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CITY OF YONKERS

TO: Philip A. Amicone, Mayor
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Bernard P. Pierorazio, Superintendent of Schools
All Board of Education Trustees

FROM: Philip A. Zisman, Inspector General

SUBJECT: 2007 Annual Report

DATE: February 22, 2008

Overview

The Inspector General's Annual Report serves three purposes: 1) it provides background information and explains the core functions of the Inspector General's Office; 2) it summarizes the Office's activity for the past year, and enumerates the recommendations that the Office made; and 3) it sets forth the Office's objectives for the coming year.

Mission

The Department of Inspector General's mission is to conduct objective and independent audits, reviews and investigations relating to 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 Office's efforts is to promote effective, efficient and honest government administration and to aid in the prevention of conduct which undermines the integrity of government.

Legislative Authority

The legislative authority of the Inspector General's Office is set forth in Article VII of the Yonkers City Charter §§C7-1-3 and Board of Education Resolution #00-7-1. A summary of those provisions are set forth below.

- A. Sections C7-1-3 of the Yonkers City Charter establishes the Department of Inspector General.
- B. Section C7-2 grants the IG authority to: 1) make any investigation directed by the Mayor or City Council; 2) make any investigation or review which in his or her opinion is necessary to uncover any wrongdoing in City government; 3) prepare written reports of investigative findings and forward such reports to appropriate authorities; 4) issue subpoenas and conduct hearings; 5) audit, monitor and maintain adequate internal control procedures to maximize efficiency and integrity of agency operations and to reduce vulnerability to fraud, abuse and corruption.
- C. Section C7-3 requires full cooperation of all employees with the IG and prohibits anyone from interfering with or obstructing any IG study or investigation. Any violation of this section constitutes cause for suspension or removal from employment.
- D. Board Member Resolution #00-7-1 dated July 12, 2000 designated the Inspector General for the City of Yonkers as the Inspector General for the Yonkers Public Schools. This resolution formally extends the powers of the IG as set forth in the City Charter to the Yonkers Public Schools.

Office Organization

The Office of Inspector General has four staff members: the Inspector General Philip A. Zisman, Deputy Inspector General Edward Benes, Senior Investigator Harvey Green, and Administrative Assistant Susan Garvey. The annual budget for fiscal year 2007/08 is \$439,163.

Core Functions

The Office has four core functions which are described below:

A. Performance Auditing and Review

Under the City Charter, a main function of the IG's Office is to monitor City and School District administrative operations. To meet this mandate, the IG's Office conducts operational and financial audits and reviews of City and School District departments to ensure compliance with

applicable policies and procedures. We specifically focus on accounting procedures to determine whether public funds are properly accounted for and adequately safeguarded.

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. We also make recommendations to management to improve the effectiveness of the agency, and provide information to elected officials as to the details of the work involved in specific municipal operations.

B. Investigations into Allegations of Employee and Official Misconduct

The City Charter provides that the IG shall conduct investigations at the direction of the Mayor, City Council or as deemed necessary by the Inspector General. The IG's Office will also conduct investigations at the request of the Yonkers Board of Education. Discretionary investigations that the Inspector General undertakes are usually 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 IG's Office through our efforts to monitor the affairs of government.

C. Ethics Investigations and Ethics Counseling

The City Charter gives the IG joint jurisdiction with the Yonkers Board of Ethics over ethics investigations involving allegations that City officials or employees may have engaged in ethical misconduct. The IG's Office conducts ethics investigations at the request of the Ethics Board or as otherwise deemed appropriate.¹

D. Contract Monitoring and Vendor Background Screening

An important function of the IG's Office is monitoring City and School District contracts. Our objective is to ensure the integrity of the City's contracting process, and once a contract is in place, to ensure compliance with contractual terms and conditions. As part of this program, our Office conducts 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 contracts must submit vendor background questionnaires. The questionnaires of selected vendors for

¹ Prior to the adoption of a new Code of Ethics in 2005 and the appointment of a Board of Ethics, the IG served as the defacto ethicist for the City. Given that traditional role, the IG still regularly provides informal ethics advice to City employees and elected officials. However, requests for formal ethics opinions are referred to the Board of Ethics.

contracts exceeding \$100,000, or for lesser amounts when requested, are reviewed and verified before final contracts are approved.

2007 Activities

The IG's Office opened 36 new intake files in 2007. A new file represents a potential matter for review, audit or investigation. A new intake file indicates that the Office will, at a minimum, conduct a preliminary review of a matter before determining if a comprehensive investigation or review is appropriate.² After a preliminary review, matters which do not require further IG involvement are either closed or referred to appropriate agencies.

Set forth below is a summary of the findings and recommendations of significant IG activities in 2007.

Comprehensive Reports³

- *Review of City's Purchasing Department, June 27, 2007*

We conducted a performance review of the City Purchasing Department and found that under the leadership of Director Thomas Collich the Department is meeting its objective of "adding value to the process of acquiring goods and services by adhering to sound purchasing practices." Through adherence to established policies and procedures and active oversight of procurement matters, we found that the necessary internal controls are in place to ensure the overall integrity of the City's procurement operations.

Recommendations:

1. The Purchasing Department should finalize and issue a City procurement policy and procedure manual.
2. The City administration should approve the creation of a new position of Deputy Director of Purchasing.
3. The City should implement Director Collich's recommendation that City Departments be authorized to use Procurement Cards or "P-Cards" for certain purchases valued at less than \$1,000.
4. All purchases made utilizing State or County contracts and all emergency contracts should be submitted to the Board of Contract and Supply as required by applicable law.

²The Office's annual intake system does not record the ongoing contract monitoring and vendor background screening that the Office conducts, or the daily activities which include dispensing advice regarding municipal ethics and other matters.

³The Inspector General issues written reports of most audits and investigations. Reports on allegations of employee misconduct which are not substantiated, may not be subject to a public release. Comprehensive reports are available for review on the City of Yonkers website at: yonkersny.gov (follow links to the Inspector General's webpage under the "government" tab.)

5. The Purchasing Department should expand its database of City vendors to include information regarding contract history and past problems.
 6. The City Council should review its policy under General Municipal Law § 104-b.
- *Investigation of Yonkers Parking Authority, August 15, 2007*

On June 4, 2007, the Yonkers Board of Ethics referred an anonymous complaint alleging misconduct by YPA Executive Director Michael Dalton. Our findings were as follows:

1. Allegations that Mr. Dalton made improper hiring decisions and gave unwarranted raises and promotions were unfounded.
2. The allegation that Mr. Dalton and members of the Yonkers Police Department covered up an incident of misconduct involving the use of a weapon by a YPA security guard was unfounded.
3. The YPA payment of \$9,351.75 in tuition reimbursement without an established policy and procedure created an appearance of impropriety.
4. Supporting documentation for restaurant charges on the YPA credit card was inadequate, and raised policy questions for the YPA Board of Directors.

Recommendations:

1. The Board of Directors should take appropriate administrative action based on the findings of the investigation.
 2. The Board of Directors should review and update the Authority's administrative policies and procedures.
 3. The Board should issue new policies and procedures to address current deficiencies and to create clear guidance for YPA staff to meet the requirements of the Public Authorities Accountability Act.
 4. The Board should request that the Inspector General conduct a follow up review in six months to ensure that new and revised Board policies are being followed.
- *Review of Police Overtime, December 10, 2007*

We reviewed six months of overtime payments to 11 police officers who earned the most overtime in 2006. Our review raised serious questions about the Police Department's overtime policies and procedures and the administration of overtime. It was evident that overtime policies were not enforced, written overtime procedures were not followed, and overtime slips submitted for payment were not properly reviewed before

payment was authorized. The failure to implement and enforce overtime policies and procedures created an opportunity for abuse, and our findings revealed numerous irregularities that raised questions about the appropriateness of some of the paid overtime.

Recommendations:

1. The Police Department must adopt and enforce comprehensive overtime policies and procedures and closely monitor overtime payments.
2. The Police Department should establish protocols with the Westchester County District Attorney's Office regarding court-related overtime.
3. The Police Department should automate its procedures for processing and monitoring overtime.
4. One year after the new Police overtime policies and procedures have been in place, the Police Commissioner should issue a report to the Mayor and City Council assessing the effectiveness of the reforms. Thereafter, the Inspector General will conduct a follow-up audit of paid overtime.
5. The City should create an Overtime Review Board.
6. The City should lobby the State government for pension reform.

Other Activities and Recommendations

Other activities included 60 vendor background screenings, 3 ethics complaint reviews, 4 contract audits, 12 reviews or investigations of allegations of employee misconduct, and a Level II Appeal of a School District investigation into an employee discrimination claim.

In addition, we conducted a review of the City's application of the IRS's fringe benefit valuation rules with respect to employees who are assigned City vehicles. We found that some employees were not being charged the correct amount of taxable income for the use of a City vehicle and recommended that the Finance Department ensure that the City was in compliance with IRS regulations.

We also agreed to assist the School District's Director of School Safety and Security in conducting Level I investigations into allegations of discrimination and sexual harassment.

Finally, we consulted with the District Attorney's Office on several matters, and referred one new matter for possible prosecution.

Objectives for 2008

1. The Inspector General believes that the Office should work closely with elected and appointed officials. The IG has the institutional role within the government of resolving questions of whether the City

government and School District administration are operating consistently with applicable laws and policies in an efficient and effective manner. As set forth in the City Charter and Resolution of the Board of Education, the IG must conduct reviews and investigations as directed by the Mayor, City Council or Board of Education. The Inspector General looks forward to continuing to work with all elected and appointed officials in resolving questions regarding the proper administration of City government and the School District administration.

2. The IG will continue to conduct reviews of School District administrative matters as required. We have specifically recommended to the Trustees of the Board of Education that we conduct an operational review of the District's Purchasing Department and an audit of the District's fringe benefits accounts. In addition, we will complete a preliminary review of the District's Center for Continuing Education which was begun in 2007.
3. The IG will continue to monitor contracts and perform vendor background screening for all proposed contracts that exceed the threshold amount of \$100,000, and for lesser amounts if requested. Contract audits will include the City's building security monitoring contract with Sonitrol.
4. The IG will continue its program of conducting operational reviews of City departments. We will audit the use of fuel in City vehicles.
5. The IG has requested the authority to hire one investigator in the 2008/2009 budget. The investigator will be primarily responsible for a new inspections initiative in which members of the IG staff will conduct both scheduled and unannounced site inspections of ongoing City and School District projects and activities. Potential areas for inspection include work being performed on overtime, construction projects, workers compensation cases, grant compliance, and code enforcement activity.