

CITY OF NEW ORLEANS

ED QUATREVAUX, INSPECTOR GENERAL



July 31, 2012

Mitchell J. Landrieu, Mayor
City of New Orleans
1300 Perdido Street
New Orleans, LA 70112

Dear Mayor Landrieu,

City Code Sec. 2-1120 (10) authorizes the Office of Inspector General (OIG) to comment on legislation for the purpose of preventing fraud, waste, and abuse, or promoting efficient and effective government.

I am writing in advance of the legislation that would be needed to approve rate increases for the Sewerage and Water Board (S&WB), and I hope that these comments and suggestions might enable you to resolve OIG concerns prior to drafting the legislation. The need for infrastructure improvements is obvious and not at issue; the issue is whether the S&WB has the capacity to manage additional resources.

The Office of Inspector General (OIG) conducted a risk assessment of city government satellites in June 2011. The risk assessment was based on audit “red flags” or standard indicators of potential fraud. These indicators were derived from information provided by the S&WB, external audit reports, news accounts, and law enforcement intelligence sources.

The Sewerage and Water Board total risk score was second only to an entity where a criminal investigation was in progress at the time of the assessment. The S&WB is the most likely of the City’s component entities to engage in fraud, waste, and abuse according to standard risk assessment methodology.

Media outlets have also reported several troubling matters this year. In February, Fox8 TV reported that the Executive Director would receive a life annuity of \$175,000 and an \$877,000 lump-sum payment on retirement. The report also stated that the employer contribution for the supporting pension fund was 28 percent and the employee contribution 4 percent. If accurate, this level of benefit may not be sustainable and revenues from rate increases could be consumed by pension obligations.

Also in February 2012, WDSU TV reported that the S&WB had 123 take-home cars—one for every seven employees. The report added that similar units of Jefferson Parish government had twenty-one take-home cars.

The S&WB reported that its 2010 Employee Medical Insurance cost was \$14,579,021, or \$17,439 per employee. The City of New Orleans 2010 cost per employee was \$6,800.

The 2010 fiscal year independent audit of the S&WB cited two **material weaknesses**, including the finding that “general ledger reconciliations for some significant accounts were not performed in a timely manner.” This is a repeat finding from the 2009 independent audit and demonstrates a disturbing inattention to “significant accounts” and management in general.

However, the S&WB’s foremost deficiency is its failure to fix the problem identified in the prosecution of its felonious former director, Benjamin Edwards. The scandal revealed constant Board meddling in procurement actions, contrary to the example you set as Mayor by removing yourself from City procurement decisions. Procurement is a management function, not a political one.

A recent S&WB Finance Committee meeting revealed the Board’s continued involvement in procurement decisions. On July 13, 2012, the Finance Committee met and considered proposals for insurance brokerage services. The contract was expired, and management had analyzed the proposals and recommended selection of the lowest bidder.

However, the Finance Committee, as it had done in October and November 2011 and April 2012, voted to delay the selection “indefinitely,” in effect continuing an expired contract indefinitely without competition. The decision followed a conversation regarding the amount of participation by disadvantaged business enterprises (DBEs). A committee member asserted, in effect, that a contract proposal that was 100 percent DBE was preferable to proposals that were only 35 percent DBE, even if they came at a higher price.

These statements caused a proposer in attendance to protest vigorously that the RFP required only 35 percent and that his company deserved equal consideration. The proposer, owner of a local DBE, stated that his company had teamed with three major firms to make proposals for this contract in accordance with the RFP. Any proposal meeting the required 35 percent DBE participation met the RFP’s stated criterion, and no proposal should have ranked higher because of a higher DBE percentage.

By all appearances, the Finance Committee merely used the DBE issue as a cover for retaining the current contractor without competition. In doing so, the Finance Committee eliminated fair and open competition in favor of cronyism, to the likely detriment of the citizens of New Orleans.

These risks and the opposition to additional funding could be lessened if the S&WB took the following actions:

1. Change the by-laws to prohibit Board participation in procurement actions;
2. Adopt the City’s procurement policy;
3. Review the pension fund’s sustainability;
4. Adopt the City’s take-home car policy and disallow take-home cars for employees who do not meet City criteria;
5. Review employee benefits such as medical insurance; and
6. Correct the material weaknesses cited by independent auditors.

To assure New Orleanians that these funds would be spent properly and in the public interest, the S&WB would still need significant oversight. The U.S. Department of Justice uses deferred prosecution agreements and non-prosecution agreements in some cases of corporate crime where the cost of terminating the contractor is great, such as in the midst of a major bridge construction project.¹ These corporate agreements include provisions for an independent monitor, paid for by the corporation, to assess compliance and report to the government. "The corporation benefits from expertise in the area of corporate compliance from an independent third party. The corporation, its shareholders, employees, and the public at large then benefit from reduced recidivism of corporate crime and the protection of the integrity of the marketplace."²

A similar approach could provide assurance that S&WB funds would be properly spent and greatly reduce public opposition to increased rates. The OIG's legislatively established mission to prevent waste, fraud, and abuse makes it ideally suited to serve as S&WB's independent monitor, and if the S&WB agreed to provide .75 of one percent of its revenue budget to fund OIG intensive oversight operations, the OIG could provide the needed assurance that these funds would be spent in the public interest.

In the longer term, I urge you to consider moving this entity into City Hall as a department so that management processes and the Chief Administrative Officer's oversight can rein in waste and abuse. There are other advantages as well, including the elimination of redundant expenses and improved coordination of street repairs among City entities. Such a change would involve considerable legal and political challenges, but the potential benefits to citizens are great.

Again, I hope that these comments and suggestions are useful to you. Please contact me if you would like to discuss them.



Ed Quatrevaux

¹ Memorandum, U.S. Department of Justice, *Selection and Use of Monitors in Deferred Prosecution Agreements and Non-Prosecution Agreements with Corporations*, March 7, 2008,

² *Ibid*, page 2.