee be terminated and placed on the do not rehire list.

Fleet terminated the employee.

IGO Case # 09-1503

An IGO investigation determined a senior City official in the Office of Compliance improperly received prohibited gifts from a consultant over whom the official had contract authority. Under the City's Ethics Ordinance, the consultant was barred from giving and the official was barred from accepting the gifts.

The IGO recommended that the official be terminated, and that the consultant and the company he/she owns be debarred for 6 months.

The official resigned subsequent to the issuance of the IGO's report and prior to the imposition of discipline.

2. Synopses of 1st Quarter Cases

In the IGO's 1st Quarter 2010 Report, City departments had yet to respond to IGO recommendations in 6 cases; their responses were listed as pending. The IGO has since received departmental responses for each of those cases. The cases and responses are detailed below.

IGO Case # 05-1798

An IGO investigation revealed that two firms improperly collaborated on their City bids to ensure that their companies were selected for City business. In addition, one of the firms, in order to avoid a 2% automatic increase of its bid amount, falsely claimed to be a local business on its bid submission to DPS when in fact it was located outside the City. The IGO recommended that both companies be permanently debarred from all future City business.

DPS permanently debarred the companies from all future City business.

IGO Case # 07-1388

An IGO investigation determined that an employee of DSS, Employee A, improperly obtained the log-on identification code of a retired co-worker and used that code to improperly access and edit computerized time records. In addition, the investigation determined that another DSS employee, Employee B, failed to timely deactivate the relevant log-on identification code when the employee to whom it belonged retired. The IGO recommended that Employee A be suspended for 14 days and that Employee B receive a written reprimand.

DSS gave Employee A a written reprimand and declined to discipline Employee B.

IGO Case # 07-1684

An IGO investigation found that an employee of the Department of Aviation (DOA) failed to ensure that airport controlled-access badges issued by DOA were properly stored and secured. The IGO recommended that the employee be suspended for one week.

For administrative reasons with which the IGO concurs, final action on the employee remains pending.

IGO Case # 08-0197

An investigation found that a DSS employee improperly used sick time while in police custody for two days. The IGO recommended that the employee be suspended for 14 days.

DSS gave the employee a 14-day suspension.

IGO Case # 08-0574

An IGO investigation revealed that an Office of Emergency Management (OEMC) employee, Employee A, knew or should have known that an OEMC filing to the Federal Communications Commission (FCC) by a supervisor was false. The false filing was made to obtain new radio channels.

During its investigation, the IGO discovered that a firm OEMC hired as a consultant for FCC issues did not have a contract with the City. Instead OEMC paid the firm by routing payments through unrelated contracts with other vendors who did have City contracts, effectively serving as pass-throughs, and charging the City an additional premium for doing so, all in clear violation of the City's procurement policies and procedures. The investigation found that Employee B failed to ensure that the contractual payments OEMC made to the firm were appropriate. In addition, the firm failed to fully cooperate with the IGO's investigation.

The IGO recommended that: (i) Employee A be suspended for 30 days, (ii) Employee B be suspended for 14 days, (iii) the firm be permanently debarred, and (iv) the pass-through contract vendors be required to return their mark-up premiums to the City.

OEMC suspended Employee A for 30 days as recommended, Employee B for 5 days, less than recommended, and debarment proceedings against the firm have been initiated. The City did not seek the return of the mark-up premiums from the pass-through vendors.

IGO Case # 08-0774

An investigation determined that a DWM employee falsified a substantial amount of time on a regular basis by leaving his/her assigned route and engaging in personal activities. In addition, the investigation determined that two of the employee's supervisors failed to take adequate action to stop the employee's misconduct. The IGO recommended that the employee be suspended for 14 days, and the two supervisors receive one to three day suspensions.

DWM suspended the employee for 14 days and the two supervisors for one to three days.

3. 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."⁶ 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 13 sustained cases that were reported out by the IGO this quarter, there were 2 policy recommendations.

(A) Increase Monitoring of Delegate Agency Tax Liability

The IGO recommended that the City require all delegate agencies provide federal and state tax waivers to permit the City to conduct annual reviews for tax delinquencies with the IRS and Illinois Department of Revenue. Further, the IGO recommended that the City's Department of Finance should conduct yearly reviews to ensure that delegate agencies stay current with all tax obligations.

⁶ *Chicago Municipal Code*, sec. 2-56-030(c) (amended May 12, 2010).

Departmental Response

DFSS responded that if the City moves forward with the tax waiver recommendation, it will be included as a requirement in delegate agency contracts. A response from the Department of Finance is still pending.

No official action on the recommendation has been taken to date.

(B) Require Employees to Promptly Disclose Arrests

The IGO recommended that the City institute a policy requiring all employees to promptly disclose to the Department of Human Resources (DHR) and to their immediate supervisor any on-duty or off-duty arrest charge and/or conviction for a felony and to keep them apprised of all significant developments in the ensuing criminal case. Additionally, the IGO recommended relevant officials in conjunction with DHR conduct an immediate review of facts and evidence of the events underlying the felony arrest, charge and/or conviction to determine whether the conduct impairs the employee’s ability to perform his/her official duties, and if so, to take appropriate workplace actions respecting the employee while the charges are pending.

Official action on the recommendation is still pending.

4. Disciplinary and Other Corrective Action Recommendations

In the 13 sustained cases from this quarter, the IGO made 37 discipline or other corrective action recommendations. In the 6 updated cases from last quarter, IGO made 13 discipline or other corrective action recommendations. The number of recommendations can exceed the number of cases because cases can have more than one subject or multiple recommendations may be made regarding one subject. The table below details the discipline or corrective action the IGO recommended for both quarters.

Table #4 – Discipline Recommendations

Type of IGO Recommended Discipline	Number of subjects
<i>Employee Discipline</i>	
Reprimand	5
Suspension less than or equal to 10 days	9
Suspension 11 to 29 days	4
Suspension equal to 30 days	4
Suspension over 30 days	2
Termination	8
<i>Other Corrective Action</i>	
Debar	7
Do not (re)hire	9
Other	1
Cost Recovery	1
Total	50

(A) *Departmental Action*⁷

Of the 50 recommendations contained in both this quarter and last quarter's 19 reported summary reports:

- In 25 instances, departments imposed the same discipline/corrective action recommended by the IGO.
- In 14 instances, a department imposed less discipline/corrective action than the IGO recommended.
- In no instance did a department impose more discipline/corrective action than the IGO recommended.
- In 4 instances, final departmental action is pending.
- In 7 instances, the subject of the investigation resigned during the inquiry.
- In no instance did a department impose discipline/corrective action when the IGO did not recommend any discipline.

(B) *Results of Appeals or Grievances*

Under the City's Personnel Rules and/or applicable collective bargaining agreements a City employee may be entitled to appeal or grieve a departmental disciplinary action, depending on the type of corrective action taken and the employee's classification. The IGO monitors the results of administrative appeals before the Human Resources Board (HRB)⁸ and grievance arbitrations concerning our disciplinary recommendations.

To date, the subject who the IGO had reported had appealed his/her discipline to the HRB last quarter still has their case pending. In addition, two other subjects of cases concluded in the first quarter have appealed their discipline; their cases are also pending. Lastly, one subject of a case concluded this quarter has appealed his/her discipline to HRB; that case is also pending.

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

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.

⁷ This data is as of July 14, 2010.

⁸ 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 July 15, 2010)

1. Synopses of Cases

No IGO cases concluded this quarter were criminal.

2. Developments in Prior Criminal Cases

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

(A) *Former Executive Pled Guilty to Conspiring to Defraud the City in Bid-Rigging Attempt*

The former president of a Schaumburg based business admitted in federal court on June 3, 2010 to participating in a scheme to win a City contract using fraudulent documents and inflated bids. Douglas E. Ritter was to go on trial later in June, along with co-defendant Steven Fenzl, on multiple charges outlined in an April 2009 indictment. The charges were the result of a joint investigation between the Chicago Inspector General's Office and the U.S. Department of Justice Antitrust Division. Fenzl is still awaiting trial, which is presently scheduled for September 2010.

(B) *City Ward Superintendent Found Guilty of Tampering with Absentee Voter Ballots*

A former ward superintendent with the City of Chicago Department of Streets and Sanitation was convicted on June 24, 2010 of vote fraud and attempting to persuade 50th Ward voters to fill out absentee ballots in two elections in 2007. In addition, Anish Eapen was convicted of attempted mutilation of election materials for trying to lure voters to use absentee ballots during Chicago elections in February and April 2007.

E. HIRING COMPLIANCE

In late March 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. See *Chicago Municipal Code*, sec. 2-56-035. Since taking over the Hiring Compliance function, the IGO has been working on three main issues, which are detailed below.

1. Use of Contractors and Contract Employees

Since the transfer of the hiring compliance function, the IGO has assumed the responsibility of reviewing and approving department requests to use the services of contractors and contract employees. Contract employees have presented, and continue to present, major *Shakman* compliance issues. The *Shakman* Settlement and Accord covers any worker who, under common law, would be considered an employee rather than an independent contractor. These issues arise any time the City is directly supervising and controlling the work of an individual who was not hired in accordance with applicable City hiring and employment policies and procedures. Although the City has attempted to address these issues over the years by issuing various policy memoranda, the City's efforts to ensure *Shakman* compliance in regards to contract employees have not fully addressed the problem.

In the upcoming months, IGO will be working with the City to establish a policy respecting the use of contractors and contract employees. That policy implementation will also require that all department heads and all City personnel involved in letting contracts receive training about the *Shakman* implications of contracting for outside workers. The IGO will be auditing the use of contract employees in City departments to ensure *Shakman* compliance.

2. Acting Up

As part of the transition of oversight of the City's hiring compliance function from the Office of Compliance (Compliance) to the IGO, the IGO became responsible for the administration of the Policy and Guidelines for Use of Acting Up (Acting Up Policy), which is incorporated into the City of Chicago Hiring Plan (Hiring Plan). Under the City's Acting Up Policy, acting up occurs when employees perform duties of higher-level *Shakman*-protected positions. Some of the responsibilities involved with overseeing the Acting Up Policy include: approving pools for rotating acting up opportunities among employees; processing requests for waivers of the policy's 520-hour time limitation per employee; and auditing departments' monthly reports of its acting up.

Acting up has historically presented significant *Shakman* issues because it allowed departments to circumvent the Hiring Plan in filling vacancies and effectuating promotions, and clouted employees were able to unfairly obtain higher pay and valuable work experience. Although the implementation of the Acting Up Policy has alleviated these problems, the amount of acting up has increased during recent years due to budgetary constraints on filling vacancies which, in turn, increases the potential for abuse. During the short time the acting up function has been housed in IGO, the IGO has identified some key areas for improvement. These areas include: revising the Acting Up Policy to simplify and tighten up the acting up process and change the way departments report their acting up in order to make it simpler and more efficient for all parties involved; and working with departments to find ways to minimize their need to act up.

3. Department of Human Resources

Another responsibility that the IGO has assumed since the transfer of the hiring compliance function is the monitoring and overseeing of the City's hiring and related employment processes. One early observation that the IGO has made is that there appears to have been some commingling of responsibilities between Compliance and the Department of Human Resources (DHR), which has resulted in confusion as to the respective roles of both entities and has prevented DHR from fully performing its duties. The IGO is working with DHR management to clarify the roles and responsibilities between the offices so that both can function more effectively. The IGO will also be working with DHR to provide training and support needed to enable DHR to truly act as gatekeepers of the City's hiring process and its related employment actions.

F. 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. Three audits/reviews were released this quarter and are summarized below. The following are the quarterly statistics for the IGO’s audits and reviews.

Table #5- Audit Statistics

Status	Number
Audits/Reviews Initiated	2
Audits/Reviews Closed	3
Audits/Reviews Pending	14

1. Direct Voucher Audit Summary⁹

On May 18, 2010, the IGO published an audit of processes and procedures related to direct vouchers paid between November 1, 2006 and October 31, 2007. The purpose of the audit was to test and evaluate activities incident to the payment of direct vouchers to ensure effective and efficient operations and compliance with stated City policies and procedures, as well as to evaluate the effectiveness of controls related to such payments.

The audit found that the City had appropriate controls for ensuring that the City received the goods/services for which it paid by the direct voucher method and that transactions had the appropriate approvals under the stated policy. However, the audit found that internal controls limiting direct vouchers to commodities exempted from generally and presumptively applicable competitive bidding requirements under the Illinois Municipal Purchasing Act, 65 ILCS 5/8-10, et seq., were not adequate. Additionally, the audit determined that the City’s internal controls for ensuring that City Departments adhere to the City’s own Policy for Use of Direct Vouchers were not adequate.

Key findings of the audit included:

- Disbursements totaling more than \$14.2 million were in violation of the *Illinois Municipal Purchasing Act*.
- Goods/services with existing applicable contracts were paid on direct vouchers in violation of City policy.
- Nearly \$769 million of direct voucher payments during the one-year audit scope were not transparent to the public.
- The Policy for Use of Direct Vouchers is ineffective and out-of-date.

⁹ http://www.chicagoinspectorgeneral.org/pdf/igo_audit_direct-vouchers.pdf (accessed July 12, 2010)

Administration Response

In response to the audit, the City updated the direct voucher policy to ensure direct voucher purchases are limited to eligible goods and services and included provisions for ensuring no goods or services are purchased on direct voucher when existing contracts can be used. Additionally, the City has begun posting all direct voucher payments online.

2. MWBE Program Review Summary¹⁰

On May 20, 2010, the IGO published a review of the City's Minority and Women-Owned Business Enterprise program (MWBE). The review detailed findings from numerous IGO investigations examining fraud, abuse, and mismanagement in the MWBE program and from an analysis of how actual participation in the program compares to the participation statistics that are reported to the City Council and the public.

The review revealed broad and pervasive deficiencies in the administration of the City's MWBE program and found that the City cannot determine whether or not the program is achieving its goals. As a result, the program has been beset by fraud and unlawful brokers, and MWBE participation is likely far less than the publicly reported participation statistics.

Specifically, the IGO found that:

- Fraud, abuse, and mismanagement are widespread in the MWBE program.
- Actual payments to MWBEs were over 15 percent less than the City's publicly reported statistics for the contracts reviewed.

Many of the problems in the MWBE program are attributable to the City's poor administration of the program. Specifically, the administrative deficiencies include:

- Not collecting, analyzing, or reporting data on actual payments to MWBEs.
- Lack of cooperation between City departments in administering the program.
- Failure to track payments to MWBEs as contracts are performed.
- Mistakes in assessing actual MWBE participation.
- Laxness in determining eligibility for the program.
- Insufficient resources devoted to the program's administration.

The City's failure to collect all relevant data, its inconsistent application of the program's rules and regulations, and a lack of cooperation between the user departments and DPS have all contributed to the program's poor administration. To improve the program, the City must, first and foremost, collect and report data on actual payments to MWBEs. While better data reporting will help the program better accomplish its goals, the City must also improve the administration of the program. Specifically, the City must:

- Track and report actual payments to MWBEs.

¹⁰ http://www.chicagoinspectorgeneral.org/pdf/Report_MWBE-ProgramReview.pdf (accessed July 12, 2010)

- Increase cooperation between City departments to properly administer the program.
- Require more detailed documentation of payments to MWBEs.
- Consider directly paying subcontractors.
- Clearly define and consistently apply MWBE regulations.
- Increase resources for program administration.
- Increase enforcement of penalties for non-compliance with MWBE commitments.

Going forward, the City must confront the longstanding problems that plague the program, which is a cornerstone of City economic and social policy. To do this, the City must engage in rigorous, continuous analysis of how the program is administered and of the program's effectiveness and there must be a commitment from all parts of City government to the program's goals, including, most notably, from the user departments that execute the City's contracts. By doing so, the City will ensure that the program is run effectively and efficiently and that MWBE participants are receiving all the benefits of the program to which they are entitled.

Administration Response

No official action has been taken on this subject. The IGO stands ready to provide guidance and assistance to the City should the administration move forward to remedy the myriad problems in this critical program.

3. TIF Audit Summary¹¹

On June 29, 2010, the IGO published an audit of processes and procedures related to Tax Increment Financing (TIF) expenditures between January 1, 2003 and December 31, 2007 for the Central Loop and Central West TIF districts. The IGO's purpose was to test and evaluate activities performed to ensure effective and efficient operations and compliance with policies and procedures, and to evaluate the effectiveness of controls related to the payment of expenditures using TIF funds.

The audit determined internal controls were not adequate to ensure effective management of TIF expenditures reviewed, as related to the State of Illinois TIF Act, 65 ILCS 5/11-74.4 et seq. Additionally, the IGO believes that transparency over TIF-related activities is lacking.

Key findings of the audit included:

- Excess TIF funds, totaling \$1.2 million, from the Central Loop TIF district for Millennium Park and the Harold Washington College Rehabilitation projects remained unused with the Public Building Commission (PBC) for almost 3 years.
- The PBC paid the Department of Cultural Affairs (DCA) \$329,000 in violation of the TIF Act for art work.
- Money acquired from liquidated damages for construction projects managed by the PBC with Central Loop TIF funding totaling almost \$85,000 was used to fund an ineligible training program.

¹¹ <http://www.chicagoinspectorgeneral.org/pdf/TIF-Audit.pdf> (accessed July 12, 2010)

- City employees and construction contractors engaged in dishonest billing practices during the renovation of the Chicago Police Academy.
- TIF expenditures in the amount of \$89,753.74 appear to be questionable for the renovation of the Police Academy.
- Assessments against contractors who performed TIF paid work on the Police Academy Renovation totaling \$54,266.26 who failed to meet City requirements for minority and female construction workers, and Chicago Residency requirements has not been collected some 2 years after the work has been completed.
- Decisions to move money from one TIF district to another are made without documentation and without public scrutiny.

Administration Response

The City agreed that a quarterly reconciliation of cash on hand and estimated expenditures should be performed to ascertain whether there are balances due to the City and will develop procedures with the PBC to implement those reconciliations. Regarding the over \$54,000 in assessments, the City agreed with the IGO's recommendation and has already received the appropriate amount of funds from the contractor.

Concerning decisions to move money in between TIF districts, the City stated that TIF porting decisions are typically in the public domain well before approval, particularly when they are approved by City Council as part of a development agreement or bond authorization – this is true for the vast majority of TIF dollars that are ported. TIF porting is also posted online in the new TIF Projection Report, which is updated on a quarterly basis. And to enhance transparency even further, the City will agree to not consider porting any funds that have not already been previously posted on the TIF Projection Report.

In a number of areas, the City disagreed with the audit findings. The City strongly disagreed that the liquidated damages referenced above can legally be considered TIF funds and thus using these funds for a training program was not a violation of the TIF Act. Additionally, the City strongly disagreed that DGS acted in conjunction with vendors to engage in dishonest billing practices, although the City agrees that the “change order” process should have been utilized and was not. Finally, the City disagreed that Central West Loop TIF money was spent on questionable expenditures.

The IGO stands by its findings and recommendations and provided responses to the administration's disagreements in the Audit Report.

As noted in the Audit Report, the City contends that TIF funds are cleansed of their TIF origins by the City's overpayment to contractors beyond what the contractors were legally owed. The IGO strongly disagrees with this interpretation. The fact that the contractor violated conditions of the contract reduced the amount owed to the contractor, and therefore reduced the amount that should have been paid from TIF funds. The full payment was effectively not owed to the contractor, and would not be shown as an expenditure in the TIF district's financial statement and therefore should remain in the TIF district fund balance.

In regard to the DGS issue noted above, DGS employees directed contractors to substitute items without changing the actual billing submitted to the City of Chicago. In addition, these same employees approved the bill certifying that the items shown were in fact received. This apparent intentional manipulation of the billing destroys the billing integrity and hides the true nature and quantity of the products being acquired which constitutes deceptive billing practices.

Finally, regarding the disagreement over questionable expenditures in the Central West TIF, the City's response advances a rationale not anywhere reflected in the underlying documentation supporting the project as executed. It therefore appears to be a post-hoc rationalization for what, on the basis of the record, appears to be a significant expenditure undertaken without proper authorization.