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DEPARTMENT OF  
INSPECTOR GENERAL  
CITY OF YONKERS

**TO:** Philip A. Amicone, Mayor  
Charles S. Lesnick, City Council President  
All City Council Members  
Rev. Gerald Sudick, President Yonkers Board of Education  
Bernard P. Pierorazio, Superintendent of Schools  
All Board of Education Trustees

**FROM:** Philip A. Zisman, Inspector General

**SUBJECT:** 2008 Annual Report

**DATE:** January 26, 2009

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### 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 activities for the past year, and sets forth our findings and recommendations; and 3) it lists 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 Resolutions #00-7-1 and #09-1-257C. 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 and monitor government operations to ensure that adequate internal control procedures are in place 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. Resolution #09-1-257C, dated January 21, 2009, revised and reauthorized the Inspector General to provide services to the Board on an invitational basis.

## **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. After a 5% mid-year reduction, the annual budget for fiscal year 2008/09 is \$438,202.

## **Core Functions**

The Office has five 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 Office conducts operational and financial audits and reviews of City and School District departments and 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. 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.<sup>1</sup>

#### 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 ("VBQs"). The questionnaires of vendors for

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<sup>1</sup> 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 de facto 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 verified for accuracy before final contracts are approved.

In verifying the accuracy of the VBQs, we seek to uncover undisclosed arrests, indictments, convictions and criminal associations of company principles, debarments, defaults, suspensions and/or terminations by other government entities. We also check for undeclared bankruptcy proceedings and undisclosed investigations involving the vendors. If we find discrepancies in a VBQ, we notify the appropriate City or School District officials and participate in vendor hearings when required. Material misstatements on a VBQ can lead to the disqualification of a vendor for City or School District contracts.

#### E. Review of Community Based Organizations

On May 27, 2008, the Yonkers City Council adopted Resolution No. 94-2008 which directed the Inspector General to implement an ongoing program to monitor Community Based Organizations (“CBO”) and other entities that receive grant funding from the City of Yonkers.

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 that answers the following questions:

- Are Yonkers grant funds being spent in accordance with an approved grant application?
- Are grant funds properly accounted for?
- Does the CBO have 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.

#### **2008 Activities**

The IG’s Office opened 42 new intake files in 2008. For every new intake, our Office conducts a preliminary review to determine whether a comprehensive investigation or review is warranted.<sup>2</sup> After the 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 our significant 2008 activities, findings and recommendations.

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<sup>2</sup>The Office’s annual intake system does not include 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.

## Reports<sup>3</sup>

### Review of the School District's Center for Continuing Education – April 15, 2008

On July 17, 2007 Council Member Patricia McDow requested that the Inspector General conduct an investigation into the School District's Center for Continuing Education, alleging that monies allocated for CCE were missing. Previously, in 2006, the accounting firm of KPMG found that CCE was operating at a deficit which was not properly accounted for in the budget. The School District disbanded CCE and reorganized its adult continuing education program in June of 2007.

We conducted a review to determine the extent of CCE's deficits in fiscal years 2005/06 and 2006/07, and to determine whether any funding was missing.

We found that CCE amassed a \$924,000 deficit in 2005/06, and that the deficit was eliminated in 2006/07 through \$1.3 million in staff reductions. Annual deficits were the result of large payroll and fringe benefit expenses that could not be fully paid with State grant funds. We found no evidence that grant monies were stolen from CCE.

### Review of the South Broadway BID – August 15, 2008

After the office manager of the South Broadway Business Improvement District ("BID") committed a significant embezzlement of BID funds, the City Council directed the Inspector General's Office to perform an operational and financial review of the BID and to explain the reasons for the embezzlement that went undetected for approximately 20 months.

We found that there was an absence of policies and procedures that established internal controls and a separation of duties related to the BID's finances. The office manager maintained all of the BID's finances with minimal oversight from the executive director, and thus, the fraud went undetected for a long period of time. We did not believe that the executive director participated in or benefited from the fraud, but could not determine whether all reimbursements that were made to him were proper.

With respect to operations, we found that the BID was having a small but positive affect on the cleanliness, overall appearance, safety and security within the district. We also found that the executive director did a good job in representing the BID's interests to City government.

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<sup>3</sup>The Inspector General issues written reports of most audits and investigations. Reports on allegations of employee misconduct which are not substantiated, are generally not subject to a public release. Published reports are available for review on the City of Yonkers website at: <http://www.yonkersny.gov/Index.aspx?page=96>

We recommended that the BID Board of Directors authorize the use of a BID credit card; hire a skilled office manager to create internal office systems and maintain files and records, and review the provisions of the special assessment that is charged to businesses along South Broadway.

*Sonitrol Contract Review – October 20, 2008 (Unpublished<sup>4</sup>)*

After two break-ins at the City office building located at 87 Nepperhan Avenue, we conducted a contract and performance review of Sonitrol, Inc., the long term, primary vendor of building alarm equipment and service for the City and School District. We found deficiencies in the performance of the vendor and the administration of the contract and recommended that the Mayor appoint a manager to oversee all of the City's alarm systems. We also recommended that the City and the School District assess their overall needs for alarm equipment and services, and then together engage in a competitive bidding process to award a new contract that would cover both the City and the School District.

**CBO Inspection and Review Program**

In response to a City Council's mandate, the Inspector General implemented a new CBO Inspection and Review program. We conducted reviews of five CBOs that received grant funding from the City:

- Arab American Council
- Greyston Foundation
- Hudson River Museum
- Arab American Foundation
- CLUSTER

Collectively, we reviewed a total of nine different grants and one loan.

With respect to our review of the Arab American Council, we found that the executive director of the organization had a prohibited conflict of interest because he used grant funds to pay himself rent for the organization's office space in a building that he owned. The matter was referred to the Inspector General of the US Department of Housing and Urban Development.

**Contract Monitoring and Vendor Background Reviews**

With respect to contract monitoring, in addition to our review of the Sonitrol contract, we provided contract review and analysis for the Department of Public Works for the proposed \$1.5 million contract with NAPA Auto Parts for the City's vehicle maintenance parts storeroom.

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<sup>4</sup> The report was not released to the public as a security measure to prevent information about the City's and School District's alarm systems from being disclosed.

With respect to vendor background reviews, we conducted 70 vendor background screenings for proposed contracts with a total value in excess of \$69 million. In four matters, our review led to bidders being disqualified, withdrawing their bids from consideration, or having restrictions placed upon them:

- City Bid # 5247 Sewer & Drainage Improvements: \$1,897,385  
Vendor WJL Equities was suspended from working for the City of Yonkers because our screening process revealed New York State Department of Labor Law violations that occurred on the Father Pat Carroll Green housing project. WJL agreed to have a private inspector general act as an integrity monitor to ensure that the company would abide by all laws, rules and regulations.
- BOE contract for Roof and Masonry at PS 11 and 17: \$2,093,789  
Mega Builders' bid was withdrawn for failing to disclose pertinent information on the vendor background questionnaire which raised questions about its business integrity.
- BOE contract for Yonkers Middle School/High School Roof: \$2,287,999  
Bidder Plato Construction Corp. was disqualified for not disclosing their permanent debarment by the New York City School Construction Authority.
- City Bid # 5342 Transportation of Voting Machines: \$68,337  
Bidder Finnegan's Moving & Storage Company was disqualified and deemed ineligible because of corporate deficiencies discovered through the screening process.

### **Investigations into Allegations of Employee Misconduct**

In 2008 we conducted six investigations into allegations of employee misconduct. In one case, we substantiated that a School District employee's outside employment conflicted with his School employment, and that he abused leave time. We recommended that the District take appropriate disciplinary action, and that the Board of Education create a policy that places limitations on outside consulting practices and requires full disclosure of such outside employment.

In four other cases that we investigated, the allegations were not substantiated, and one matter is still pending. In addition, after conducting preliminary reviews, we declined to conduct three requested investigations, and also made three referrals to other City agencies for appropriate action.

### **Ethics Matters**

As Inspector General, I regularly receive ethics questions and inquiries regarding potential conflicts of interest. I generally will provide informal and confidential ethics advice, and refer the questioner to the Board of Ethics if a formal ethics opinion is necessary.

Recognizing that the Yonkers Code of Ethics and other applicable ethics provisions are complex and often difficult to understand, in December 2008, I issued an annotated *Inspector General's Plain Language Guide to Municipal Ethics Requirements*, which describes in simpler language applicable ethics laws that pertain to municipal officials and employees. A copy of this guide is attached.

Finally, we conducted two confidential ethics reviews.

### **Miscellaneous**

- We analyzed an independent Risk Assessment Report of the administrative operations at the Yonkers Public Schools and made recommendations to the Board of Education regarding appropriate audits.
- We analyzed proposed Charter revisions submitted to the City's Charter Revision Commission and appeared before the Commission.
- We agreed to investigate allegations of employee misconduct at the Yonkers Library as required.
- The Deputy Inspector General testified before a grand jury and at the trial of a former City employee who was convicted of payroll fraud at the DPW water shop.

### **Ongoing Audit – City Fleet Gasoline Usage**

Our audit plan for 2008 included a review of gasoline usage in the City's fleet of vehicles. This review is ongoing. Our objectives are to determine whether: 1) the City appropriately administered the use of gasoline; 2) there is any evidence that gasoline is being used for non-municipal purposes; and 3) employees with take-home vehicle privileges are adhering to the policies regarding the personal use of their City vehicles. This review should be completed early in 2009.

### **Objectives for 2009**

1. The IG has the institutional role within the government of resolving questions of whether the City government and the School District is operating consistently with applicable laws and policies in an efficient and effective manner. As set forth in the City Charter and Resolutions 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 administrative matters as deemed appropriate. We have scheduled a review of the School



District's healthcare related fringe benefit expenses, which in fiscal year 2008/09 were approximately \$64 million. We have also tentatively scheduled a review of the District's purchasing department. We will also conclude our audit of gasoline usage in City's fleet of vehicles.

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.
4. We will continue our program of reviewing grants that Community Based Organizations have received from the City. We plan to review approximately 12 different CBOs in 2009.
5. We will conduct appropriate investigations as deemed necessary.