

EXECUTIVE ORDER NO. 7-14

OFFICE OF THE INSPECTOR GENERAL AND RELATED DUTIES OF DEPARTMENTS, AGENCIES, CITY OFFICERS AND EMPLOYEES, AND THOSE INVOLVED IN TRANSACTIONS WITH THE CITY

WHEREAS, the Office of the Inspector General ("OIG") was established by Executive Order No. 10-84, dated May 22, 1984, and by Amendment No. 1 to that Order, dated March 1, 1985, to address the need for an investigative arm within the Executive Branch of City government; and

WHEREAS, the mission, function and duties of the OIG were elaborated in Executive Order No. 4-94; and

WHEREAS, the major objective of the OIG continues to be the elimination of fraud, waste, corruption and abuse within City government and by those who do business with, or receive assistance from, City government; and

WHEREAS, the OIG plays an essential role in ensuring good stewardship of public resources and the integrity of City government generally; and

WHEREAS, it is desirable to re-confirm and consolidate the current mandate and authority of the OIG; and

WHEREAS, it is desirable to re-confirm and consolidate the ongoing duties, in connection with the work of the OIG, of departments, agencies, City employees and those who do business with, or receive financial benefit from, the City; and

WHEREAS, it is desirable to re-confirm and consolidate the role of departmental Integrity Officers in connection with the work of the OIG;

NOW, THEREFORE, I, Michael A. Nutter, Mayor of the City of Philadelphia, by the powers vested in me by the Philadelphia Home Rule Charter, do hereby **ORDER** as follows:

SECTION 1. ORGANIZATION AND MISSION OF THE OIG

The Office of the Inspector General ("OIG") is hereby re-established and continued as an independent centralized Office within the Executive and Administrative Branch which is operationally independent within City government and which reports directly to the Mayor. The OIG shall be headed by the Inspector General who shall be appointed by, and serve at the pleasure of, the Mayor.

The OIG's mission is to promote the integrity of City government by establishing and implementing procedures for reporting, investigating, and resolving instances or patterns of fraud, waste, corruption, misconduct or abuse of office related to the operations of City government or those who transact business with the City or receive financial benefits from the City; and further to provide leadership and guidance in recommending policies which help eliminate such problems.

SECTION 2. DEFINITIONS

The following terms are defined as follows:

Agency. References solely to an "Agency" or "Agencies" shall include both Executive Agencies and any entity or body of City government not under the control of the Mayor, except when context clearly indicates otherwise.

Executive Agency. A City department, office, board or commission under the control of the Mayor; or any non-City agency with respect to which the majority of the members of the board are appointed by, and serve at the pleasure of, the Mayor.

Retaliate. To discharge, threaten or otherwise discriminate or retaliate against an employee regarding the employee's compensation, terms, conditions, location or privileges of employment.

SECTION 3. TYPE OF MATTERS INVESTIGATED BY THE OIG

The OIG shall have the authority, based on the receipt of complaints or on its own initiative, to investigate potential fraud, waste, misuse, corruption, misconduct and abuse of office relating to City affairs, matters or transactions involving the entities set forth in Section 4. Such matters may include, but are not limited to:

- A. potential criminal offenses;
- B. violations of the Philadelphia Home Rule Charter; The Philadelphia Code; and other City ordinances;
- C. administrative violations of City or Agency policy or procedure;
- D. violations of City Regulations, including Civil Service Regulations;
- E. breaches of City contracts, agreements for the provision of financial assistance, or conditions on the provision of City funding that suggest fraud, waste, corruption or misconduct;

- F any other activity that may be cause for employment discipline, contract termination, the termination of City financial assistance or the termination of City funding;
- G. such other matters as may be requested by any of the entities set forth in Section 4; and
- H. such other matters as the Mayor may direct.

SECTION 4. ENTITIES SUBJECT TO INVESTIGATION BY THE OIG

The OIG is authorized to investigate all matters set forth in Section 3 with respect to:

- A. all Executive Agencies;
- B. all governmental or quasi-governmental entities outside of the City government;
- C. contractors, subcontractors and others that receive funds through business with the City;
- D. concessionaires, lessees and lessors that are involved in, or have been involved in, transactions with the City;
- E. recipients of any City grant, loan, tax incentive, subsidy for land purchase or other form of assistance that is realized by, or provided to, a recipient through the authority or approval of the City;
- F. all direct recipients of City funding;
- G. all officers and employees of any Executive Agency;
- H. any other transactions involving the City; or
- I. any other Agency, entity or law enforcement authority requesting the OIG's assistance.

SECTION 5. SUBPOENA POWERS

The OIG shall have the full powers vested in the Executive and Administrative Branch of City government pursuant to Sections 4-106 and 8-409 of the Home Rule Charter to compel the attendance and testimony of witnesses and the production of documents and other evidence relating to matters under investigation by the Office and may issue subpoenas for such purposes.

SECTION 6. COORDINATION WITH OTHER AUTHORITIES

- A. The OIG shall work in cooperation with the District Attorney, the United States Attorney, the Commonwealth Attorney General, the City Controller, the Board of Ethics and the City Law Department to ensure efficiency of investigatory activities and seek to develop cooperation agreements with such authorities to accomplish this goal.
- B. The OIG may refer evidence of criminality directly to the District Attorney, United States Attorney, or the Commonwealth Attorney General as deemed appropriate by the OIG, which referral may include agreement to conduct a joint investigation.
- C. The OIG may refer, at its discretion, matters regarding illegal practices directly to the appropriate investigative authority (e.g., Police Department, Federal Bureau of Investigation, Internal Revenue Service, etc.), depending on the nature of the matter, which referral may include agreement to conduct a joint investigation.
- D. The OIG shall refer to the Board of Ethics evidence of violations of the ethics laws established by City ordinance or The Philadelphia Home Rule Charter. The OIG may, as appropriate, continue the investigation of any matter referred to the Board of Ethics, and may investigate matters jointly with the Board of Ethics.
- E. Any investigation by any of the authorities identified in subsection 6.A of any matter under the purview of the OIG pursuant to this Order shall not preclude concurrent investigation by the OIG, but only where the OIG determines that concurrent investigation will not impede law enforcement or is otherwise in the best interests of the City.
- F. Upon completion of an investigation of a matter in connection with an Executive Agency, the OIG may submit a report to the head of that agency, or, in connection with an investigation of the head of an Executive Agency, the OIG may submit a report to the Mayor. Upon completion of an investigation of a matter pursuant to subsection 4.I, the OIG may submit a report to either the head of the agency or entity requesting the investigation or to the senior City official responsible for transactions with such agency or to both. A report under this subsection 6.F may include recommendations for further action, including: (i) administrative discipline or other employment action; (ii) civil litigation; (iii) policy changes to prevent further problems; (iv) imposition of fines or penalties; (v) termination of a contract, financial assistance or funding; (vi) suspension or debarment from contracts with the City; or (vii) any other action that may appropriately address the issues uncovered through investigation.
- G. Where the OIG finds indications of institutionalized integrity problems or patterns of fraud, misconduct or corruption within an Agency, the OIG shall submit a report as set forth under subsection 6.F, and include recommendations to address those matters.

- H. A copy of all reports of investigation that include recommendations for further action by an Agency represented by the Law Department shall be sent to the City Solicitor no later than the time submitted to the relevant Agency head or the Mayor. A copy of all reports of investigation recommending action by an entity that is not represented by the Law Department shall be sent to counsel for such entity.
- I. The OIG may review an Agency's report of action taken pursuant to Section 8 and, if the OIG considers it to be inadequate, so advise the Agency head and, if necessary, the Mayor and the City Solicitor.

SECTION 7. OTHER DUTIES OF THE OIG

- A. Except with respect to information shared with other Authorities pursuant to Section 6, the OIG shall keep all records of investigations confidential, including the identities of individuals who provide information in connection with an investigation, to the extent permitted by law and at least to the full extent required by law, and except to the extent necessary and permitted by law to provide, in coordination with the affected Agency and the Office of the Mayor, public notification of the conclusions of an investigation.
- B. The OIG shall, on a regular basis, broadly distribute to the officials and employees of Agencies information concerning the role of the Inspector General and the responsibilities of City officials and employees pursuant to this Order and promote distribution by City officials and Agencies of such information to other persons and entities that are a party to transactions subject to investigation by the OIG.
- C. The OIG shall submit an annual report to the Mayor that summarizes the number and types of complaints received during the course of the year, the number and types of investigations conducted, the types of recommendations made to City officials and Agencies, the information provided to City officials and employees regarding their responsibilities and such other information as the Inspector General shall deem appropriate. The report, which shall be made available to the public, shall not contain any information which, if disclosed, would exceed the limitations of paragraph A, constitute an invasion of the privacy of a City officer or employee, or of a person or entity that is a party to a transaction subject to investigation by the OIG, or that would undermine the integrity of any investigation.
- D. The OIG may provide investigative expertise to any Agency, entity, or law enforcement authority requesting its assistance.

SECTION 8. DUTIES OF EXECUTIVE AGENCIES AND OTHER ENTITIES

The heads of all Executive Agencies shall; and the heads of all other City Agencies and non-City entities affected by this Order may:

- A. within 30 days of receipt of a report of investigation from the OIG pursuant to Section 6.F, submit a written report to the OIG detailing any administrative or other action taken or plan to correct violations or other findings as outlined in the report of investigation;
- B. limit circulation and discussion of the contents of OIG reports on a need-to-know basis, maintain precise accountability for the reports, ensure the confidentiality and security of the reports at all times, and refrain from releasing any report of investigation without authorization of the OIG, the City Law Department or the Office of the Mayor;
- C. in connection with any situation in which an employee or contractor or other entity is subject to discipline or debarment or other sanction or penalty based upon the recommendation of the OIG, base its decision solely on the information and evidence considered by the decision-maker. In consultation with the Law Department, appropriate disclosure shall be made to the employee, contractor or other entity of such information and evidence, and any mitigating evidence, as due process or applicable disciplinary, debarment or other penalty procedure may require. Such information may include the OIG's report of investigation, or a portion of such report, as may be authorized by the OIG and the Law Department.
- D. promptly refer to the OIG all matters subject to investigation by the OIG;
- E. emphasize to their officers and employees that they must report to the OIG or to an appropriate Integrity Officer all matters subject to investigation by the OIG as soon as they become aware of them and ensure the widest dissemination within their Agencies of the requirements pertaining to employee responsibilities set forth in section 9 of this Order;
- F. instruct all officers and employees not to attempt to conduct their own investigations of matters involving suspected fraud, waste, corruption, misconduct or abuse of office prior to any referrals to the OIG;
- G. instruct their officers and employees that under no circumstances shall any official or employee take or threaten to take any action of any sort in an attempt to prevent anyone from providing to a supervisor or Integrity Officer information regarding conduct that is the subject of Section 3, or from providing any information to, or cooperating with, the OIG, or retaliate against anyone for doing so or against anyone who is about to do so; and

- H. recognize that the existence or non-existence of an OIG investigation shall not limit or relieve the Agency of its authority and responsibility to exercise its designated powers and fulfill its assigned duties.

SECTION 9. RESPONSIBILITIES OF OFFICERS AND EMPLOYEES OF EXECUTIVE AGENCIES AND OTHER ENTITIES

- A. All officials and employees of Executive Agencies shall report promptly and directly to the OIG or an Integrity Officer designated in his or her Agency any knowledge, information or allegation brought to his or her attention that any person or entity may have, with respect to City business or City funding, engaged in fraud, waste, corruption, misconduct or abuse of office as further described in Section 3 of this Order.
- B. If in doubt as to whether circumstances warrant referral of a matter to the OIG, contact should be made with the OIG or the respective departmental Integrity Officer.
- C. All officials and employees of Executive Agencies shall cooperate fully with representatives of the OIG by providing complete and accurate information as well as the necessary assistance in the matters being investigated. Such persons shall provide to representatives of the OIG in the discharge of their duties specified in this Order full, free, and unrestricted access to information regarding City activities, property, data, correspondence, and all other information, except when precluded by a lawful privilege or duty of confidentiality.
- D. Subject to the protections of the United States and Pennsylvania Constitutions, all officials and employees of Executive Agencies shall, when requested by representatives of the OIG or by other authorized City officials, testify or provide all the appropriate responses to questions in matters under investigation.
- E. All officials and employees of Executive Agencies shall maintain in confidence all communications with representatives of the OIG when so requested.
- F. No official or employee of an Executive Agency shall take or threaten to take any action of any sort in an attempt to prevent anyone from providing to a supervisor or Integrity Officer information regarding conduct that is the subject of Section 3, or from providing any information to, or cooperating with, the OIG, or retaliate against anyone for doing so or against anyone who is about to do so.
- G. No official or employee of an Executive Agency shall provide information to a supervisor, Integrity Officer or the OIG primarily for a purpose other than that of exposing, or providing information regarding, a perceived violation of law, fraud, waste, misconduct or abuse. Nothing in this order protects an officer or employee from discipline for making an allegation to a supervisor, IO or the OIG in bad faith, meaning the officer or employee knows or should know that the allegation is untrue

and has made the allegation for a purpose other than exposing a violation of law, fraud, misconduct or abuse.

- H. The knowing failure of an official or employee of an Executive Agency to comply with the requirements of this section shall constitute cause for employment discipline, up to and including dismissal, or other penalty as may be provided by law.

SECTION 10. RESPONSIBILITIES OF CITY CONTRACTORS, RECIPIENTS OF CITY ASSISTANCE AND RECIPIENTS OF CITY FUNDING

Pursuant to this Order, and as may be required pursuant to any particular City contract or other agreement, all contractors, subcontractors, and others that receive City funds through business with the City; all City concessionaires, lessors and lessees; all recipients of any City grant, loan, tax incentive, subsidy for land purchase or other form of assistance that is realized by, or provided to, a recipient through the authority or approval of the City; and all direct recipients of City funding shall, in connection with such business, agreement, assistance or funding:

- A. report to the OIG knowledge of violations subject to investigation by the OIG pursuant to this Order;
- B. cooperate fully with representatives of the OIG by providing complete and accurate information as well as the necessary assistance in matters under investigation;
- C. keep conversations and contact with the OIG confidential, except and to the extent the OIG may authorize disclosure; and
- D. instruct their employees that under no circumstances shall any employee or official shall take or threaten to take any action of any sort in an attempt to prevent anyone from providing to a City official information regarding conduct that is the subject of Section 3, or providing any information to, or cooperating with, the OIG, or retaliate against anyone for doing so or against anyone who is about to do so.

SECTION 11. INTEGRITY OFFICER PROGRAM

- A. The Integrity Officer Program is hereby re-established and continued in Executive Agencies.
- B. With the consent of the head of the Executive Agency, the Inspector General may, as she or he deems necessary, designate one or more Integrity Officers (“IOs”) in that Executive Agency. IOs in each Executive Agency shall be chosen from among the officials or employees of such agency.

- C. IOs should generally have extensive experience, thorough knowledge of the Agency, proven credibility in addressing issues related to misconduct, fraud, waste and abuse, and a desire to take on the commitment to this important role in City government.
- D. IOs shall provide to the OIG all information learned pursuant to Section 9.A of this Order, whether obtained personally or through information provided by another officer or employee.
- E. IOs shall, in connection with any OIG investigation, provide the OIG with any information, records or data regarding his or her Agency within the IO's knowledge or within the ability of the IO to obtain.
- F. IOs shall maintain the confidentiality of all communications with the OIG and shall not disclose such communications without the consent of the OIG.
- G. The IO shall report to the OIG, and not his or her supervisor or Agency head, with respect to matters governed by this Order. Therefore, confidentiality of communications with the OIG shall be maintained even with respect to the IO's supervisor(s) and the head of the Agency.
- H. Agency heads and supervisors are directed not to interfere in any way with the IO's role in connection with the work of the OIG.
- I. Agency heads are further charged to protect IOs from any attempt at retaliation against an IO by any person with regard to the IO's work for the OIG.
- J. Agency heads shall make widely known within their Agency the identities of the department's IO or IOs.
- K. In cases where the OIG has determined that a matter under consideration by the OIG is minor or outside of the role of the OIG to investigate, the OIG may authorize an IO to bring the matter to the attention of Agency officials for appropriate investigation and potential remedial action.
- L. The OIG shall provide yearly training for IOs and meet with them on a periodic basis to discuss ongoing matters and Agency issues that may need to be addressed.

SECTION 12. RESCISSION OF EXISTING EXECUTIVE ORDERS

Executive Orders 10-84, as amended ("Directive Establishing the Office of Performance Assessment of the City of Philadelphia"), 2-89 ("Amendment to Executive Order Establishing the Office of Inspector General"), 2-94 ("Role and Responsibilities of the Integrity Officers"), and 4-94 ("Office of Inspector General") are hereby rescinded.

SECTION 13. EFFECTIVE DATE

This Order shall take effect immediately. Investigations, cases and settlement agreements involving the OIG ongoing at the time this Order takes effect shall continue under the authority of this Executive Order.

10/9/14
Date


Michael A. Nutter, Mayor