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.