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October 25, 2013

By Hand

Honorable Michael R. Bloomberg
Mayor
City of New York
City Hall
New York, New York 10007

Honorable Christine C. Quinn
Speaker
New York City Council
City Hall
New York, New York 10007

Re: Whistleblower Law Complaints for Fiscal Year 2013

Dear Mayor Bloomberg and Speaker Quinn:

The New York City Department of Investigation ("DOI") is pleased to submit this report pursuant to Section 12-113 of the New York City Administrative Code, the City's "Whistleblower Law." Subsection (i) of the law provides that, no later than October thirty-first of each year, the Commissioner shall prepare and forward to the Mayor and the Council a report on the complaints governed by this section during the preceding Fiscal Year. The report shall include, among other things, the number of complaints received pursuant to this section, and the disposition of such complaints. The following is DOI's report to the Mayor and the City Council for Fiscal Year 2013.

During Fiscal Year 2013, DOI received complaints from 47 individuals who alleged retaliation for reporting misconduct where the complainant expressly sought protection under the City's Whistleblower Law, or where the allegations of retaliation suggested that the complainant might be entitled to protection. In all of these 47 matters, the complainants alleged some form of retaliation for reporting misconduct. Pursuant to agency policy, DOI carefully reviews every complaint of alleged retaliation in any form regardless of whether the complainant specifically invokes the Whistleblower Law.

The 47 whistleblower complaints received in the past Fiscal Year is a 23% percent increase from the 38 complaints received in the prior Fiscal Year. The growth in the number of complaints is partly attributable to an increase seen since 2007 when

amendments expanded the law's scope to include complaints about children's educational welfare, health and safety. Additionally, in this past Fiscal Year DOI worked with the Mayor's Office and the City Council to enact an amendment to the City's Whistleblower Law that extends whistleblower protection to officers and employees of vendors who have contracts with the City valued at \$100,000 or more. Vendors covered by the law are now forbidden from taking adverse personnel action against officers or employees who report possible corruption or other misconduct pertaining to the City contract.

In addition, during Fiscal Year 2013, DOI continued its aggressive schedule of providing corruption prevention lectures to City employees, increasing the number of lectures from 478 in the prior year to 611. Indeed, I am proud to inform you that DOI has conducted over 5,500 lectures City-wide since 2002. Through these lectures, DOI has spoken directly to more than 156,000 City employees about corruption risks and the protections afforded to employees by the City's Whistleblower Law. Consistently, DOI has experienced an increase in the number of employee complaints of misconduct following these lectures.

A careful review of those whistleblower allegations this past Fiscal Year does not reveal that retaliation for providing information about fraud, corruption, conflicts of interest, gross mismanagement and abuse of authority is widespread in City government.

Broken down by the agencies where the 47 complainants were employed, the whistleblower complaints DOI received in Fiscal Year 2013 were as follows:

Department of Education	31
Department of Correction	3
New York City Housing Authority	2
Administration for Children's Services	5
Department of Health and Mental Hygiene	1
Human Resources Administration	1
Department of Information Technology and Telecommunications	1
City University of New York	2
Not for Profit Vendor	1

Each of these 47 matters was reviewed carefully by our General Counsel's office. In nearly every instance, the complaints were also reviewed by our Inspector General for the agency where the complainant worked. Ultimately, the 47 complaints were handled in one of the following ways depending on the allegations and supporting facts:

¹ Also of note, a second change in the law is the addition of a new Section 6-132 to the Administrative Code that requires City vendors to post notices at work sites informing employees how they can report fraud, related to a City contract or subcontract to DOI, and explaining the rights and remedies employees have under the amended City Whistleblower Law and the City's False Claims Act. Following the enactment of these laws, DOI provided the Mayor's Office of Contracts Services with posters to be distributed to City vendors subject to the new law that explain the employees' rights and how to contact DOI with tips about corruption.

(1) opened for investigation; (2) filed for intelligence purposes; or (3) referred to another agency for appropriate action. Broken down in this manner, the complaints received were handled as follows:

Opened for investigation	39
Filed for intelligence purposes	6
Referred to another agency	2

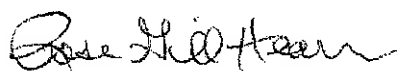
In one of the six instances where complaints were filed for intelligence purposes during the reporting period, the complainant's alleged retaliation was based on conduct DOI had previously found, after a full investigation, was not the basis for protection under the law. In the other five instances where the complaints were filed for intelligence, DOI determined that the complainants did not make out a prima facie case for retaliation under the law. With regard to the two instances where the complaints were referred to other agencies, the complaints similarly did not make out claims under the Whistleblower Law, but DOI determined that there were New York State agencies that could possibly address the allegations and so those complaints were referred to those agencies.

Of the 39 matters opened for investigation in the reporting period, 19 are under investigation. DOI closed 31 investigations during the reporting period – 12 of which were open from a prior reporting period – without a finding that the complainant was entitled to protection under the City's Whistleblower Law. However, even when a complainant is found not to have met the technical requirements for protection under the Whistleblower Law, where warranted, DOI will still make recommendations to an agency to redress problematic conduct.

DOI remains committed to insuring that no City employee or employee of a private contractor is retaliated against for making a complaint about criminal conduct, conflicts of interest, abuse of authority or gross misconduct in City government. The protections afforded by the Whistleblower Law are essential to this effort and to creating and maintaining a government that functions with integrity and transparency. Accordingly, one of DOI's top priorities continues to be educating the City workforce and the public about their rights and seeing that workers are free from retaliation when they report corruption and other misconduct in City government.

We look forward to continuing our efforts to ensure the effectiveness of that law in the coming Fiscal Year.

Very truly yours,



Rose Gill Hearn
Commissioner