

To: The Honorable Carrie Austin, Chair,
City Council Budget and Government Operations Committee

From: Steven I. Berlin, Executive Director

Re: **OPENING STATEMENT/FISCAL YEAR 2016 BUDGET**

Date: October 1, 2015

Overview and Mission: Now in our 29th year, the Board of Ethics administers, interprets and enforces Chicago's Governmental Ethics Ordinance. Under the leadership of Board members appointed by Mayor Emanuel, the Board continues to promote integrity, transparency and accountability in City government through our educational, regulatory and enforcement programs. Through our educational programs, we raise awareness of the City's ethics standards, and help to foster a good-willed City workforce and knowledgeable regulated and contractor community. Through our guidance and casework program, we receive requests for and issue more than 5,400 confidential advisory opinions each year from and to persons (most of whom are City employees and officials) on "taking the high road," complying with the law, and responsibly handling potential conflicts of interests. Through our enforcement program, we refer complaints alleging violations, and dismiss, settle, or adjudicate ethics investigations completed by either of the City's inspectors general (making final, public determinations as to whether ethics violations have occurred), enforce ethics training and filing requirements for lobbyists and City employees and officials, assess penalties, and/or issue recommendations for corrective action. Through our regulatory program, we foster transparency and accountability by making public thousands of disclosures or notices of recusal filed by City governmental personnel and lobbyists every year.

Highlights of 2015 Achievements, and 2016 goals:

1. **EDUCATION:** Educating persons about their obligations under the Ethics Ordinance is a critical responsibility, but one that receives scant attention when ethics issues are discussed publicly. We offer the following programs:

◆ **Mandatory Annual On-line Ethics Training.** The Ordinance requires that all lobbyists, aldermen and City employees and officials complete an annual ethics training program designed by the Board. The Board has administered and revised these programs every year. We produce separate programs for lobbyists, aldermen and other City personnel. These educational programs are models nationwide—Chicago is one of the few jurisdictions requiring annual ethics education for all governmental personnel and lobbyists. With the assistance of Ethics Officers from every City department and aldermanic office, and under the Board's administration, the City again achieved 100 percent (100%) compliance with the 2014 training requirements (30,628 completions).

To date, 23,800 City governmental personnel have completed the 2015 training (the aldermanic training was posted in September, so as to cover changes in the law effective July 30, 2015).

For 2016, we will again revise these programs completely and implement technical and visual enhancements. We also will produce a new training film for all City employees and officials, which will be shown at ethics classes and posted on our website.

We regularly consult with sister agencies and other governmental ethics agencies around the country on creating effective training programs.

A mark of the success of our educational programs: the growing number of lobbyists and City employees and officials seeking advice from us.

◆ **Mandatory Annual Lobbyist Training.** Registered lobbyists—currently 587—must complete an annual training program we design and administer. For the 2014-2015 training year, every lobbyist completed the training on time and none were fined. As we do every year, we will revise this training fully for the 2015-2016 training year.

◆ **Other Training.** We conduct face-to-face ethics training seminars for approximately 10 percent (10%) of the City's workforce, who are required by law to attend ethics training every four years (aldermen and staff, City Council Committee staff and senior executive service employees). We also design and conduct other seminars upon request, including classes for appointed officials, aldermanic offices, and Executive branch departments. Since November 2014, more than 575 City employees and officials, contractors, and lobbyists have attended ethics seminars.

◆ **Educational Materials.** Our website includes the current and last four versions of the Governmental Ethics Ordinance and the now-expired Campaign Financing Ordinance, our Rules and Regulations, redacted opinions indexed by subject matter, educational brochures and "Plain English" guides, and an ongoing guide to all Board enforcement matters. In the past year, we revised and published eight (8) new guides, covering the Board's enforcement procedures, political activity, post-employment, grassroots lobbying, business travel, contracting with the City, serving with non-profit organizations, and guides for businesses and the public.

2. CONFIDENTIAL GUIDANCE AND CASEWORK: The most effective way to prevent misconduct and foster a culture of ethics in government is to enable and encourage persons to seek confidential guidance and advice *before they act*. We are a trusted authority that provides this to City officials, employees and others subject to the ethics laws: we advise them on complying with the letter and spirit of the ethics laws, and on handling potential conflicts of interests responsibly. This advisory function, when coupled with regular education, constitutes our most critical responsibility.

Since November 2014, we have issued more than 5,400 confidential advisory opinions: two-thirds (67%) of these to City personnel. Sixteen percent (16%) were issued to lobbyists, and the rest to attorneys, contractors, political committees or contributors. Note: members of the public or the media do not have standing to receive an advisory opinion unless they are personally involved in the specific situation.

In 2015, we have experienced increases in requests for opinions relating to political activity, outside

employment, outside volunteer service, political contributions, conflicts of interests, and business travel (the Ordinance now requires that third-party-paid travel receive advance Board approval).

Formal Board advisory opinions are made available to the public, with confidential information removed. Opinions issued by the Board since 1986 can be found on our website, indexed by subject matter. While informal opinions do not become public, we use them for educational purposes, to notice trends and alert others about them where appropriate, and to give consistent advice. Hence, earlier in 2015 we implemented a secure, efficient, automated system for retrieving the thousands of informal advisory opinions we issue each year.

Our work would be impossible without ethics officers from every City department and aldermanic office. They are our eyes and ears, referring their personnel with substantive questions and assisting us with required filings and educational requirements. We help them keep current with the law.

3. FINANCIAL DISCLOSURE: The Ordinance requires about ten percent (10%) of the City's workforce (including aldermen and many appointed officials; the criteria are no longer based on annual salary rate, but on job responsibilities) to file annual Statements of Financial Interests with the Board. We distribute, collect and make publicly available forms going back seven (7) years from the date of filing. Forms filed in 2009 and after are posted on our website. Since 2011, filers can also complete and file their forms via a secure website; 75% file this way. Few government bodies enable their personnel to file online *and* make this information publicly available online.

4. REGULATION: The Ordinance requires all persons who lobby City personnel to register annually with us (there is a \$350 annual registration fee and \$75 client fee for each client after the first; we can waive these fees for certain non-profits) and file quarterly activity reports. Filings provide detailed information about matters that were the subject of lobbying activity, lobbyists' clients, gifts lobbyists have offered, and their political contributions. Since November 2014, the Board has collected more than \$410,000 in registration fees (about fifty percent (50%) of our budget).

Shakman-exempt employees and Mayoral appointees must sign an ethics pledge binding them to a two-year lobbying ban after they leave City service. We post a list of pledgees on our website. We also post hundreds of disclosures made by City personnel each year regarding business travel and gifts, and recusals, filed by both City Council members and executive branch personnel.

5. CAMPAIGN FINANCING: The Ordinance limits at \$1,500 the amount that registered lobbyists or persons doing or are seeking to do business with the City or its sister agencies can contribute in a year to any elected City official or candidate for elected City office, or to his or her political committee. At our urging, in 2013 the Ordinance was amended to strengthen penalties for those who make and accept excess contributions. The Ordinance requires that violators' names be made public. Under a September 2014 amendment, the Board reviews public reports of political contributions and refers potential violations to the appropriate inspector general. In December 2014, we referred the names of all contributors who contributed more than \$1,500 in 2013 to the respective inspectors general; we have completed our review of filings for 2014 contributions, and will make our referrals later in 2015. Only investigations by these bodies will show whether in fact these contributors were actually subject to the \$1,500 limitation during the relevant time.

6. ENFORCEMENT: Since November 2012, the most far-reaching changes to the ethics law and to the Board's operations have come in the area of ethics enforcement. These changes, many recommended by the Mayor's Ethics Reform Task Force, were enacted in 2013 to ensure that fairness and due process of law are guaranteed in all ethics investigations and post-investigation procedures.

◆ **Ethics Adjudications.** Effective July 1, 2013, the Board is an adjudicative agency: we do not investigate complaints alleging ethics violations (we do self-enforce matters involving persons who fail to timely make lobbyist filings, file financial interest statements, or complete required training). We refer all complaints to the appropriate inspector general's office, which may then investigate, according to its enabling ordinances and rules. At the completion of an inspector general's investigation of an Ethics Ordinance violation, the Board considers the inspector general's final investigative report and supporting evidence, and can either dismiss the matter or find probable cause to believe that the Ordinance may have been violated. If the Board finds probable cause, it may settle the case (settlements become public, and may involve discipline and/or fines) or the subject may proceed to a confidential evidentiary hearing, presided over by an administrative law judge "(ALJ)". At the conclusion of that hearing, and after reviewing judge's findings, the Board will consider the record and determine, by majority vote, whether the subject violated the Ordinance. If the Board so determines, it assesses appropriate penalties. These determinations are appealable to the Circuit Court. The Board prepares written public reports of all its findings on these matters.

Since November 2014, the Board has entered into one (1) settlement agreement, and now awaits the results of the first hearing before an ALJ. Detailed information about all adjudications and enforcement matters is summarized and posted on our website, and updated regularly, in accordance with the confidentiality provisions in the Ordinance. Our website also has a detailed guide to ethics enforcement procedures.

◆ **Enforcement Actions Regarding Training.** In February 2015, we determined that 28 employees and officials had not completed their 2014 ethics training by the December 31 deadline. Two (2) failed to complete the training within the 10-day grace period provided by law, and were fined \$400. We posted all names of these violators on our website, per the Ordinance.

◆ **Enforcement Actions Regarding Statements of Financial Interests.** In March 2015, 3,293 employees and officials were notified of their requirement to file 2015 Statements of Financial Interests. As of the June 1 deadline, all but 61 had filed. They were determined to have violated the Ordinance, and their names were made public, as required by Ordinance (their names were posted on our website). Six (6) did not file within the statutory grace period, and became subject to fines totaling \$1,500. All persons required to file in 2015 have filed. The Board works closely with departmental and aldermanic ethics officers to reach our goal of zero (0) filing violations.

◆ **Enforcement Actions Regarding Lobbyist Registrations.** Lobbyists who fail to timely register or report are subject to fines (their clients may be as well) and/or suspension of their registration; the City may cancel contracts awarded based on unregistered lobbying. The Board has aggressively enforced these registration requirements. In 2015, no lobbyists have yet been found in violation of the law for failure to timely register or timely file quarterly reports—100% compliance. In 2014, the Board assessed \$62,000 in penalties for late filings by lobbyists.

**BOARD OF ETHICS
PROGRAMS AND SERVICES DELIVERY CHART
OCTOBER 2015**

