

City of Detroit

Office of Inspector General

2020 2nd Quarterly Report

(April 1, 2020 – June 30, 2020)



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Inspector General

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A Message from the Inspector General



The second quarter of 2020 has been a challenge for all those who care about humanity, justice, safety and the general welfare.

In March, we found ourselves in the midst of a pandemic that spread like a wild fire. It was as if we were trapped in a terrible science-fiction horror movie. People died. Businesses and schools closed. The streets in major cities around the world that once brimmed with people and traffic emptied out. It was and still is surreal.

The effects of the virus continue to challenge us in every aspect of our lives. The virus held us together in our common fear, but it also separated us from one another. People were confined to their homes. Some were quarantined and isolated. Our mobility was challenged and restricted, while the virus ran amok wreaking havoc wherever it traveled.

It invaded not just public places but also our homes, forcing us to change our life-style and habits. It changed how we govern, conduct businesses, socialize and co-exist with one another. As the virus stretched its invisible wings and claimed thousands of lives, we held fast in our resolve to fight against the unknown. It is our commitment to each other and the respect we hold for each other that give us hope and the strength to fight against a common enemy.

We changed our daily routines and disciplined ourselves with the new norms. We washed our hands and sanitized everything we touched. We wore masks and gloves, practiced social distancing, and wondered how toilet papers, hand-sanitizers and cleaning products had become rare commodities. We adapted to circumstances beyond our control and did what had to be done to maintain our sustainability and ability to co-exist in peace.

Historians in the past have said that sometimes heroes are born through necessity of the times. The heroes who rose to the occasion in the last several months are the first responders, the essential workers, and those who work tirelessly to contain and to eradicate the virus. However, now is also the time to bring out the inner hero in all of us and do what must be done to make our world better than the world we inherited.

As we fight for our lives against this virus, we must also remain vigilant in our effort to maintain and keep good government. Like the virus, abuse, waste, fraud and corruption in government can be just as infectious and dangerous. All it takes is one virus to contaminate the pool.

Our fight for honesty and integrity in good government is a fight for democracy. Honesty requires us to openly review our mistakes or missteps in order to correct them. Integrity requires respect and consistency. Respect cannot be taken from the people, as it can only be given by the people to those who understand its importance and remain consistent in their effort to earn it.

Good governance requires bridging differences and maintaining the trust given by the people. It is easier to fight for a better future when we all participate. After all, it is respect that binds us together in our common goal to build a safer, better home for all humanity.

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 Akinbosede, 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 second 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 2nd QUARTER OIG STATISTICS

(April 1, 2020 – June 30, 2020)

Sources of Complaints Received by the OIG in the 2nd Quarter

Complaint Source	Number Received
Internet (Website)	5
Telephone Hotline	1
OIG Telephone	0
Mail	1
Personal Visit	0
Email	16
OIG Initiation	3
Total	26

Categories of Complaints Received by the OIG in the 2nd Quarter

Categories of Complaints	Number Received
Waste	0
Abuse	3
Fraud	5
Corruption	0
Other	18

How Complaints Were Resolved by the OIG in the 2nd Quarter

Open investigative files	4
Decline investigation or Referral	25

Categories of OIG Investigations Initiated by the OIG in the 2nd Quarter

Categories of Investigations	Number Initiated
Waste	0
Abuse	0
Fraud	4
Corruption	0
Other	0

Status of OIG Investigations in the 2nd Quarter

Open	Closed
26	5

Short Summary of Investigations Closed in the 2nd Quarter of 2020

The following reflects five (5) investigations the OIG closed in the 2nd Quarter of 2020 with an accompanying synopsis for each investigation.

19-0015-INV

On April 23, 2019, the Office of Inspector General (OIG) initiated an investigation into the alleged criminal activity of Environmental Specialty Services, Inc. (ESS) and its representative, Richard Berg. The OIG investigation was predicated on an investigation completed by special agents of the Special Inspector General for the Troubled Asset Relief Program (SIGTARP). The SIGTARP investigation resulted in the guilty pleas of Aradondo Haskins and Anthony DaGuanno. Court records and other information indicated that Richard Berg bribed Mr. Haskins on behalf of ESS while Mr. Haskins was an employee of the Detroit Building Authority (DBA). Mr. DaGuanno, a now former Adamo Group (Adamo) employee, received bribes from ESS in exchange for helping the contractor ensure that it could submit a lower bid.

On September 20, 2019, the OIG issued an interim suspension to Environmental Special Services, Inc. (ESS) and Richard Berg pursuant to Section 18-11-10(a) of the City of Detroit Debarment Ordinance. On January 2, 2020, the OIG issued a draft report to ESS and Richard Berg outlining our draft findings and recommendations. On January 15, 2020, ESS and Richard Berg's attorney requested an administrative hearing on behalf of both of his clients which was held on February 18, 2020. After a thorough investigation and review of this matter, the OIG issued the following:

- **ESS is debarred for twenty (20) years. The debarment has an effective date of September 20, 2019 with an end date of September 20, 2039.**
- **Richard Berg is debarred for twenty (20) years. The debarment has an effective date of September 20, 2019 with an end date of September 20, 2039.**

The debarment is based on the SIGTARP prosecution and the OIG investigation which found that ESS and Richard Berg are not responsible contractors. Richard Berg engaged in improper, unethical, and illegal conduct in the City of Detroit and ESS took only minimal steps to prevent this from occurring in the future. Bribery undermines a fair, open, and transparent government contracting process. As such, we did not find that ESS's response to Richard Berg's actions adequately addressed the harm caused by Richard Berg to the City of Detroit or the other abatement contractors who were not awarded work because of ESS's illegal actions. Therefore, we found actions taken by Richard Berg and ESS were insufficient and in violation of the public's trust in honest governance. The debarment was not appealed to City Council.

20-0003-INV

The OIG received an allegation that a BSEED inspector abused his authority and further took retaliated action against his supervisor by denying a business permit. The complaint also alleged that the BSEED inspector threatened a Detroit resident, by telling the resident that, as a city inspector, he can make the resident's life hell. Based on our investigation, we did not find any evidence to substantiate the allegations against the BSEED Inspector.

20-0004-INV

The Office of the Chief Financial Officer (OCFO) Office of Treasury (OT) submitted a complaint to the Office of Inspector General (OIG) alleging an OT employee was responsible for cash shortages on multiple occasions. Prior to contacting the OIG, the OT followed the City's progressive disciplinary action process and ultimately released the employee from her employment with the City.

The OIG compared OT cash register reports to bank deposit detail information to confirm the alleged cash shortages. In addition, the OIG reviewed the OT policies and procedures related to cash collection and identified several internal control weaknesses. The OIG made several recommendations to the OT to improve the controls over the cash collected by the OT. However, in light of Covid-19 and based on this incident, the OT decided to collect all payments through the City's Divdat Kiosks. The use of the Divdat Kiosks should eliminate the internal control weaknesses identified by the OIG. The OIG closed this case without further action.

20-0008-INV

The OIG received a complaint that alleged that bids submitted by McDonagh in late January 2019 and early February 2019 were not considered despite the company being an approved demolition contractor and the lowest eligible bidder. However, documentation showed that the bids in question were not considered for RFP 1.18.19 Series A-G and RFP 1.22.19 Series A-G because McDonagh was not a 2019 pre-qualified bidder. McDonagh became a 2019 ore-qualified bidder on January 31, 2019. Documentation also showed that for RFP 2.5.19 Series A-P, McDonagh had committed DBA policy violations which made them ineligible to bid.

20-0011-INV

The OIG received a complaint regarding a potential conflict of interest with several abatement invoices submitted by McDonagh Demolition. The complaint alleged various instances where Professional Service Industries (PSI) and Environmental Testing and Consulting, Inc.' (ETC) inspectors were the same inspectors performing the air monitoring for McDonagh's abatement subcontractor, Global Green. Both PSI and ETC also performed the Post Abatement Verification on the properties in question. The OIG found that PSI and ETC violated the terms of their contracts by performing both the air monitoring and Post Abatement Verification for the same property. Therefore, the OIG recommended that the DLBA discipline PSI and ETC in accordance with their policies and procedures.