

City of Detroit

Office of Inspector General

2020 3rd Quarterly Report

(July 1, 2020 – September 30, 2020)



Ellen Ha, Esq., CIG
Inspector General

October 12, 2020

A Message from the Inspector General



It appears Covid-19 and its affects continue to challenge us. For most, masks have become an essential part of our everyday ware; and still, for many of us, our homes became our offices and classes. Virtual reality found its new meaning in how we have come to conduct business and socialize. Nevertheless, in our ever changing environment, we remain vigilant and resolute to stay resilient.

Below are some examples of how we were able to conduct our business through virtual reality:

In early July, we met with the newly created City's Demolition Department and City's demolition contractors, via Google Meet, to talk about the purpose of our Office under the Charter and to share useful information we've gained over the years through our investigations. During the presentation, we also gave the contractors an overview of the City's Debarment Ordinance, which we have been using to suspend and debar City contractors who were not responsible, as defined under the ordinance. We were also provided with an opportunity to review the City's demolition policy through its new department and provide them with our feedback.

Just about the same time period, we were invited by the Antitrust Division of the US Department of Justice in Chicago to participate, via Zoom, in their presentation to the Detroit Office of Chief Financial Officer, Office of Contracts and Procurement. The presentation was informative and well received by all parties.

My staff and I also partook in Detroit Charter Revision Commission meetings, including different Charter Revision Committee meetings, via Zoom, during this quarter. We continued to hold our weekly staff meetings and quarterly staff evaluation meetings via Google Meet. In addition, as evident in the following pages, we continued to work on our investigations¹, including interviews of witnesses and targets of investigation, through Zoom or Google Meet. It is a brave new world in terms of what we can accomplish and achieve through our virtual world. We just need to work with each other and focus on our respective mission.

The Charter requires our Office to ensure honesty and integrity in how we govern, whether governing is done virtually or not. Therefore, we continue to review incoming complaints to determine whether we have jurisdiction over the allegations, and whether we should open an investigation. We have learned to embrace and use modern technology so that we can continue to investigate allegations of abuse, waste, fraud and corruption where appropriate.

During this quarter, we received a formal inquiry from members of Detroit City Council (Council) why the City of Detroit Office of Inspector General (OIG) does not publish all of our investigation reports and memoranda on the City or the OIG website. *The information regarding what we publish may also be found on our website at <https://detroitmi.gov/government/office-inspector-general> or [detoig.org](https://detroitmi.gov/detoig.org) under the FAQ section.*

¹ Some of our investigations are still on-going. We anticipate completing most of them by the end of this calendar year.

The following is a short response to the inquiry we submitted and presented to the Internal Operations Standing Committee of the Council:

Section 75-306 (2) of the 2012 Charter of City of Detroit (the Charter) requires the OIG to “issue quarterly reports to the City Council and Mayor concerning results of investigations and audits undertaken by the OIG.” It further states “all reports shall be a public record and additionally published electronically on the World Wide Web.”

Therefore, *all OIG’s quarterly reports and formal/final reports have been and will continue to be published on-line*. In addition, from time to time, we exercise our discretion to publish some of our internal memoranda through the City and the OIG’s website at:

<https://detroitmi.gov/government/office-inspector-general> or www.detoig.org.

The purpose of the formal report is to assist public servants, City agencies, contractors and all other bodies that fall under the jurisdiction of the OIG, as well as the public, in preventing waste, abuse, fraud, or corruption by providing a detailed analysis related to the recommendation made in the formal report.

Generally, after an OIG file manager (FM)² completes his/her/their investigation or audit, the FM seeks to close the investigation or initiate an action by submitting a memorandum to the Inspector General (IG), or when necessary, to the Deputy IG (DIG). After the IG or the DIG completes the review of the memorandum, the IG or the DIG must approve the FM’s Request To Close (RTC) or Request To Initiate (RTI) an action. We typically do not publish our internal memoranda, unless we find that the publication the RTC or the RTI may be of a significant public interest. Here are some of the reasons why we exercise such discretion:

1. We want to encourage FMs to be candid and frank with their analyses, interpretations, evaluations, assessments of their findings and recommendations, without any external pressure or influence;
2. Some of the allegations or complaints require our Office to seek and confirm certain information that are personal and private to an individual;
3. Some of the complaints we receive are politically or personally motivated between individuals that lack merit, and cannot be substantiated. However, the allegations by themselves, if published, can be prejudicial or harmful to an individual; and
4. Sometimes the allegations by themselves can identify the complainant even if the complainant wished to remain anonymous and, as such, publication of such memorandum could have a negative impact on submitting or filing any future complaint.

In order to maintain the integrity and the efficiency of our Office, we must maintain our independence. Our independence is dependent on our ability to exercise discretionary authority in the operation of the Office without any undue influence, bias or fear of reprisal. As such, we remain engaged and committed to the privilege and the opportunity that are provided to us through the Charter.

² The FM is typically an OIG attorney, investigator, forensic auditor, law clerk or intern or a combination of OIG staff.

Introduction

Prior to filing for bankruptcy in 2013, the City of Detroit suffered another negative historic moment in 2008. At the request of the Detroit City Council, then Governor Jennifer Granholm presided over a forfeiture hearing of then Mayor Kwame Kilpatrick, who was criminally charged with public corruption and eventually sentenced to a lengthy prison term.

Shortly thereafter, the 2009 Charter Commission was created to review and recommend certain revisions to the Charter. The people of the City of Detroit later adopted the Commission's recommendations on November 8, 2011 to ensure such negative history does not repeat itself. The 2012 Detroit City Charter therefore contains lessons learned in 2008 and the prior years.

More specifically, the 2012 Charter of the City of Detroit created the Office of Inspector General (OIG); and provided the OIG with independent authority "to ensure honesty and integrity in City government."

Although the creation of the OIG appears to make the Inspector General (IG) omnipotent over all branches of City government and contractors, its powers are limited under the Charter.

Specifically, Section 7.5-305 of the Charter limits the jurisdiction of the IG to "the conduct of any Public servant and City agency, program or official act, contractors and subcontractors . . . business entities . . . and persons" seeking certification or who are participating in "any city programs."

Section 7.5-306 of the Charter further restricts the power and the authority of the IG to "investigate. . . in order to detect and prevent waste, abuse, fraud and corruption;" and to report such matters and/or recommend certain actions be taken in accordance with Sections 7.5-308 and 311.

To conduct such investigation, Section 7.5-307 of the Charter provides the IG with the power to subpoena witnesses and evidence; to administer oaths and take testimony of individuals; to enter and inspect premises; and to enforce the same.

The Charter further requires that every public servant, contractor, subcontractor, licensee, applicant for certification to cooperate in the IG's investigation, as failure to do so would subject that person "to forfeiture of office, discipline, debarment or any other applicable penalty." See, Section 7.5-310.

To encourage individuals to report "waste, abuse, fraud and corruption," Section 7.5-313 requires all investigative files to be confidential except where production is required by law; and Section 7.5-315 prohibits retaliation against any persons who participate in the IG's investigation.

In keeping with due process, Section 7.5-311 of the Charter requires that when issuing a report or making recommendations "that criticizes an official act," the affected party be allowed "a reasonable opportunity to be heard at a hearing with the aid of counsel."

Since all governmental bodies must be held accountable in their role, the Charter requires that the IG issue quarterly reports to the City Council and the Mayor, which shall be made public and published on the City's website. See, Section 7.5-306.

The Detroit Office of Inspector General is a proud and active member of the Association of Inspectors General (AIG). The Association is the professional organization for offices dedicated to government accountability and oversight. The Detroit Office of Inspector General was founded on the model principals of the Association. One of the most important roles the AIG plays is establishing and encouraging adherence to quality standards through its certification program.

Each OIG staff member has participated in AIG training and received their certification in their area of discipline.

The Detroit Office of Inspector General joins a growing community of municipal Inspector General Offices across the country including Chicago, Baltimore, New Orleans, New York, and Philadelphia. What used to be a tool for good government for Federal and State Agencies is now making its way to local government.

Office of the Inspector General Organizational Structure: 1st Quarter of 2020

Between January 1, 2020 and March 31, 2020, the City of Detroit Office of the Inspector General (OIG) consisted of the following individuals:

Ellen Ha, Esq., CIG, **Inspector General**;
Kamau Marable, CIG, **Deputy Inspector General**;
Jennifer Bentley, Esq., CIGI, **OIG Attorney**;
Edyth D. Porter-Stanley, CIGA, CFE, **Forensic Auditor***;
Beverly L. Murray, CIGA, CFE, **Forensic Auditor***;
Jacqueline Hendricks-Moore, CIGI, CFE, **Investigator**;
Kelechi Akinbosedede, Esq., CIGI, **Investigator**;
Norman Dotson, **Law Clerk**;
Kasha Graves, **Administrative Assistant**; and
Tracey Neal, **Administrative Assistant**.

It is important to note the City of Detroit has three (3) different agencies which employ auditor(s) who perform unique audit functions for each agency. With three (3) different types of auditors performing different functions, it is common to confuse their activities and purpose.

OAG Auditors

The OAG, like the OIG, is an independent agency pursuant to Article 7.5, Chapter 1 of the 2012 Charter of the City of Detroit (Charter). The Charter provides the OAG the authority to “make audits of the financial transactions, performance and operations of City agencies based on an annual risk-based audit plan prepared by the Auditor General, or as otherwise directed by the City Council. . . .” Therefore, the OAG provides internal audits of the City.

The OAG’s internal auditors conduct reviews of City of Detroit departments and programs, usually on regular time intervals. They report on internal control weaknesses, lack of compliance with policies and procedures, laws and regulations that result in project inefficiencies, and financial abnormalities.

External Independent Auditors

The City of Detroit, through its OAG and Office of the Chief Financial Officer, is also required to perform an audit of the City by external auditors on an annual basis.

The external auditors perform the annual financial audit to certify the financial information is presented fairly in the City’s Comprehensive Annual Financial Report (CAFR). They accomplish this with an approach similar to that of the OAG, but the external auditors examine the financial accuracy of the CAFR, rather than a specific program or department’s operational compliance with policies and procedures.

OIG Forensic Auditors

The American Institute of Certified Public Accountants (AICPA) and the Institute of Internal Auditor (IIA) both state that the primary purpose of external and internal audits is not to detect and identify fraud. However, ***detecting and identifying fraud is the primary purpose of the OIG forensic auditors.***

The OIG's forensic auditors are specially trained to examine various financial records, reveal fraudulent activities, and identify criminal suspects. They are able to use this expertise to identify missing funds, and the reasoning for these missing funds, in conjunction with fraud investigations. As such, the auditors from the OIG often work with the auditors from the OAG; and audits performed by respective agencies complement one another. Some of the OIG investigations which are assigned to the OIG auditors are referrals from the OAG.

The OIG is currently working on policies and procedures to proactively identify fraudulent trends that can help spawn additional OIG investigations and cases for criminal prosecution.

How OIG Complaints Are Received

The OIG receives complaints in the following manner:

Via Internet: www.detoig.org or www.detroitmi.gov/inspectorgeneral

(The website is on a secure server, which allows individuals to provide information on a secure electronic report form 24 hours a day, 7 days a week.)

Via Telephone Hotline: 313-964-TIPS or 313-964-8477

Via OIG Telephone Line: 313-628-2517

Via Facsimile: 313-628-2793

Via Mail: City of Detroit Office of Inspector General
65 Cadillac Square, Suite 3210*
Detroit, Michigan 48226

Via Email: oig@detoig.org and/or Suggestions@detoig.org

Via Personal Visit to the OIG Office at the above address.

Some complaints are referrals from the city's various departments and agencies. The OIG is proud of the professional relationship it maintains with its fellow public servants.

**We anticipate we will be moving from 65 Cadillac Square sometime in the next couple of months to the Ford Building.*

How OIG Complaints Are Resolved

All complaints submitted via the website automatically generate an OIG File with a complaint number.

Most complaints, either audio or on paper will result in an OIG File with a complaint number.

Some complaints received over the telephone directly by OIG personnel may result in a referral to another City department or agency, or to another legal entity. For example, the OIG does not handle matters involving private parties, such as identity theft, land-lord tenant dispute, or personal injury. In these cases, the OIG will refer the complainant to the appropriate entity without creating an OIG File.

Based on initial review of the complaint, one or two of the following may occur:

- 1) An investigative file may be opened and a new file number will be assigned;
- 2) An OIG employee may follow up with the complainant to obtain additional information pertaining to the complaint;
- 3) The OIG will send a letter stating that we have decided not to investigate your complaint or that we have closed your complaint (*sometimes, we are not able to obtain additional information from the complainant which may assist us in determining whether we are able to investigate the allegations made in the complaint*);
- 4) A referral to another department, agency, or legal entity, such as the City's Ombudsman's Office, Detroit Police Department, City of Detroit Buildings, Safety Engineering, and Environmental Department, Wayne County Sheriff or Prosecutor's Office, FBI, Michigan Department of Health and Human Services, or a legal aid office; or
- 5) The OIG will close the complaint without notifying the complainant. This usually occurs when the complainant has not left contact information or if the OIG does not believe it is appropriate to contact the complainant.

(For example, on occasion, two complainants with competing interests will file separate complaints with the OIG. If the OIG has a reasonable suspicion that criminal charges may result from a law enforcement investigation, the OIG will not notify either complainant before referring the case and closing it.)

Based on the OIG's historical data, the majority of complaints received by the OIG do not result in an investigation. However, all of the complaints are carefully reviewed before the complaint is rejected or referred to another agency.

For example, in the first three quarters of 2018, the OIG received 204 complaints but only initiated 32 investigations. One of the primary reasons we did not initiate investigations into all complaints is a common misunderstanding of the OIG's jurisdiction. People often mistake the OIG as an agency which performs inspection of buildings, or as an agency which enforces the law. Therefore, we typically receive an inordinate amount of requests for building inspections. Other common complaints involve parking ticket resolutions, identity theft, and property owner disputes. The OIG attempts to aid each complainant in finding the appropriate entity to resolve their problems. In particular, our administrative support staff works tirelessly to ensure that each

complaint is addressed appropriately in a professional manner. Therefore, the initiated investigations-to-complaints ratio should not be confused with the OIG's workload.

How OIG Investigations Are Conducted and Resolved

The OIG may initiate an investigation based on information received in the complaint or on its own initiative.

An investigation is initiated when an Investigative File is opened and an auditor(s) and/or investigator(s) is/are assigned to the file.

An investigation would generally involve one or more of the following:

- 1) Interview of complainant(s) and/or witness(es);
- 2) Acquisition of evidence and/or documents and review of the same; and
- 3) Analyses of the evidence and/or documents reviewed, including forensic audit or review.

An OIG investigation would result in findings by the OIG, which may substantiate the complainant's allegation of waste, abuse, fraud or corruption in the City's operation or personnel or that of its contractors and/or subcontractors.

In some instances, although the complainant's allegations do not equate to waste, abuse, fraud or corruption, during the investigation of the allegations, the OIG may find other instances of waste, abuse, fraud or corruption. In such instances, the OIG will launch a separate investigation on its own initiative.

Likewise, if the investigation reveals that criminal activity may be involved, pursuant to Section 7.5-308 of the 2012 Charter of the City of Detroit (the Charter), the Inspector General is required to "promptly refer the matter to the appropriate prosecuting authorities."

The OIG summarizes the findings of the investigation in the OIG's final report. However, pursuant to Section 7.5-311(1) of the Charter, "no report or recommendation that criticizes an official act shall be announced until every agency or person affected [by the report or recommendation] is allowed a reasonable opportunity to be heard at a hearing with the aid of counsel."

The Inspector General conducts the hearing pursuant to Sections 2-111 and 7.5-311 of the 2012 Charter, and in accordance with the OIG Administrative Rules for Hearings.

Lastly, Section 7.5-311(2) of the Charter requires "after the hearing, if the Inspector General believes it necessary to make a formal report, a copy of any statement made by an agency or person affected shall accompany the report."

The following pages contain OIG's statistics and summaries of investigations we closed during the third quarter of Calendar Year 2020. These pages, however, do not accurately reflect all of our accomplishments this quarter, as we still have many cases that cannot be disclosed at this time.

2020 3rd QUARTER OIG STATISTICS

(July 1, 2020 – September 30, 2020)

Sources of Complaints Received by the OIG in the 3rd Quarter

Complaint Source	Number Received
Internet (Website)	18
Telephone Hotline	2
OIG Telephone	3
Mail	0
Personal Visit	0
Email	20
OIG Initiation	0
Total	43

Categories of Complaints Received by the OIG in the 3rd Quarter

Categories of Complaints	Number Received
Waste	1
Abuse	14
Fraud	4
Corruption	2
Other	22

How Complaints Were Resolved by the OIG in the 3rd Quarter

Open investigative files	12
Decline investigation or Referral	41

Categories of OIG Investigations Initiated by the OIG in the 3rd Quarter

Categories of Investigations	Number Initiated
Waste	0
Abuse	8
Fraud	2
Corruption	1
Other	1

Status of OIG Investigations in the 3rd Quarter

Open	Closed
10	3

Short Summary of Investigations Closed in the 3rd Quarter of 2020

The following reflects three (3) investigations the OIG closed in the 3rd Quarter of 2020 with an accompanying synopsis for each investigation. We anticipate closing many more in the next quarter.

20-0005-INV

On February 20, 2020 the OIG received a referred complaint from the City of Detroit Board of Ethics. The complaint alleged a city contractor for the Bridging Neighborhood Program (BNP) – Home Swap Program, received preferential treatment in the awarding of contracts for property renovations. The OIG investigation found no evidence of fraud, waste, abuse or corruption involving a city contractor being awarded contracts by BNP.

However, the OIG investigation revealed that one city contractor was awarded about 60% of all BNP's contracts in 2018 and 2019. In 2019, BNP revised its contractor evaluation criteria. The OIG found that some of BNP's 2019 revisions of its contractor evaluation criteria resulted in an unfair advantage, which resulted in one city contractor receiving 60% of BNP's contracts. Specifically, the revisions prevented first time contractors from being eligible to bid on and be awarded more than one contract at a time, while contractors that had previously been awarded and completed contracts were eligible to bid on other BNP contracts. Consequently, this created an unfair advantage for contractors that had previously received a BNP contract over those contractors that had not received a BNP contract. Additionally, the OIG found that BNP's contractor evaluation ratings were problematic, because of their subjective nature and inconsistencies in how contractors were rated by BNP for the same issues and problems.

Therefore, the OIG recommended that BNP consider revising its contractor evaluation criteria to eliminate the 2019 revisions which resulted in unfair advantages in the competitive bidding process. While these revisions did not violate any City policy, it resulted in a process that lacked fairness in what is supposed to be an open and competitive process. In accordance with the 2012 Charter of the City of Detroit, the OIG forwarded a draft copy of its investigation findings to BNP and OCP. BNP and OCP forwarded a joint written response to the OIG.

Both BNP and OCP agreed with the OIG's findings regarding inconsistencies in BNP's Contractor Evaluation Report. In March of 2020, BNP began to revise this process. However, both disagreed with the OIG's findings that the BNP's 2019 revisions of its contractor evaluation criteria, specifically its one-contract-at-a-time restriction, created an unfair advantage in the bidding process. Both provided no new evidence or additional information to refute the OIG's findings pertaining to contract revision. Therefore, with respect to this portion of our findings, we stand by our findings and recommendations. .

20-0022-INV

On August 11, 2020, the City of Detroit Office of Inspector General (OIG) received a complaint regarding the sale of a side lot located at 21720 Kingsville St. The complaint alleged that the Detroit Land Bank Authority (DLBA) abused its authority when the DLBA wrongfully sold a lot to her neighbor, that the complainant believed she owned.

After reviewing the DLBA Side Lot Sales Policies, the Wayne County Treasurer Quit Claim Deed for the property, and interviewing the complainant and DLBA staff, the OIG did not find that DLBA abused its authority. However, based on our investigation, we found information that may warrant additional investigation from the United States Postal Service Officer of Inspector General (USPS OIG). Therefore, we referred the matter to the USPS OIG and closed our investigation.

20-0024-INV

On September 18, 2020, the City of Detroit Office of Inspector General (OIG) received a complaint alleging that City of Detroit Assistant Corporation Counsel Alex Henderson and the Law Department abused their authority by failing to recuse themselves from rendering services to the City of Detroit Board of Ethics (Board) while simultaneously representing public servants.

Based on our review of the 2012 City of Detroit Charter (Charter), the City of Detroit Ethics Ordinance (Ethics Ordinance), and interview of Mr. Henderson, the OIG found that Mr. Henderson and the Law Department did not abuse their authority. Accordingly, the case was closed.