

MIKE SPANO
MAYOR


BRENDAN J. MCGRATH
INSPECTOR GENERAL



CITY HALL
40 SOUTH BROADWAY
YONKERS, NEW YORK 10701
(914) 377-6107
FAX (914) 377-6990

CITY OF YONKERS
DEPARTMENT OF INSPECTOR GENERAL
2013-2014 ANNUAL REPORT

To: Mike Spano, Mayor
Liam J. McLaughlin, Council President
Members of the Yonkers City Council
Dr. Michael Yazurlo, Superintendent of Schools
Dr. Nader Sayegh, President Yonkers Board of Education
Trustees of the Yonkers Board of Education

From: Brendan J. McGrath, Inspector General 

Date: June 5, 2015

Subject: 2013-14 Annual Report of the Inspector General

Overview

The Department of the Inspector General (IG) derives its powers and responsibilities from Article VII of the Yonkers City Charter via Local Law No. 9 added in 1994 and amended in 1995 (Local Law 11-95) and 1997 (Local Law 2-97). The Department of Inspector General has been a functioning entity in the City of Yonkers since 1998. Additionally, pursuant to paragraph VIII of the Inter-Municipal Agreement (IMA) between the Yonkers Board of Education and the City of Yonkers entered into on June 10, 2014 and effective July 1, 2014, the IG is granted complete and unlimited jurisdiction over the Yonkers Public School District.

On December 31, 2013, the five-year term of the sitting Inspector General expired. The Mayor nominated and the City Council approved the appointment of a new Inspector General for the five-year term commencing January 17, 2014 and terminating December 31, 2018. The incoming Inspector General received a detailed report of ongoing investigations and status updates on all matters then under review by the IG. Currently, the IG's office is staffed by three full-time employees and one investigator who is employed under a professional services contract.

During calendar year 2013, the IG issued public reports regarding commercial loans, emergency contracts, the Department of Public Works, Section 108 Loans, revenue report involving the Department of Parks, Recreation and Conservation, the Yonkers Firefighters Local 628 Variable Benefit Fund and a review of the Community Based Organization, Groundworks.

During calendar year 2014 the IG issued public reports regarding air-conditioner purchase orders and a review of the Community Based Organization, Irish Aisling Community Center. A significant portion of the 2014 calendar year involved a comprehensive review of the Yonkers School District budget overstatement of State aid. On May 30, 2014, the IG issued a comprehensive report and recommendations regarding the State aid budget issue. Additionally, the IG was involved in two comprehensive investigations regarding Yonkers Public School District operations, which also required considerable resources. The IG is currently working with various law enforcement agencies in furtherance of those matters and a complete and comprehensive report will be issued once law enforcement has completed their investigative phase of the matters.

The IG's annual report has traditionally served three basic functions: 1) providing background information and explanation of the core functions of the Department of Inspector General; 2) summarizing the IG's activities for the past year and setting forth findings and recommendations; and 3) listing the IG's objectives for the coming year.

Mission

The mission of the IG is to conduct objective and independent audits, reviews, and investigations relating to the Yonkers City government and the administration of the Yonkers Public Schools in order to:

- Promote economy, efficiency, and effectiveness
- Detect and deter fraud, waste, and abuse
- Promote ethical, fiscal, and legal accountability

The focus of the Department's efforts is to foster efficient and honest governmental administration and to aid in the prevention of conduct which undermines the integrity of government. As a result of the 2014 IG Report concerning the budget overstatement of State aid, an Inter-municipal Agreement IMA between the Yonkers Board of Education and the City of Yonkers expressly grants the IG complete and unlimited jurisdiction over the Yonkers Public School District. As a result of this expanded jurisdiction, the workload of the IG has increased both in number of referrals from the Yonkers Public Schools and the scope of those investigations.

Core Functions

The IG has jurisdiction over City government and related entities as well as the Yonkers Public School District. The following core functions represent the bulk of the work of the IG but do not represent an exhaustive list of the functions performed.

Performance Auditing and Review

According to the City Charter, a main function of the IG is to monitor City administrative operations. To meet this mandate, the Department conducts operational and financial audits and reviews of City administrative programs to ensure compliance with applicable policies and procedures. The objective of these audits and reviews is to ensure that there are adequate internal control procedures in place that promote the efficiency and integrity of agency operations and reduce vulnerability to fraud, abuse, and corruption. The IG also makes recommendations to management to improve the effectiveness of the department or agency, and provide information to elected officials as to the details of the work involved in specific municipal operations.

Investigations into Allegations of Employee and Official Misconduct

The City Charter provides that the Department shall conduct investigations at the direction of the Mayor or City Council, or as deemed necessary by the IG. Discretionary investigations that the IG undertakes are based on complaints or tips, both signed and anonymous, information provided by City officials and employees, information reported in the media, and information developed independently by the Department. The IG also regularly provides informal ethics advice to City employees and elected officials regarding potential conflicts of interest and other issues, although requests for formal ethics opinions are referred to the Board of Ethics.

Vendor Background Screening

An important function of the Department is to conduct background screening of potential vendors in an effort to ensure that only “responsible” vendors and contractors are hired to provide goods and services to the City and the School District. Vendors and contractors for City and School District contracts complete vendor background questionnaires (VBQs). The completed questionnaires of vendors for contracts exceeding \$100,000, or for lesser amounts when requested, are verified for accuracy before final contracts are approved. In verifying the accuracy of the VBQs, we seek to uncover undisclosed arrests, indictments, convictions, criminal associations of company principals, debarments, defaults, suspensions, and/or terminations by other government entities. The IG also checks for undeclared bankruptcy proceedings and undisclosed investigations involving the vendors. Furthermore, research is conducted as to whether the vendor has any civil or criminal court judgments against them. Finally, a determination is made as to whether the vendor is up to date on their New York State insurance requirements. If we find discrepancies in a VBQ, we notify the appropriate City or School District officials and participate in integrity hearings, when required. Material misstatements on a VBQ can lead to the disqualification for a vendor for City or School District contracts.

Review of Community Based Organizations

In 2008, the City Council adopted a resolution which directed the IG to implement an ongoing program to monitor Community Based Organizations (CBOs) and other entities that receive grant funding from the City. We provide an independent assessment of how City grant funds are being spent. Based on our review of documents, interviews with appropriate CBO staff members, and inspection of operations, we issue a report with findings regarding whether grant funds are being spent in accordance with an approved grant application, whether the CBO properly accounts for grant funds, and whether the CBO has the appropriate accounting policies and procedures in place to safeguard the grant funds. Our reports also make recommendations to address any deficiencies that we may find.

2013 Activities

The Department opens an intake file for all referred matters. It should be noted that not every complaint or request for review results in the opening of a case, but all complaints and requests do receive a preliminary review to determine whether a case should be opened. After such preliminary review, the matter is either; (1) opened for a more comprehensive review, (2) referred to another agency; or (3) closed without further review. As mentioned above, matters received from the Office of the Mayor and the City Council are all fully reviewed.

Set forth below is a list of the published reports and other activities for the calendar year 2013. All publicly issued reports from the IG are available on the Inspector General page of the Yonkersny.gov web site. For matters where a continuing review was recommended, a more detailed update is provided below.

Reports

1. *Emergency Contracts*
2. *Department of Public Works*
3. *Revenue Report Parks*
4. *Firefighters Variable Benefit Fund*
5. *CBO Review-Groundwork*
6. *City of Yonkers Commercial Loan Program*

As a result of the findings of the Commercial Loan Program report, the IG issued a series of recommendations, primarily focusing on following the Loan Manual more closely, better organization of the commercial loan files and better tracking of the loan itself.

It should be noted that the City of Yonkers has not issued any commercial loans since 2010. According to the Planning Department, there are currently no plans to make any such loans in the near future.

The status of the 11 outstanding loans is as follows: 3 have been satisfied; 4 are current; 2 are in litigation, 1 is in collection; and 1 delinquent. The Planning Department in conjunction with the Office of Corporation Counsel continues to ensure that all loan obligations are fulfilled.

7. Section 108 Loan Program

On May 13, 2013, the IG issued a report discussing the City's Section 108 Loan Program. The IG Report contained reviews and recommendations regarding the Loan Program based on the IG's investigation. The following is an update regarding the implementation of those recommendations as of February, 2015.

- Based on the recommendation to freeze all 108 loans, the Program is and remains closed to new borrowers;
- The City hired a senior budget analyst who works with Hudson Valley bank to service the Loan Program;
- The Planning Department has assigned an employee to assist in the maintenance of the loan files and monitoring and compliance with Program requirements;
- The City's Corporation Counsel, Finance Department and Planning Department regularly communicate regarding the Loan Program;
- The City continues the process of organizing and cataloguing Loan Program files;
- The City's Corporation Counsel has hired an attorney to deal specifically with borrowers in default, pursue collection of judgments and apprise HUD of debt collection efforts.

As of February 2015, the 108 loan portfolio consisted of 25 loans totaling approximately \$22.24 million. Of those loans, 13 have been closed due to repayment and 12 remain active. Of the 12 active loans, 6 are current and 6 are in default. Five of the 6 defaulted loans are in some degree of post-judgment collection efforts. The City foreclosed on the collateral of the sixth loan default and is in the process of attempting to liquidate the collateral.

Contract Monitoring and Vendor Background Screening

The IG reviews vendor background questionnaires for prospective contractors on contracts that exceed \$100,000. For calendar year 2013, the IG conducted approximately 63 vendor background screenings on proposed contracts with a total value in excess of \$50 million. In some instances, the screening process either resulted in the rejection of a contractor's bid or led to a mitigated arrangement, thus helping to protect the City from liability and undesirable vendors while strengthening compliance with public contracting/bidding laws.

2014 Activities

The IG receives tips, allegations and referrals from a variety of sources both anonymous and identified. It should be noted that not every complaint or request for review results in the opening of a case, but all complaints and requests do receive a preliminary review to determine whether a case should be opened. After such preliminary review, the matter is either; (1) opened for a more comprehensive review, (2) referred to another agency; or (3) closed without further review. As mentioned above, matters received from the Office of the Mayor and the City Council are all fully reviewed.

Set forth below is a summary of the IG's published reports, findings and recommendations and other activities for the calendar year 2014.

Reports

1. Review of Air-Conditioner Purchase Orders.

In 2013, the IG initiated an audit of the purchase of air-conditioners that were necessary as part of the City Hall window replacement project. In all 59 air-conditioners were required because all City Hall windows, which are quite old and energy inefficient, are currently being replaced and new air-conditioners that fit the new windows were needed. A second purchase for 23 units was made to replace broken air-conditioners in other City facilities, such as fire houses and police precincts, on an as needed basis. Normally an inventory of air-conditioners is kept for this purpose by the Department of Public Works, General Services (GS).

The air-conditioner price quotes were handled by the Purchasing Department which is a division of the Department of Finance. Municipal law requires the City to accept the lowest responsible vendor who is responsive to the quote solicitation. The lowest responsible and responsive vendors for the air-conditioners were S&W Appliances (S&W) and DMT Parts Supply (DTM). Any proposed vendor who appears to be the lowest responsive responsible bidder and has bid over \$100,000 is reviewed by the IG in order to ensure that the vendor is responsible and of high integrity. In this case, since the contracts were under that threshold, the IG was not asked to review this proposed vendor.

Once the Purchasing Department selected the vendors, the contracts were placed on the Board of Contract and Supply (BOCS) pre-award meeting. In the agenda for that meeting the amount of the contracts, as well as the proposed amount of the other higher or non-responsive vendors' proposals, was noted. At the BOCS meeting held on May 30, 2013, the members of the Board voted on the contract award for \$19,843, to S&W for the purchase of 59 air-conditioners. The second contract, with DMT, for \$9,583.97 for 23 units, was not on the BOCS agenda because we were told it was below the BOCS threshold for approval (\$10,000).

After the BOCS vote on the S&W contract, the Purchasing Department entered the purchase awards into the software system that tracks all purchase orders. The system then

generated two Purchase Orders, dated June 5, 2013, which constitute the contracts between S&W, DTM and the City.

In June 2013 GS took delivery of the 82 air-conditioners from the two suppliers. The delivery was made to the GS warehouse on Saw Mill River Road. Until installation, all of the air-conditioners are kept in that secure facility. Every unit delivered was identified in the S&W and DMT invoices by brand and size (BTU).

As part of its review, the IG visited the GS facility and observed all the air-conditioning units that had not yet been installed, including the air-conditioners purchased for City Hall.

Additionally, the IG's office visited all of the locations where GS records indicated that replacement air-conditioners had been installed (other than City Hall). The units were inspected for verification of location or facility, brand, serial number, and size as listed on the completed work order. The installations the IG observed matched the completed work orders.

The IG's inspection revealed that all appropriate and mandatory processes were followed in the purchase of the 82 air-conditioners. The City made purchases from the lowest responsible bidders, the delivery of the air-conditioners was completed and the units not yet installed are kept in a secure facility.

2. Budget Overstatement of State Aid – Yonkers Public Schools

By letter dated January 29, 2014 Mayor Mike Spano requested that the IG: (1) Conduct a thorough examination of the process and actions which led to the overstatement of New York State aid to the District in the amount of \$26.9 million for fiscal year 2012/13 and \$28.1 million for fiscal year 2013/14, which resulted in a net budget deficit of approximately \$55 million; and (2) Provide recommendations for administrative reforms within the District in order to prevent fiscal errors or omissions of this magnitude in the future.

In January, 2014, it was discovered that the Yonkers School District (YSD or District) erroneously projected \$55 million in State Aid revenue in fiscal years 2012/13 and 2013/14. An in depth review of the YSD's budgets and the finance department revealed that the miscalculation of State revenue was the result of human error. It was further revealed that the human error resulted from a prolonged systemic failure of the District to properly manage its finances, particularly as it related to the preparation and monitoring of its budget. That failure was both foreseeable and preventable as demonstrated by numerous recommendations from the District's own external auditors. No criminal activity was uncovered as a result of this investigation but a series of reforms have been recommended in an effort to address the failed management and organizational structure of the Yonkers Public Schools. These reforms and other sensible measures are needed to regain the trust of the Yonkers taxpayer and those that count on the Yonkers Schools to provide a meaningful education.

As a result of the recommendations, the City of Yonkers and the Yonkers School District entered into an Inter-municipal Agreement IMA whereby a variety of functions performed by the two separate entities would be merged. Functions such as finance/accounting/budgeting,

purchasing/procurement, and human resources/personnel, were merged as of July 1, 2014. Within the merged finance department, additional hires were made and a new structure was implemented to strengthen its functionality.

More specifically, the following recommendations were made:

- The City of Yonkers Department of Finance and Division of Budget must work in coordination with the City School District's Department of Finance in the preparation and presentation of the District's annual budget. The IMA envisioned by the Yonkers School District Deficit Financing Act is a comprehensive measure that will achieve this goal and ensure continued cooperation in the years to come.
- The District must maintain staffing levels appropriate to conduct its functions both from a quantitative and a qualitative perspective. External auditor reports going back at least to 2010 have found a lack of sufficient staff to perform the functions of the finance department. Whether through the proposed IMA or another vehicle, staffing levels must be evaluated and addressed. Merging functions with the City's Department of Finance and Division of Budget would be a good first step.
- The District must utilize its existing resources such as the Conference of Big 5 School Districts and its external auditors to address issues related to State legislation and/or accounting procedures.
- The District must heed the advice of its external auditors and implement a modified accrual basis of accounting.
- Full implementation of the IMA, which would consolidate operational and administrative functions, other than respective Finance Departments, should be completed in the future in order to streamline operations and eliminate duplicative functions where possible.

Other recommendations remain a work in progress. The IG has discovered that the lack of management was pervasive throughout the school district offices. Subsequent investigations unrelated to the overstatement of state aid have uncovered major flaws in internal controls at the Yonkers School District. Corrective measures have been implemented in certain areas and the District has worked cooperatively with the IG to ensure greater accountability and transparency.

3. *CBO Review – Irish Aisling Community Center*

The Aisling Irish Community Center, Inc. (“Aisling”) is a community organization that provides a variety of programs and services for members of the Yonkers community. A review of the organization reveals that adequate financial controls and oversight are in place to ensure that the Yr 39 Community Development Block Grant is being used appropriately and in accordance with the agreement between Aisling and the City of Yonkers.

By all accounts, Aisling appears to be an important and active part of the Yonkers community, providing a number of programs and services. Our review of the Young at Heart program, whose members are seniors, finds that the \$20,000 grant was used appropriately and in accordance with Aisling's agreement with the City of Yonkers.

Investigations into Allegations of Employee and Official Misconduct

In 2014, the IG conducted a number of preliminary investigations into allegations of employee misconduct, many of which were unfounded or could not be substantiated. The IG fully investigated some of the allegations that appeared to have merit and these matters were referred to the Department heads for possible disciplinary actions. In particular the IG worked with:

- Department of Public Works (DPW) regarding allegations of harassment by sanitation workers; and refuse collection;
- DPW regarding the unauthorized use of software;
- The Mayor's office regarding the potential theft of services;
- The Water Department regarding the inventory of new water meters;
- Yonkers Fire Department regarding off-duty activities;
- Finance Department with respect to the collection of transfer tax;

Contract Monitoring and Vendor Background Screening

The IG reviews vendor background questionnaires for prospective contractors on contracts that exceed \$100,000. For calendar year 2014, the IG conducted 44 vendor background screenings on proposed contracts with a total value in excess of 40 million dollars. In some instances, the screening process either resulted in the rejection of a contractor's bid or led to a mitigated arrangement, thus helping to protect the City from liability and objectionable vendors while strengthening compliance with public contracting laws.

Law Enforcement Referrals

When the IG conducts an investigation that leads to suspected criminal activity, those cases are referred to the appropriate law enforcement agencies. In some cases, the matters are referred and left entirely for law enforcement to handle. In other cases the IG remains involved and works with law enforcement to build the case. During 2014, the IG was involved in a number of matters that eventually led to the involvement of law enforcement. The policy of the IG is to withhold any public reports on these matters in an effort to maintain the integrity of the investigation.

Yonkers School District Bus Contracts

Recently, one of the matters on which the IG was working in cooperation with the Yonkers Police Department and the Westchester County District Attorney's Office led to the arrest of two individuals on various criminal counts, including grand larceny. The two individuals allegedly engaged in a scheme to defraud the Yonkers School District out of hundreds of thousands of dollars related to bus routes that were non-existent and

created for the solely for the purpose of perpetuating the fraud. Upon learning of the scheme, the IG immediately directed that the contract with the vendor be terminated and the District agreed. The IG continues to work with law enforcement on this matter.

Private Car Service for Student Transportation

In 2014, the IG expended significant resources investigating an alleged scheme whereby a private car service was submitting fraudulent billing records to the Yonkers School District and receiving payments based on these fraudulent billings. This information was shared with the Yonkers Police Department and the Westchester County Attorney's Office and a coordinated investigation is continuing.

Objectives for 2015

The IG opened investigations and began reviews on matters in 2014 that were not completed during the calendar year. These matters include an investigation into the inappropriate use of placards in the City of Yonkers for the purpose of evading parking rules and regulations. A report on the matter was issued on March 16, 2015.

The IG will continue to review and report on Community Based Organizations to provide an independent assessment of how City grant funds are being spent.

A comprehensive report concerning the ongoing criminal investigations related to the bus service contracts and private car service for student transportation will be issued along with recommendations to YSD after law enforcement officials have completed their investigation.

As mentioned previously, the IG has undertaken responsibility for the Yonkers School District and intends to continue working with District staff to identify and review potential weaknesses and to ensure efficiency and transparency.

Conclusion

Now, more than ever, the IG serves a vital function in the Yonkers City government. And while the Department of IG is not staffed adequately to perform all the functions necessary to carry out its mandate, it has prioritized its mission to deal with the most important issues of ensuring transparency, protecting City resources and ensuring that the residents and taxpayers of the City of Yonkers are protected.

The IG continues to work well with all the agencies of the government and would like to acknowledge the assistance of the Mayor's Office, the Office of the City Council President, the Offices of the City Council, the Department of Finance and Management Services, and the Yonkers School District in carrying out its mission.