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March 24, 2016

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

Re: IIG15-0364 (Open Meetings Act Compliance Management)

Dear President Preckwinkle and Members of the Board of Commissioners:

This letter is written in accordance with Sections 2-288 and 2-289(c)(2) of the Office of the Independent Inspector General Ordinance, Code of Ordinances, Cook County, Illinois, ch. 2, art. IV, div. 5 (2007) (the "OIIG Ordinance") in connection with a review initiated to assess the adequacy of the internal controls in place to properly manage compliance by Cook County government with the training related requirements of the Illinois Open Meetings Act ("the OMA"). This statement is made to apprise you of the results of our review.

Summary of Findings

As outlined in greater detail below, we have identified gaps in both completing and reporting the OMA mandated electronic training related to Cook County government public bodies (*i.e.*, boards and commissions) and public officials and the lack of an internal process to ensure compliance with the OMA standards.

- The OMA imposes a statutory obligation upon public bodies to submit a list of those individuals who have been designated to complete the OMA electronic training. We have determined that 31 public bodies under the umbrella of Cook County government are required to comply with the OMA by submitting a list of designated employees to receive OMA training. However, only 1 of the 31 public bodies submitted such a list during the period of our review.
- All public officials serving on a public body must complete the OMA electronic training within a certain timeframe after being elected or appointed to office. In our review, we found that only 5 (28%) of Cook County elected officials (the President

and 17 members of the Board of Commissioners) fully complied with the OMA electronic training requirements as of January 7, 2016.

Accordingly, we recommend the implementation of internal controls to close the gaps in compliance by, among other things, imposing a duty upon the FOIA Officer in each public body to notify public officials and designees of public bodies of their training obligation pursuant to the OMA. Furthermore, the FOIA Officer should obtain and maintain records that demonstrate OMA compliance.

Background

The Illinois General Assembly enacted the OMA to give the public greater access to information about its government. 5 ILCS 120/1. Pursuant to the OMA, government entities must give advance notice of and the right to attend all meetings at which any business of a public body is discussed or acted upon, except for certain limited circumstances that the General Assembly has specifically determined that the public interest would be endangered or personal privacy or individual rights would be subject to unwarranted invasion. 5 ILCS 120/1. As a result, government will be more accountable, transparent, and effective in connection with serving the public.

Under the OMA, a public body must designate employees, officers, or members to complete the OMA electronic training. 5 ILCS 120/1.05(a). Importantly, the public body must submit a list of the designated individuals to the Attorney General's Office. We performed compliance procedures to determine whether Cook County's public bodies are in compliance with the OMA electronic training reporting (*i.e.*, designated individuals) and training participation. In determining whether an entity is subject to the Open Meetings Act, we considered the factors set forth in precedent: (1) whether the entity has a legal existence independent of government resolution; (2) the nature of the functions performed by the entity; and (3) the degree of governmental control exerted over the entity. *See Hopf v. Topcorp*, 256 Ill. App. 3d 887, 892 (1st Dist. 1993).¹ The following Cook County boards and commissions meet this criteria:

- Cook County Board of Commissioners
- Cook County Forest Preserve District
- Cook County Health and Hospitals System
- Central Stickney Sanitary District
- Cook County Board of Ethics
- Cook County Commission on Women's Issues
- Cook County Emergency Telephone System

¹ This criteria is utilized by the Public Access Bureau when making such assessments.

- Cook County Housing Authority
- Cook County Human Rights Commission
- Cook County Land Bank Authority
- Des Plaines Valley Mosquito Abatement District
- Forest River Sanitary District
- Forest River Street Lighting District
- Garden Homes Sanitary District
- Justice Advisory Council
- Kimberly Heights Sanitary District
- Medical Examiner's Advisory Committee
- Mission Brook Sanitary District
- Northfield Woods Sanitary District
- North Shore Mosquito Abatement District
- Northwest Mosquito Abatement District
- Norwood Park Street Lighting District
- Oak Meadows Sanitary District
- Old Town Sanitary District
- Palos Oak Hill Cemetery Association
- Plum Grove Estates Sanitary District
- Plum Grove Woodlands Sanitary District
- South Cook County Mosquito Abatement District
- South Stickney Sanitary District
- Weller Creek Drainage District
- Zoning Board of Appeals

Independent of the public body designations, all public officials serving on a public body must complete the OMA electronic training within a certain timeframe after being elected or appointed to office. 5 ILCS 120/1.05(b). The Public Access Bureau within the Illinois Attorney General's Office has been mandated to administer the OMA electronic training.

Findings and Conclusions

We obtained the OMA electronic training records from the Office of the Attorney General ("Training Records") for the period January 1, 2012 to January 7, 2016 and compared them to the foregoing Cook County public bodies and public officials to evaluate the level of compliance with the OMA. Below are our findings after reconciling this information.

Public Bodies

Public bodies must complete two principle actions in order to satisfy their obligation pursuant to the OMA electronic training. First, the OMA requires that all public bodies

designate employees, officers or members to receive electronic training and submit a list of designated persons to the Office of the Attorney General's Public Access Counselor. Second, the designated individuals must complete the OMA electronic training each year.² 5 ILCS 120/1.05.

Designee List

We compared the 31 Cook County public bodies subject to the OMA with the Training Records maintained by the Public Access Bureau of the Office of the Attorney General and determined that only 1 of the 31 entities submitted a list of designees as required under the OMA. However, it should be noted that the public body that appropriately submitted its designee list failed to ensure that its designated employees completed the requisite electronic training each year. The remaining 30 public bodies failed to submit a list of designated individuals to the Public Access Bureau.

Electronic Training

Notwithstanding the failure to submit the required designee list, our analysis of the Training Records maintained by the Public Access Bureau revealed that certain individuals employed by the public bodies (excluding the Cook County elected officials) did undergo electronic training. Specifically, we identified 5 of the 31 public bodies (16%) employed an individual who completed the OMA electronic training each year. Additionally, we identified another 11 public bodies (35%) which employed an individual who completed electronic training at least once in the last 4 years. Our analysis revealed that 15 public bodies (48%) had no employees who completed the OMA electronic training whatsoever.

Public Officials

Public officials holding office on January 1, 2012 were required to complete the OMA electronic training no later than January 1, 2013. Public officials assuming office after January 1, 2012 were required to complete the OMA electronic training within 90 days of taking office. 5 ILCS 120/1.05(b). Thereafter, public officials are required to complete the OMA electronic training for each term they are elected or appointed to office.

Our review included an analysis of the OMA electronic training records for 17 members of the Cook County Board of Commissioners and the President of the Board of Commissioners (referred to below collectively as Cook County elected officials).³ We compiled our findings in the three categories below.

² If a new individual is designated to receive the OMA training, that employee needs to complete the PAC's electronic training within 30 days of the designation. 5 ILCS 120/1.05

³ The 31 public bodies identified above include 158 appointed positions. The appointed members of these bodies are also subject to the training requirements of the OMA. 5 ILCS 120/1.05(b).

Full-Compliance with the OMA Requirements

Five Cook County elected officials fully complied with the OMA electronic training by taking the training for each term he or she was elected or appointed to serve.⁴

Partial-Compliance with the OMA Requirements

Five Cook County elected officials partially complied with the OMA electronic training by completing the requisite training once but not for each term they have held office.

Non-Compliance with the OMA Requirements

Eight Cook County elected officials are in complete non-compliance because they have failed to complete the OMA electronic training within 90 days after assuming public office.

OIG Recommendations

The evidence developed during the course of this review supports the conclusion that a lack of effective internal controls has resulted in a failure to ensure compliance with the training requirements imposed by the OMA on public officials and public bodies. Accordingly, based upon all of the foregoing, we recommend:

- As a threshold matter, it is important for all Cook County public bodies to officially designate individuals for training and submit their lists to the Attorney General's Public Access Counselor (including committees and subcommittees). These designees need to complete the OMA electronic training within 30 days and complete the training each year thereafter. Going forward, the designee list should be updated as additional individuals are designated for the OMA electronic training.
- Cook County public officials need to assess their individual circumstances and determine whether they have completed the electronic OMA training. If training has not been completed, we recommend that public officials complete it as soon as possible. This includes appointees to Cook County's boards and commissions.
- The County should implement internal controls to ensure that Cook County public officials and public bodies sustain full compliance with the OMA each year. We recommend that the FOIA Officer in each public body be given the responsibility of notifying public officials and designees of public bodies of their training obligation

⁴ There are currently 14 Commissioners (including the President) who have served at least two terms on the Board and had to complete the OMA electronic training twice in order remain in full compliance.

pursuant to the OMA. The FOIA Officer is an appropriate selection to track and monitor compliance though another individual may be selected. These monitoring activities should include the collection and management of designee lists submitted to the Public Access Counselor and the OMA training certificates of completion.

- The challenges in managing compliance for the 163 appointees to the boards and commissions may be difficult. We recommend that one individual be tasked with this management responsibility to liaison with the appointees to ensure they are aware of their OMA responsibilities and remain in full compliance.

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 cooperation and assistance with this matter. Please do not hesitate to contact me if you have questions.

Very truly yours,



Patrick M. Blanchard
Inspector General

cc: Mr. Brian Hamer, Chief of Staff, Office of the President
Ms. Anel Ruiz, Deputy Chief of Staff, Office of the President
Ms. Laura Lechowicz Felicione, Special Legal Counsel to the President
Mr. Arnold Randall, Superintendent, Forest Preserve District
Mr. Dennis White, General Counsel, Forest Preserve District
Dr. John Jay Shannon, Chief Executive Officer, Health and Hospitals System
Mr. Jeffrey McCutchan, Interim General Counsel, Health and Hospitals System
Mr. Ranjit Hakim, Executive Director, Board of Ethics
Mr. Matthew B. DeLeon, Secretary to the Board of Commissioners of Cook County
Ms. Debbie Santana, Secretary to the Health and Hospitals System Board