

BOARD of SUPERVISORS



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MEMORANDUM

RULES COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Hillary Ronen, Chair
Rules Committee

FROM: Victor Young, Assistant Clerk *Victor Young*

DATE: July 15, 2024

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**
Tuesday, July 16, 2024

The following file should be presented as a **COMMITTEE REPORT** at the Board Meeting on Tuesday, July 16, 2024. This item was acted upon at the Rules Committee Meeting on Monday, July 15, 2024, at 10:00 a.m., by the votes indicated.

Item No. 55 **File No. 240549**

[Charter Amendment - Inspector General in Controller's Office; Expanding Controller's Investigative Powers]

Charter Amendment (Second Draft) to amend the Charter of the City and County of San Francisco to establish the position of Inspector General in the Controller's Office; to provide that the Inspector General be nominated by the Controller subject to approval by the Board of Supervisors and the Mayor; to authorize the Inspector General to initiate and lead investigations regarding potential violations of laws or policies involving fraud, waste, or abuse; to expand the authority of the Controller's Office to issue subpoenas; and to authorize the Controller's Office to execute search warrants to the extent permitted by State law; at an election to be held on November 5, 2024.

RECOMMENDED AS A COMMITTEE REPORT

Vote: Supervisor Shamann Walton - Aye
Supervisor Ahsha Safai - Aye
Supervisor Hillary Ronen - Aye

c: Board of Supervisors
Angela Calvillo, Clerk of the Board
Alisa Somera, Legislative Deputy Director
Anne Pearson, Deputy City Attorney

File No. 240549

Committee Item No. 3

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Rules Committee

Date July 15, 2024

Board of Supervisors Meeting

Date _____

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- Memorandum of Understanding (MOU)
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 - Ethics Commission
- Award Letter
- Application
- Form 700
- Information/Vacancies (Boards/Commissions)
- Public Correspondence

OTHER (Use back side if additional space is needed)

- Charter Amendment
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____

Completed by: Victor Young

Date July 11, 2024

Completed by: _____

Date _____

1 [Charter Amendment - Inspector General in Controller's Office; Expanding Controller's
Investigative Powers]

2 **Describing and setting forth a proposal to the voters at an election to be held on November**
3 **5, 2024, to amend the Charter of the City and County of San Francisco to establish the**
4 **position of Inspector General in the Controller's Office; to provide that the Inspector**
5 **General be nominated by the Controller subject to approval by the Board of Supervisors**
6 **and the Mayor; to authorize the Inspector General to initiate and lead investigations**
7 **regarding potential violations of laws or policies involving fraud, waste, or abuse; to**
8 **expand the authority of the Controller's Office to issue subpoenas; and to authorize the**
9 **Controller's Office to execute search warrants to the extent permitted by State law.**

10
11 Section 1. The Board of Supervisors hereby submits to the qualified voters of the City
12 and County, at an election to be held on November 5, 2024, a proposal to amend the Charter of
13 the City and County by revising Sections 3.105, 4.137, 10.104, F1.106, F1.107, F1.110, and
14 F1.113, and deleting Section F1.114, to read as follows:

15 NOTE: **Unchanged Charter text and uncodified text** are in plain font.
16 **Additions** are *single-underline italics Times New Roman font*.
17 **Deletions** are ~~*strike-through italics Times New Roman font*~~.
18 **Asterisks (* * * *)** indicate the omission of unchanged Charter
subsections.

19 **SEC. 3.105. CONTROLLER; CITY SERVICES AUDITOR; INSPECTOR**
20 **GENERAL.**

21 (a) The Mayor shall appoint or reappoint a Controller for a ten-year term, subject to
22 confirmation by the Board of Supervisors. The Controller may only be removed by the Mayor
23 for cause, with the concurrence of the Board of Supervisors by a two-thirds vote.

24 (b) The Controller shall be responsible for the timely accounting, disbursement, or other
25 disposition of monies of the City and County in accordance with sound financial practices

1 applicable to municipalities and counties. The Controller shall have the power and duties of a
2 County auditor, except as otherwise provided in this Charter. The Controller shall have authority
3 to audit the accounts and operations of all boards, commissions, officers, and departments to
4 evaluate their effectiveness and efficiency. The Controller may require periodic or special
5 reports of departmental operations, contracts, revenues, and expenditures, and shall have access
6 to, and authority to, examine all documents, records, books, and other property of any board,
7 commission, officer, or department. Further, the Controller may subpoena witnesses, administer
8 oaths, and compel the production of books, papers, testimony, and other evidence with respect to
9 matters affecting the conduct of any department or office of the City and County. The preceding
10 sentence authorizes the Controller to compel testimony or production from any person or entity
11 including but not limited to City and County officers and employees; persons or entities that
12 have or are seeking a contract, grant, lease, loan, or other agreement with the City and County,
13 and their employees or officers; applicants for or recipients of permits, licenses, land use
14 entitlements, tax incentives, benefits, or services from the City and County, and their employees
15 or officers; and registered City lobbyists. The Controller and employees of the Controller,
16 including the Inspector General, may seek and execute search warrants to the extent permitted
17 by State law.

18 (c) The Controller shall also serve as City Services Auditor for the City and County. As
19 City Services Auditor, the Controller shall be responsible for monitoring the level and
20 effectiveness of services rendered by the City to its residents, as set forth in Appendix F to this
21 Charter.

22 (d) Should the Controller determine at any time during the fiscal year that the revenues
23 of the General Fund, or any special, sequestered, or other fund are insufficient or appear to be
24 insufficient to support the remaining anticipated expenditure from that fund for the fiscal year for
25 any department, function, or program, the Controller shall reduce or reserve all or a portion of

1 the expenditure appropriation until such time as the Controller determines that the anticipated
2 revenues for the remainder of that fiscal year are sufficient to support the level of expenditure
3 anticipated for the remainder of the fiscal year. Whenever the Controller makes a reduction or
4 reservation, the Controller shall so inform the Mayor and Board of Supervisors within 24 hours.

5 (e) The Controller shall exercise general supervision over the accounts of all officers,
6 commissions, boards, and employees of the City and County charged in any manner with the
7 receipt, collection, or disbursement of City and County funds or other funds, in their capacity as
8 City and County officials or employees. The Controller shall establish accounting records,
9 procedures, and internal controls with respect to all financial transactions of the City and County.
10 Such records, procedures, and controls shall permit the financial statements of the City and
11 County to be prepared in conformity with generally accepted accounting principles applicable to
12 municipalities and counties.

13 (f) The Controller shall within 150 days of the end of each fiscal year prepare an annual
14 report of the financial condition of the City and County. Such annual report shall be prepared in
15 accordance with generally accepted accounting principles. The annual report shall contain such
16 information and disclosures as shall be necessary to present to the public a full and
17 understandable report of all City and County financial activity.

18 (g) The Controller shall prepare an impartial financial analysis of each City and County
19 ballot measure which shall include the amount of any increase or decrease in the cost of
20 government of the City and County and its effect upon the cost of government. Such analysis
21 shall be issued in sufficient time to permit inclusion in the voters' information pamphlet.

22 (h) The Controller shall issue from time to time such periodic or special financial reports
23 as may be requested by the Mayor or Board of Supervisors.

24 (i) All disbursements of funds in the custody of the Treasurer must be authorized by the
25 Controller. No officer or employee shall bind the City and County to expend money unless there

1 is a written contract or other instrument and unless the Controller shall certify that sufficient
2 unencumbered balances are available in the proper fund to meet the payments under such
3 contract or other obligation as these become due, or that ~~the Controller~~^{he or she} expects
4 sufficient unencumbered balances to be available in the proper fund during the course of the
5 budgetary cycle to meet the payments as they become due.

6 (j) The Controller's Office shall include an Inspector General whose responsibilities
7 shall include reviewing complaints, leading and coordinating investigations, and collaborating
8 with the City Services Auditor on audits, inspections, and monitoring, all with the purpose of
9 preventing and detecting fraud, waste, and abuse.

10 (1) The Controller shall appoint the Inspector General, subject to approval by
11 the Mayor and confirmation by the Board of Supervisors. The Controller may terminate the
12 Inspector General in the Controller's discretion. The Inspector General shall be exempt from
13 civil service selection, appointment, and removal procedures.

14 (2) The Inspector General shall initiate and lead investigations regarding
15 potential violations of laws or policies involving fraud, waste, or abuse. The Inspector General
16 shall coordinate with employees in the Controller's Office investigating whistleblower and
17 citizen complaints under Section FI.107, and the Controller may assign the Inspector General to
18 supervise those employees and/or employees supporting investigation work in the City Services
19 Audit Unit under Section FI.101.

20 (3) The Inspector General shall consult regularly, individually or jointly as
21 circumstances warrant, with the Ethics Commission, City Attorney, District Attorney, and/or
22 Department of Human Resources to coordinate the departments' investigative strategies in
23 matters involving fraud, waste, or abuse to the extent feasible. The Inspector General shall refer
24 investigations that the Inspector General has initiated or complaints that the Inspector General
25 has received to the Ethics Commission, City Attorney, or District Attorney as provided in Section

1 FI.107. After receiving such a referral, the Ethics Commission, City Attorney, and District
2 Attorney shall report quarterly to the Inspector General on the progress of the investigation, and
3 shall report to the Inspector General at the conclusion of the investigation, to the extent
4 providing such reports would not compromise the investigation. These reports shall be
5 considered confidential information to the extent permitted by state law.

6 (4) The Inspector General may hold public hearings regarding fraud, waste, or
7 abuse.

8 (5) The Inspector General shall submit a public report at least twice each
9 calendar year to the Mayor and Board of Supervisors regarding the Inspector General's
10 activities and the outcomes of other City agencies' public integrity investigations to the extent
11 those activities and outcomes are not confidential under federal, State, or local law. In these
12 reports or at any other time, the Inspector General may make recommendations to the Mayor,
13 Board of Supervisors, and City and County agencies regarding City ordinances, rules,
14 regulations, or policies that impact public integrity in City government.

15 (6) In carrying out the objectives set forth in this Section 3.105, the Inspector
16 General shall receive prompt and full cooperation and assistance from all departments, officers,
17 and employees of the City and County.

18
19 **SEC. 4.137. SHERIFF'S DEPARTMENT OVERSIGHT.**

20 * * * *

21 (b) **SDOB Powers and Duties.** The SDOB shall:

22 (1) Appoint, and may remove, the Sheriff's Inspector General in the Sheriff's
23 Department Office of Sheriff's Inspector General ("OSIG"), established in subsection (d).

24 (2) Evaluate the work of the OSIG, and may review the Sheriff's Inspector
25 General's individual work performance.

1 (3) Compile, evaluate, and recommend law enforcement custodial and patrol
2 best practices.

3 (4) Conduct community outreach and receive community input regarding SFSD
4 operations and jail conditions, by holding public meetings and soliciting input from persons
5 incarcerated in the City and County.

6 (5) Prepare and submit a quarterly report to the Sheriff and Board of Supervisors
7 regarding the SDOB evaluations and outreach, and OSIG reports submitted to SDOB.

8 (6) By March 1 of each year, prepare and present to the Board of Supervisors or
9 a committee designated by the President of the Board, an annual report that includes a summary
10 of SDOB evaluations and outreach, and OSIG reports submitted to SDOB, for the prior calendar
11 year.

12 (c) In performing its duties, the SDOB may hold hearings, issue subpoenas to witnesses
13 to appear and for the production of evidence, administer oaths, and take testimony.

14 (d) **Establishment of Office of Sheriff's Inspector General.** There is hereby
15 established the *Sheriff's Department* Office of Sheriff's Inspector General (“OSIG”), which shall
16 be a department under the SDOB, and separate from the Sheriff’s Department. The OSIG shall
17 be headed by the Sheriff's Inspector General, appointed by the SDOB as set forth in subsection
18 (b)(1). The Sheriff's Inspector General shall be exempt from civil service selection, appointment,
19 and removal procedures.

20 (e) **OSIG Powers and Duties.** The OSIG shall:

21 (1) Receive, review, and investigate complaints against SFSD employees and
22 SFSD contractors; provided, however, that the OSIG shall refer complaints alleging criminal
23 misconduct to the District Attorney, and refer complaints alleging violations of ethics laws to the
24 Ethics Commission.

1 (2) Investigate the death of any individual in the custody of the SFSD. The OSIG
2 shall refer evidence of criminal misconduct regarding any death in custody to the District
3 Attorney. Notwithstanding such a referral, the OSIG may continue to investigate a death in
4 custody unless OSIG's investigation will interfere with a criminal investigation conducted by the
5 District Attorney, or any law enforcement agency to which the District Attorney may refer the
6 evidence of criminal misconduct.

7 (3) Recommend disciplinary action to the Sheriff where, following an
8 investigation pursuant to subsection (e)(1) or (e)(2), the OSIG determines that an employee's
9 actions or omissions violated law or SFSD policy; provide notice of and a copy of the
10 recommendation, the reasons for the recommendation, and supporting records, to the extent
11 permitted by State or federal law, to the employee; and make available to the public any records
12 and information regarding OSIG's disciplinary recommendations to the extent permitted by State
13 or federal law.

14 (4) Develop and recommend to the Sheriff an SFSD use of force policy and a
15 comprehensive internal review process for all use of force and critical incidents.

16 (5) Prepare and submit a quarterly report to the Sheriff and the SDOB regarding
17 OSIG investigations that includes the number and type of complaints under subsection (e)(1)
18 filed; trend analysis; the outcome of the complaints; any determination that the acts or omissions
19 of an employee or contractor, in connection with the subject matter of a complaint under
20 subsection (e)(1), or a death in custody under subsection (e)(2), violated law or SFSD policy; the
21 OSIG's recommendations, if any, for discipline; the outcome of any discipline recommendations;
22 and the OSIG's policy recommendations under subsection (e)(4).

23 (6) Monitor SFSD operations, including the provision of services to incarcerated
24 individuals, through audits and investigations, to ensure compliance with applicable laws and
25 policies.

1 (f) In performing its duties, the OSIG may hold hearings, issue subpoenas to witnesses
2 to appear and for the production of evidence, administer oaths, and take testimony. The OSIG
3 also may request and the Sheriff shall require the testimony or attendance of any employee of the
4 SFSD.

5 (g) Cooperation and Assistance from City Departments. In carrying out their duties, the
6 SDOB and OSIG shall receive prompt and full cooperation and assistance from all City
7 departments, officers, and employees, including the Sheriff and SFSD and its employees, which
8 shall, unless prohibited by State or federal law, promptly produce all records and information
9 requested by the SDOB or OSIG, including but not limited to (1) personnel and disciplinary
10 records of SFSD employees, (2) SFSD criminal investigative files, (3) health information
11 pertaining to incarcerated individuals, and (4) all records and databases to which the SFSD has
12 access, regardless of whether those records pertain to a particular complaint or incident. The
13 Sheriff also shall, unless prohibited by State or federal law, allow the OSIG unrestricted and
14 unescorted access to all facilities, including the jails. The SDOB and OSIG shall maintain the
15 confidentiality of any records and information it receives or accesses to the extent required by
16 local, State, or federal law governing such records or information.

17 In carrying out their duties, the SDOB and OSIG shall cooperate and collaborate with
18 organizations that contract with SFSD to provide legal services to incarcerated individuals.

19 (h) **Budget and Staffing.** Subject to the fiscal, budgetary, and civil service provisions of
20 the Charter, the OSIG staff shall include no fewer than one investigator for every 100 sworn
21 SFSD employees. No SDOB or OSIG staff, including the *Sheriff's* Inspector General, shall have
22 been employed previously by a law enforcement agency or a labor organization representing law
23 enforcement employees.

1 (i) Nothing in this Section 4.137 shall prohibit, limit, or otherwise restrict the Sheriff or
2 the Sheriff's designee from investigating the conduct of an employee or contractor of the SFSD,
3 or taking disciplinary or corrective action permitted by City or State law.

4 (j) Nothing in this Section 4.137, including but not limited to subsections (f) and (g), is
5 intended to or shall be interpreted to abrogate, interfere with, or obstruct the independent and
6 constitutionally and statutorily designated duties of the Sheriff, including the Sheriff's duty to
7 investigate citizens' complaints against SFSD personnel and the duty to operate and manage the
8 jails, the California Attorney General's constitutional and statutory responsibility to oversee the
9 Sheriff, or other applicable State law. In carrying out their duties, the SDOB and OSIG shall
10 cooperate and coordinate with the Sheriff so that the Sheriff, the SDOB, and the OSIG may
11 properly discharge their respective responsibilities.

12
13 **SEC. 10.104. EXCLUSIONS FROM CIVIL SERVICE APPOINTMENT.**

14 All employees of the City and County shall be appointed through competitive
15 examination unless exempted by this Charter. The following positions shall be exempt from
16 competitive civil service selection, appointment, and removal procedures, and the person serving
17 in the position shall serve at the pleasure of the appointing authority:

18 * * * *

19 14. The law librarian, assistant law librarians, bookbinder of the Law Library,
20 purchaser, curators, Assistant Sheriff, Deputy Port Director, Chief of the Bureau of Maritime
21 Affairs, Director of Administration and Finance of the Port, Port Sales Manager, Port Traffic
22 Manager, Chief Wharfinger, Port Commercial Property Manager, Actuary of the San Francisco
23 Employee's' Retirement System, Director of the Zoo, Chief Veterinarian of the Zoo, Director of
24 the Arboretum and Botanical Garden, Director of Employee Relations, Health Service
25 Administrator, Executive Assistant to the Human Services Director, Inspector General in the

1 Controller's Office, and any other positions designated as exempt under the 1932 Charter, as
2 amended;

3 * * * *

4
5 **F1.106. OVERSIGHT OF CONTRACTING PROCEDURES.**

6 The Controller shall have the duty to perform regular oversight of the City's contracting
7 procedures, including developing model criteria and terms for City Requests for Proposals
8 (RFPs), and auditing compliance with City contracting rules and procedures, ~~and, where~~ Where
9 appropriate, the Inspector General shall investigate ~~ing~~ cases of alleged abuse or conflict of
10 interest. ~~Nothing in this Section shall be construed to alter the existing jurisdiction of City~~
11 ~~departments and agencies with respect to contracting.~~ Should the ~~Controller~~ Inspector General
12 find that there has been an abuse or conflict of interest, ~~he or she~~ the Inspector General shall
13 refer that finding to the Ethics Commission, the District Attorney, and the City Attorney for
14 possible enforcement action. Nothing in this Section F1.106 shall be construed to alter the
15 existing jurisdiction of City departments and agencies with respect to contracting.

16
17 **F1.107. CITIZENS' COMPLAINTS; WHISTLEBLOWERS.**

18 (a) The Controller shall have the authority to receive individual complaints concerning
19 the quality and delivery of government services; ~~wasteful and inefficient City government~~
20 ~~practices; misuse of City government funds; and improper activities by City government~~
21 ~~officers and employees, by persons or entities that have or are seeking a contract, grant, lease,~~
22 loan, or other agreement with the City and County, and their employees or officers; by
23 applicants for or recipients of permits, licenses, land use entitlements, tax incentives, benefits, or
24 services from the City and County, and their employees or officers; or by registered City
25

1 lobbyists. When appropriate, the Controller shall investigate and otherwise attempt to resolve
2 such individual complaints except for those which:

3 (1) another City agency is required by federal, state, or local law to adjudicate,

4 (2) may be resolved through a grievance mechanism established by collective
5 bargaining agreement or contract, or

6 (3) ~~involve allegations of conduct which may constitute a violation of criminal~~
7 ~~law, or~~

8 ~~————(4)~~ are subject to an existing, ongoing investigation by the District Attorney, the
9 City Attorney, or the Ethics Commission, where either official or the Commission states in
10 writing that investigation by the Controller would substantially impede or delay ~~his, her, or its~~
11 their own investigation of the matter.

12 If the Controller receives a complaint described in items (1), (2), or (3), ~~or (4)~~ of this
13 ~~subsection (a) paragraph~~, the Controller shall advise the complainant of the appropriate
14 procedure for the resolution of such complaint.

15 (b) If the Controller receives a complaint alleging conduct that may constitute a
16 violation of criminal law or a governmental ethics law, the Inspector General shall review the
17 complaint and decide whether to initiate an investigation. Thereafter, the Inspector General ~~he~~
18 ~~or she~~ shall promptly refer ~~the~~ complaints regarding criminal conduct to the District Attorney or
19 other appropriate law enforcement agency and shall refer complaints regarding violations of
20 governmental ethics laws to the Ethics Commission and the City Attorney. After referring a
21 complaint to the District Attorney, Ethics Commission, or City Attorney, the Inspector General
22 may investigate the matter in coordination with the department receiving the complaint. The
23 Inspector General may decline to refer a complaint to the District Attorney, Ethics Commission,
24 or City Attorney if the complaint relates to the conduct of that agency. In that circumstance, the
25 Inspector General may refer the complaint to another City, State, or federal agency with

1 jurisdiction over the matter. Nothing in this Section F1.107 shall preclude the Controller from
2 investigating whether any alleged criminal conduct also violates any civil or administrative law,
3 statute, ordinance, or regulation.

4 (c) Notwithstanding any provision of this Charter, including, but not limited to Section
5 C3.699-11, or any ordinance or regulation of the City and County of San Francisco, the
6 Controller shall administer a whistleblower and citizen complaint hotline telephone number and
7 website and publicize the hotline and website through press releases, public advertising, and
8 communications to City employees. The Controller shall receive and track calls and emails
9 related to complaints about the quality and delivery of government services, wasteful and
10 inefficient City government practices, misuse of government funds and improper activities by
11 City government officials, employees and contractors and shall route these complaints to the
12 appropriate agency subject to subsection (a) of this Section F1.107. The Board of Supervisors
13 shall enact and maintain an ordinance protecting the confidentiality of whistleblowers, and
14 protecting City officers and employees from retaliation for filing a complaint with, or providing
15 information to, the Controller, Ethics Commission, District Attorney, City Attorney or a City
16 department or commission about improper government activity by City officers and employees.
17 The City may incorporate all whistleblower functions set forth in this Charter or by ordinances
18 into a unified City call center, switchboard, or information number at a later time, provided the
19 supervision of the whistleblower function remains with the Controller and its responsibilities and
20 function continue unabridged.

21
22 **F1.110. ACCESS TO RECORDS; PRELIMINARY REPORTS.**

23 (a) The Controller shall have timely access to all records and documents the Controller
24 deems necessary to complete the inquiries and reviews required by this Appendix F. If a City
25 officer, employee, agency, department, or commission, ~~or agency~~ does not comply with the

1 Controller's request for such records and documents, the Controller may issue a subpoena
2 consistent with the Controller's authority under Section 3.105(b). The provisions of this
3 ~~subdivision~~ Section F1.110 shall not apply to those records and documents of City agencies for
4 which a claim of privilege has been properly and appropriately raised, or which are prepared or
5 maintained by the City Attorney, the District Attorney, or the Ethics Commission for use in any
6 investigation authorized by federal, state, ~~law~~ or local law.

7 (b) Notwithstanding any other provision of this Charter, or any ordinance or regulation
8 of the City and County ~~of San Francisco~~, and except to the extent required by state or federal
9 law, all drafts, notes, preliminary reports of Controller's benchmark studies, audits,
10 investigations, and other reports shall be confidential.

11 12 **F1.113. CONTROLLER'S AUDIT FUND.**

13 Notwithstanding any other provision of this Charter, the Mayor and Board of Supervisors
14 shall be required to budget an amount equal to at least two-tenths of one percent (0.2%) of the
15 City's overall budget, apportioned by fund and excluding bond related debt, to implement this
16 Appendix F and to support the staffing and operations of the Inspector General~~provision~~. This
17 amount shall be referred to as the Controller's Audit Fund, and shall be used exclusively to
18 implement the duties and requirements of this Appendix F and to support the staffing and
19 operations of the Inspector General, and shall not be used to displace funding for the non-audit
20 related functions of the Controller's Office existing prior to ~~the date this provision is enacted~~
21 November 4, 2003. If the funds are not expended or encumbered by the end of the fiscal year, the
22 balance in the fund shall revert to the General Fund or the enterprise funds where it originated.

23 24 **~~F1.114. OPERATIVE DATE; SEVERABILITY.~~**

25

LEGISLATIVE DIGEST

(Revised 7/8/2024)

[Charter Amendment - Inspector General in Controller's Office; Expanding Controller's Investigative Powers]

Describing and setting forth a proposal to the voters at an election to be held on November 5, 2024, to amend the Charter of the City and County of San Francisco to establish the position of Inspector General in the Controller's Office; to provide that the Inspector General be nominated by the Controller subject to approval by the Board of Supervisors and the Mayor; to authorize the Inspector General to initiate and lead investigations regarding potential violations of laws or policies involving fraud, waste, or abuse; to expand the authority of the Controller's Office to issue subpoenas; and to authorize the Controller's Office to execute search warrants to the extent permitted by State law.

Existing Law

The Controller oversees the financial affairs of the City. The Controller's duties under the Charter include operating a whistleblower program to receive and investigate complaints concerning the quality and delivery of government services, wasteful and inefficient City government practices, misuse of City funds, and improper activities by City officers and employees. The Charter also requires the Controller, as City Services Auditor, to monitor the level and effectiveness of services the City provides to its residents. But the Charter does not otherwise require the Controller's Office to initiate, lead, or coordinate investigations regarding potential violations of laws or policies involving fraud, waste, or abuse. Other City departments, including the City Attorney, District Attorney, and Ethics Commission currently have jurisdiction to investigate various types of public integrity matters.

The Charter currently gives the Controller authority to examine records of City boards, commissions, officers, and departments. But the Charter does not authorize the Controller to issue subpoenas to third parties, such as City contractors, permittees or lobbyists. Also, State law authorizes employees of the Controller's Office to execute search warrants under certain circumstances, but the Charter currently does not mention search warrants.

The Charter also establishes a separate department, not connected to the Controller's Office, called the Office of Inspector General. That office investigates complaints involving employees of the Sheriff's Office.

Amendments to Current Law

The proposed Charter amendment would establish the position of Inspector General in the Controller's Office. The Controller would appoint the Inspector General, subject to approval by the Mayor and Board of Supervisors. The Inspector General would be an employee of the Controller's Office, subject to supervision and removal by the Controller.

The Inspector General would be responsible for reviewing complaints, for leading and coordinating investigations, and for collaborating with the City Services Auditor and the staff investigating whistleblower and citizen complaints on audits, inspections, and monitoring—all with the purpose of preventing and detecting fraud, waste, and abuse. Also, the Inspector General would consult with the Ethics Commission, City Attorney, District Attorney, and Department of Human Resources regarding those departments' investigative strategies in matters involving fraud, waste, or abuse. The Inspector General would generally refer matters to those departments, but could also investigate those matters in coordination with the department that receives the referral.

The Inspector General would be able to hold public hearings regarding fraud, waste, or abuse, and to make recommendations to the Mayor, Board of Supervisors, and other agencies regarding City laws and policies that impact public integrity in City government. And the Inspector General would issue public reports on these matters at least twice a year.

The Charter amendment would also expand the Controller's authority to issue subpoenas to third parties—including City contractors, permittees, and lobbyists—about matters affecting the conduct of any department or office of the City. The Charter amendment would also authorize employees of the Controller's Office to execute search warrants consistent with State law.

The measure would also rename the Office of Inspector General that investigates matters involving Sheriff's Office employees as the Office of Sheriff's Inspector General.

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An Inspector General for San Francisco

Proposal and Comparison



AARON PESKIN
市參事佩斯金

Inspector General in Controller's Office

Establishing an IG

- IG to be appointed by Controller, approved by Mayor, and confirmed by Board of Supervisors
 - Funded by City Services Auditor set-aside creating budgetary protection
 - Organizational placement otherwise left to Controller
-

Expanded Investigative Powers

- Gives IG **broad anti-corruption mandate to receive complaints and proactively investigate.**
- **Expands Controller/IG's subpoena power** to contractors, lobbyists, and anyone seeking contracts, grants, loans, permits, licenses, tax incentives, entitlements, or other benefit from the city.
- **Expands the subject of whistleblower complaints** beyond city employees to contractors, lobbyists, etc.
- Grants power to **execute search warrants** as allowed by Penal Code 830.13.
- Codifies a **duty to cooperate** for city employees.

Cooperation and Accountability

- Requires **cooperation and information sharing** with Ethics, City Attorney, District Attorney.
- **Public accountability** through dual reporting required bi-annually by IG to Mayor and Board of Supervisors.
- **Internal accountability** through required reporting to IG by local enforcement entities who receive referrals.
- Ability to hold **public hearings**.

Inspectors General Comparison

Pink = added by this proposal

| | NYC | Chicago | D.C. | New Orleans | L.A. County Controller OCI | SF Controller's IG |
|------------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|----------------------------|----------------------------------|
| Broad Subject Jurisdiction | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Initiate own Investigations | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | | <input checked="" type="radio"/> |
| Accept Anonymous Reports | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Whistleblower Protections | <input type="radio"/> | <input type="radio"/> | | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Inspectors General Comparison

Powers









Accountability

| | NYC | Chicago | D.C. | New Orleans | L.A. County Controller OCI | SF Controller's IG |
|------------------|-----------------------|-----------------------|-----------------------|-----------------------|----------------------------|----------------------------------|
| Broad Subpoena | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Search Warrant | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Dual Reporting | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |
| Public Reporting | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> |

Inspectors General Comparison

Created by:
C = Charter, O = Ordinance

Independence

| | NYC | Chicago | D.C. | New Orleans | L.A. County Controller OCI | SF Controller's IG |
|----------------------|---|---|--|---|---|---|
| Strong Legal Basis | C | O | O | C/O | O | C |
| Removal Protections |  |  |  |  |  | *  |
| Budgetary Protection | |  | | | |  |



San Francisco Ethics Commission

25 Van Ness Avenue, STE 220
San Francisco, CA 94102-6053
ethics.commission@sfgov.org
415-252-3100 | sfethics.org

June 25, 2024

Honorable Members of the San Francisco Board of Supervisors
Attention: Angela Calvillo, Clerk of the Board of Supervisors
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Charter Amendment to Create an Inspector General (File #240549)

Dear Members of the Board:

On May 21, President Peskin and Supervisor Safai introduced a charter amendment that would create an Inspector General position within the Controller's Office ([File # 240549](#)). The Inspector General would be authorized to initiate and lead investigations "with the purpose of preventing and detecting fraud, waste, abuse and misconduct."

We share the desire to prevent and detect fraud, waste, abuse, and misconduct in City government. However, as drafted, some of the responsibilities delegated to the proposed Inspector General risk duplicating work already being undertaken by other City agencies, including the District Attorney, the City Attorney, and the Ethics Commission. This would lead to redundancy, confusion of responsibilities, and the inefficient use of taxpayer resources at a time when the City is facing significant financial challenges.

We therefore recommend that the proposed charter amendment be modestly revised to ensure that the proposed Inspector General position not be charged with conducting redundant investigations that could hamper the ability of the City's enforcement agencies to effectively investigate violations and resolve cases in a timely manner.

Redundant Responsibilities Assigned to Proposed Inspector General

The proposed amendment authorizes the Inspector General to initiate and lead investigations regarding potential violations of laws or policies involving "fraud, waste, abuse, or misconduct." As a violation of *any* law or policy arguably involves "abuse" or "misconduct," this language would give the Inspector General an unclear but open-ended mandate.

For example, the Inspector General would apparently be responsible for investigating potential violations of the California Political Reform Act (PRA) and the San Francisco Campaign & Governmental Conduct Code (C&GCC), which are already within the jurisdiction of the District Attorney's Office, the City Attorney's Office, and the Ethics Commission. Under the current system, criminal violations are addressed by the District Attorney, civil litigation by the City Attorney, and administrative enforcement by the Ethics Commission. These three offices meet regularly to review incoming complaints and coordinate which office is best suited to handle particular enforcement matters. Adding a fourth department – the proposed Inspector General – to investigate violations of the PRA and C&GCC would be both duplicative and

inefficient.¹ The Inspector General would not have a unique enforcement role, as each of the other departments currently do, but would instead be limited to making referrals and issuing public reports.

We envision situations where the Inspector General may conduct investigations that are duplicative of what the existing three enforcement agencies are doing. This could lead to respondents and witnesses being interviewed multiple times regarding the same matter, creating general confusion throughout the investigative process and potentially compromising cases. Likewise, if the Inspector General were to make public statements regarding potential violations of the PRA or C&GCC while one of the other agencies is still investigating the same conduct, that could negatively impact those agencies' investigations.

We applaud the additional focus on waste, fraud, abuse, and misconduct, particularly regarding the City's procurement practices and the activities of City contractors. Properly constructed, an Inspector General could be a valuable tool for investigating and reporting on these issues. However, steps should be taken to ensure that this new position does not create bureaucratic overlap and inefficiencies or disrupt the ability of enforcement agencies, like the Ethics Commission, to perform investigations and resolve cases.

To this end, we recommend the proposed Charter amendment be revised to explicitly state that the Inspector General is not responsible for investigating or reporting on violations of the California Political Reform Act or the San Francisco Campaign & Governmental Conduct Code.

We welcome conversation with all members of the Board of Supervisors on this matter. If you have any questions, please feel free to contact us directly or contact the Commission's Policy & Legislative Affairs Manager Michael Canning at (415) 252-3100.

Sincerely,

Patrick Ford

Patrick Ford
Executive Director
San Francisco Ethics Commission

Theis Finlev

Theis Finlev
Chair
San Francisco Ethics Commission

¹ Atlanta offers a recent illustration of overlapping jurisdiction between an inspector general and an ethics agency. In 2020, the Atlanta City Council approved legislation to create the Office of Inspector General ([No. 19-O-1729](#)). The legislation did not adequately address how matters of overlapping jurisdiction with Atlanta's Ethics Division would be resolved. The new system proved problematic and limited the ability of the Ethics Division to do its work. In 2023, the Atlanta City Council reversed course, approving legislation ([No. 22-O-1823](#)) that clearly articulates that potential violations of the City's Ethics rules be referred to and investigated by the Ethics Office, while the Office of the Inspector General investigates other matters regarding potential waste, fraud, and abuse. The situation in Atlanta highlights the importance of clearly defined roles in the enforcement of ethics laws.

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

Date: July 9, 2024
To: Planning Department / Commission
From: Victor Young, Clerk of the Rules Committee
Subject: Board of Supervisors Legislation Referral - File No. 240549 ver2
Charter Amendment - Inspector General in Controller's Office; Expanding Controller's Investigative Powers

- California Environmental Quality Act (CEQA) Determination
Ordinance / Resolution
Ballot Measure
Amendment to the Planning Code, including the following Findings:
Amendment to the Administrative Code, involving Land Use/Planning
General Plan Referral for Non-Planning Code Amendments
Historic Preservation Commission

Please send the Planning Department/Commission recommendation/determination to Victor Young at Victor.Young@sfgov.org.

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MEMORANDUM

TO: Greg Wagner, City Controller, Office of the Controller

FROM: Victor Young, Assistant Clerk, Rules Committee
Board of Supervisors

A handwritten signature in blue ink that reads "Victor Young".

DATE: July 9, 2024

SUBJECT: CHARTER AMENDMENT INTRODUCED
November 5, 2024, Election

The Board of Supervisors' Rules Committee has received the following Charter Amendment for the November 5, 2024, Election. This matter is being **re-referred** to you in accordance with Rules of Order 2.22.3.

File No. 240549 (ver2)

Charter Amendment (Second Draft) to amend the Charter of the City and County of San Francisco to establish the position of Inspector General in the Controller's Office; to provide that the Inspector General be nominated by the Controller subject to approval by the Board of Supervisors and the Mayor; to authorize the Inspector General to initiate and lead investigations regarding potential violations of laws or policies involving fraud, waste, or abuse; to expand the authority of the Controller's Office to issue subpoenas; and to authorize the Controller's Office to execute search warrants to the extent permitted by State law; at an election to be held on November 5, 2024.

Please review and prepare a financial analysis of the proposed measure before the next Rules Committee Meeting.

If you have any questions or concerns, please call me at (415) 554-7723 or email: victor.young@sfgov.org. To submit documentation, please email or forward to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Natasha Mihal, Office of the Controller
Janice Levy, Office of the Controller
Greyson Spencer, Office of the Controller

BOARD of SUPERVISORS



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San Francisco 94102-4689
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TDD/TTY No. (415) 554-5227

MEMORANDUM

TO: Carol Isen, Director, Department of Human Resources

FROM: Victor Young, Assistant Clerk, Rules Committee *Victor Young*
Board of Supervisors

DATE: May 28, 2024

SUBJECT: LEGISLATION INTRODUCED – MEET AND CONFER DETERMINATION

The Board of Supervisors' Rules Committee has received the following Charter Amendment. This matter is being **referred** to you as it may require the Department of Human Resources to fulfill "**Meet and Confer**" requirements. Please review, assess the impact and provide proper noticing as required and report back to on the status of the "Meet and Confer" requirement.

File No. 240549 (ver1)

Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to establish the position of Inspector General in the Controller's Office; to provide that the Inspector General be nominated by the Controller subject to approval by the Board of Supervisors and the Mayor; to authorize the Inspector General to initiate and lead investigations regarding potential violations of laws or policies involving fraud, waste, abuse, or misconduct; to expand the authority of the Controller's Office to issue subpoenas; and to authorize the Controller's Office to execute search warrants to the extent permitted by State law; at an election to be held on November 5, 2024.

If you have any questions or concerns, please call me at (415) 554-7723 or email: victor.young@sfgov.org. To submit documentation, please email or forward to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

RESPONSE FROM THE DEPARTMENT OF HUMAN RESOURCES - Date: _____

Meet and Confer requirement has been fulfilled.

Meet and Confer requirement not applicable.

Additional information attached.

MT

Department of Human Resources

- c: Mawuli Tugbenyoh, Department of Human Resources
- Aliya Chisti, Department of Human Resources

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

TO: Tom Paulino, Liaison to the Board of Supervisors, Mayor's Office
Anne Pearson, Deputy City Attorney, Office of the City Attorney
John Arntz, Director, Department of Elections
Patrick Ford, Executive Director, Ethics Commission
Sheriff Paul Miyamoto, Sheriff's Department

FROM: Victor Young, Assistant Clerk, Rules Committee *Victor Young*
Board of Supervisors

DATE: July 9, 2024

SUBJECT: CHARTER AMENDMENT INTRODUCED
November 5, 2024

The Board of Supervisors' Rules Committee has received the following Charter Amendment for the November 5, 2024, Election. This matter is being **re-referred** to you in accordance with Rules of Order 2.22.4.

File No. 240549 (ver2)

Charter Amendment (Second Draft) to amend the Charter of the City and County of San Francisco to establish the position of Inspector General in the Controller's Office; to provide that the Inspector General be nominated by the Controller subject to approval by the Board of Supervisors and the Mayor; to authorize the Inspector General to initiate and lead investigations regarding potential violations of laws or policies involving fraud, waste, or abuse; to expand the authority of the Controller's Office to issue subpoenas; and to authorize the Controller's Office to execute search warrants to the extent permitted by State law; at an election to be held on November 5, 2024.

Please review and submit any reports or comments you wish to be included with the legislative file.

If you have any questions or concerns, please call me at (415) 554-7723 or email: victor.young@sfgov.org. To submit documentation, please forward to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Michael Canning, Ethics Commission

Andres Power, Mayor's Office
Johanna Saenze, Sheriff's Dept.
Katherine Gorwood, Sheriff's Dept.
Tria Moriarty, Sheriff's Dept.
Rich Jue, Sheriff's Dept.
Christian Kropff, Sheriff's Dept.

Jennifer Rodgers
Jennifer.rodgers@law.columbia.edu
jr5696@nyu.edu

July 13, 2024

To Whom it May Concern:

I am the former Executive Director of the Center for the Advancement of Public Integrity at Columbia Law School (CAPI), a non-profit research center dedicated to helping public integrity professionals more effectively identify and combat public corruption. I currently teach two law school courses, including a class on Government Anti-Corruption Programs at NYU School of Law. I was approached by an aide to Board President Peskin to discuss the proposal for establishing an Inspector General in San Francisco. I shared some of the work CAPI has done to evaluate different kinds of municipal oversight, and I offered my views about how these models might work to improve San Francisco's ability to fight fraud and abuse.

As I indicated in my communications with city officials, in my view, an Inspector General is the most effective kind of governmental watchdog, and would be the most appropriate addition to the anti-corruption landscape currently in place in San Francisco. Inspectors General are valuable because they typically have a measure of independence, ideally including appointment and removal protections, and some form of financial independence, like a guaranteed budget.

IGs also typically wield certain law enforcement powers like subpoena power, search warrant authority, and the power to receive complaints and also initiate their own investigations. In the best case scenario, the IG's jurisdiction extends beyond city employees to contractors, vendors, and beneficiaries of city services. While the resources available to Inspectors General vary widely, the IG and his or her staff are usually full-time employees supported by investigators, auditors, and other relevant personnel. In order to promote accountability, an IG usually issues public reports, and most often has a dual reporting structure, to both the legislative and executive branches of government.

It is my understanding that the proposal for an Inspector General for San Francisco contains the above features, among other measures that are designed to ensure cooperation between the new IG and the other entities responsible for certain aspects of identifying and combating corruption in the city. As such, it is my view that the establishment of an Inspector General using this model is an excellent step in San Francisco's quest for effective municipal oversight.

Please let me know if I can be of further assistance; I can be contacted at either of the above email addresses.

Jennifer Rodgers



OFFICE OF THE CONTROLLER

CITY AND COUNTY OF SAN FRANCISCO

Greg Wagner
Controller

Todd Rydstrom
Deputy Controller

Ms. Angela Calvillo
Clerk of the Board of Supervisors
1 Dr. Carlton B. Goodlett Place Room 244
San Francisco, CA 94102-4689

July 12, 2024

RE: File 240549 – Charter Amendment to Create an Inspector General in the Controller's Office and Expand the Controller's Investigative Powers (SECOND DRAFT)

Dear Ms. Calvillo,

Should the proposed Charter amendment be approved by the voters, in my opinion, it would have a moderate impact on the cost of government – ranging from \$725,000 to \$775,000 annually plus additional investigative legal support that will depend on the volume needed each year.

The Inspector General functions will be funded through the City Services Auditor's Charter-mandated set-aside of two-tenths of one percent of the City's overall budget. The added duties of the Inspector General may reduce ability of the City Services Auditor to monitor the level and effectiveness of City services by expanding the mandated duties of the division.

The proposed Charter amendment would establish the position of Inspector General within the Controller's Office and expand the Controller's investigative powers. The Controller would appoint the Inspector General, subject to the approval of the Mayor and the Board of Supervisors. The amendment specifies that the Inspector General would collaborate with the City Services Auditor, the Ethics Commission, City Attorney, District Attorney, and Department of Human Resources to coordinate investigations involving fraud, waste, and abuse. The Inspector General may hold public hearings and is required to make bi-annual reports to the Mayor and the Board of Supervisors on their activities.

The amendment empowers the Controller to subpoena witnesses and compel the production of evidence in relation to City functions and activities. It also expands the scope of whistleblower complaints the Controller can receive to include those doing business with the City. Additionally, the amendment empowers the Controller's Office to execute search warrants to the extent permitted by State law.

The proposed amendment would cost approximately \$725,000 to \$775,000 annually for an Inspector General and two staff positions within the City Services Auditor. This annual cost does not include search warrants and subpoenas drafted by the City Attorney's Office. For context, executing a subpoena may cost between \$1,000 and \$20,000 depending on if litigation to enforce

the subpoena is necessary. Drafting a search warrant may cost between \$9,000 and \$20,000. To the extent the proposed amendment results in an increased number of whistleblower complaints, the cost of government may also increase, although at a level that cannot be determined. Finally, the proposed amendment could cost \$125,000 to \$175,000 for one-time office setup.

Note that the proposed amendment would change the duties of the Controller's Office, which has prepared this statement.

Sincerely,

Janice Levy FOR
Greg Wagner
Controller

Note: This analysis reflects our understanding of the proposal as of the date shown. At times further information is provided to us which may result in revisions being made to this analysis before the final Controller's statement appears in the Voter Information Pamphlet.