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CITY OF YONKERS
DEPARTMENT OF INSPECTOR GENERAL

2015 ANNUAL REPORT

To: Mike Spano, Mayor
Liam J. McLaughlin, Council President
Members of the Yonkers City Council
Dr. Edwin Quezada, Superintendent of Schools
Rev. Steven Lopez, President Yonkers Board of Education
Trustees of the Yonkers Board of Education

From: Brendan J. McGrath, Inspector General 

Date: July 29, 2016

Subject: 2015 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.

The sitting Inspector General has been appointed and confirmed to a five-year term through December 31, 2018. In 2015, the Department of Inspector General was staffed by three full-time employees, including the Inspector General, and one part-time investigator. The IG staff is charged with a multitude of tasks including background checks, investigations, financial audits, legal research, interacting with law enforcement and other government agencies, and the analysis of departmental functions.

During calendar year 2015, the IG issued a public report concerning the misuse of parking placards in the City of Yonkers as well as reviews of 4 Community Based Organizations (CBO). The IG also continued its work with multiple law enforcement organizations regarding the criminal activities emanating from car service contracts and certain bus contracts in the Board of Education. There were multiple personnel related investigations as well as Departmental investigations which resulted in recommendations to increase efficiencies and accountability.

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 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. Due to 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 in order 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. 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.

2015 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 2015. 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.

CBO Reports

1. CBO Review – Good Shepherd Presbyterian Church

The Good Shepherd Presbyterian Church (Good Shepherd) is a religious entity that administers the Nodine Hill After School Program (Program). The Program provides children, grades kindergarten through 6th with a safe learning environment and a place for positive interaction between neighborhood children. Approximately 40 children participate in the Program. The Program had ceased operation by the time the review was conducted and some questions remained unanswered as to the management of the funds.

2. CBO Review – Queens Daughters Day Care Center

Queen's Daughters Day Care Center is a not for profit organization that provides full-time day care services for low to moderate income families within the City of Yonkers. Our review of the Center reveals that adequate financial controls were in place to ensure that the Year 39 Community Development Block Grant was used appropriately and in accordance with the agreement between the City of Yonkers and the Center.

3. CBO Review – Yonkers Partners in Education

Founded in 2007, Yonkers Partners in Education (YPIE) is a not-for-profit organization that works in partnership with the Yonkers Public Schools to increase the number of students who graduate and complete a post- secondary degree program, either college or a vocational school. Our review of YPIE reveals that adequate financial controls and oversight are in place to ensure that the Year 39 Community Development Block Grant was used appropriately and in accordance with the agreement between YPIE and the City of Yonkers.

4. CBO Review – Yonkers YMCA

The Young Men’s Christian Association of Yonkers (YMCA) is a domestic not-for-profit organization pursuant to Internal Revenue Code §501(c) (3). It was established in 1882 upon principles supporting youth development, healthy living, and social responsibility. To further its mission, the YMCA sponsors a variety of community, adult, and youth programs such as swimming, exercise training and employment training. Moreover, the YMCA has approximately 2,700 active monthly members which include 75 residents renting single room dormitory occupancies on its premises. These are male residents, which include those who may be homeless, receiving government assistance and disability, and others who are, though employed, are low to moderate income earners.

Our review of the YMCA reveals that adequate financial controls are in place to ensure that the Year 39 Community Development Block Grants discussed below were used properly and in accordance with the agreements between the City of Yonkers and the YMCA.

Investigative Reports

Parking Placard use in the City of Yonkers

Throughout the City of Yonkers, there is an array of placards used by various organizations, the primary purpose of which is to avoid compliance with the various parking regulations. A review of the sources of these placards revealed that there are literally thousands of individuals possessing and presumably using the placards for a variety of purposes, mainly to avoid paying parking meters and to park in areas not otherwise permitted. The result of such use of placards is a significant loss in revenue to the City as well as a perception of disparate treatment among those in the community who possess a placard and those who do not.

This report demonstrated that there are appropriate uses for parking placards as well as appropriate procedures for their issuance. As a result of this comprehensive review, certain and immediate measures were recommended, including the call for an end to the practice of distributing and displaying any placards that are not issued and authorized through a legislative or executive procedure.

Based on the report, the Mayor has undertaken an extensive review of the “official placard” policy and has implemented certain procedures to address the concerns addressed in the report. The Mayor maintains vigilant oversight of the process and the IG continues to relay pertinent information to the appropriate agencies in an effort to ensure the fair and equitable enforcement of parking rules.

Contract Monitoring and Vendor Background Screening

The IG reviews vendor background questionnaires for prospective contractors on contracts that exceed \$100,000. For calendar year 2015, the IG conducted 61 vendor background screenings on proposed contracts with a total value in excess of \$35 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.

At the request of the administration, the IG also conducted a thorough vetting of the vendors who submitted proposals for Capital Construction Program Management Services. Specifically, the City sought to hire a qualified firm to serve as "program manager" to develop, plan, design and implement a long-range program for the comprehensive rehabilitation and redevelopment of the Yonkers Public Schools. Depending on the state and federal funding resources, the program could be valued up to \$2 billion. The IG thoroughly vetted two potential vendors who submitted proposals, including standard background checks as well as interviews with other organizations and municipal entities who had undertaken similar projects with the vendors. The administration settled on the IG's recommendation and the program has begun with the passage of important State legislation in June of 2016. The IG looks forward to assisting both the City and Yonkers Public Schools in the administration of this critically important initiative.

Investigations into Allegations of Employee and Official Misconduct

In 2015, 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 Parks, Recreation and Conservation – IG investigated allegations of overtime abuse in which duplicative and no-show payments were approved and made over a significant period of time. The resulting report eliminated such overtime and called for stricter accountability of payroll records.
- Police Department – investigated allegations of vandalism of City Fuel Pumps at various police precincts. IG could not determine if City employees were to blame for the vandalism but the recommendations were made to increase security at the fuel pumps, including the installation of new video surveillance.
- Board of Education – IG investigated allegations involving submission of fraudulent time sheets whereby District bus monitors were being paid for services not performed. The investigation resulted in one employee's termination and another's suspension without pay. A recommendation was made to improve the policies with respect to having bus monitors sign in at the school of destination.
- Police Department – IG investigated the circumstances surrounding a double-payment of overtime which resulted in \$650,000 worth of overpayments to members of the Department. The IG discovered numerous accounting errors emanating from the Fiscal Services Unit, including errors unrelated to the double payment of overtime. The IG found that the personnel charged with managing the

Fiscal Services Unit had neither the experience nor the ability to effectively oversee a \$90 million budget. Recommendations were made to increase oversight and improve efficiencies. Those recommendations resulted in restructuring of the Fiscal Services Unit which, among other things, requires dual reporting to the Police and Finance Commissioners and the appointment of a civilian manager with appropriate levels of experience in governmental finance and accounting.

- Board of Education – IG investigated a claim that a transportation vendor was submitting invoices to the District for daily bus trips to an institution located in Brewster, NY. The child who was purportedly being transported on a daily basis had actually been placed in residence at the facility approximately 5 to 6 months before the District became aware of that fact. The bus driver and monitor were found to have submitted fraudulent billing statements for the 6-month period, totaling in excess of \$20,000. The IG interviewed the vendor, who claimed to have known nothing about the fraudulent billing scheme. In fact, it was the vendor who initially notified the District about the child's in-residence placement, which prompted our investigation. The bus driver and monitor were terminated from the vendor's employment and the vendor made restitution of all moneys owed to the District based on the fraudulent billings. The IG's concern was that no one in the District was aware that the child's status had been changed from daily attendance to a residential placement. We strongly recommended that the Board of Education develop better inter-departmental communications in order to avoid similar situations from occurring in the future. In this instance, a simple communication from the Special Education Department to the Transportation Department would have likely prevented this situation from occurring or at very least alerted the District to the problem much sooner.
- Board of Education – The IG investigated an allegation that one of the vendors providing student transportation services did not procure and present a performance bond to the District in compliance with a contract requirement. Performance bonds are regularly obtained by the vendors following the start of the school year due to the fact that the bonds are based on the projected value of the contract and routes are not finalized until sometime in August. Generally, performance bonds are received by the District in November. Allways East Transportation Company did not procure a performance bond for the 2014/15 school year. The District did not follow up with the vendor and did not impose any penalty. Allways East was permitted to continue providing transportation services into the 2015/16 school year. In May of 2016, Allways East filed for Chapter 11 bankruptcy, owing \$3.7 million to its creditors. The IG recommendation to the Board of Education is to have the student transportation vendors vetted annually or bi-annually by the IG to ensure that they are able to perform their requirements under the terms of their contract with the District.

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 2015, 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. As these matters conclude, the IG will report on their resolution.

In 2015 there were three matters referred to law enforcement organizations and with each of these referrals, the IG remains involved as a source of information and in some cases continues to work directly with law enforcement in the investigation.

One matter that was referred to the Federal Bureau of Investigation (FBI) in 2012 was returned to the IG in 2015 when the United States Attorney declined prosecution. During their investigation, the FBI uncovered information that was previously unknown to the City of Yonkers. It involved the unauthorized and unlawful sale of tax liens. While the federal government did not believe it had jurisdiction over the offense, the IG reopened its investigation. The target of the investigation was summoned to an interviewed but failed to appear. The IG recommended appropriate discipline, up to and including termination. The employee never returned to work and immediately filed for retirement. The employee's separation from the City was handled by the City's Corporation Counsel.

Conclusion

The IG opened investigations and began reviews on matters in 2015 that were not completed during the calendar year. These matters include an investigation into the permitting process in the City's Engineering Department and a conclusion of the IG's investigation into the contracts for private car service and certain bus routes in the Board of Education. The IG also continues to investigate allegations of inappropriate use of overtime in certain City departments.

The IG will continue to review and report on Community Based Organizations to provide an independent assessment of how City grant funds are being utilized. These reviews give the IG and the City an opportunity to learn firsthand about these CBOs and the tremendous work they do throughout the City. Often the IG receives feedback from the CBOs regarding their concerns and how they may be more effective in their missions. These concerns are incorporated in the reports and it is hoped that the City takes them into account.

A vital function of the role of IG is to ensure that vendors doing business with the City of Yonkers are able to carry out their responsibilities and that they themselves are good corporate citizens. We will continue to review vendor background questionnaires to ensure that the City and the Board of Education and their resources are safeguarded.

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 Members of the City Council, the Trustees of the Board of Education and the Yonkers Public School District in carrying out its mission. The IG would also like to acknowledge and thank all those individuals, both known and anonymous whose tips and information form the basis for many of our investigations.