

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

From: Steven I. Berlin, Executive Director

Re: OPENING STATEMENT/FISCAL YEAR 2017 BUDGET

Date: October 20, 2016

Overview and Mission: Now in our 30th year, the Board of Ethics administers, interprets and enforces Chicago's Governmental Ethics Ordinance. Under the leadership of Board members, including our new Chair, William Conlon, all appointed by Mayor Emanuel with City Council confirmation, 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 5,200 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 the City's Inspector General ("IG"), 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 2016 Achievements, and 2017 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 2015

training requirements (31,650 completions).

To date, 25,201 City governmental personnel have completed the 2016 training.

For 2017, we will again revise these programs completely and implement technical and visual enhancements. We cover different topics each year, depending on the kinds of questions we receive, so as to make each year's training current.

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 ever-growing number of lobbyists and City employees and officials seeking advice from us.

◆ **Mandatory Annual Lobbyist Training.** Registered lobbyists—currently 618—must complete annual training programs we design and administer. For the 2015-2016 training year, every lobbyist completed the training on time. As we do every year, we will revise this training fully for the 2016-2017 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 (City Council members and staff, Mayoral 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 2015, more than 1,110 City employees and officials, contractors, and lobbyists have attended ethics seminars.

◆ **Educational Materials.** Our website includes the current and last five 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 four (4) new guides, and educational programs, including two (2) PowerPoints: one for incoming employees and officials, and one for covering the Board's enforcement procedures; and others covering the 2016 Ward Committeeman elections and gifts.

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 2015, we have issued more than 5,200 confidential advisory opinions: two-thirds (67%) of these to City personnel. Fourteen percent (14%) 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 2016 we have experienced continuing increases in requests for opinions relating to post-employment,

campaign financing, political activity, outside volunteer service, 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. In 2015 we implemented a secure, efficient, automated system for retrieving the thousands of informal advisory opinions we issue each year.

We are nearing completion of an eight-month long project: creating a searchable database for all of the more than 1,000 formal advisory opinions issued by the Board since its establishment in 1986. The engine will contain a link to each opinion, as well a summary of the opinion (in conformance with the Ordinance's confidentiality provisions), and keywords. The engine will be posted by the end of November 2016.

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 2011 and after are posted on our website. Since 2011, filers can also complete and file their forms via a secure website; 80% 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 2015, the Board has collected more than \$399,700 in registration fees (about forty percent (40%) of our budget).

Shakman-exempt employees and Mayoral appointees must sign ethics pledges binding them to a two-year post-City lobbying ban. We post a complete list of pledgees on our website. We also post hundreds of disclosures made by City personnel each year regarding business travel, gifts, and recusals.

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 their political committee. At our urging, in 2013 the Ordinance was amended to strengthen penalties for both 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 contributions, and lobbyists' disclosures, and refers potential violations to the IG. In October 2016, we referred the potential violator's names to the IG, along with the date(s) of their contributions and these contributions' recipients. Only investigation by the IG will show whether these contributors actually violated the Ordinance's contribution limitations.

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 became an adjudicative agency: we do not investigate complaints alleging ethics violations (we do self-enforce violations based on failure to timely make lobbyist filings, file financial interest statements, or complete required training). We refer all complaints to the IG's office, which may then investigate, according to its rules. Upon completion of any IG investigation of an Ethics Ordinance violation, the Board considers the IG's final investigative report and supporting evidence, and then will 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, before an administrative law judge ("ALJ"). At the conclusion of that hearing, the Board reviews the record and the ALJ's findings and recommendations, and determines, by majority vote, whether the subject violated the Ordinance. If the Board so determines, it assesses appropriate penalties. These Board determinations are appealable to the Circuit Court. The Board issues written public reports of all findings on matters that have gone to an evidentiary hearing.

Since November 2015, the Board has entered into one (1) settlement agreement, based on an IG investigation, and awaits the results of the first hearing to be held in another matter. This settlement agreement, and an earlier one from 2015, is posted on our website. In both cases, the subject paid the maximum \$2,000 fine.

Detailed information about all adjudications and enforcement matters is summarized and posted on our website, and updated regularly, in accordance with the Ordinance's confidentiality provisions. Our website also has a detailed guide to ethics enforcement procedures.

◆ **Enforcement Actions Regarding Training.** In February 2016 we determined that 32 employees and officials had not completed their 2015 ethics training by the December 31 deadline. We assessed more than \$7,600 in fines. We posted all names of these violators on our website, per the Ordinance.

◆ **Enforcement Actions Regarding Statements of Financial Interests.** In March 1 2016, 3,575 employees and officials were notified via email of their requirement to file 2016 Statements of Financial Interests. The deadline for filing was by June 1, 2016. We determined that 79 employees and officials violated the Ordinance; 8 of them failed to file before the date on which the Board could assess fines, per the Ordinance. The Board assessed \$6,000 in fines. As required by Ordinance, the names of all violators were published on the Board's website, and those who accrued fines were noted as well. The Board works closely with 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 and/or suspension of their registration; the City may cancel contracts awarded based on unregistered lobbying. The Board has aggressively enforced these registration requirements. Since November 2015, four (4) lobbyists were determined to have violated the Ordinance for failure to timely register or timely file quarterly reports, and were assessed a total of \$7,000 in fines.