

City of Detroit

Office of the Inspector General

2018 3rd Quarterly Report

(July 1, 2018 – September 14, 2018)



Ellen Ha, Esq.
Inspector General

September 28, 2018

A Message from the Inspector General

I would first like to thank the members of the Detroit City Council for allowing me to serve the City as its second Inspector General (IG) as the City continues to build a better and brighter future for everyone who lives in the City, works in the City, believes in the City, and enjoys the City.



Secondly, I would like to thank James Heath, my predecessor, for establishing a solid foundation for the Office and staffing it with dedicated and competent individuals.

Third, I would like to thank my staff, who work tirelessly to preserve honesty and integrity in the City government. Since my first day in Office, they have embraced me as a new family member, afforded me respect as the head of the office, and shared with me the wisdom and knowledge they have gained over the years. As my term begins, they continue to guide, counsel, and support me in my new role.

The Office of the Inspector General's purpose is "to ensure honesty and integrity in City government by rooting out waste, abuse, fraud, and corruption." Waste, abuse, fraud or corruption committed by a government official, employee, contractor and/or any person affiliated with the governmental entity is like a disease that spreads unless it is first detected, contained, and treated or rooted out.

While actions generally speak for themselves, in a government setting, sometimes perception can be just as important. Government officials, employees and contractors must not only act in good faith, but must project transparency with whom they interact. When one person looks or acts badly, the image of the entire City is affected by that one person's conduct.

The power of government officials is derived from the people and those who work for the government are entrusted by the people to conduct themselves to the highest professional standards. Integrity is what is perceived by the public through the honest conduct of the government. Honesty requires transparency in our official conduct and the people can only gain our trust when we act in the best interest of those whom we serve. The City operates under the Charter, and like all departments and agencies identified in the Charter, the OIG shall operate within the confines of the Charter to ensure honesty and integrity in City government. Honesty and integrity are not ideals or principles; they are ways with which we must govern and conduct business in the City. Honesty garners trust and integrity yields respect. People must be able to trust and respect those who govern at their behest. Lest we forget in Detroit, the OIG is here to remind ourselves of the same.

The following pages of this report contain a brief description of the duties and responsibilities of the Office of Inspector General (OIG) under the City Charter, including how the Office operates; how complaints are processed and resolved; relevant information pertaining to investigations initiated and resolved; and administrative hearings conducted during the 3rd quarter of Calendar Year 2018 (July 1, 2018 – September 14, 2018)¹.

¹ My tenure as the Inspector General began on August 20, 2018, during the 3rd quarter of 2018. However, this quarterly report will cover the activities of the OIG from July 1, 2018 – September 14, 2018, which covers the entire 3rd quarter of 2018 and not just my time.

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 prohibits and all investigative files deemed 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: 3rd Quarter of 2018

Between July 1, 2018 and September 14, 2018, the organizational structure of the City of Detroit Office of the Inspector General consisted of the following:

James Heath, Esq., **Inspector General**;
Ellen Ha, Esq., **Inspector General** (as of August 20, 2018);
Kamau Marable, **Deputy IG**;
Jennifer Bentley, Esq., **OIG Attorney**;
Edyth D. Porter-Stanley, **Forensic Auditor***;
Beverly L. Murray, **Forensic Auditor***;
Jacqueline Jackson, **Investigator**;
Kelechi Akinbosede, Esq., **Investigator**;
Derek Miller, **Investigator**;
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 function 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 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 accuracy of the financial information presented 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.

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 identify 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 or 313-628-2114

Via Facsimile: 313-628-2793

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

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.

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."

2018 3rd QUARTER OIG STATISTICS

(July 1, 2018 – September 14, 2018)

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

Complaint Source	Number Received
Internet (Website)	71
Telephone Hotline	6
OIG Telephone	3
Mail	0
Personal Visit	4
Email	6
Total	90

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

Categories of Complaints	Number Received
Waste	1
Abuse	35
Fraud	35
Corruption	10
Other	9

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

Open investigative files	10
Decline investigation or Referral	80

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

Categories of Investigations	Number Received
Waste	0
Abuse	3
Fraud	5
Corruption	2

Investigations Referred to Law Enforcement in the 3rd Quarter

Cases Referred	1
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Status of OIG Investigations in the 3rd Quarter

Open	Closed
10	131

Short Summary of Investigations Closed in the 3rd Quarter of 2018

The following reflects one hundred thirty one (131) investigations the OIG closed in the 3rd Quarter of 2018 with an accompanying synopsis for each investigation.

2013-0005

The complainant alleged that Detroit Department of Transportation (DDOT) Transportation Equipment Operators² (TEOs) were bribing supervisory staff to enter time and assignments into the payroll system that employees did not actually work. The OIG found no evidence that any TEO bribed supervisory staff to enter time/assignments into the payroll system for work they did not perform. However, after reviewing the requested payroll records, the OIG determined that the DDOT paid several TEOs disproportionate overtime. In addition, the OIG found that the DDOT's approval processes related to "Late Time Claim Report" forms and "Extra Work" assignments were inadequate to detect and prevent falsification of TEO's overtime.

2013-0024

The OIG received a complaint alleging that a development project did not comply with Executive Order 2017-1³. The Order stipulates that in the event of noncompliance, the violator must make "monthly financial penalties" payable to the City. The Department of Civil Rights, Inclusion and Opportunity (CRIO) hired a vendor to monitor each project's compliance with this ordinance and the related penalties. The OIG determined that the Order did not ensure projects would employ any city resident applicants, such as the complainant, even if the vendor did not meet the residency threshold. Therefore, we found there was no evidence of waste, fraud, abuse of corruption in this instance. However, the OIG concluded that in the future, CRIO should be the appropriate entity to investigate similar allegations.

2013-0033

The complainant alleged that the Detroit Water and Sewerage Department (DWSD) inappropriately awarded a promotion to an employee who submitted his application after the deadline and did not possess the minimum requirements for the position. After an initial review of the documentation related to the promotion, the OIG referred this case to the Human Resources Department's (HRD) Labor Relations Division and closed the case.

2013-NA-0045

The complainant alleged that an employee embezzled funds from a City department. The OIG examined the funds collected and expended, which related to the alleged embezzlement, and reviewed the department's policies and procedures. We found no evidence to support the complainant's allegation of embezzlement, but did determine that the employee violated the department's policies and procedures.

2013-DA-0073

The complainant alleged that the Buildings, Safety Engineering, and Environmental Department (BSEED) inspected and wrongfully approved a contractor's defective work, which misled the complainant to believe that he was buying a newly renovated property. The Central Detroit Christian Community Development Corporation monitored the renovation of the home, in

² Commonly referred to as bus drivers.

³ Effective September 1, 2007 all City of Detroit project construction contracts shall provide that at least 51% of the workforce shall be bona-fide Detroit residents. Additionally, Detroit residents perform 51% of the hours worked on the project.

conjunction with the Detroit Land Bank Authority (DLBA), Planning & Development Department (P&DD), and BSEED. The funds used for this project came from Neighborhood Stabilization Program, which triggered multiple levels of oversight from each above-referenced entity. Each entity concluded the renovations were appropriate and in compliance with city policies and procedures. After reviewing corresponding documentation for the renovation, the OIG found no reason to dispute the conclusions and closed the case with no action.

2013-0076

The complainant alleged that the owners of a commercial property received preferential treatment from the BSEED and the Board of Zoning Appeals (BZA), which directly affected the complainant's private business. The BZA granted a controlled use waiver to the complainant's competitor despite spacing restrictions, which the complainant alleged violates existing city ordinances. The OIG concluded that there was insufficient evidence to substantiate the allegations and closed the case with no action.

2014-0002

An individual posted a video on Facebook showing a DDOT TEO exiting a bus with passengers on board and refusing to continue his route. The OIG reviewed the footage and determined that the TEO's behavior constituted an abuse of authority. The OIG referred these findings to DDOT management with a recommendation for appropriate discipline to the TEO.

2014-DA-0238

The complainant alleged that there were irregularities with the City of Detroit's bid for commercial insurance for its fleet of vehicles. The City of Detroit hired a consultant under a personal services contract to assist the City with this process. The OIG concluded the consultant acted outside the scope of his authority in interacting with vendors on behalf of the City. The OIG recommended that the General Services Department (GSD) and the Office of Contracting and Procurement (OCP) take appropriate steps for the remaining duration of the personal services contract to ensure the contractor is adequately performing the duties outlined in the contract.

2015-DA-0041

The complainant alleged that the Detroit Municipal Parking Department (MPD) abuses its authority by issuing delinquency notices without first issuing parking tickets at the time of the alleged infraction. The complainant attributed the activity to an effort by MPD to increase city revenue. The OIG determined that the MPD incurs additional costs to collect delinquent parking tickets. Furthermore, the Parking Enforcement Division (PED) reduces fees for delinquent tickets on a case-by-case basis, and during designated amnesty periods. Therefore, the OIG found no evidence to support the complainant's allegations.

2015-DA-0043

The complainant alleged that hiring officials in the HRD and the P&DD showed bias in the application and interview process for a Principal Planner position. The complainant alleged that the HRD scored the complainant artificially low in the interview portion because the complainant made negative public comments about the P&DD. After analyzing all of the application documents, the OIG found that the complainant had an average interview score. Even when the OIG re-evaluated the complainant's application without using the interview score, the applicant still did not score high enough to be the best applicant. Therefore, the OIG did not substantiate the allegation and closed the case with no action.

2015-DA-0052

The complainant alleged that the MPD issued tickets to vehicles that parked in front of a fire hydrant that has been broken for years. In addition, the complainant alleged a city vehicle impeded traffic after parking for two hours on the corner of Russell Street and East Fisher Freeway Service Drive in the traffic lane. The OIG contacted the Detroit Water and Sewerage Department (DWSD) to report the disabled fire hydrant, leading to its repair. However, because the complainant was unable to provide the vehicle I.D. number, which was crucial to our investigation pertaining to the city vehicle, the OIG closed the case.

2015-0067

The complainant alleged that the DWSD acted inappropriately by entering into a contract with EMA despite the Detroit City Council's rejection of the proposed contract with EMA. The OIG found that Court Orders and jurisdictional issues allowed the DWSD to proceed with the contract without the approval of the City Council. Therefore, the OIG found no evidence to suggest that DWSD engaged in waste, abuse, fraud, or corruption.

2015-CA-0077

The complainant alleged work done on his house was falsely inspected and wrongfully approved by a BSEED inspector. The OIG found that the contractor who performed the work purchased three (3) permits from the BSEED for work on the complainant's property. BSEED records showed that they had inspected and approved the work on only two (2) of the permits. After the BSEED was made aware of the allegation, the BSEED conducted a third inspection, and found the work was in violation of building codes. The BSEED informed the complainant of their findings and the OIG closed the case with no evidence of wrongdoing.

2015-0083

The complainant filed a complaint with the OIG alleging that her prior complaint with the OIG, Case No #2014-0017, did not address all of her allegations. Based on our review of the closed investigation, we determined that the complainant misunderstood the OIG's initial findings, as some of the allegations made by the complainant were not within the OIG's purview under the City Charter.

2015-0140

The OIG received a complaint alleging unacceptable conditions and mismanagement at Detroit Animal Control (DAC). After a review of the facility and corresponding records, the OIG found that, though DAC needed a new facility, they were operating in compliance with City Ordinances and had no pending building violations. Therefore, the OIG was unable to substantiate that any waste, abuse, fraud, or corruption occurred.

2015-0156

The OIG identified a bank deposit shortage related to a BSEED bank account. After reviewing additional documentation related to operations, the OIG found that the appearance of impropriety was the result of a BSEED employee attempting to rectify a clerical mistake. Therefore, there was no evidence of wrongdoing and the OIG closed the case.

2015-DC-0174

The OIG was contacted by the City of Detroit Law Department regarding a proposed change to the City's Election Ordinance. The proposed ordinance language stated that "complaints for violating the ordinance shall be addressed to the Inspector General for a violation determination. A formal recommendation must be made within 10 days." The OIG and the Law

Department determined the proposed language did not fit within the scope of jurisdiction of the OIG.

2015-0191

The complainant filed a complaint with the OIG and the BSEED alleging that a contractor who performed work on the complainant's property did not acquire all of the required City permits to perform the necessary work. Therefore, the BSEED did not inspect the contractor's work for compliance with city codes. Prior to the OIG's involvement, BSEED investigated the complainant's allegations and found that the contractor did not pull the required permits. BSEED issued building violation notices to the contractor and the OIG closed the case.

2016-0012

The complainant alleged that a City of Detroit employee was fraudulently obtaining overtime pay. The OIG reviewed the employee's payroll records and interviewed the employee's coworkers, supervisors, and the employee in question. The OIG found no evidence the employee was paid any overtime that the employee did not earn. However, the OIG recommended that the department make more efforts to determine whether the department is utilizing staff in a time-efficient manner, in an effort to curb the need for overtime.

2016-DC-0030

The complainant alleged that a BSEED inspector had an inappropriate and illegal relationship with a City of Detroit property owner. The BSEED inspector in question worked a second job as a parking attendant for a property owner. The complainant believed that the inspector was giving the property owner preferential treatment on his many other Detroit properties because of his secondary employment relationship with the property owner. The OIG interviewed members of BSEED, including the inspector, and the property owner and found no evidence of any illegal activity.

2016-0041

The complainant alleged that CRIO was grossly negligent when investigating a sexual harassment allegation. The OIG interviewed the CRIO employee who was responsible for the investigation and reviewed the documentation the employee generated and maintained. Based on our review of the matter, we found the CRIO investigator took appropriate steps in the investigation. The investigator interviewed the parties involved in the allegation, and thereafter, properly made a professional determination. The OIG's review did not reveal any evidence to substantiate the complainant's allegation.

2016-0046

The Department of Administrative Hearings (DAH) contacted the OIG alleging one of their employees had embezzled funds. The OIG confirmed the funds were missing and identified internal control weaknesses that may have contributed to the situation and could lead to a similar scenario in the future. Prior to referring this case to the OIG, the DAH released the offending employee from employment. Therefore, the OIG was unable to interview the former employee, which resulted in the closure of this case.

2016-DA-0058

The complainant alleged that GSD Director, Brad Dick, directed employees to perform services that were outside the scope of contracts in order to avoid soliciting bids, which ultimately led to contract overages. The OIG reviewed the contracts and the services received under each contract and found no evidence to substantiate that the director engaged in waste, abuse, fraud, or corruption in adding services to existing contracts, or that his actions were purposely wasteful.

2017-DA-0022

The complaint alleged that a Detroit Fire Department (DFD) official was involved in decisions related to a DFD contract despite his alleged previous financial ties to the firm interested in the bid, and that the official may have had inappropriate direct communication with bidders. Though the OIG found evidence to support both allegations, there was no evidence that either action resulted in an unfair advantage to any bidder. The OIG is engaged in ongoing discussions with the OCP to strengthen internal controls and disclosure requirements to dissipate any appearance of impropriety in future bids.

17-0056-INV

The complainant alleged that BSEED granted a competing Medical Marihuana Caregiver Center (MMCC) a business license in error and in doing so prevented him from being able to obtain a MMCC license due to the Detroit Zoning Ordinance's spacing requirements. The OIG examined the path of both MMCC applications and determined that BSEED's Zoning Division granted the alleged offending MMCC a conditional approval while there was an outstanding community appeal against this MMCC. Therefore, the MMCC moved ahead of the complainant's MMCC application in error. The OIG conducted an interview with the BSEED employee that should have noted the community appeal, and determined that there was enough evidence to refer this investigation to the Detroit Police Department (DPD). However, the DPD determined that the employee's actions were not criminal. Since then, both MMCC parties embroiled themselves in litigation. The OIG determined it would be inappropriate for the OIG to interfere in the litigation. Therefore, the OIG closed the case with no action.

2017-DW-0058

The OIG received a referral from the City of Detroit Office of Auditor General (OAG) regarding potential irregularities in the demolition of a residential property. This included conflicting information on various documents as well as the overall circumstances surrounding the demolition. The OIG conducted interviews with individuals involved in the demolition and reviewed relevant policies and procedures. Based on this review, the OIG found no evidence of waste, abuse, fraud, or corruption.

2017-0061

A city employee submitted a complaint to both the OIG and CRIO alleging that an administrative employee with the Office of the Chief Financial Officer (OCFO) Assessor's Division abused his authority by creating a hostile work environment. The OIG determined that the complaint fell within CRIO's jurisdiction, and thus closed the case with no action.

17-0069-INV

A former city employee alleged that a city official attempted to harass her. She alleged that after she resigned from her position, this official called a potential employer and provided an unfavorable recommendation. The OIG was unable to substantiate that this behavior constituted an abuse of authority, as the City of Detroit does not have a policy that prohibits a supervisor from giving a reference for a former employee. Furthermore, we determined that CRIO would be the more appropriate agency to investigate harassment allegations. As such, the OIG closed this case with no action.

18-0007-INV

This was the case number assigned to the work that the OIG conducted in coordination with the Law Department and the OCP to draft the Debarment Ordinance (below). The Debarment Ordinance was required pursuant to Section 3-608 of the 2012 City of Detroit Charter. On July 31, 2018, the Detroit City Council unanimously passed the Debarment Ordinance. This ordinance identifies the Inspector General as the chief investigative agent for all allegations or instances of illegal conduct or unethical contractual activity, and may debar a contractor for a period commensurate with the seriousness of the offense, not to exceed twenty (20) years.

18-0015-INV

The Law Department forwarded a complaint to the OIG that alleged that Nationwide Recovery, Inc. (Nationwide), a city towing contractor, was involved in unethical and/or criminal activity related to possible car thefts and the company's efforts to recover and tow stolen vehicles. The OIG had significant concerns over Nationwide's ability to act as a responsible contractor and recommended that the MPD and the DPD not consider Nationwide's bids for the present towing contract. At Nationwide's request, the OIG held an administrative hearing on May 30, 2018. Based on the evidence presented at the hearing, as well as additional evidence gathered by the OIG, the OIG upheld their recommendation.

Unemployment Insurance Agency (UIA) Cases

The complainant alleged several City of Detroit employees fraudulently obtained unemployment benefits while working full-time. The OIG and the State of Michigan UIA conducted a joint investigation and found the employees in question improperly collected unemployment benefits. However, because the UIA found there was no evidence of intentional fraud, the individuals associated with these cases have not been charged with any crime. Nevertheless, the employees were ordered to pay restitution, which amounted to \$153,034.50. The following are the list of cases reviewed and investigated by the OIG in connection with the UIA.

2014-NA-0434

2014-NA-0337

2014-NA-0432

2014-NA-0350

2014-NA-0346

2014-NA-0035

2014-NA-0039

2015-NA-0133

2014-NA-0135

2014-NA-0355

2014-NA-0178

2014-NA-0046

2014-NA-0215

2015-NA-0109

2015-NA-0026

2014-NA-0415

2014-NA-0303

2014-NA-0335

2014-NA-0045

2014-NA-0286

2014-NA-0414

2014-NA-0416

2014-NA-0236
2015-NA-0128
2014-NA-0352
2014-NA-0406
2014-NA-0048
2014-NA-0206
2014-NA-0262
2014-NA-0375
2014-NA-0040
2014-NA-0318
2014-NA-0166
2014-NA-0158
2014-NA-0161
2015-NA-0116
2014-NA-0379
2014-NA-0210
2014-NA-0104
2014-NA-0256
2014-NA-0232
2014-NA-0044
2014-NA-0288
2014-NA-0160
2014-NA-0295
2014-NA-0152
2014-NA-0223
2014-NA-0323
2014-NA-0339
2015-NA-0117
2014-NA-0324
2014-NA-0283
2014-NA-0320
2014-NA-0168
2015-NA-0084
2015-NA-0118
2014-NA-0156
2014-NA-0359
2014-NA-0173
2015-NA-0165
2014-NA-0205
2014-NA-0226
2015-NA-0134
2014-NA-0306
2014-NA-0196
2014-NA-0171
2015-NA-0022
2014-NA-0290
2015-NA-0130
2014-NA-0321
2014-NA-0258

2014-NA-0338
2015-NA-0129
2014-NA-0172
2015-NA-0132
2017-NA-0008
2014-NA-0159
2015-NA-0115
2015-NA-0114
2014-NA-0400
2014-NA-0392
2014-NA-0384
2014-NA-0381
2014-NA-0368
2014-NA-0366
2014-NA-0336
2014-NA-0332
2014-NA-0254
2014-NA-0291
2014-NA-0292
2014-NA-0243
2014-NA-0235
2014-NA-0231
2014-NA-0230
2014-NA-0181
2014-NA-0162
2014-NA-0041
2014-NA-0034
2014-NA-0093
2015-NA-0110
2015-NA-0309

Noteworthy Items for the 3rd Quarter of 2018

OIG Administrative Hearings

On May 30, 2018, the Inspector General conducted a five-hour hearing on the Inspector General's recommendation to Mayor Mike Duggan regarding Nationwide Recovery, Inc. During the hearing, Nationwide's attorney presented evidence and testimony in an attempt to refute the information relied upon by the OIG in making its recommendation. For more information, please see case summaries under 18-0015-INV.

Significant Case

The OIG received a tip from Auditor General Mark Lockridge regarding some irregularities in City garnishment payments over \$250,000. An OIG investigation was able to pinpoint the employee responsible for the missing payment. The OIG presented the case to the Detroit Police Department, who then turned the case over to the Federal Bureau of Investigation (FBI). The former employee confessed to the FBI agents and entered a guilty plea. The former employee was sentenced to 18 months and ordered to pay restitution to the City of Detroit.

The OIG is currently working on the final report for this case. The case synopsis will appear in the OIG's 2018 4th Quarter report.

The City of Detroit Debarment Ordinance

Below is a copy of the City of Detroit Debarment Ordinance passed on July 31, 2018. For more information, please see case summaries under 18-0007-INV.

The OIG has initiated proposed debarment proceedings this quarter pursuant to the City's Debarment Ordinance against two (2) contractors and three (3) of their employees who failed to cooperate in the OIG's investigations. Further details for these matters will be reported in the OIG's 4th Quarterly Report.

SUMMARY

This proposed ordinance amends Chapter 18 of the 1984 Detroit City Code, *Finance and Taxation*, Article V, *Purchases and Supplies*, by adding Division 11, *Debarment* to include Sections 18-11-1, *Purpose*, 18-11-2, *Scope*, 18-11-3, *Definitions*, 18-11-4, *Effect of debarment order*, 18-11-5, *Grounds for debarment*, 18-11-6, *Investigation and request for documents and information*, 18-11-7, *Initiation of proceedings*, 18-11-8, *Final decision*, 18-11-9, *Notice of decision*, 18-11-10, *Interim suspension*, 18-11-11, *Appeal*, 18-11-12, *Period of debarment*, 18-11-13, *Application of remedies*, 18-11-14, *Effect on other ordinances*, 18-11-15, *Duty to report illegal acts*, and 18-11-16, *List of debarred contractors*, to provide a debarment ordinance for City vendors and contractors doing business with the City of Detroit.

1 BY COUNCILMEMBER _____:

AN ORDINANCE to amend Chapter 18 of the 1984 Detroit City Code, *Finance and Taxation*, Article V, *Purchases and Supplies*, by adding Division 11, *Debarment* to include Sections 18-11-1, *Purpose*, 18-11-2, *Scope*, 18-11-3, *Definitions*, 18-11-4, *Effect of debarment order*, 18-11-5, *Grounds for debarment*, 18-11-6, *Investigation and request for documents and information*, 18-11-7, *Initiation of proceedings*, 18-11-8, *Final decision*, 18-11-9, *Notice of decision*, 18-11-10, *Interim suspension*, 18-11-11, *Appeal*, 18-11-12, *Period of debarment*, 18-11-13, *Application of remedies*, 18-11-14, *Effect on other ordinances*, 18-11-15, *Duty to report illegal acts*, and 18-11-16, *List of debarred contractors*, to provide a debarment ordinance for City vendors and contractors doing business with the City of Detroit.

2 IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF DETROIT THAT:

3 Section 1. Chapter 18 of the 1984 Detroit City Code, *Finance and Taxation*, Article V,
4 *Purchases and Supplies*, be amended by adding Division 11, *Debarment*, consisting of sections
5 18-5-1 through 18-5-16, to read as follows:

6 CHAPTER 18. FINANCE AND TAXATION

7 ARTICLE V. PURCHASES AND SUPPLIES

8 Division 11. Debarment

9 Sec. 18-11-1. Purpose.

10 (a) The City shall solicit offers from, award contracts to, consent to subcontracts with,
11 or otherwise do business with, responsible contractors only. To effectuate this policy, the
12 debarment of contractors from current and/or future City work may be undertaken.

1 (b) The serious nature of debarment requires that this sanction be imposed only when
2 it is in the public interest. Debarment shall be imposed in accordance with the procedures
3 contained in this division.

4 **Sec. 18-11-2. Scope.**

5 (a) This division provides for debarment of contractors as a remedy available to the
6 City separate and apart from sanctions that may be imposed under any other Article of this Code,
7 or any legal remedies or prosecution that may be available to the City under applicable law.

8 (b) All City contracts and contractors, and any persons or entities doing business with
9 the City, are subject to this ordinance.

10 (c) Any contractor, or persons seeking a contract with the City, shall report to the
11 Office of the Inspector General any improper, unethical or illegal activity or requests made by
12 elected officers of the City, including those acting on their behalf, or any public servant in
13 connection with any contract.

14 **Sec. 18-11-3. Definitions.**

15 Chief Procurement Officer means the Director of the Office of Contracting and
16 Procurement.

17 Contract means any business relationship whereby goods or services are provided to or for
18 the benefit of the City, including but not limited to business relationships evidenced by a contract,
19 subcontract or other writing.

20 Contractor means a party who, or which, seeks to enter, or enters, into a contract with the
21 City for the delivery of goods or services. For the purposes of this division, the terms "vendor"
22 and "consultant" have the same meaning as contractor.

1 Conviction means a final conviction, the payment of a fine, a plea of nolo contendere if
2 accepted by the court, a finding of guilt, or a probate court disposition on a violation regardless of
3 whether the penalty is rebated or suspended.

4 Day means a calendar day.

5 Debarment means action taken by the City to exclude a person from acting as a contractor
6 for a specified period of time.

7 Elective officers means the Mayor, each member of the City Council, elected Board of
8 Police Commissioners and the City Clerk.

9 Inspector General means office established by Section 7.5 of the Charter, Independent
10 Departments and Offices, Chapter 3, Inspector General.

11 Person means a natural person, partnership, fiduciary, association, corporation or other
12 entity.

13 Preponderance of the evidence means proof by information that as a whole shows that the
14 fact sought to be proven is more probable than not.

15 Wrongful conduct means any conduct listed in Section 18-11-5 of this Code.

16 **Sec. 18-11-4. Effect of debarment order.**

17 (a) Debarment of a contractor constitutes a finding under this Code that the City does
18 not believe it to be in the public interest for the City to do business with the contractor, and operates
19 as the City's rejection of any bid or contract submitted by the contractor during the debarment
20 period. Any bid or contract submitted by a debarred person shall immediately be returned after
21 the bids are opened without requirement of any further action.

22 (b) No debarred contractor is eligible to serve as a subcontractor or as a goods, services
23 or materials supplier for any contract.

1 (c) Debarment constitutes cause for immediate termination of the contractor under any
2 existing contract.

3 (d) When making a debarment decision, the Office of the Inspector General, in
4 consultation with the Chief Procurement Officer, may take into consideration whether the
5 debarment affects any contract or subcontract existing at the time of the debarment decision.

6 **Sec. 18-11-5. Grounds for debarment.**

7 (a) A contractor may be debarred, based upon a preponderance of the evidence, for:

8 (1) Violation of the terms of a City contract or subcontract, or a contract or subcontract
9 funded in whole or in part by City funds, such as failure to perform in accordance
10 with the terms of one or more contracts; or the failure to perform, or unsatisfactory
11 performance of one or more contracts;

12 (2) Failing to comply with state, federal or local laws or regulations applicable to the
13 performance of a contract;

14 (3) Violation of a City ordinance, City procurement or other policies or administrative
15 order that has the gravity or sufficiency to justify debarment. The Inspector General
16 shall make a determination on whether the violation has reached a level justifying
17 debarment based upon the totality of the circumstances creating the violation;

18 (4) Knowingly, or negligently using a debarred contractor as a subcontractor;

19 (5) Evidence of (i) the contractor or the contractor's officers or owners, or (ii) any
20 person or entity having a direct or indirect financial or beneficial interest in the
21 contractor or its operations; engaging in a criminal offense or civil misconduct
22 that evidences a lack of business integrity or business honesty, including but not
23 limited to, embezzlement, theft, theft of services, forgery, bribery, fraud, tax

1 evasion, falsification or destruction of records, making false statements, or
2 receiving stolen property, or violations of laws relating to the obtaining or
3 performance of public contracts;

4 (6) Submission of false or misleading documentation, or making false or misleading
5 statements;

6 (7) Failure to report unethical conduct by a public servant that has a duty to the City of
7 Detroit; or

8 (8) Any other conduct that evidences the inability of the contractor to act responsibly
9 in its conduct on behalf of the City.

10 (b) The conduct giving rise to the debarment may be based upon actions taken in
11 connection with work undertaken for the City, or other public entities, or private entities.

12 (c) There is no statute of limitations on investigations, findings of violation of the
13 debarment policy or the initiation of debarment proceedings.

14 **Sec. 18-11-6. Investigation and request for documents and information.**

15 (a) In addition to reporting under Section 18-11-2(c) of this Code, the Mayor, City
16 Council, Corporation Counsel, Chief Procurement Officer, Department Director, public servant,
17 or member of the public may refer a matter to the Office of Inspector General to investigate
18 grounds for debarment related to City contracts and contractors.

19 (b) Following receipt of the referral, the Office of the Inspector General shall
20 investigate whether there is reasonable cause to believe wrongful conduct has occurred.

21 (1) The Inspector General shall act as chief investigative agent; and may request the
22 assistance of the Chief Procurement Officer and Corporation Counsel as necessary
23 in the debarment investigation.

1 (2) The Inspector General may request documents and information, including but not
2 limited to corporate records, contracts, business records, and ledgers, and tax
3 returns, in the course of the investigation. The contractor's failure to provide
4 documents and information reasonably requested by the Inspector General may
5 constitute grounds for debarment. If the Contractor submits documents that are
6 exempt from disclosure under the Michigan Freedom of Information Act, such as
7 state, federal or local income tax returns, then such materials will be held in
8 confidence for use solely in connection with the debarment proceeding. If it
9 becomes necessary to use the confidential materials in a public forum, the City and
10 Contractor shall endeavor to agree on procedures to preserve the confidentiality of
11 the materials to the extent reasonably possible, including redaction of the materials.
12 If the parties cannot reach agreement, the City may petition the Wayne County
13 Circuit Court for an appropriate order to allow the debarment proceedings to
14 continue while preserving the confidentiality of the documents to the extent
15 reasonably possible.

16 (c) The Chief Procurement Officer, in a referral, may include the results of any
17 investigation conducted by the Chief Procurement Officer together with recommendation for
18 debarment. The Inspector General shall give due consideration to such investigation and
19 recommendation and may immediately issue a finding of grounds for debarment, and or
20 suspension, based on such report and recommendation.

21 **Sec. 18-11-7. Initiation of proceedings.**

22 (a) If, upon investigation, it is determined that an act or omission which can give rise
23 to debarment may have occurred, the Inspector General shall provide written notice to the Chief

1 Procurement Officer and the Corporation Counsel of the intention to initiate debarment
2 proceedings. In that event:

3 (1) The Inspector General shall set forth the basis in writing for the proposed
4 debarment, which may incorporate any report and recommendation provided by the
5 Chief Procurement Officer.

6 (2) The Inspector General shall provide written notice of the proposed debarment by
7 both certified mail, return receipt requested, and regular mail to the contractor and
8 any known interested party.

9 (b) The notice of proposed debarment shall, at a minimum, contain the following
10 information:

11 (1) Notice that debarment is being considered after a finding by the Office of Inspector
12 General;

13 (2) The basis for the proposed debarment, in terms sufficient to put the contractor on
14 notice of the nature of the conduct at issue;

15 (3) The potential consequences of the debarment; and

16 (4) The City's procedures governing debarment proceedings. For that purpose, the
17 contractor may be provided with a copy of this ordinance.

18 (c) Within 28 days of mailing the notice of proposed debarment, the contractor may
19 submit, in writing, information and argument in opposition to the proposed debarment.

20 (d) The Inspector General may request additional information of the contractor if
21 necessary to evaluate the information provided by the contractor.

22

1 **Sec. 18-11-8. Final decision.**

2 The Inspector General shall prepare written findings to support any final decision regarding
3 debarment. The decision shall be based on the facts as found and supported by the entire record
4 of information and a preponderance of the evidence presented.

5 **Sec. 18-11-9. Notice of final decision.**

6 (a) A copy of the final decision shall be sent by certified mail, return receipt requested,
7 and regular mail to the contractor, and any interested party.

8 (b) A copy of the final decision shall be filed with the City Clerk for transmission to
9 City Council.

10 (c) If debarment is imposed, the decision shall specify the grounds for the debarment
11 and the period of debarment, including effective dates.

12 **Sec. 18-11-10. Interim suspension.**

13 (a) Prior to a final debarment determination, the Inspector General, upon determination
14 of a need for immediate action may:

15 (1) Suspend a contractor from eligibility for award of a City contract,

16 (2) Terminate the services of the contract under any existing contract, and

17 (3) Prior to any such suspension notify the Chief Procurement Officer and allow seven
18 days for comment. The seven days may be waived by the Chief Procurement
19 Officer.

20 (b) The contractor will be suspended for the lesser of an initial period of 90 calendar
21 days or until the Inspector General makes a final determination with respect to the debarment. The
22 initial suspension may be extended for up to three additional 30 calendar day periods.

1 (c) The Chief Procurement Officer will not solicit bids or proposals from, or approve
2 the award of a contract to, the suspended contractor, and will not open or consider for a contract
3 any bid or proposal received from same.

4 (d) The Inspector General shall send a written notice of the initial suspension and any
5 extension specifying the basis for same, to the suspended contractor by certified mail, return
6 receipt requested.

7 (e) A copy of the interim suspension shall be filed with the City Clerk for transmission
8 to City Council.

9 **Sec. 18-11-11. Appeal.**

10 (a) The contractor may appeal a debarment decision, the length of a debarment, or an
11 interim suspension to City Council within 28 days after the issuance of the Inspector General's
12 debarment decision or interim suspension.

13 (b) The contractor shall send the appeal letter together with any supporting materials to
14 the City Clerk for transmission to City Council.

15 (c) The contractor may request an in person meeting with City Council, at which the
16 contractor may be represented by legal counsel.

17 (d) The Inspector General shall have the right to appear in person or to submit written
18 comments to City Council.

19 (e) City Council shall hold the Appeal Hearing within 45 days of receipt of the appeal
20 letter.

21 (f) City Council must have a vote of 2/3 majority of members present to overturn the
22 Inspector General's debarment decision, length of debarment or interim suspension. The decision
23 shall be supported by competent, material and substantial evidence on the whole record.

1 (g) City Council shall notify the contractor in writing of the result of the appeal within
2 ten days after the determination.

3 **Sec. 18-11-12. Period of debarment.**

4 (a) The period for debarment shall be commensurate with the seriousness of the cause
5 or causes therefor, but in no case shall the period exceed 20 years. Generally, debarment should
6 not exceed five years, except:

7 (1) Debarment for convictions of criminal offenses that are incident to the application
8 to, or performance of, a contract or subcontract with the City, including but not
9 limited to, embezzlement, theft, forgery, bribery, falsification or destruction of
10 records, receiving stolen property, negligent misrepresentation, price fixing, bid-
11 rigging, may receive the maximum period.

12 (2) Debarment for convictions of criminal offenses that do not involve the City, but
13 negatively reflect on the contractor's business integrity, including but not limited
14 to, embezzlement, theft, forgery, bribery, falsification or destruction of records,
15 receiving stolen property, negligent misrepresentation, price-fixing, bid-rigging, or
16 a violation of state or federal anti-trust statutes, may receive a debarment period not
17 to exceed 10 years.

18 (3) Debarment involving purposeful deceit including but not limited to making a
19 deceptive, false, or fraudulent statement which evidences a desire to circumvent or
20 otherwise compromise the investigative process.

21 (b) If suspension precedes a debarment, the suspension period shall be considered in
22 determining the debarment period.

23 (c) After the debarment period expires, the vendor may reapply for inclusion on bidder
24 lists through the regular application process.

1 **Sec. 18-11-13. Application of remedies.**

2 (a) The provisions of this division are in addition to any other rights or remedies
3 available to the City in connection with the award of any contracts to disqualify bidders who are
4 not responsible, regardless of whether they have been so declared hereunder. This right extends
5 but is not limited to declining to award contracts to bidders having officers, owners, managers, or
6 persons or entities directly or indirectly holding a financial or beneficial interest in, previously
7 associated with debarred contractors.

8 (b) The provisions of this division are in addition to any contractual or legal rights or
9 remedies available to the City to redress contractual performance issues.

10 **Sec. 18-11-14. Effect on other ordinances.**

11 A debarred contractor is not eligible for certification under Chapter 18 of this Code.
12 Debarment shall have the effect of terminating any certification thereunder.

13 **Sec. 18-11-15. Duty to report illegal acts.**

14 If, during the course of the investigation, the Inspector General has probable cause to
15 believe that any contractor, subcontractor, or person doing or seeking to do business with the City
16 has committed or is committing an illegal act in addition to any other action taken by the Inspector
17 General, the matter shall be promptly referred to the appropriate authorities.

18 **Sec. 18-11-16. List of debarred contractors.**

19 The Office of the Inspector General shall compile and maintain a current list of all
20 contractors debarred by the City. Such list shall be updated as appropriate, including updates after
21 appeals and final decisions are made, and transmitted to the Office of Contracting and Procurement
22 to City Council, to the City Clerk, and posted on the City's website.

23 **Secs. 18-11-17—18-11-30. Reserved.**

1 **Section 2.** All ordinances, or parts of ordinances, that conflict with this ordinance are
2 repealed.

3 **Section 3.** This ordinance is declared necessary for the preservation of the public peace,
4 health, safety, and welfare of the People of the City of Detroit.

5 **Section 4.** Where this ordinance is passed by a two thirds (2/3) majority of City Council
6 Members serving, it shall be given immediate effect and shall become effective upon publication
7 in accordance with Section 4-118(1) of the 2012 Detroit City Charter. Where this ordinance is
8 passed by less than two thirds (2/3) majority of City Council Members serving, it shall become
9 effective thirty (30) days after publication in accordance with Section 4-118(2) of the 2012 Detroit
10 City Charter.

11 Approved as to form:

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Charles N. Raimi
Deputy Corporation Counsel