



AGENDA ITEM COVER PAGE

File ID: #15913

Ordinance

Sponsored by: Manolo Reyes, Commissioner

AN ORDINANCE OF THE MIAMI CITY COMMISSION AMENDING CHAPTER 2/ARTICLE III OF THE CODE OF THE CITY OF MIAMI, FLORIDA, AS AMENDED ("CITY CODE"), TITLED "ADMINISTRATION/OFFICERS," BY CREATING NEW DIVISION 5/SECTION 2-160 TO CREATE THE OFFICE OF INSPECTOR GENERAL; PROVIDING MINIMUM QUALIFICATIONS, APPOINTMENT AND TERM OF OFFICE; PROVIDING THE FUNCTIONS, AUTHORITY AND POWERS; PROVIDING FOR ADMINISTRATIVE STAFF; PROVIDING A PROCEDURE FOR FINALIZATION OF REPORTS AND RECOMMENDATIONS; CONTAINING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.



City of Miami

Legislation

Ordinance

File Number: 15913

Final Action Date:

AN ORDINANCE OF THE MIAMI CITY COMMISSION AMENDING CHAPTER 2/ARTICLE III OF THE CODE OF THE CITY OF MIAMI, FLORIDA, AS AMENDED ("CITY CODE"), TITLED "ADMINISTRATION/OFFICERS," BY CREATING NEW DIVISION 5/SECTION 2-160 TO CREATE THE OFFICE OF INSPECTOR GENERAL; PROVIDING MINIMUM QUALIFICATIONS, APPOINTMENT AND TERM OF OFFICE; PROVIDING THE FUNCTIONS, AUTHORITY AND POWERS; PROVIDING FOR ADMINISTRATIVE STAFF; PROVIDING A PROCEDURE FOR FINALIZATION OF REPORTS AND RECOMMENDATIONS; CONTAINING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Miami ("City") is committed to the highest standards of ethics, transparency, and accountability; and

WHEREAS, Section 14 of the City Charter provides that the City Commission may investigate the financial transactions of any office or department of the City government and the official acts and conduct of any City official, and by similar investigations may secure information upon any matter; and

WHEREAS, to that end, the City Commission desires to create an Office of Inspector General to, among other things, provide the public with full and accurate information, to promote efficient administrative management, to make government more accountable, and to insure to all persons fair and equitable treatment; and

WHEREAS, the purpose of the Office of Inspector General will be to identify efficiencies, and to detect and prevent fraud, waste, mismanagement, misconduct, and abuse of power in the City; and

WHEREAS, the City Commission finds that it is the best interest of the citizens, residents and visitors of the City to create the Office of Inspector General;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. The recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this Section.

Section 2. Chapter 2/Article III of the City Code, entitled "Administration/Officers," is amended in the following particulars:¹

"CHAPTER 2

ADMINISTRATION

¹ Words and/or figures stricken through shall be deleted. Underscored words and/or figures shall be added. The remaining provisions are now in effect and remain unchanged. Asterisks indicate omitted and unchanged material.

ARTICLE III. OFFICERS

DIVISION 5. OFFICE OF THE INSPECTOR GENERAL

Section 2-160. Office of the Inspector General

(a) *Created and established.* There is hereby created and established the Office of the Inspector General. The Inspector General shall head the Office. The organization and administration of the Office of the Inspector General shall be sufficiently independent to assure that no interference or influence external to the Office adversely affects the independence and objectivity of the Inspector General.

(b) *Minimum Qualifications, Appointment and Term of Office.*

(1) *Minimum qualifications.* The Inspector General shall be a person who:

(a) Has at least ten (10) years of experience in any one, or combination of, the following fields:

(i) as a Federal, State or local Law Enforcement Officer;

(ii) as a Federal or State court judge;

(iii) as a Federal, State or local government attorney;

(iv) progressive supervisory experience in an investigative public agency similar to an inspector general's office;

(b) Has managed and completed complex investigations involving allegations of fraud, theft, deception and conspiracy;

(c) Has demonstrated the ability to work with local, state and federal law enforcement agencies and the judiciary;

(d) Has broad experience in auditing, accounting, and management;

(e) Has a four-year degree from an accredited institution of higher learning; and

(2) The applicant shall pass a level II background screening and financial background check.

(3) *Appointment.* The Inspector General shall be appointed by the Ad Hoc Inspector General Selection Committee ("Selection Committee"), except that before any appointment shall become effective, the appointment must be approved by a majority of the City Commission at the next regularly scheduled City Commission meeting after the appointment. In the event that the appointment is disapproved by the City of Miami Commission, the appointment shall become null and void, and the Selection Committee shall make a new appointment, which shall likewise be submitted for approval by the City of Miami Commission. The Selection Committee shall be composed of five members selected as follows:

(a) The State Attorney of the Eleventh Judicial Circuit for Miami-Dade County or a designee of the Office;

(b) The Public Defender of the Eleventh Judicial Circuit for Miami-Dade County or a designee of the Office;

(c) The Chairperson of the Miami-Dade Commission on Ethics and Public Trust or a designee of the Office;

(d) The President of the Miami-Dade Police Chief's Association or a designee of the Office; and

(e) The Special Agent in charge of the Miami Field Office of the Florida Department of Law Enforcement or a designee of the Office.

The members of the Selection Committee shall elect a chairperson who shall serve as chairperson until the Inspector General is appointed. The Selection Committee shall select the Inspector General from a list of qualified candidates submitted by the City of Miami Human Resources Department.

(4) Term. The Inspector General shall be appointed for a term of four (4) years. In case of a vacancy in the position of Inspector General, the Chairperson of the City Commission may appoint the deputy inspector general, assistant inspector general, or other Inspector General's office management personnel as interim Inspector General until such time as a successor Inspector General is appointed in the same manner as described in subsection (b)(2) above. The City Commission may, by majority vote of members present, disapprove of the interim appointment made by the Chairperson at the next regularly scheduled City Commission meeting after the appointment. In the event such appointment shall be disapproved by the City Commission, the appointment shall become null and void and, prior to the next regularly scheduled Commission meeting, the Chairperson shall make a new appointment which shall likewise be subject to disapproval as provided in this subsection (3). Any successor appointment made by the Selection Committee as provided in subsection (b)(2) shall be for a full four-year term.

Upon expiration of the term, the City Commission may, by majority vote of members present, reappoint the Inspector General to another term. In lieu of reappointment, the City Commission may reconvene the Selection Committee to appoint a new Inspector General in the same manner as described in subsection (b)(2). The incumbent Inspector General may submit his or her name as a candidate to be considered for selection and appointment.

(5) Staffing of Selection Committee The City of Miami Human Resources Department shall provide staffing to the Selection Committee and, as necessary, will advertise the acceptance of resumes for the position of Inspector General and shall provide the Selection Committee with a list of qualified candidates. The City of Miami Human Resources Department shall also be responsible for ensuring that background checks are conducted on the slate of candidates selected for interview by the Selection Committee. The City of Miami Human Resources Department may refer the background checks to another agency or department. The results of the background checks shall be provided to the Selection Committee prior to the interview of candidates.

(c) Contract. The Director of the Human Resources Department shall, in consultation with the City Attorney, negotiate a contract of employment with the Inspector General, except that before any contract shall become effective, the contract must be approved by a majority of Commissioners present at a regularly scheduled Commission meeting.

(d) Functions, authority and powers.

(1) The Office shall have the authority to make investigations of City affairs and the power to review past, present and proposed City programs, accounts, records, contracts and transactions.

(2) The Office shall have the power to require reports from the Mayor, City Commissioners, Manager, City agencies and instrumentalities, City officers and employees and any independent agencies with ties to the City and its officers and employees regarding any matter within the jurisdiction of the Inspector General.

(3) The Office shall have the power to subpoena witnesses, administer oaths and require the production of records. In the case of a refusal to obey a subpoena issued to any person, the Inspector General may make application to any circuit court of this State which shall have jurisdiction to order the witness to appear before the Inspector General and to produce evidence if so ordered, or to give testimony touching on the matter in question. Prior to issuing a subpoena, the Inspector General shall notify the State Attorney and the U.S. Attorney for the Southern District of Florida. The Inspector General shall not interfere with any ongoing criminal investigation of the State Attorney or the U.S. Attorney for the Southern District of Florida where the State Attorney or the U.S. Attorney for the Southern District of Florida has explicitly notified

- the Inspector General in writing that the Inspector General's investigation is interfering with an ongoing criminal investigation;
- (4) The Office shall have the power to report and/or recommend to the Board of City Commissioners whether a particular project, program, contract or transaction is or was necessary and, if deemed necessary, whether the method used for implementing the project or program is or was efficient both financially and operationally. Any review of a proposed project or program shall be performed in such a manner as to assist the City Commission in determining whether the project or program is the most feasible solution to a particular need or problem. Monitoring of an existing project or program may include reporting whether the project is on time, within budget and in conformity with plans, specifications and applicable law;
- (5) The Office shall have the power to analyze the need for, and the reasonableness of, proposed change orders. The Inspector General shall also be authorized to conduct any reviews audits, inspections, investigations or analyses relating to departments, offices, boards, activities, programs and agencies of the City or with ties to the City.
- (6) The Inspector General may, on a random basis, perform audits, inspections and reviews of all City contracts. The cost of random audits, inspections and reviews shall, except as provided in (a)—(n) in this subsection (6) be incorporated into the contract price of all contracts and shall be one quarter (¼) of one (1) percent of the contract price (hereinafter "IG contract fee"). The IG contract fee shall not apply to the following contracts:
- (a) IPSIG contracts;
 - (b) Contracts for legal services;
 - (c) Contracts for financial advisory services;
 - (d) Auditing contracts;
 - (e) Facility rentals and lease agreements;
 - (f) Concessions and other rental agreements;
 - (g) Insurance contracts;
 - (h) Revenue-generating contracts;
 - (i) Contracts where an IPSIG is assigned at the time the contract is approved by the Commission;
 - (j) Professional service agreements under one thousand dollars (\$1,000.00);
 - (k) Management agreements;
 - (l) Small purchase orders;
 - (m) Federal, state and local government-funded grants; and
 - (n) Interlocal agreements.
- Notwithstanding the foregoing, the Commission may by resolution specifically authorize the inclusion of the IG contract fee in any contract. Nothing contained in this Subsection (c)(6) shall in any way limit the powers of the Inspector General provided for in this Section to perform audits, inspections, reviews and investigations on all city contracts including, but not limited to, those contracts specifically exempted from the IG contract fee.
- (7) Where the Inspector General detects corruption or fraud, he or she must notify the appropriate law enforcement agencies. Subsequent to notifying the appropriate law enforcement agency, the Inspector General must assist the law enforcement agency in concluding the investigation. When the Inspector General detects a violation of the Miami-Dade Code of Ethics, he or she may file a complaint with the Miami-Dade Commission on Ethics and Public Trust.
- (8) The Inspector General shall have the power to audit, investigate, monitor, oversee, inspect and review the operations, activities and performance and procurement process including, but not limited to, project design, establishment of bid specifications, bid submittals, activities of the contractor, its officers, agents and employees, lobbyists, City staff and elected officials in order to ensure compliance with contract specifications and detect corruption and fraud.

- (9) The Inspector General shall have the power to review and investigate any sworn, non-anonymous complaints, on a form acceptable to the Inspector General, regarding City programs, agencies, contracts or transactions, officials or employees. Such sworn complaint must be based upon personal knowledge or information other than hearsay and signed under oath or affirmation by any person.
- (10) The Inspector General may exercise any of the powers contained in Section 2-160 upon his or her own initiative.
- (11) The Inspector General shall be notified in writing prior to any meeting of a selection or negotiation committee where any matter relating to the procurement of goods or services by the City is to be discussed. The notice required by this subsection (11) shall be given to the Inspector General as soon as possible after a meeting has been scheduled, but in no event later than twenty-four (24) hours prior to the scheduled meeting. The Inspector General may, at his or her discretion, attend all duly noticed City meetings relating to the procurement of goods or services as provided herein, and, in addition to the exercise of all powers conferred by Section 2-160, may pose questions and raise concerns consistent with the functions, authority and powers of the Inspector General. An audio recorder shall be utilized to record all selection and negotiation committee meetings.
- (12) The Inspector General shall have the authority to retain and coordinate the services of Independent Private Sector Inspectors General (IPSIG) or other professional services, as required, when in the Inspector General's discretion he or she concludes that such services are needed to perform the duties and functions enumerated in subsection (d) herein.
- (13) Examine city audit functions and accounting systems, provide budget and legislative analysis, conduct financial, operational, compliance, single act and performance audits of city government, officials, and independent agencies, with reports submitted to the city commission as deemed necessary by the Inspector General, from time to time, and copied to the administration.
- (14) Review and approve outside employment requests for the Mayor, Commissioners, and appointed officers of the City. The Office shall also review and provide comments on outside employment requests of employees prior to final approval by the City Manager.
- (15) Perform spot reviews of financial disclosure forms and gift disclosure forms.
- (16) Upon receipt of a sworn written statement challenging the qualifications of a candidate for election, the Office shall have ten (10) days to conduct an investigation as to the allegations in the statement. If the Inspector General determines that the candidate does not meet the qualifications of the office for which he or she has qualified, the Inspector General is authorized and directed to file and prosecute an appropriate action in Circuit Court with an attorney other than the City Attorney.

(e) *Physical facilities and staff.*

1. The City shall provide the Office of the Inspector General with appropriately located office space and sufficient physical facilities together with necessary office supplies, equipment and furnishings to enable the Office to perform its functions.
2. The Inspector General shall have, subject to budgetary allocation by the City Commission, the power to appoint, employ, and remove such assistants, employees and personnel and establish personnel procedures as deemed necessary for the efficient and effective administration of the activities of the Office.

(f) *Audit Reports.* The Inspector General shall file written reports reporting the results of individual audits undertaken in conformity with this section with copies to the City Commissioners, the Mayor, the City Manager, and the City Attorney. Said reports shall, at a minimum, state:

- (1) The subject of the audit;
- (2) The findings of the audit; and

(3) The recommendations for action as a result of the audit, if any.

(g) Procedure for finalization of reports and recommendations which make findings as to the person or entity being reviewed or inspected. Notwithstanding any other provision of this Code, whenever the Inspector General concludes a report or recommendation which contains findings as to the person or entity being reported on or who is the subject of the recommendation, the Inspector General shall provide the affected person or entity a copy of the report or recommendation and such person or entity shall have 15 working days to submit a written explanation or rebuttal of the findings before the report or recommendation is finalized, and such timely submitted written explanation or rebuttal shall be attached to the finalized report or recommendation. The requirements of this subsection (f) shall not apply when the Inspector General, in conjunction with the State Attorney, determines that supplying the affected person or entity with such report will jeopardize a pending criminal investigation.

(h) Reporting. The Inspector General shall annually prepare and submit to the Mayor and City Commission a written report concerning the work and activities of the Office including, but not limited to, statistical information regarding the disposition of closed investigations, audits and other reviews. The audit report shall be filed within thirty (30) days from the end of the third quarter of the fiscal year.

(i) Removal. The Inspector General may be removed from office upon the affirmative vote of four-fifths (4/5) of the City Commission.”

* * *

Section 3. If any section, part of a section, paragraph, clause, phrase, or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

Section 4. This Ordinance shall become effective immediately upon its adoption and signature of the Mayor.²

APPROVED AS TO FORM AND CORRECTNESS:


George R. Wysocki III, City Attorney 4/16/2024


George R. Wysocki III, City Attorney 10/1/2024

² This Ordinance shall become effective as specified herein unless vetoed by the Mayor within ten (10) days from the date it was passed and adopted. If the Mayor vetoes this Ordinance, it shall become effective immediately upon override of the veto by the City Commission or upon the effective date stated herein, whichever is later.