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May 19, 2014

Honorable Toni Preckwinkle  
Members of the Board of Commissioners  
of Cook County  
118 North Clark Street  
Chicago, Illinois 60602

Re: OIIG13-0404 (Lobbyist Compliance Review)

Dear President Preckwinkle and Members of the Board of Commissioners:

This letter is written in accordance with Section 2-289(c)(2) of the Independent Inspector General Ordinance, Cook County Ill., Ordinance No. 07-O-52 (2007) (the "OIIG Ordinance") in connection with a Lobbyist Compliance Review related to Cook County government (the "Review"). This statement is made to apprise you of the completion and results of the Review.

### **Background**

The Office of the Independent Inspector General ("OIIG") initiated this Review to assess the level of compliance, transparency and accuracy related to lobbyist reporting in connection with Cook County government. As you know, Cook County's ordinance governing lobbyist registration is broad and applies to "any person who, on behalf of any person other than himself, or as any part of his duties as an employee of another, undertakes to influence any legislative or administrative action..." Cook County Lobbyist Registration Ordinance, Cook County, Ill. Ordinance No. 10-O-53 (2010) ("Lobbyist Ordinance"). This could include routine matters such as a bond inducement ordinance, zoning issues, concession agreements, contract specifications, contracts, grants, and many other matters routinely under consideration by the Board of Commissioners and other decision makers within Cook County government. Registered lobbyists are also required to report lobbying activity in connection with Cook County employees and public officials.

In planning for the Review, we recognized that County employees are not obligated to report their contacts with lobbyists. In fact, the current law imposes the obligation solely upon registered lobbyists to self-report lobbying activities to the Cook County Clerk's Office. That is, County employees are not required to account for lobbyists' activities. Accordingly, we sought to capture available information through visitor information logs with the Board of Commissioners for analysis. The Secretary to the Board of Commissioners

has maintained such logs in recent years in the lobby leading to the offices of the Board of Commissioners in Room 567.

This Review included an analysis of the logs for a 3 year period, as well as the lobbyist activity reports for a 3 year period maintained by the Cook County Clerk's Office. A central purpose for this analysis was to reconcile the visitor logs (when a potential lobbyist signed-in) with lobbyist reports filed with the Clerk and record any discrepancies.<sup>1</sup> This Review also included an effort to collect information from Cook County government personnel to obtain documentation that may have captured lobbyist activity where one would reasonably expect lobbying to occur. Additionally, we conducted interviews of Cook County employees and officials related to lobbying activities in Cook County.

In carrying out this Review, we have been mindful of the critical importance of transparency to enable the public to know who is seeking to influence a public official and why they are doing so. Similarly, in April 2013, the General Accounting Office (GAO) submitted a report of its findings to the U.S. Congress related to an audit of lobbyist disclosure reports filed pursuant to the Lobby Disclosure Act of 1995 (LDA).<sup>2</sup> To determine the extent to which lobbyists could demonstrate compliance, the GAO selected lobbyist disclosure reports from a database maintained by the U.S. Clerk of the House. The GAO subsequently obtained supporting documentation for key elements of lobbyist disclosure reports. The GAO methodology revealed omissions in lobbyist reporting which formed the basis for improvements in internal controls to provide greater transparency in the federal government.

Similar to the GAO's findings, this Review revealed strong evidence of the shortcomings of registered lobbyists in failing to report their lobbying activities as required by law. Furthermore, the Lobbyist Ordinance requires that individuals engaged in lobbying be registered. This Review also developed very strong evidence that individuals are conducting lobbying activity within Cook County government who have failed to register with the Cook County Clerk's Office. These "rogue lobbyists" deprive the people of Cook County with the critical information of who is attempting to influence legislative and/or administrative action and why they are doing so. Additionally, in such circumstances, Cook

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<sup>1</sup> This analysis was conducted using applied audit/compliance techniques and standards performed by the United States General Accountability Office ("GAO") during a similar audit of lobbyist reporting in connection with the U.S. Congress.

<sup>2</sup> Questions regarding the influence of special interests in the formation of government policy have led to a move toward more transparency and accountability with regard to the lobbying community. The Honest Leadership and Open Government Act of 2007 (HLOGA) amended the Lobbying Disclosure Act of 1995 (LDA) to require lobbyists to file quarterly lobbying disclosure reports and semiannual reports on certain political contributions.

County loses the revenue associated with lobbyist registration that all combine to deprive the people of transparency, accountability and fairness in government.

### **Summary of OIIG Findings**

During our Review, we obtained information from the Cook County Clerk's database and public officials. We found the database to be an efficient and effective compliance monitoring tool for this project when reports were properly filed with the Clerk's Office. Additionally, we found all County employees who participated in the Review to be knowledgeable, transparent and supportive while providing suggestions and recommendations intended to improve transparency and compliance in connection with these issues.

This Review identified gaps in lobbyist reporting and identified measures that could deter lobbyists from failing to report their lobbying activities while improving transparency in Cook County government. The proposed measures include requiring lobbyists to sign-in while present on the 5<sup>th</sup> Floor, the issuance of lobbyist registration credentials to be worn by lobbyists while meeting with officials, the development of a "Lobbyist Contact Log" and legislation designed to close a loophole in the Lobbyist Ordinance that permits lobbying to occur without reporting. Additionally, a provision in the ordinance for the imposition of sanctions in the event a lobbyist fails to comply should be added. As outlined in more detail below, this Review disclosed:

- From the information available, we identified 58 occasions where certain visitors appeared to perform lobbying activity but failed to report such activity to the Clerk's Office. Specifically, our Review discovered former registered lobbyists, current registered lobbyists, and employees of lobbying firms who met with County employees and public officials, as demonstrated by visitor logs, but failed to report lobbying to the Clerk's Office.
- During our Review, we discovered problems with identifying individuals who visited County employees and/or public officials. Specifically, we identified 684 illegible signatures or unreadable printed names on the visitors' logs maintained by the Secretary to the Board. Accordingly, we were unable to determine whether these visitors were lobbyists and/or employed by lobbyist firms and verify whether these individuals reported any lobbying activities to the Clerk's Office.
- We received information that lobbyists engage in sidebar conversations during Board of Commissioner meetings by "leaning over the rail" to discuss matters under consideration by the Board. Our Review discovered there are no effective mechanisms (i.e. Sergeant-at-Arms), policies and procedures (restricting lobbying on the Boardroom floor) to monitor and regulate these lobbying activities.

## OIIG Review

### *Documentation*

In accordance with the Cook County Lobbyist Registration Ordinance, Section 2-634(a)(2), every registered lobbyist is required to bi-annually file lobbying activity reports that include all lobbying contacts made with County officials or County employees.<sup>3</sup> A lobbyist is broadly defined as “any person who, on behalf of any person other than himself, or as any part of his duties as an employee of another, undertakes to influence any legislative or administrative action.” Lobbyist Ordinance, Section 2-622. Accordingly, we used the lobbying reports filed with the Clerk’s Office as baseline data to assess the level of lobbyist reporting. In order to evaluate the accuracy of the reported lobbying activity, however, we needed to obtain reliable source data from Cook County. During our planning of the Review, we identified Cook County visitor logs (limited to the Board of Commissioners) as primarily the only available internal record to perform our reconciliation of lobbyist reporting.<sup>4</sup>

There is no legal requirement that visitor logs be maintained. The logs were historically intended to deter outsiders from engaging in unscrupulous behavior while visiting the Cook County Building. Moreover, the logging of visitor information is not currently a requirement prior to entry. While the Secretary to the Board of Commissioners recommends adherence to this practice, despite these efforts, we have been informed that there is less than 100% cooperation from staff resulting in visitors avoiding signing in prior to obtaining access. Additionally, there are multiple entry points to the suite of offices that do not have logs that are routinely used to accept visitors. Therefore, our source data should not be considered inclusive of all lobbying activities occurring in the offices of the Board of Commissioners or elsewhere. Nonetheless, this Review identified a number of protocols that could be implemented to improve transparency with the level of lobbyist activity.

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<sup>3</sup> The Lobbying activity report must include the date of the contact, the County official or employee with whom the lobbying contact was made, the entity on whose behalf the lobbying contact was made and the subject matter of the lobbying contact, including any County contract involved in the contact. If the lobbyist has a relationship by birth or marriage with the County official or employee lobbied, such relationship shall be stated. If the registrant made no such lobbying contacts during the reporting periods herein described, the registrant must file and state that the registrant had no such contacts.

<sup>4</sup> The Review scope was established to analyze lobbying activities for a 36-month period. However, our findings reflect only 18 months or 50% of the original scope due to the unavailability of documentation, primarily in 2011 and 2012. Accordingly, our findings represent 18 months of visitor logs focusing primarily on 2013 because record keeping has improved significantly in recent years.

During our analysis of the logs, it became apparent that visitors routinely did not document their information legibly in the log. Specifically, we found 684 visitors who had illegible names in the log. For instance, we found visitors who used only initials or first names to gain access to the Board of Commissioners' offices. As a result, we were unable to confirm whether these individuals were lobbyists who would be required to report any lobbying activity. Moreover, on many occasions, visitors failed to identify their departments or companies which could have provided us with the necessary information to verify whether the individual works for a lobbying firm. Another major weakness is that visitors are not required to state their purpose for visiting Cook County government officials and present identification.

### ***Potentially Unreported Lobbying***

During our Review, we identified numerous circumstances that indicate individuals may have been required to report lobbying activities pursuant to the Lobbyist Ordinance but failed to:

- We discovered 25 entries by registered lobbyists and six entries by former lobbyists who visited County employees and/or public officials but failed to report these activities to the Cook County Clerk's Office;
- We identified 27 entries by individuals employed by lobbying firms (e.g. Unions and Banks) who visited County employees and/or public officials and did not report lobbying activity to the Cook County Clerk's Office;
- We found visitors who failed to identify their employers on 1,083 occasions; and
- We discovered visitors who failed to identify whom they were visiting on 117 occasions.

These findings provide strong evidence that individuals are routinely lobbying under the radar and undermining the County's rules that promote transparency in government. Importantly, it should be noted that these figures only include those individuals who signed in before meeting with Commissioners or their staff.

### ***Lobbying Loophole***

An exemption from reporting lobbying activities exists in Section 2-632(6) for persons seeking to do business with the County whose activities are limited to occasional

sales-related inquiries or solicitation.<sup>5</sup> We have identified circumstances indicating this exemption is swallowing the rule. For example, a Cook County department head has explained to us that he continually receives telephone calls and emails from lobbyists and receives requests for meetings from business development managers working for potential vendors who are seeking to do business with the County. According to the Lobbyist Ordinance, individuals who contact County employees and/or public officials must report their lobbying activities when such activities exceed the “occasional sales-related” threshold. Our Review revealed that only 6 lobbyists reported lobbying activities 8 times over a 2 year period for that particular department head. Accordingly, these circumstances demonstrate the wide gap that exists in lobbying activity and reporting thereby undermining transparency in government.

Furthermore, Cook County government experiences lost revenues from this lobbying loophole. That is, a person must pay a \$350 fee to register as a lobbyist. Additionally, firms who employ these registered lobbyists are required to pay a \$350 fee as well. Furthermore, the registered lobbyist firm and the lobbyist employee must re-register and pay the \$350 fee each year. Lobbyists who miss the deadline are subject to an initial \$50-per-day penalty. Those who file a late registration after January 31 are subject to a penalty of \$150 per day.

### ***Lobbying During County Board Meetings***

In addition to the issue of visitors failing to adequately sign in when meeting with Commissioners and their staff, we also believe that lobbying activities that occur during the conduct of Board meetings is not fully captured through lobbyist reporting. A department head has explained to us that he has witnessed lobbying activity with Cook County Commissioners during County Board meetings. We also received corroborative testimony from another department head and public official that lobbying occurs on the floor of the Boardroom during public forum meetings. This includes sidebar conversations that occur with Commissioners during Board meetings when an individual “leans over the rail” in an attempt to discuss a matter under consideration by the Board. Currently, there are no internal controls in place to capture such activity to ensure the public is aware of who and why an individual is seeking to influence an elected official.

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<sup>5</sup> The exception includes: Persons seeking to do business with Cook County whose *lobbying activities are limited to occasional sales-related inquiries or solicitations*, the submission of bids, or responses to requests for proposals or requests for qualifications, and who make no expenditures which would otherwise be reportable under Section 2-634 (emphasis added).

The chart below reflects data obtained from the visitor logs and the Cook County Clerk's lobbyist database. It reveals that of 30 Cook County Board of Commissioners' meetings where 356 individuals signed in on the day of the meeting, we were only able to confirm 2 lobbyists who both signed in and reported lobbying activity for the date in question. While we cannot confirm that the remaining 354 visitors were or were not conducting lobbying activities, the evidence developed as a whole supports the conclusion that significant lobbyist activity occurs without such activity being reported.

<b>County Board Meeting</b>	<b>Number of Sign-ins</b>	<b>Reported Lobbying</b>
April 3, 2012	14	0
April 17, 2012	Missing	N/A
May 1, 2012	19	0
May 14, 2012	13	0
June 5, 2012	11	0
June 19, 2012	15	0
July 10, 2012	14	0
July 24, 2012	11	0
September 10, 2012	19	1
October 2, 2012	15	0
October 16, 2012	14	0
November 1, 2012	8	0
November 14, 2012	8	0
December 4, 2012	14	0
December 18, 2012	14	0
January 16, 2013	15	0
February 5, 2013	Missing	N/A
February 27, 2013	Missing	N/A
March 20, 2013	Missing	N/A
April 17, 2013	25	0
May 8, 2013	12	0
May 29, 2013	19	0
June 19, 2013	12	2
July 17, 2013	20	0
July 31, 2013	13	0
September 11, 2013	11	0
October 2, 2013	14	0
October 23, 2013	6	0
November 13, 2013	9	0
December 4, 2013	11	0

### **OIIG Recommendations**

Based on all of the foregoing and the important interests supporting transparency in the conduct of government, we recommend the following enhancements in connection with lobbying activity:

- As a threshold matter, it is absolutely critical for County government to require lobbyists to clearly, completely and accurately document their information prior to entry on the 5<sup>th</sup> Floor when meeting with elected officials and/or their staff. Lobbyists should be required to legibly print and sign their names, document their employer, and state their purpose for visiting County employees and public officials. Cook County should include these logs as part of its formal records retention protocol.
- The County should implement policies that will curb unreported lobbying activity. One measure that could assist with curbing unregistered lobbyist activity is to issue registration credentials to all registered lobbyists so officials can verify their status as a registered lobbyist. Such credentials should be required to be worn at all times when a lobbyist is located on the Boardroom floor and when meeting with Cook County government officials.
- The County should develop a Lobbyist Contact Log and require County employees and public officials to log lobbying activity. This will significantly aid in compliance and likely serve as a deterrent to rogue lobbyists.
- Consideration should be given to eliminating the lobbying loophole contained in Section 2-632(6) of the Lobbyist Ordinance to require all lobbying activity to be reported and prevent lobbyists from operating under the radar. Minimally, Cook County should strictly define the exception and limit such "occasional" contacts to twice per year.
- Consideration should be given to strengthening the Lobbyist Ordinance to deter unregistered lobbying activity. For example, if an individual is determined to have engaged in lobbying activity without registration and report of lobbying activity, such person should be fined and/or barred from Cook County government lobbying for a period of 4 years.
- We also recommend that each of the independently elected officials whose operation is funded by Cook County government also adopt similar measures, including the creation of a Lobbyist Contact Log.

Finally, in accordance with Section 2-285(e) of the OIIG Ordinance, this office respectfully requests notification within 30 days of any action taken in response to the foregoing recommendations. Thank you for your consideration of these issues. Please do not hesitate to contact me if you have questions.

Hon. Toni Preckwinkle and members of the  
Board of Commissioners  
May 19, 2014  
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Very truly yours,

A handwritten signature in black ink that reads "Patrick Blanchard". The signature is written in a cursive, flowing style.

Patrick Blanchard  
Independent Inspector General

cc: Hon. David Orr  
Ms. Kimberly Foxx, Chief of Staff to the President  
Ms. Tasha Cruzat, Deputy Chief of Staff  
Ms. Laura Lechowicz Felicione, Special Legal Counsel  
Dr. John Jay Shannon, Interim CEO, Health and Hospital System  
Mr. Arnold Randall, General Superintendent, Forest Preserve District  
Mr. Matthew DeLeon, Secretary to the Board of Commissioners  
Mr. Ranjit Hakim, Executive Director, Board of Ethics