

**An Office of the Inspector General at the Metropolitan Water
Reclamation District of Greater Chicago**

Report prepared for
Office of Commissioner Debra Shore
Metropolitan Water Reclamation District of Greater Chicago

First Draft Version: July 31, 2013
Latest Revision: August 2017

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Introduction

Every organization, large or small, must wrestle with the problem of monitoring and oversight – with the problem of ensuring that the individuals who make up the organization perform their duties effectively, and that they fulfill their legal and ethical obligations in the conduct of their duties. This problem is not unique to the public sector, as recent scandals in the financial and not-for-profit realms have demonstrated. However, it remains a matter of serious concern for government agencies such as Metropolitan Water Reclamation District of Greater Chicago (MWRD). Unlike private companies, which are subject to both market competition and government regulation, agencies like MWRD are often the highest authority in their realms of action. They exercise authoritative power in the form of regulations, ordinances and tax levies. They are monopoly providers of essential services. They are often large, complex and hierarchically-organized. They make frequent use of specialized professional knowledge. And they are subject to numerous cross-cutting pressures – from the public, from the press, from their own managers, and from individual members of legislatures, city councils and other governing bodies.

Monitoring and oversight can be difficult in the complex environment within which public agencies function. But the costs of a lapse can be enormous. At agencies like MWRD, which have budgets in the hundreds of millions of dollars, relatively small inefficiencies can add up to millions of dollars every year. Even at smaller agencies or municipalities, a single employee engaging in acts of fraud or embezzlement can cost millions or tens of millions of dollars. The costs of abuses of authority may be intangible and difficult to quantify in financial terms, but these, too can be high, even when they do not become front-page stories in the local news. Finally, it is nearly impossible to assign a meaningful dollar amount to the staggering human costs that can result from major public agency failures – for example, the human costs of the lead-poisoning water crisis in Flint, Michigan, or those of the catastrophic emergency-management failure in New Orleans in the days after Hurricane Katrina.

The problem of monitoring and oversight is as acute for the MWRD as it is for any other public agency in Illinois. The District covers a service area of 883 square miles, providing essential wastewater treatment and stormwater management services to more than 5 million citizens living in 126 municipalities. It has more than 2000 employees, and it spends more than a billion dollars a year on projects in every corner of Cook County. The MWRD's engineering staff makes constant use of specialized

technical knowledge; the District's Procurement Department awards hundreds of millions of dollars in contracts every year; and the time horizon of MWRD projects is often measured in decades rather than days, weeks, or even years. Effective monitoring and oversight under these conditions is a challenge – but given the importance of the MWRD's mission, it is a challenge that must be faced head-on.

In recent years, oversight responsibility at all levels of government has increasingly come to be placed in the hands of independent inspectors general (IG). At the federal level, IGs have been part of the American military establishment since before the founding of the United States, and they have become a familiar presence in civilian agencies since the late 1960s. Inspectors general have also become increasingly common at the state and local levels since the appointment of the first state-level inspector general in 1981. Currently, over half the states in the U.S. have an inspector general to provide independent oversight for at least one government agency,¹ and nearly a dozen states have statewide inspectors general. A few – notably Florida – echo the federal government in having inspectors general for multiple executive-branch agencies. At the state level in Illinois, the Office of the Executive Inspector General provides independent oversight for state agencies, and the Illinois Tollway Authority, the Department of Healthcare and Family Services, the Department of Human Services, and the Illinois Secretary of State each have separate inspectors general.²

It is less common to see inspectors general at the local level than to see them at the federal or state levels. Nevertheless, IGs are a familiar feature of local government, both in the Chicago area and at other leading wastewater-treatment agencies across the country. The City of Chicago has an inspector general, as do the Chicago Board of Education (Chicago Public Schools), the Chicago Housing Authority, the City Colleges of Chicago, the Chicago Transit Authority and Metra. Cook County has an Office of the Independent Inspector General, as well as an inspector general for the Office of the Clerk of the Circuit Court. The Cook County Sheriff's Department of Internal Review fulfills the OIG function for the Sheriff's Department and half a dozen Cook County municipalities. Among MWRD's peer wastewater treatment agencies³, New York City, Washington, D.C., Houston, Miami-Dade County, Philadelphia, and Detroit all have

¹ Source: <http://inspectorsgeneral.org/useful-links/directory-of-state-and-local-government-oversight-agencies/>, accessed 2/10/2016.

² Source: <http://inspectorsgeneral.org/illinois/>, accessed 2/10/2016.

³ Defined as primary wastewater treatment agencies in the 10 most heavily populated metropolitan areas in the U.S.

oversight from inspectors general (typically provided by the inspector general for the city). In short, many agencies at every level of government – including MWRD’s sister agencies in Chicago and Cook County and its peer wastewater treatment agencies in other major cities across the country – have implemented inspector general systems. Indeed, some local government agencies with budgets and staffs considerably smaller than the MWRD’s – including the Illinois municipalities of Springfield and Joliet – have made provision for inspector general oversight.

In recent months, calls for the appointment of an independent inspector general at MWRD have become increasingly common, both in the media and from members of the public. This report is intended to provide background information for the members of the Board of Commissioners as they consider whether to appoint an inspector general at the Metropolitan Water Reclamation District. It also examines a number of related questions, including steps the Board of Commissioners should take before making a final decision on whether or not to appoint an IG, and how an OIG should be structured in the event that the Board decides to appoint an IG.

What are inspectors general?

Inspectors general (IG) are public officials specifically tasked with oversight. Inspectors general prevent and detect instances of waste, fraud and abuse of authority; they do this by conducting inspections, audits and investigations.⁴ The most important characteristic of IG oversight is the fact that it is typically designed to be independent of the agency it oversees. Normally, IGs are provided with a large measure of institutional autonomy so that their work can take place free of pressure from political or bureaucratic actors. IGs also need a grant of authority within the organization to ensure that their work can be effective; typically, this means that IGs have the authority to demand access to documents and records, and to require sworn statements from agency personnel. The administrative structure that supports the work of the IG is called an office of the inspector general (OIG), and typically includes administrative, legal, and technical support personnel, in addition to personnel with subject matter expertise in audits and investigations. The OIG, too, is structured in such a way as to safeguard its autonomy – ideally, the IG should be guaranteed sufficient funding and

⁴ Council of the Inspectors General on Integrity and Efficiency, “The Inspectors General” (Washington, D.C.: Council of the Inspectors General on Integrity and Efficiency, 2014), accessed at https://www.ignet.gov/sites/default/files/files/IG_Authorities_Paper_-_Final_6-11-14.pdf on 2/10/2016.

staffing to support his or her work, as well as independent hiring and firing authority within the OIG.⁵

Inspectors general are not the only mechanism for providing oversight: management staff naturally continue to oversee and monitor operations as part of their day-to-day operations in organizations that have inspectors general, and legislative bodies continue to provide legislative oversight. However, IGs differ from management in that their task is confined specifically to oversight, rather than the control of day-to-day operations, and they differ from members of legislative bodies in that they have specialized skill in oversight rather than in policy-setting. The oversight provided by IGs also differs from oversight provided by the press in that the quality of oversight is typically much higher and more useful to the agency than the sensationalistic stories that tend to dominate the news cycle.

Public agencies, including the MWRD, usually have their financial reports reviewed by external auditors and have a dedicated internal audit section. The oversight provided by IGs should be viewed as largely complementary to that provided by internal and external auditors. External auditors, as the name implies, enjoy enormous institutional independence. However, their responsibilities are generally limited to rendering broad opinions regarding the overall credibility of the agency's financial statements, rather than specific opinions about the effectiveness of the agency's internal control mechanisms. By contrast, internal auditors do focus on internal control; however, they often lack the organizational autonomy, the personnel and the administrative support necessary to exert broad and effective oversight. In addition, IGs have access to investigative and legal support personnel that most internal audit sections do not.

It is certainly possible for an agency to have an effective internal audit section without having an OIG. Conversely, an effective internal audit section – one that is properly structured, staffed and supported – could arguably provide many of the benefits that IGs provide. Nevertheless, in agencies with an IG, the internal audit section is often organized as a sub-unit of the OIG. This significantly enhances the independence of the internal audit section and helps to ensure that the internal audit section is not administratively isolated.

⁵ Association of Inspectors General, *Principles and Standards for Offices of Inspector General* (Philadelphia: Association of Inspectors General, 2004).

Why inspectors general?

Inspectors general are an institutional response to a pervasive challenge. Organizations exist for the accomplishment of a goal or mission; however, the individual members of organizations often have multiple commitments – to the organization’s mission, to the organization itself, to other members of the organization (including their leaders, colleagues and subordinates), and to their own goals and interests.⁶ Since leaders and organizational members are responsible for day to day operations, they have stronger incentives to engage in pressing management activities than to focus their efforts on uncovering waste, fraud and abuse – and when instances of waste, fraud or abuse of authority do surface, it can be difficult for leaders and members to act appropriately. IGs and OIGs are designed to be free of cross-cutting commitments, permitting them to engage in a level of oversight that might otherwise be unattainable.

It is probably not a coincidence that inspectors general first appeared in the military context. The very characteristics that make military units effective – strong institutional identity, unit loyalty, a high level of internal discipline – also make it possible for instances of fraud, waste and abuse of authority to be ignored or covered up rather than reported and remedied. The first military inspector general was appointed in 1668 by French king Louis XIV, and inspectors general continue to play an important role in the military, both in the U.S. and abroad.⁷ In the 20th century, as civilian government organizations became larger, more complex and more influential, the inspector-general model was adapted for use in the civilian context. In 1962, in response to a major scandal, then-Secretary of Agriculture Orville Freeman created an Office of the Inspector General for the U.S. Department of Agriculture. Other IGs were soon appointed at the federal Department of Housing and Urban Development and at the Department of Health, Education and Welfare. In 1978, the U.S. Congress passed the Inspector General Act, which extended IG oversight to nearly every Cabinet-level department.⁸ Inspectors general soon began to appear at the state and local level – the state of Massachusetts appointed the first statewide inspector general in 1981 – and since then, they have become a common feature of the governmental landscape.

⁶ On this point, see Anthony Downs’s interesting and influential typology of organizational members in *Inside Bureaucracy* (Boston: Little, Brown and Company, 1967), p. 88-111.

⁷ Maginnis, Lt. Col. Robert L., “IGs Old and New: Misunderstood Roles,” *Military Review*, April 1983.

⁸ Feldman, Daniel L. and Eichenenthal, David R., *The Art of the Watchdog: Fighting Fraud, Waste, Abuse and Corruption in Government* (Albany: Excelsior Editions, 2013), pp. 101-103.

Inspectors general have often been appointed in the wake of major scandals that exposed gaps in accounting and management practices. In recent years, however, the inspector-general function has become a common feature of government accountability and transparency. The absence of a major public scandal at a given agency is no longer interpreted as evidence that IG oversight is unnecessary, and the suggestion that IG oversight could be useful at a particular agency is no longer interpreted as an aspersion on the agency's personnel or management.

Functions and tasks

The most common perception of inspector general oversight is that it is focused on investigations of wrongdoing. This perception is partly fueled by the press coverage of IG reports and activities, which tends to focus on activities that are deemed newsworthy. However, IGs carry out an entire range of tasks, many of which are just as important as the investigations that dominate news coverage.

Whistleblower and ombudsman

IGs are frequently tasked with handling whistleblower and ombudsman hotlines. Although many whistleblower allegations are either unfounded or exaggerated, management-sponsored investigations that exonerate the supervisor or agency often lack credibility because whistleblowers and members of the public often believe that wrongdoing by an agency officer can and will be covered up. By managing whistleblower and ombudsman reporting systems, IGs ensure that allegations are handled properly.⁹

Conduct audits, investigations and inspections

Statutes at both the state and federal levels frequently task IGs with preventing and investigating waste, fraud, abuse and mismanagement, and these have become defining activities for inspectors general. Depending on the enabling legislation, investigations and audits can be initiated in a number of different ways: (1) by an OIG operating under its own initiative; (2) in accordance with agency standard operating procedures; (3) in response to whistleblower reports; or (4) by direction, in response to legislative or executive requests. At the federal level, this means that either Congress or the agency head (e.g., the Secretary of Agriculture) may direct an inspector general to look into particular policies or programs. At MWRD, an OIG could serve the Board of

⁹ Council of the Inspectors General on Integrity and Efficiency, "The Inspectors General" (Washington, D.C.: Council of the Inspectors General on Integrity and Efficiency, 2014), p. 12, accessed at https://www.ignet.gov/sites/default/files/files/IG_Authorities_Paper_-_Final_6-11-14.pdf on 2/10/2016.

Commissioners, and the Executive Director, in a similar fashion. It is important to note that most of the work that is done by IGs is not investigative in nature, but instead consists of audits of program performance.

Economical use of scarce resources

IGs are not the first line of defense against waste, fraud, and abuse; good policies and good management are. However, as part of their mandate to investigate instances of fraud, waste, abuse and mismanagement, IG oversight will naturally promote the economical use of scarce resources. According to a recent Brookings Institution/Governance Institute report, OIGs tend to be revenue-positive institutions, and the return on investment for funding an OIG can be substantial. In the Brookings study, 16 out of 19 OIGs studied had a net positive return on investment, ranging from \$1.49 for the OIG for the Department of State to \$43.60 at the Social Security Administration.¹⁰ That is to say, most of the host agencies in the Brookings study actually were able to *save* money through IG audits, investigations and inspections.

Effectiveness of programs and policies

As noted above, inspectors general have always had a mandate to review the effectiveness of policies and programs, and to offer suggestions to agency heads and legislative bodies on how agency effectiveness can be improved. This mandate has become much more prominent in the past decade: at the federal level, the 2008 amendment to the federal Inspectors General Act emphasized program and policy review much more heavily than the original 1978 legislation did. In similar fashion, IGs at the state and local levels are increasingly coming to understand their roles primarily in terms of improving program and policy effectiveness. The Office of the Inspector General for the City of Chicago, for example, describes its mission as promoting “economy, efficiency, effectiveness, and integrity in the administration of programs and operation of City government,” rather than financial audits and investigations.¹¹ Performance audits make up the bulk of an OIG’s workload, and promoting efficiency and effectiveness is arguably the most important component of the OIG’s mission.

¹⁰ Hudak, John, and Wallack, Grace. “Sometimes Cutting Budgets Raises Deficits: The Curious Case of Inspectors’ General Return on Investment” (Washington, D.C.: Center for Effective Public Management at Brookings, 2015), p. 6.

¹¹ City of Chicago Office of the Inspector General *Audit and Program Review Section 2017 Annual Plan*, p. 3. See also the interesting discussion on “reorienting the inspectors general” in former Vice President Al Gore’s National Performance Review report, *From Red Tape to Results: Creating a Government That Works Better and Costs Less: Report of the National Performance Review* (1993: Washington, D.C.: U.S. Government Printing Office), pp. 31-33.

Oversight capacity for agency head, governing body and management staff

The public and the press often perceive inspectors general to be in an antagonistic relationship with agency management and with the members of elected legislative bodies. This perception is, arguably, a misleading one. A properly-functioning OIG can be a valuable resource for the agency head (the Executive Director), the elected legislative body (the Board of Commissioners) and for management staff. Although performance audits originate in a variety of different ways, they typically are planned months in advance, as the result of a systematic assessment of where organizational risks and inefficiencies are likely to develop. An OIG performance audit typically starts by asking program managers for guidance about what potential risks and inefficiencies they would like to identify and mitigate through an audit. Auditors examine policies and programs by reference to the goals and objectives of the organization itself, and their work culminates in specific recommendations for improving future operations. Performance audits, or spot audits of particular components of programs, can be requested by department heads – particularly new department heads – who want to improve their department operations, or to remedy departmental organizational inertia. In this way, department managers often find OIGs to be a valuable resource for improving organizational performance.

Are there any drawbacks to IG oversight?

Inspector general oversight is coming to be considered a best management practice in federal, state, and local government, reflecting a broad consensus that OIGs have few real disadvantages. Immediately after the passage of the original 1978 authorizing legislation, some critics argued that IG oversight focused too heavily on strict compliance auditing rather than broader evaluations of management control systems. (This criticism was addressed through a legislative amendment in 2008.) In the military context, some commentators have noted a tendency toward overinspection and overpreparation.¹² (This typically does not refer to the actions of IGs themselves, but of unit commanders who, on their own initiative, conduct “pre-inspections” or rehearsal inspections in preparation for the official IG inspection.) Finally, if bad press is considered to be a drawback – which it often is – the fact that IG reports are public information, and that IGs will from time to time uncover activities that reflect negatively on the host agency, could be reasonably considered a drawback as well. It is important to note that these disadvantages are not ordinarily considered to be decisive:

¹² Comptroller General of the United States, “A Report on the Air Force Inspector General’s Inspection System,” (Washington, D.C.: US GPO, 1979), p. 22-25.

the tendency to over-prepare for inspections is uncommon in the civilian IG context, and public agencies are often the subject of negative press coverage whether they have IGs in place or not.

Structural support for OIG independence

Unlike a number of its peer agencies in Cook County and Illinois, the MWRD has not suffered a major scandal in recent memory, either among District staff or on the Board of Commissioners. Accordingly, the MWRD has the luxury of designing an OIG to suit its own needs – indeed, the MWRD even has the luxury of considering potential alternatives to IG oversight. Whatever structure is ultimately chosen, there are a number of basic requirements that are indispensable if the inspector general is to function effectively.

Selection and appointment of the inspector general

The first requirement is that the selection and appointment process for the inspector general must be designed to eliminate any potential conflicts of interest, and ensure that the IG has the training, education and experience necessary to carry out his or her duties. (Typically, inspectors general have a background in law, investigations, accounting, auditing, financial analysis, management analysis or public administration. In addition, certification as a Certified Inspector General through the Association of Inspectors General is a widely-recognized and valuable credential.¹³) It is also important to note that the better the office is structured – that is to say, the more independence the OIG enjoys – the more attractive the office becomes to potential candidates. Although an IG at MWRD would ultimately report to the Board of Commissioners, the selection process should be designed to preserve the IG’s independence from the Board as well as from District staff.

The selection process used by Cook County to staff its Office of Independent Inspector General offers a potential model for a selection and appointment process that could be put into place at the MWRD. When the OIG at Cook County was created in 2008, the enabling legislation required the Cook County Board President to send a request to the Cook County Bar Association and the Chicago Bar Association for a candidate list consisting of three qualified candidates. The Board President was also required to appoint a selection committee consisting of the State’s Attorney, the Director of the

¹³ Association of Inspectors General, *Principles and Standards for Offices of Inspector General* (Philadelphia: Association of Inspectors General, 2004), p. 5.

Cook County Board of Ethics, and four Commissioners (two from each party). Once the committee had selected a candidate for appointment, the full body of the Cook County Board of Commissioners voted its approval or disapproval of the selection. For future appointments, the Cook County Board of Commissioners will engage a national executive search firm to produce a list of 20 potential IG candidates. From that list, the selection committee (as described above) will select a single candidate, at which point the Cook County Board of Commissioners will vote its approval or disapproval of the appointment.¹⁴

Alternatively, an IG selection process at the District could be structured to resemble the MWRD's Executive Director search and hiring process. If this alternative is selected, the Board of Commissioners would engage a national executive search firm or appoint an independent search committee to identify eligible candidates, whose qualifications would then be vetted by the search firm, the search committee or the Human Resources Department. (If the Human Resources department evaluates candidates' qualifications, the Board of Commissioners would need to establish explicit guidance to avoid any inappropriate influence on the selection process.) The search firm or the search committee would then select a small number finalists to be directly interviewed by the Board of Commissioners, and select a single candidate for Board approval or disapproval.

Changes to the District's statute

As currently written, the District's statute explicitly requires the Board to appoint two positions, Executive Director and Treasurer (along with the 3-member civil service board), and gives the Executive Director broad appointment authority over the department heads. Whatever the IG selection process, the District statute will likely have to be changed to accommodate it. In any case, an OIG at MWRD should be established by statute to the extent possible as an additional safeguard for its independence, mandate, authority and powers.¹⁵

¹⁴ Cook County Code of Ordinances, Chapter 2, Article IV, Division 5, accessed at https://www.municode.com/library/il/cook_county/codes/code_of_ordinances?nodeId=PTIGEOR_CH2AD_ARTIV_OFEM_DIV5INGE_S2-282QUAPTE on February 10, 2016.

¹⁵ Association of Inspectors General, *Principles and Standards for Offices of Inspector General* (Philadelphia: Association of Inspectors General, 2004), p. 3.

Staff, hiring authority and budget

Three key elements of OIG independence are (1) staff; (2) hiring and firing authority; and (3) OIG budget.¹⁶ To the maximum extent possible, all three should be under the control of the IG – or at least they should be protected from any potential interference, from whatever source. As with the appointment of the IG, this will likely require modifications to the District’s statute, particularly the civil-service provisions. The OIG budget can be set as a fixed percentage of the District’s overall budget, or set on a cost-per-employee basis. For comparison, the Cook County Office of the Independent Inspector General has an annual budget of approximately \$1.8 million and 20 employee positions for an agency with an annual operating fund appropriations of approximately \$4.2 billion and approximately 22,000 employees.

Term of office and reappointment

IGs in Illinois typically have terms of office from that range from four to six years. (Generally speaking, these terms are somewhat shorter than the five to seven years recommended by the Association of Inspectors General.) As long as an IG is performing his or her duties efficiently and with integrity and efficiency, there is little reason not to reappoint an IG for an additional term of office. As with the initial nomination of IG candidates, it may be beneficial to seek outside input into the reappointment process to ensure that independence between the Board and the IG is maintained. In similar fashion, the process for removal of an IG needs to be structured with checks and balances to ensure the motivation for removal is not retaliatory. Any District IG policy, legislation, or intergovernmental agreement will require explicit language guiding the process for removing an IG.

Table 1: Term of office of Illinois Inspectors General

Organization	Inspector General Term (years)
Cook County	6
Chicago Board of Education (8)	4
City Colleges of Chicago (9)	4
City of Chicago	4
Illinois*	5
Clerk of Cook County Circuit Court	6

* Includes Illinois Executive IG, Department of Healthcare and Family Services IG, Department of Human Services IG, Secretary of State IG, and Tollway Authority IG

¹⁶ Association of Inspectors General, *Principles and Standards for Offices of Inspector General* (Philadelphia: Association of Inspectors General, 2004), p. 9.

Jurisdiction and authority

Ideally, an OIG at MWRD would have jurisdiction over all employees of the District, including the Executive Director, the Treasurer, the Board of Commissioners, the Board's staff, the Civil Service Board, and all contractors, subcontractors, and suppliers doing business with the District. Broad jurisdictional authority would guarantee the IG substantial independence and freedom of action in pursuing investigations throughout the hierarchy of the organization. To ensure even minimal effectiveness, the IG should also have the power to issue subpoenas, require sworn testimony, and protect the confidentiality of witnesses and persons under investigation. Investigative authority over the members of the Board is not necessarily an essential element of a proposal to bring the benefits of IG oversight to the MWRD. However, due consideration should be given to the fact that if the Board of Commissioners exempts itself from the authority of the OIG, this will likely create resentment on the part of District staff and suspicion on the part of the press and the public.

Reporting requirements

The essential work product of an OIG is the IG report. At the federal level, inspectors general send reports to both the agency head and Congress on a quarterly basis. Reporting requirements for a potential OIG at MWRD can be structured in a similar fashion. Investigations that reveal criminal wrongdoing can be directly forwarded to the appropriate law enforcement agency for prosecution; recommendations for disciplinary action or policy changes can be forwarded to both the head of the agency and the heads of relevant departments.

Six alternatives for an OIG at MWRD

In the wake of the scandal involving Metra¹⁷ executive director Phil Pagano in 2010, the security risk-management firm Hillard-Heintze was appointed as Metra's interim OIG and prepared a report¹⁸ that was intended to provide Metra's governing board with direction in establishing permanent a OIG function at the agency. In its report, Hillard-Heintze proposed three alternatives for the general structure of an OIG at Metra:

(1) an in-house OIG

(2) an outsourced OIG; and

¹⁷ Metra is metropolitan Chicago's commuter rail agency.

¹⁸ Hillard-Heintze LLC, *Launching the New Metra Office of Inspector General: Our Strategic Recommendations on a Strong, Independent and Sustainable Function* (Chicago: Hillard-Heintze, 2010).

(3) a hybrid OIG

Ultimately, Metra and all of Illinois' regional transit boards were placed under the compulsory oversight of the Illinois Executive Office of the Inspector General, adding a fourth alternative to the original list of three:

(4) Compulsory state oversight

Finally, two additional other alternatives not considered by Hillard-Heintze in its 2010 report are:

(5) shared oversight with an existing governmental entity such as Cook County or the Cook County Sheriff's office; and

(6) non-IG oversight through an enhanced internal audit function.

Alternative #1: In-House OIG

As the name suggests, an "in-house OIG" locates the OIG fully within the host agency. In many ways, this is the standard or typical structure for an OIG. In-house IGs enjoy two major advantages: first, their permanent relationship with the host agency offers them the opportunity to develop a much closer relationship with it, thus allowing them to develop a better understanding of the agency's mission and operations. Second, in-house OIGs enjoy long-term stability as well as enhanced legitimacy and credibility at the organization. The disadvantages of this form of organization include higher personnel costs and a longer time frame to establish the OIG office. In its report to Metra, Hillard-Heintze estimated an annual cost of an in-house OIG at Metra to be between \$1.2 million and \$1.5 million.

Alternative #2: External or outsourced OIG

The second strategic scenario is an external or outsourced inspector general. If the District were to select this alternative, it would contract with a private firm to provide IG services, probably through the standard bidding and procurement process. (For example, as we have noted, the private security risk-management firm Hilliard-Heintze was appointed as interim OIG for Metra after that agency's scandal in 2010.) The chief advantages of an external OIG are: (1) access to more specialists at less cost compared with an internal OIG; and (2) a shortened time frame for making the office fully functional. The main disadvantage of an outside OIG is that hiring a private-sector firm could weaken the OIG's credibility and legitimacy in the eyes of the host agency's

personnel. In addition, the outsourced IG would also suffer from a lack of familiarity with the organization, and would lack organizational stability. Hillard-Heintze estimated the cost of an outsourced OIG at Metra at between \$500,000 and \$700,000 a year.

Alternative #3: Hybrid OIG

The final strategic scenario analyzed by Hillard-Heintze was the hybrid approach, which structures the OIG function as a cross between an in-house OIG with significant support from an external contractor. The hybrid approach has many of the advantages of the other two alternatives; however, an outside firm would likely be less focused on the host agency than an OIG fully housed within the host agency. The estimated annual cost of the hybrid approach is between \$700,000 and \$900,000.

Alternative #4: Compulsory state oversight

In February 2011, Public Act 96-1528 placed all of Illinois Regional Transit Boards (including Metra, the Regional Transportation Authority, the Chicago Transit Authority, and Pace) under the jurisdiction of the Illinois Office of Executive Inspector General. The law did not preclude the Illinois Transit Boards from appointing or hiring their own IGs; however, the Illinois Executive IG retains ultimate jurisdiction. Compulsory state oversight is the prerogative of the Illinois General Assembly and Governor, and would likely only be imposed upon the MWRD in response to a significant scandal. (As of the writing of this report, there is no reason to believe that is being considered for MWRD, and outside oversight is included in this document simply to note its existence.)

Alternative #5: Shared OIG

Shared oversight would involve a cooperative agreement (i.e., an intergovernmental agreement) or statutorily-required agreement between the District and another government authority with existing OIG capacity. This could be with the County of Cook¹⁹ or with the Cook County Sheriff's office, both of which have existing OIG capacity and share jurisdictional boundaries with the District; however, it could just as easily be with the City of Chicago OIG. In this alternative, the shared OIG would oversee both its own original host agency (Cook County or the City of Chicago) and the

¹⁹ Cook County is Illinois' largest county by population with an estimated 5,217,080 people according to the 2011 U.S. Census American Community Survey. The recommended 2016 fiscal year operating budget of the county was \$4.2 billion.

District. A prominent local example of a shared OIG structure is that of Cook County and the Forest Preserve District of Cook County²⁰ (FPDCC).

The chief advantage of a shared OIG is efficiency. Although MWRD spends hundreds of millions of dollars each year, it has far fewer employees than the City of Chicago or Cook County,²¹ and a less-complicated organizational structure. An OIG fully funded by MWRD might be relatively expensive, and yet remain significantly under-resourced. A shared OIG would likely be less expensive for the District – Hillard-Heintze estimates the cost to the Forest Preserve District for IG oversight at just \$200,000 – and an OIG shared with the City of Chicago or Cook County would almost certainly have a larger staff and access to more resources than an OIG fully funded and staffed by MWRD. In addition, a shared OIG would also permit MWRD to benefit from the more extensive expertise that could be supplied by a larger OIG staff with a wider range of capabilities.

One disadvantage of a shared OIG is the potential weakness inherent in any non-binding cooperative agreement, which could undermine the independence and authority of the OIG by creating an incentive for the receiving agency to terminate the agreement if it disagrees with the decisions or findings of the IG. The intergovernmental agreement between Cook County and FPDCC, for example, can be terminated with 30-day notice from either party. Although the risk of this happening is probably minimal in the case of the Forest Preserve – the Forest Preserve District enjoys a close relationship with Cook County government and it is governed by the Cook County Board of Commissioners – such a risk could be significant if the District were to share an OIG with Cook County or the Sheriff’s office. In addition, an OIG shared with another agency could also be subject to inter-agency rivalries and other pressures, resulting in an OIG that emphasizes one host agency at the expense of the other. If the MWRD Board of Commissioners should opt for a shared OIG, then, careful attention should be paid to the terms of the authorizing statute and/or the intergovernmental agreement.

Alternative #6: No inspector general

In any policy debate, the status quo is always an alternative that must be considered. The general recommendation of this memo is that appointing an IG would be a significant benefit to the MWRD, assisting the Board of Commissioners in its task of legislative oversight and giving District management resources for measuring its own

²⁰ The Forest Preserve District of Cook County oversees 68,000 acres in Cook County. The fiscal year 2016 budget is \$190.3 million.

²¹ MWRD has about 2000 employees, compared to the City of Chicago (with just over 30,000 employees) and Cook County (just over 22,000 employees).

efficiency and effectiveness. As with any new policy or program, however, potential costs and benefits must be measured and considered before a final decision is reached – and it is certainly possible that the Board of Commissioners, after due consideration, will reach the conclusion that the costs of an OIG outweigh its benefits.

It is important to recognize that the decision not to appoint an inspector general at MWRD is tantamount to a declaration that existing mechanisms of internal control and administration are fully adequate and do not require any improvement whatsoever. As such, the Board of Commissioners should only make such a decision after the District's mechanisms of internal control and the Board's mechanisms of legislative oversight have been subjected to thorough review and evaluation. At a minimum, this would require a review of the District's Internal Audit Charter and an evaluation of the Finance Department's Internal Audit section. It might also require reorganization of the District's internal audit function, both at the staff level and at the level of the Board of Commissioners, possibly including the appointment of an Internal Audit Officer (IAO) and the appointment of a Board of Commissioners Audit Committee.

Recommendations

Recommendation: Give serious consideration to the possibility of appointing an independent inspector general at MWRD

An independent inspector general at the Metropolitan Water Reclamation District would have enormous potential for improving the District's operations as well as enhancing transparency and public accountability at all levels. As we have seen, the OIG function is rapidly coming to be viewed as an essential best management practice (BMP) for public agencies at all levels, and many -- if not most -- of the District's peer agencies within Cook County already have their own OIGs. The absence of a major public scandal at an agency such as the MWRD, and the generally high public regard for its fiscal management, should not be interpreted as evidence that IG oversight is unnecessary -- and in similar fashion, the suggestion that IG oversight could be useful should not be interpreted as an aspersion on the agency's personnel or management.

Recommendation: Conduct a thorough review of the District's internal control and accountability processes as soon as possible, whether or not an IG is appointed

The Board of Commissioners may decide not to appoint an inspector general in FY 2018, either because the Commissioners collectively conclude that the costs of IG oversight outweigh its benefits, or because they conclude that insufficient information is available to make a decision. Because a decision not to appoint an inspector general at MWRD is tantamount to a declaration that existing mechanisms of internal control and administration are adequate, any decision not to appoint an inspector general should be made only after the District's mechanisms of internal control and the Board's mechanisms of legislative oversight have been subjected to thorough review and evaluation. As noted above, this would require a review of the District's Internal Audit Charter and its Internal Audit Function. It might also require the appointment of an Internal Audit Officer (IAO) and the appointment of an Audit Committee for the Board of Commissioners.

Such a review should probably be structured to compare current District practices and procedures to the practices and standards defined by the Institute of Internal Auditors for the internal audit function, which include:²²

- a strong and effective audit committee or equivalent
- clear accountability for risk management and internal control
- adherence to the International Standards for the Professional Practice of Internal Auditing; and
- reporting lines for the chief audit officer or chief audit executive that (CAE or CAO) that enhance the independence of the internal audit function

In addition, it seems advisable for the review of the District's internal control environment to be conducted in such a way as to ensure its objectivity and independence. Options for doing this include:

- appointing a blue-ribbon committee composed of elected or appointed officials, accounting or auditing professionals, and inspectors-general from other local government agencies; or
- contracting with an external law firm, accounting firm, investigative firm or auditing firm that possesses relevant subject matter expertise and experience (e.g., Bronner Group, Hillard-Heintze, Baker-Tilly, Affiliated Monitors, CohnReznick, etc.)

Recommendation: If an IG is appointed, give serious consideration to either (1) an OIG shared with the City of Chicago or with Cook County; or (2) an in-house OIG, with maximum institutional protection for OIG independence, a 5 to 7 year term of office, and the widest possible authority

With sufficient resources, a properly structured in-house OIG would probably offer the highest-quality oversight for the District. An in-house IG structure would allow OIG

²² Institute of Independent Auditors, *International Standards for the Professional Practice of Internal Auditing* (2012), accessed at <https://na.theiia.org/standards-guidance/Public%20Documents/IPPF%202013%20English.pdf> on 2/10/2016.

personnel to become fully acquainted with the special character of the District, its agency mission and its short- and long-term objectives. An in-house OIG would also be better able to focus on MWRD than an external, hybrid or shared OIG. In many ways, an in-house OIG is what most people think of when they think of an OIG.

In spite of these advantages, the Board of Commissioners should give serious consideration to other options, including the option of a shared OIG. Given the relatively small number of employees at MWRD compared to its peer agencies in Chicago and Cook County, an in-house OIG might be relatively expensive for the District, but nevertheless have fewer financial and personnel resources than an OIG shared with another agency.

The language of the authorizing statute or inter-governmental agreement (IGA) should be crafted with care to ensure that any OIG at MWRD, whether shared or in-house, would enjoy maximum institutional protection for its independence. These institutional protections include, at a minimum:

- independent staffing and hiring authority
- a budget that is not subject to the normal District budgeting process
- authority to require statements and documents, to take sworn testimony and to follow investigations wherever they may lead
- appropriate protections for the confidentiality of witnesses and persons under investigation

Given that the MWRD Board of Commissioners has not suffered the kinds of scandals that have led to the appointment of IGs at other agencies, it does not seem absolutely necessary at this time for an IG to have investigative authority over the Board of Commissioners. However, due consideration should be given to the fact that exempting the Board from the IG's jurisdiction will likely be viewed extremely negatively by the public, the press and District staff. Therefore, a single IG with jurisdiction over both the Board and District staff is greatly preferable to an IG with jurisdiction only over District staff, and equally preferable to dual IG offices for staff and for the Board.

Recommendation: Draft any IG/OIG statute, ordinance or other guidance in such a way as to emphasize review of the effectiveness of District policies and programs, rather than financial statement audits and investigations, and make use of appropriate metrics to incentivize the IG to engage in program/policy review

Inspectors general are most often perceived by the public as investigators of waste, fraud and abuse. This perception is reinforced by press coverage, which tends to focus on stories that are considered newsworthy. However, an important part of the work of inspectors general is to examine whether agencies are meeting the program goals they have set for themselves, and whether they are doing so in the most effective manner possible. In other words, a central element of the OIG's mission is to serve the internally-determined mission of the agency. Thus, the relationship between inspectors general and their host agencies is not generally as adversarial as press coverage might lead us to imagine.

Nevertheless, the MWRD Board of Commissioners should consider explicitly designating performance audits as the primary mission for any OIG appointed at the Metropolitan Water Reclamation District. By orienting the IG in this way, and by designing appropriate measures of IG effectiveness, the Board of Commissioners can ensure that the IG will focus his or her efforts on the tasks that will allow the District to accomplish its agency mission better, thereby supporting the shared goals of the Board of Commissioners, District staff, and the citizens of Cook County.

Recommendations for immediate steps:

- Commence immediate review of District's internal audit function, to be carried out by an appropriate external committee or firm with the appropriate subject matter expertise
- Convene a Board of Commissioners study session to discuss the possibility of appointing an inspector general at MWRD
- Modify the District's 2017 Legislative Agenda to accommodate a possible IG and support staff
- Earmark money in the FY 2018 MWRD Budget to support an OIG

- Task the District's Law Department with drafting sample legislation for Board consideration

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Online resources

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Council of the Inspectors General on Integrity and Efficiency. <https://www.ignet.gov/>

Illinois Chapter of the Association of Inspectors General. <http://inspectorsgeneral.org/illinois/>

Office of the Independent Inspector General (Cook County).
<https://www.cookcountyil.gov/agency/office-independent-inspector-general-0>

Office of the Inspector General – City of Chicago. <http://chicagoinspectorgeneral.org/>