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September 6, 2019

Via Electronic Mail

Honorable Kari K. Steele
and Honorable Members of the Metropolitan
Water Reclamation District of Greater Chicago
Board of Commissioners
100 East Erie Street
Chicago, Illinois 60601

Re: IIG19-0279 (MWRD Code of Ethics Review)

Dear President Steele 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 Illinois, Ordinance No. 07-O-52 (2007) relative to a review of the Metropolitan Water Reclamation District (MWRD) Code of Ethics. The following is a summary of our review.

Background

This review was initiated to assess the MWRD Ethics Ordinance and develop recommendations reflecting a comparative and comprehensive list of provisions for the Board of Commissioners when considering amendments to the current Ethics Ordinance.

OIG Review

Our scope for this review included an assessment and evaluation of the MWRD Ethics Ordinance and the corresponding 2003 Illinois General Assembly ethics reform legislation. We also conducted a comparison of the MWRD Ethics Ordinance with the ethics ordinances adopted by the City of Chicago, Cook County and other large water districts in the United States. Finally, we have compiled a comprehensive list of essential and/or unique ethics provisions that should be considered by the Board of Commissioners in establishing best practices for an entity the size and complexity of the MWRD.

MWRD¹

The mission of the MWRD is to protect the health and safety of the public in its service area, protect the quality of the water supply source (Lake Michigan), improve the quality of water in watercourses in its service area, protect businesses and homes from flood damages, and manage water as a vital resource for its service area. The MWRD treats an average of 1.3 billion gallons of water each day while the MWRD's total water treatment capacity is over 2 billion gallons per day. The MWRD also controls 76.1 miles of navigable waterways, which are part of the inland waterway system connecting the Great Lakes with the Gulf of Mexico. It also owns and operates 34 storm water detention reservoirs to provide regional storm water flood damage reduction. The MWRD is located primarily within the boundaries of Cook County, Illinois and serves an area of 883 square miles which includes the city of Chicago and 128 suburban communities.

The MWRD is governed by a nine-member Board of Commissioners. Commissioners are elected at large and serve on a salaried part-time basis. Three Commissioners are elected every two years for six-year terms. On a biannual basis, the Board elects from its membership a President, Vice President, and Chairman of the Committee on Finance.

The Executive Director reports directly to the Board and manages the MWRD's day-to-day operations. Eight appointed department heads report to the Executive Director. The Treasurer of the District, its chief financial officer, is appointed by and reports directly to the Board.

State Officials and Employees Ethics Act²

In 2003, the Illinois General Assembly passed ethics reform legislation effective November 19, 2003. The State Act, as amended, was a comprehensive revision of State statutes regulating ethical conduct, political activities and the making and acceptance of gifts. The State Act also created an enforcement structure to ensure compliance with the ethics laws. The provisions of the State Act are applicable only to officers and employees of the Executive and Legislative branches of State government. However, the State Act also requires all units of local government and school districts (collectively referred to as "Governmental Entities" in the State Act) to adopt ordinances or resolutions regulating political activities and the making of and accepting of gifts "in a manner no less restrictive" than the provision of the State Act. Such ordinances or resolutions were to be adopted by May 19, 2004. The State Act also provided that the Attorney General develop model ordinances and resolutions to assist Governmental Entities in complying with the requirements of the new law. This Model Ordinance was drafted with

¹ Metropolitan Water reclamation District of Greater Chicago, www.mwrd.org.

² A Guide to the Implementation of Model Ethics Ordinance, Illinois Attorney General, Ethics and Integrity, http://www.ag.state.il.us/government/ethics_ordinance_guide.pdf.

significant input from local governmental organizations and was designed to assist local governmental entities by providing clear, comprehensive and enforceable ethics regulations.

Implementation of the Model Ordinance

A Governmental Entity can comply with the basic requirements of the State Act by adopting Articles 1, 5, 10 and 25 of the Model Ordinance. These include the substantive provisions of the State Act that are specifically required to be incorporated, together with necessary definitions and penalties. Additionally, the drafters strongly recommended that Governmental Entities also adopt Articles 15 and 20 of the Model Ordinance which provide for the creation of an enforcement mechanism and appointment of an ethics advisor. As you know, as outlined below, the MWRD enacted the MWRD Ethics Ordinance by incorporating Articles 1, 5, 10 and 25, in addition to Articles 15 and 20.

MWRD Ethics Ordinance No. 04-001

In 2004, MWRD's Board of Commissioners adopted, pursuant to the mandate of the State Act, an *Ordinance Regulating Political Activities of and Solicitation and Acceptance of Gifts by the Officers and Employees of the Metropolitan Water Reclamation District of Greater Chicago*, also known as the Ethics Ordinance. The Ethics Ordinance includes a Preamble followed by Section 1 with the following substantive provisions:

- Article 1** – Definitions
- Article 5** – Prohibited Political Activities
- Article 10** – Gift Ban
- Article 15** – Ethics Advisor
- Article 20** – Ethics Commission
- Article 25** – Penalties

Article 20 created an Ethics Commission consisting of three members appointed by the Executive Director, with the advice and consent of the Board of Commissioners. The Ethics Commission is responsible for accepting complaints under the District's Ethics Ordinance, which regulates political activities and the solicitation and acceptance of gifts by MWRD officers and employees. Pursuant to Section 20-4 of the Ethics Ordinance, complaints must be in writing, signed, and notarized. Upon receipt of a signed, notarized, written complaint, the powers of the Ethics Commission may include, but are not limited to investigating, conducting hearings and deliberations, issuing recommendations for disciplinary actions, and imposing fines. The Ethics Commission is restricted, however, to act only upon the receipt of a written complaint alleging a violation of the Ethics Ordinance and not upon its own prerogative.

Comparative Legislation

City of Chicago Board of Ethics³

Chicago's Governmental Ethics Ordinance, first enacted in 1987, established standards of ethical conduct for all persons involved in and with City government. These standards assist City employees, appointed and elected officials, and persons or businesses with or seeking City business or wishing to make political contributions to candidates for elected City office, in maintaining integrity in the operation of City government and in recognizing potential conflicts of interest and handling them professionally and responsibly. The City of Chicago Board of Ethics was also established in 1987 to: (i) interpret the Ordinance; (ii) educate City governmental personnel and the public about the Ordinance; (iii) confidentially advise persons subject to the Ordinance on complying with its letter and spirit; (iv) promote transparency by making public information about lobbyists and their activities, recusal notices, annual conflicts of interest disclosures, and ethics pledges filed by City employees and officials; and (v) accurately, and consistent with due process, adjudicate completed ethics investigations, commence enforcement actions where no investigation is required, determine whether violations occurred and assess appropriate penalties, and make such information public.

Investigations and Enforcement

When public or other records made available to the Board warrant a finding that there is probable cause to conclude that the Chicago Ordinance was violated and no factual investigation is necessary, the Board will commence a regulatory action consistent with principles of due process of law. Where the Board deems that a full factual investigation is necessary in order for it to determine probable cause, it refers the matter for investigation to the City's Inspector General. After the City's Inspector General completes the ethics investigation (including investigations that office generates from complaints it receives), it submits its investigations to the Board. The Board may then: (i) dismiss the matter, or (ii) conclude from the investigation that there is reasonable cause to believe the law was violated, then settle the matter or administer a confidential evidentiary hearing or "trial" to determine whether the Ordinance was actually violated.

All ethics complaints, probable cause findings, investigations, investigator's recommendations and hearings are confidential. However, the Chicago Board of Ethics makes public on its website all settlement agreements, final determinations of violations, and penalties assessed. It is expressly noted that the Ordinance is not a criminal law and that potential criminal conduct is referred to federal or state prosecutors.

³ City of Chicago, Board of Ethics, <https://www.chicago.gov/city/en/depts/ethics.html>.

Whistleblower Protection

Persons who experience retaliatory action for reporting Ordinance violations or providing information in an investigation may recover damages, be reinstated with double back pay, or have regulatory or financial denials reconsidered.

Advisory Opinions

Only persons subject to the Ordinance may request advisory opinions. Advisory opinions are confidential and may be relied upon in future investigations. Formal advisory opinions are posted on the Board's website with a searchable index and case summaries, but all identifying information is removed, as required by law. The Board may render opinions only as to future conduct. Persons who disclose past violations that the Board finds are not minor may be referred to the City's Inspector General.

Chicago Board of Ethics Members and Staff

The Ordinance provides for seven Board members appointed for staggered four-year terms by the Mayor and confirmed by City Council. They are uncompensated and may be removed by the Mayor, but only for cause, with written consent of remaining Board members. Members may not hold any elected or other appointed public or political office, engage in any political or campaign activity, or have a financial interest in any work or business of the City or certain other governmental agencies in Cook County. Board members make probable cause and final determinations concerning allegations of Ordinance violations, impose appropriate fines, and issue or approve formal advisory opinions. The Board's eight-person staff carries-out all Board functions and is headed by the Executive Director, who is also appointed by the Mayor and confirmed by the City Council.

Code of Conduct

The Chicago Ordinance seeks to prevent and correct conflicts of interest in City government. It covers, among other things:

- Conflicts of Interest
- Gift/Travel Limitations
- Misuse of City-Owned Property
- Representation of Third Parties
- Post-Employment/Revolving Door Restrictions
- Contracting with the City
- Nepotism
- Political Contributions and Activity
- Sexual Harassment
- Loans from City contractors or lobbyists

Limitations on Political Contributions

The Chicago Ordinance limits political contributions to elected City officials and candidates for elected City office.

- Anonymous contributions, or those made other than in the name of the true donor, are prohibited
- Contributions based on an understanding that a candidate's votes or official actions would be influenced thereby are prohibited
- Cash contributions exceeding \$250 are prohibited (personal checks are not cash)

Contributions are limited to \$1,500 per recipient per calendar year from:

- Lobbyists registered with the City
- Persons seeking to do business with, or who, within the preceding four years, have done business with, the City, CTA, Board of Education, Park District, City Colleges, or Metropolitan Pier and Exposition Authority

The \$1,500 limit applies to contributions to:

- Each candidate for City office during a single candidacy; or
- Each City elected official per calendar year or any City employee or official seeking election to any non-City office

Persons who violate these limits and the political committees to which they contribute are subject to fines up to \$5,000 or three times the excessive contribution.

The Illinois Election Code also limits contributions to candidates for elected City office. By Mayoral Executive Order, City employees, appointed officials, lobbyists, and City contractors and subcontractors and their owners, spouses or domestic partners, are prohibited from contributing at all to the Mayor's political committee.

Ethics Education

Lobbyists, elected officials, appointed officials and City employees must complete annual ethics training programs designed by the Board. Aldermen, City Council employees and Senior Executive employees must also attend face-to-face ethics training every four years. New employees must complete ethics training. Beginning in 2018, these classes include training on sexual harassment.

Duty to Report Corrupt or Unlawful Activity

City employees, officials and contractors must report conduct that they know or should know involves corrupt or other unlawful activity concerning the City to the Office of the City Inspector General.

Financial Disclosure

The Chicago Ordinance requires the following persons to file an annual Statement of Financial Interest:

- All appointed officials, except members of a board that is solely advisory in nature
- All elected City officials and candidates for elected City office
- City employees at the managerial level

Filers disclose, among other things:

- Outside, non-City compensation, certain gifts received, and outside boards on which they serve
- Sources of realized capital gains
- Ownership of businesses located in the City
- Investment or income-generating real estate owned and located in the City

Lobbyist Regulation

The Chicago Ordinance requires that every person who lobbies City government on behalf of another person must register with the Board and pay a \$350 annual registration fee and a \$75 fee for each client after the first (fees are waivable for lobbyists from certain non-profits). Registrations must be filed by January 20th or within five business days of first lobbying. Lobbyists also file quarterly reports of their activities, disclosing their compensation, which matters they lobbied upon, gifts they gave and to whom, and political contributions they made. Failure to register or file reports can result in fines up to \$1,000 per day until an individual completes registration as required and/or suspension or cancellation of City contracts or regulatory decisions. Lobbyists' filings are available for examination through the Board's website.

Penalties

The Chicago Board of Ethics has the sole authority to determine whether an individual has violated the Ordinance and may impose fines or recommend penalties such as employment sanctions, removal from office, censure, or invalidation of contracts.

Summaries of adjudicated cases (including settlements) are made public, in accordance with the Ordinance's confidentiality requirements.

Cook County Board of Ethics⁴

The Cook County Board of Ethics is responsible for enforcing the Cook County Ethics Ordinance and Lobbyist Registration Act. The Ethics Ordinance requires all Cook County officials and employees to abide by a Code of Conduct which sets forth general directives to ensure fair and honest government in Cook County. The Code of Conduct applies to officials, employees, persons doing or seeking to do business with the County, persons regulated by the County, persons seeking official action by the County and lobbyists. The Cook County Ordinance addresses the following areas:

- Fiduciary duty
- Gifts and proper disclosure of gifts
- Conflicts of interest
- Improper influence
- Dual employment
- Confidential information
- County-owned property
- Whistleblower protections
- Campaign contributions
- Representing other parties
- Personal or family interest in County business
- Lobbyist registration
- Nepotism
- Identity protection
- Post-employment restrictions
- Political activity

Upon determining that a violation has occurred, the Board has the authority to request corrective action and impose fines, among other remedies. Final determinations of the Board are public documents, with such redactions as may be appropriate to protect the integrity of the Board's investigative process and/or private or personal information.

Gift Ban

Cook County officials and employees are generally prohibited from receiving gifts or gratuities from prohibited sources (e.g., vendors, potential vendors, regulated entities, lobbyists, etc.). There are limited exceptions that may apply and officials and employees must still disclose the receipt of gifts or gratuities from a prohibited source within ten business days of receipt.

⁴ Cook County Board of Ethics, www.cookcountyil.gov/agency/board-ethics-1

Prohibited Political Activity

Cook County officials and employees are prohibited from engaging in election or campaign-related activities during work hours or when using County resources. The Cook County Ethics Ordinance places strict prohibitions on the use of taxpayer-funded County time and resources for political activity. County officials, employees and appointees cannot: (i) Engage in any political activity during any compensated time; (ii) Use County property or resources for political activity; (iii) Require or coerce any County employee to perform any political activity during work hours, during any County compensated time off or as a condition of employment; (iv) Compel or intimidate any other official or employee to make or refrain from making any political contribution.

Campaign Finance Activity

Cook County vendors, potential vendors, lobbyists and paid appointees are subject to certain campaign contribution limitations for elected County officials, candidates for County office and campaign committees controlled by or established in support of a County official or candidate for County office. Persons who have done, are doing or are seeking to do business with the County cannot contribute more than \$750 in any nonelection year to a candidate for County office (or a local, state or federal campaign committee controlled by or established in support of a candidate for County office). During an election year in which the intended recipient is a candidate for County office, persons who have done, are doing or are seeking to do business with the County may make a maximum contribution of \$750 to a candidate for County office during the primary election and another maximum contribution of \$750 to the same candidate during the general election even if both elections take place in the same calendar year. A person is considered to “have done” or be “doing” business with the County for the purpose of these campaign contribution regulations if the person currently or during any consecutive 12-month period during the previous four years had more than \$10,000 in aggregate County leases, contracts, purchases or sales. A person is “seeking” to do business with the County if, in the previous six months the person pursued leases, contracts, purchases or sales that, if successful, would meet the qualifications for doing business with the County. If the “person” on the County lease or contract or purchasing from or selling to the County is a business entity, then this portion of the County Ethics Ordinance also limits the campaign contributions of the entity’s affiliated companies and its employees, officers, directors and partners if those entities or individuals receive reimbursements from the restricted entity for their campaign contributions.

Post-Employment Restrictions

This section of the County Ordinance prohibits officials and employees receiving compensation from an entity doing business with the County for a period of one year after termination of public employment if the official or employee was personally involved in the subject business transaction. A similar prohibition exists to lobbying on behalf of an entity post-employment when compensation is received.

Lobbyist Familial Relationship Disclosure

The Cook County Ethics Ordinance requires all persons registered as a lobbyist with Cook County, upon filing with the Cook County Clerk, to disclose to the Cook County Board of Ethics the existence of familial relationships they may have with all persons holding elective office in the State of Illinois, the County of Cook, or in any municipality within the County of Cook. The same regulation applies to vendors who do business with Cook County.

The Cook County Board of Ethics enforces the Code of Conduct by investigating complaints of Ordinance violations and conducting related audits, issuing advisory opinions and providing other ethics advice, and designing and delivering ethics and other types of training sessions. The investigations and considerations by the Board of Ethics of potential violations of the Ethics Ordinance are confidential. As a matter of policy, the Board also maintains as confidential the identity of the requestors of advisory opinions. The Board, however, is undertaking to make its final determinations available to the public with such deletions as may be necessary to prevent disclosure of any information the Board determines to be confidential.

Advisory Opinions

One of the key functions of the Board of Ethics is to render advice to Cook County officials, employees, and others governed by the County's Ethics Ordinance and Lobbyist Registration Ordinance. The Board and its staff provide this advice in formal and informal advisory opinions. First, the Board may issue formal opinions in response to specific questions or on its own motion. These opinions are binding on those governed by the Ordinance. Second, anyone may request informal advice from Board of Ethics staff on routine issues. Staff opinions do not bind the Board to a particular opinion, but they have the advantage of being rendered more quickly than formal advisory opinions of the Board. The Board currently only publishes its formal advisory opinions, with redactions where appropriate to protect the identity of the person requesting the opinion.

The Board of Ethics is composed of five members appointed by the President of the Cook County Board of Commissioners with the advice and consent of the Cook County Board of Commissioners. The Board of Ethics holds regular meetings at 69 W. Washington Street, Suite 3040, Chicago, Illinois. The Board of Ethics typically meets the second Thursday of every other month (unless designated otherwise). Meetings of the Cook County Board of Ethics are open to the public.

New York City Water Board - Code of Ethics

The purpose of The New York City Water Board is to promote honest and ethical conduct. The policies were designed to serve as a guide for official conduct and are intended to enhance the ethical and professional performance of Board Members and Officers and to preserve public confidence in the Water Board's mission.

The responsibilities of members and officers of the Water Board include:

- Each Board Member and officer shall endeavor to refrain from engaging in outside activities relating to matters of financial or personal interest that could impair independence of judgment or prevent the proper exercise of his or her official duties.
- No Board Member or officer shall directly or indirectly, make, advise, or assist any person to make any financial investment based upon information available through the member or officer's official position that could create any conflict between the member or officer's public duties and interests and his or her private interests.
- No Board Member or officer shall accept or receive any gift or gratuities where the circumstances would permit the inference that: (a) the gift is intended to influence the individual in the performance of official business or (b) the gift constitutes a tip, reward, or sign of appreciation for any official act by the individual. This prohibition extends to any form of financial payments, services, loans, travel reimbursement, entertainment, hospitality, items, or promise from any entity doing business with or before the Board. Meals provided during meetings that are reasonable under the circumstances and where paying directly is impracticable shall not be deemed to violate this policy. Gifts of an aggregate of less than \$50 in a twelve-month period from an individual firm or employees of a single firm that does business or intends to do business with the Board shall not be deemed to violate this policy.
- No Board Member or officer shall use or attempt to use his or her official position with the Board to secure unwarranted privileges for himself or herself, members of his or her family, or others, including employment with the Board or contracts for materials or services with the Board.
- Each Board Member and officer must conduct himself or herself at all times in a manner that avoids any appearance that he or she can be improperly or unduly influenced or that he or she is acting in violation of the public trust placed in him or her.
- No Board Member or officer may engage in any official transaction with an outside entity in which he or she has a direct or indirect financial interest that may reasonably conflict with the proper discharge of his or her official duties.
- Each Board Member and officer shall manage all matters within the scope of the Board's mission, independent of any other affiliations or employment. Any Board Member or Officer employed by or serving in an official capacity with more than one governmental entity shall strive to fulfill his or her professional responsibility to the Board without bias and shall support the Board's mission to the fullest.
- No Board Member or officer shall use Board property, including equipment, telephones, vehicles, computers, or other resources, or disclose information acquired in the course of

his or her official duties in a manner inconsistent with State or local law or policy and the Board's mission and goals.

- Each Board Member and officer is prohibited from appearing or practicing for business related purposes before the Board for two years following his or her service as a member or officer of the Board, consistent with the provisions of State and local.

Additionally, the Water Board may designate an Ethics Officer who reports to the Board and may have the following duties:

- Counsel in confidence Board Members and officers who seek advice about ethical behavior.
- Receive and investigate complaints about possible ethics violations.
- Dismiss complaints found to be without substance.
- Prepare an investigative report of his/her findings for action by the Executive Director or the Board.
- Record the receipt of any gift or gratuity to a Board Member or officer in connection with his/her role on the Board; Board Members and officers shall be responsible for notifying the Ethics Officer of receipt of such gift or gratuity.

The Water Board also adopted removal provisions for its Board Members for those who knowingly and intentionally violate any of the provisions of the Code of Conduct.

Finally, the Water Board also requires its Board Members and officers to report possible unethical behavior by a Board Member or an officer to the Board Chair, Executive Director, or Ethics Officer. Board Members and Officers may file ethics complaints anonymously and are protected from retaliation by the Whistleblower Policy and Procedures adopted by the Board.

The Metropolitan Water District of Southern California – Ethics Policy

The Ethics Office operates under a set of authorities and directives adopted by Metropolitan's Board of Directors in accordance with state legislative mandate. The Ethics Office assists in establishing internal disclosure, lobbying, conflicts of interest, contracts, campaign contributions and other internal ethics rules and policies. The office also provides education and advice about these rules and investigates alleged violations. By law, the office must operate as an independent entity, protect the confidentiality of sources and the job security of "whistle-blowers," and provide for the due process rights of the accused.

The office is responsible for ensuring that its directors and other designated officials complete state-mandated ethics training and make timely disclosures of potentially conflicting financial interests. Metropolitan's Ethics Office reports directly to the Board of Directors with oversight from the Audit and Ethics Committee.

The Ethics Officer is authorized to define Metropolitan's ethics policies for employees pursuant to guidance from the General Manager, General Counsel, and the Office of the Auditor. Such policies include:

- Conflict of Interest Employment Opportunities
- Outside Work and Educational Activities
- Nepotism
- Personal Relationships
- Involvement in Community or Political Activities
- Non-retaliation
- False allegations

OIIG Findings and Conclusions

The Illinois State Officials and Employees Ethics Act sets forth definitive ethics rules for State officers and employees and requires that local governments also enact regulations. The manner in which each unit of local government elects to implement the requirements of the State Officials and Employees Ethics Act is ultimately a matter for its governing body to determine. The State Model Ordinance was developed to assist local governments in implementing effective ethics regulations and enforcement provisions, while incorporating those aspects of the Act that are clearly mandatory.

As outlined above, the MWRD adopted the Model Ordinance thereby complying with the basic requirements of the State Ethics Act. However, due to the size and complexity of the MWRD, we recommend that strong consideration be given to expanding the MWRD Ethics Ordinance to include other essential ethics provisions while also adopting additional provisions that are designed to address issues that are unique or otherwise call for a heightened level of oversight due to the nature of MWRD operations. Implementing a comprehensive and clear set of ethics guidelines along with a strong statement of purpose by the Board of Commissioners will provide valuable internal and external guidance while demonstrating an unwavering commitment to the mission, values and principles of the MWRD.

OIIG Recommendations

We offer the following recommendations as a foundation upon which MWRD may consider when developing a strong code of ethical conduct. While the following provisions do not represent an exhaustive compilation of potential ethics provisions, it does, in our view, represent a comprehensive foundation to build upon now and in the future.

Recommended Ethics Ordinance Provisions:

- Definitions
- Substantive Code of Conduct Provisions
 - Duty to Report

- Whistleblower Protection
 - Conflicts of Interest and Improper Influence
 - Impartiality in MWRD business
 - Fiduciary duty
 - MWRD-owned property
 - Use or disclosure of confidential information
 - Conflicts of interest
 - Representation of other persons
 - Post-Employment restrictions on representation, lobbying, and revolving door
 - Interest in MWRD business
 - Prohibited conduct
 - Employment of relatives or domestic partners
 - Prohibited political activities
 - Solicitation or acceptance of political contributions and membership on political fundraising committees
 - Contract inducements
- Gifts and Other Favors
 - Offering, receiving and soliciting of gifts, favors and loans
 - Employee-to-employee gifts
 - Disposition of improper gifts
- Ethics Training
 - Ethics and sexual harassment education
 - Lobbyist ethics education seminar
 - Education program
- Sexual harassment and sexual harassment training (5 ILCS 430/70-5)(eff. 11/16/17)
- EEO mandates
- Financial Disclosure
 - Statements of financial interests
 - Contents of statements
 - Form for statement of financial interests
 - Filing of statements
 - Failure to file statement by deadline
 - Failure to file financial statements – Elected Officials
- Lobbyist Registration
 - Persons required to register
 - Persons or entities not required to register
 - Information required of registrants
 - Amendment of registration statements
 - Failure to register
 - Reports of lobbying activities
 - Inactive lobbyists
 - Failure to file reports

- Termination of lobbying
- Access to information
- Contingent fees
- Retaining and employing lobbyists who have failed to register
- Duty to report persons who have failed to register
- Lobbyist training
- Confidentiality
- Disclosure of Confidential Information
- Waivers
- Campaign Financing
 - Contributions on MWRD property
 - Anonymous and pseudonymous contributions
 - Limitation of contributing to candidates and elected officials
 - Cash contributions
- Fiduciary duty and appearance of impropriety
- Penalties for Violation
 - Sanctions
 - Other remedies

Additional Recommendations/Best Practices:

1. Lobbyist Registration: As defined, the term “lobbyist” typically requires that an individual be compensated for lobbying in order to be considered a lobbyist and required to register. This provision should require lobbyists to register and should not limit lobbyists to those who are paid. If the MWRD communicates with salespersons, consider having an exemption to the definition of lobbyist for bona fide salespersons. Establishing a lobbyist registration system would enable lobbyists to register and file activity reports online and enable the public to view filed reports and review the data disclosed in them.
2. Reports of Lobbying Activities:
 - a. Consider having lobbyists report on the subject matter or transaction lobbied, per client,
 - b. Consider adding a lobbyist registration fee.
 - c. The City of Chicago and Cook County charge \$350 per lobbyist per year with additional charges as applicable. Lobbyist fees must be tied to the costs of the government entity in administering the lobbyist registration program. Fee waiver provisions for not-for-profit organizations are also applied by the City of Chicago.
 - d. Best practice would be to build an electronic lobbyist registration, reporting and public disclosure system.
3. Gifts and Favors: The definition of “prohibited source” often uses the vague term “is seeking official action” The meaning is unclear and should be avoided without further explanation. We also recommend consideration be given to abandoning the prohibited

source concept and apply a ban on all cash gifts and gifts greater than \$50 from any single source in a calendar year, except for:

- a. Gifts from family or personal friends;
 - b. Bona fide reasonable hosting or educational or business travel related to official MWRD business; and
 - c. Gifts accepted on behalf of the MWRD.
4. The appointed Ethics Advisor provides guidance when sought, however, the advice provided is not binding on the requestor thereby not offering him/her a safe harbor in the event of a challenge. Advisory opinions should remain confidential absent a waiver of confidentiality from the requestor/recipient. Best practice is that redacted opinions be made public. We also suggest that an Ethics Liaison be appointed within each operating department within the MWRD.
5. The MWRD Ethics Commission can investigate only signed, written and notarized complaints. Please consider the following:
- a. We believe these requirements serve as impediments and will deter individuals from bringing legitimate issues forward. Including a penalty provision for the bringing of false or malicious complaints serves as a counterbalance to concerns over such complaints;
 - b. The manner in which investigations are undertaken should be specifically addressed;
 - c. As currently written, the Ethics Commission sends a copy of the complaint to the subject, thereby providing no level of confidentiality to the complainant. That is not best practice. We recommend the identity of the complainant to be kept confidential until Constitutional requirements require otherwise;
 - d. Dismissed complaints or those found to have no probable cause should remain confidential to protect the complainant from retaliation and the subject from reputational harm.
6. We recommend the MWRD utilize a requirement for contract applicants to disclose the existence of a family relationship with any MWRD employee or official. Cook County has such a requirement as outlined above.
7. Limitation of Contributions to Candidates and Elected Officials should include a provision with definitions of typically used terms such as “doing” or “seeking to do business.” Include penalties for excessive contributions. Consider adding a grace period should the political committee return the excess amount of the contribution within a certain number of days of being notified of the apparent violation.
8. We also recommend consideration be given to the following provision:

Integrity in the Procurement Process: Communications – For all Procurements, the Director of Procurement and Materials Management shall establish procedures to ensure that communications from individuals outside the District regarding a Procurement shall be memorialized and maintained in the procurement file. Communications about a Procurement from or on behalf of an Elected Official shall also be memorialized and maintained in the Procurement file.

9. Finally, we also recommend that compliance with the Illinois Governmental Ethics Act with respect to the filing of a Statement of Economic Interest be incorporated as a provision in any amendment of the MWRD Ethics Ordinance (Financial Disclosure, 5 ILCS 420/4A-105 *et seq.*).

We hope this information proves helpful. Thank you for your consideration to these important issues. Please do not hesitate to contact me if you have questions regarding this or any other matter.

Very truly yours,



Patrick M. Blanchard
Independent Inspector General

cc: Mr. Brian Perkovich, Executive Director
Ms. Susan T. Morakalis, General Counsel