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**DEPARTMENT OF
INSPECTOR GENERAL
CITY OF YONKERS**

TO: Mike Spano, Mayor
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All City Council Members
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Paresh Patel, President Yonkers Board of Education
All Board of Education Trustees

FROM: Kitley S. Covill, Inspector General 

SUBJECT: 2012 Annual Report

DATE: January 28, 2013

Overview

The Department of the Inspector General (IG) has been fully operational since 1998. The IG position has a five year term and during 2012 the IG resigned and a new IG was appointed to fill the IG's unexpired term. Additionally the part time Senior Investigator resigned and a new part time Senior Investigator was hired. Although there is limited staff in the IG, the transition was seamless and the IG work continues. The new Administration, beginning in January 2012, has been very supportive of the IG in its aggressive pursuit of allegations of waste, fraud and abuse in the Yonkers City government.

During the calendar year 2012 the IG issued public reports on consolidation of the Yonkers Parking Authority with the City of Yonkers, use of taxpayer money to fund the Yonkers Federation of Teachers Welfare Fund, and the Yonkers School Public Superintendent's contract extension.

The IG's annual report has traditionally served three purposes: 1) it provides background information and explains the core functions of the Department of the Inspector General; 2) it summarizes the IG's activities for the past year, and sets

forth our specific findings and recommendations; and 3) it lists the Department'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; and
- promote ethical, fiscal and legal accountability.

The focus of the IG'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. Because the IG's department was created by, and derives its authority from, the Yonkers City Charter, its jurisdiction is wide ranging and therefore plays an important part in promoting confidence in Yonkers City governance.

Office Organization

The IG has two full time staff members: the Inspector General and the Deputy Inspector. The IG also has a personal services contract for a part time Senior Investigator, with a total annual amount available for those services of \$65,000. The annual budget for fiscal year 2012/13 is \$347,473.

Core Functions

The IG's core functions are:

A. Performance Auditing and Review

Under the City Charter, a main function of the IG is to monitor City administrative operations. To meet this mandate, the IG 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 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, and provides 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. 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 through the IG's efforts to monitor the affairs of government.

C. Contract Monitoring and Vendor Background Screening

An important function of the IG's Office is monitoring City contracts¹. The objective is to ensure the integrity of the contracting process, and once a contract is in place, to ensure compliance with contractual terms and conditions. As part of this program, the IG 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. Vendors and contractors for City contracts complete vendor background questionnaires ("VBQs"). The 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 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 officials and participate in integrity hearings when required. Material misstatements on a VBQ can lead to the disqualification of a vendor for City contracts.

D. Ethics Investigations and Ethics Counseling

The Yonkers City Charter gives the Yonkers Board of Ethics the ability to request an IG ethics investigation involving allegations that City officials or employees may have engaged in ethical misconduct. The IG is also sometimes consulted by City employees informally regarding ethics questions.

¹ Due to severe IG staff cuts made in fiscal year 2010/2011 the IG discontinued vendor screenings for the Board of Education (BOE). The IG is hopeful that we will be able to provide this valuable assistance to the BOE on an ongoing basis going forward.

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.

The IG provides an independent assessment of how City grant funds are being spent. Based on a review of documents, interviews with appropriate CBO staff members, and inspection of operations, the IG may 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?

IG reports may also make recommendations to address any deficiencies that we may find².

2012 Activities

The IG’s office opened 44 new files in 2012. Not every complaint or request results in a file being opened, but in all cases where a complaint is lodged the IG conducts a preliminary review to determine whether a case should be opened. After a preliminary review the matter is either opened for further review or closed or referred to appropriate agencies.

Notably, in 2012 the IG established an anonymous tip line where anyone can file an online complaint. That website is found at www.YonkersIGTips.com. The anonymous tip line has been an extremely valuable tool for the IG and has resulted in significant and important investigations.

Set forth below is a summary of the IG’s published reports³, findings and recommendations, other activities for the calendar year 2012, and objectives for 2013.

² Due to the limited staff in the office there were no CBO audits performed in 2012.

³ Dan Schorr, the previous IG, issued the Yonkers Federation of Teachers Welfare Fund and the Yonkers Parking Authority Consolidation reports before he resigned in April, 2012.

Reports

Yonkers Federation of Teachers Welfare Fund

In 2009, the previous Administration requested that the IG review the Yonkers Federation of Teachers Welfare Fund (YFT Welfare Fund). The fund processes payments to vendors and reimburses employees for out of pocket expenses such as dental, prescription drugs or co-pays, optical etc., but does not pay for any medical benefits. After protracted litigation challenging the IG's legal authority, the IG's authority to review this fund was judicially confirmed and in 2012 the IG reviewed and reported on the YFT Welfare Fund.

The IG reviewed records from a third party administrator who processes the dental claims, the lease for the YFT Welfare Fund office, the salaries for the employees processing all reimbursements other than dental, the books and records of payments and audited some of the claims submitted and paid.

The IG's report, in summary, stated the following regarding the YFT Welfare Fund:

- In 2010 the Yonkers taxpayer, through school taxes collected by the City of Yonkers and sent to the Yonkers Board of Education, paid the YFT Welfare Fund \$1,916 for every covered employee⁴, for a total payment of \$4,058,985. Retired covered employees also sent in payments in order to participate in the benefits.
- The YFT Welfare Fund maintains an investment account which contains over \$3 million.
- The YFT Welfare Fund pays high administrative costs. In 2010 the YFT Welfare Fund spent well over 10% of the total fund, \$536,919, in administrative costs. \$75,000 of those costs was paid to the third party administrator that processed nearly 16,000 dental claims. The remaining amount, approximately \$460,000, was used to pay rent and salaries of the three employees who processed the remaining 5,000 claims for reimbursement.
- 2010 YFT Welfare Fund records revealed that \$2,978,381 was paid out for dental claims, \$916,353 was paid out for prescription drugs and/or co – pays, \$255,477 for optical services claims and \$119,860 for legal services benefits.
- The IG conducted a limited audit of the YFT Welfare fund and overall the fund payments appear to have been paid in accordance with the YFT Welfare Fund guidelines, although there were possible some duplicative payments made on some of the dental claims.

⁴ Covered employees for the Yonkers Welfare Fund are all teachers and administrators.

- The IG recommended that the YFT Welfare Fund reduce the high administrative costs by outsourcing the remaining processing of expenses just as it did with the dental claims.
- The IG recommended that the YFT Welfare Fund not renew its expensive lease at 35 Grassy Sprain Road when it expires on April 30, 2015.
- The IG recommended that the YFT Welfare Fund voluntarily contribute a portion of its \$3 million in investments and/or additional future annual payments it is scheduled to receive from the BOE to restore teachers and programs in the Yonkers School District.

Yonkers Parking Authority Consolidation

In 2012 a majority of the Yonkers City Council requested the IG to review the financial efficacy of merging the Yonkers Parking Authority (YPA) with existing City agencies. The YPA is a stand alone agency established in 1964. It is governed by a Master Service Agreement it has with the City.

The IG report addressed the financial implications of consolidation. The IG did not review the legal process of combining the YPA and its employees with the City and its employees, and the concomitant costs that process would incur. The IG reviewed the Master Service Agreement and amendments, YPA operating agreements and operating budgets and recent YPA audited financial statements.

The IG's report, in summary, stated the following regarding consolidation:

- By eliminating duplicative functions and unnecessary expenses, including four staff positions, the City would save approximately \$660,000 per year.
- Since the YPA has approximately \$1.1 million in an investment account, some or all that money would provide a one time cash influx to the City with consolidation.
- The City reimburses the YPA for annual deficits incurred in running the Buena Vista parking garage pursuant to an Operating Agreement. The reimbursements were \$367,866 for 2008, \$432,272 for 2009, \$335,619 for 2010 and projected payments of \$120,000 for 2011 and \$270,402 for 2012.
- The IG report recommended amendment or elimination of the Buena Vista Operating Agreement which would reduce or eliminate the need to pay the deficit. Elimination could be accomplished by consolidation, or the City could seek competitive bids to run the Buena Vista parking garage. An amendment to the Operating Agreement could include a requirement that the YPA operate the garage on a break-even basis.

Yonkers Board of Education Superintendent's Contract Extension

In June, 2012 the Mayor requested the IG review the Yonkers Board of Education Trustees (BOE) decision to extend the Yonkers Public School Superintendent's contract. The IG report reviewed the procedures in place for all contracts, including the Superintendent's employment contract and the requirements contained in the BOE's Policy Manual and the Open Meetings Law requirements.

The IG found that in June, 2012, at a regularly scheduled Yonkers Board of Education (BOE) Trustees meeting, the Yonkers Public School Superintendent's employment contract, which doesn't expire until June 2015 was extended for three years. The contract extension was not on the Audit, Budget and Finance (ABF) meeting agenda that occurred the week before the monthly BOE meeting, although the ABF typically reviews all non emergency contracts and sets the agenda for the regularly scheduled meeting. The IG's report also noted that New York State Education Law prohibits Superintendent's contracts that are longer than five years.

The IG's report recommended:

- The Superintendent's contract approved at the June BOE meeting should be rescinded.
- If the BOE Trustees want to extend the Superintendent's contract, they must place the contract extension on the Audit, Budget and Finance meeting agenda and then on the BOE meeting agenda.
- The Superintendent's contract extension must conform to the requirements contained in the New York State Education Law.
- The BOE trustees must conduct meetings pursuant to the Open Meetings Law requirements.

Investigations into Allegations of Employee and Official Misconduct

In 2012 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 Department Commissioners for possible disciplinary action. In particular the IG worked with:

- Mayoral staff regarding allegations of conversion of donated funds for personal use, employees working a full day, and employee misconduct;
- The Yonkers Police Commissioner regarding allegations of police misconduct;
- The Yonkers City Council regarding allegations of misuse of funds;

- The Department of Engineering regarding employee use of a personal cellular device;
- The Department of Public Works Commissioner regarding an employee's misuse of a city vehicle to transport a family member, an employee's failure to work eight hour days, an employee's use of his city title and city employee address on his second job, an employee's insubordination; allegations regarding water main breaks, and supervisory structure and supervisory authority in the department;
- The Department of Finance Commissioner on allegations of employee misconduct, insubordination and supervisory roles;
- The Tax Assessor regarding employee authority over assessments and system wide checks and balances on assessments and exemptions;
- The Commissioner of Human Resources and the Information Technology Department regarding confidential information leaks;
- The Commissioner of Planning regarding employees involved in the city loan programs; and
- The Commissioner of Housing and Building and its employees interfacing with Yonkers residents.

The IG has ongoing investigations into several departmental issues alleging employee misconduct and misuse of funds. Some of these matters were also referred to law enforcement, including the Westchester County District Attorney's Office, the New York State Attorney General's Office and the US Attorney's Office. In the matter of conversion of donated funds for personal use, former city employee Lorraine Lopez was indicted, pled guilty, was sentenced to probation and was ordered to reimburse the City.

Ethics Matters

In 2012 several employees of the City of Yonkers sought informal advice from the IG on ethics related issues, including second employment, supervisory actions and other matters. The IG gave informal advice and as appropriate referred city employees to the Ethics Board for a formal opinion. In addition the IG referred one matter to the Ethics Board as a possible ethics violation.

Contract Monitoring and Vendor Background Screening

The IG reviews vendor background questionnaires for prospective contractors on contracts that exceed \$100,000. For calendar year 2012, the IG conducted approximately 27 vendor background screenings on proposed contracts with a total value in excess of 14 million dollars⁵. In some instances, the screening

⁵ The last bond sale for capital projects occurred under the prior Administration, and most of the projects were under review by the new Administration in 2012. It is expected that more vendor screenings will be requested in 2013. In addition, as noted above, the IG hopes to conduct vendor screenings on proposed contracts for the Yonkers Board of Education, as occurred in the past.

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 laws. In eight background screenings, the IG review impacted the procurement process. For example:

A waste hauler was disqualified for failure to disclose outstanding judgments and other issues on the VBQ, and a supplier was found to have answered falsely on the VBQ regarding certification as a minority owned business.

The IG also reviewed the methods for hiring companies for emergency work, including emergency repairs and emergency demolition for property in Yonkers. The IG recommended that the Department of Housing and Building and the Purchasing Director develop a pre - approved list of contractors that can perform that type of emergency work to avoid any appearance of favoritism or impropriety.

Objectives for 2013

The IG opened investigations and began reviews on matters in 2012 that have not been completed. For example, the IG expects to close matters relating to Section 108 Loans and Commercial Loans and cash receipts in various departments.

Beginning in 2013, the IG is adding a part time researcher, increasing our resources, and allowing us to return to screening potential contractors for the Yonkers Board of Education. Increased staff will also allow the IG to audit Community Based Organizations that receive grant money from the City.

For 2013 the IG intends to ensure payroll integrity by auditing for the accuracy of payments. The IG periodically reviews city contracts, purchasing and work orders, and expects to review those areas in 2013.

Conclusion

The IG remains an integral part of the city government and should play an important role in efforts to streamline government by conducting audits that analyze departmental operations and project budget savings from possible consolidations. The IG's office also plays an important role in ensuring that city agencies run efficiently and reassuring Yonkers taxpayers that their tax dollars are being used appropriately.