

EXECUTIVE ORDER NO. 16

JULY 26, 1978

COMMISSIONER OF INVESTIGATION, INSPECTORS GENERAL
AND STANDARDS OF PUBLIC SERVICE

BY THE POWER VESTED IN ME AS MAYOR OF THE CITY OF NEW YORK,
it is hereby ordered:

Section 1. *Responsibilities of Commissioner.* The Commissioner of Investigation (hereinafter called the Commissioner) shall have general responsibility for the investigation and elimination of corrupt or other criminal activity, conflicts of interest, unethical conduct, misconduct and incompetence (i) by City agencies, (ii) by City officers and employees, and (iii) by persons regulated by, doing business with or receiving funds directly or indirectly from the City (hereinafter called persons dealing with the City), with respect to their dealings with the City. For these purposes the Commissioner shall: (a) assist agency heads in establishing and maintaining standards of conduct together with fair and efficient disciplinary systems; (b) direct the activities of the Inspectors General of all agencies of the City; (c) conduct background investigations of employees to be appointed to or holding positions of responsibility; (d) receive complaints and information from the public with respect to City agencies, officers, and employees, as well as persons dealing with the City, and to take appropriate action with respect to such complaints; (e) undertake any investigation or study of the affairs, functions, accounts, methods, personnel or efficiency of any agency; and (f) act as liaison with federal, state and local law enforcement and regulatory agencies concerning all matters within the scope of this Order.

§ 2. *Responsibility of Agency Heads.* All agency heads shall be responsible for establishing, subject to review for completeness and inter-agency consistency by the Commissioner, written standards of conduct for the officials and employees of their respective agencies and fair and efficient disciplinary systems to maintain those standards of conduct.

§ 3. *Responsibilities of Inspectors General.*

(a) All agencies shall have an Inspector General who shall report directly to the respective agency head and to the Commissioner and be responsible for maintaining standards of conduct as may be established in such agency under this Order. Inspectors General shall be responsible for the investigation and elimination of corrupt or other criminal activity, conflicts of interest, unethical conduct, misconduct and incompetence within their respective agencies.

(b) Except to the extent otherwise provided by law, the employment or continued employment of all existing and prospective Inspectors General and members of their staffs shall be subject to complete background investigations and approval by the Department of Investigation.

§ 4. *Investigations.*

(a) Within the scope of the general responsibility of the Commissioner set forth in Section 1 of this Order, the Commissioner shall have authority to examine, copy or remove any document prepared, maintained or held by any agency except those documents which may not be so disclosed according to law. Inspectors General shall have the same authority in their respective agencies.

(b) The Commissioner and, with the approval of the Commissioner, the Inspectors General and any person under the supervision of the Commissioner or the Inspectors General, may require any officer or employee of the City to answer questions concerning any matter related to the performance of his or her official duties or any person dealing with the City, concerning such dealings with the City, after first being advised that neither their statements nor any information or evidence derived therefrom will be used against them in a subsequent criminal prosecution other than for perjury or contempt arising from such testimony. The refusal of an officer or employee to answer questions on the condition described in this paragraph shall constitute cause for removal from office or employment or other appropriate penalty. Beginning September 1, 1978 all contracts, leases, licenses or other agreements entered into or issued by the City shall contain a provisions approved as to form by the Corporation Counsel permitting the City to terminate such agreement or to take other appropriate action upon the refusal of a person dealing with the City to answer questions in relation to such agreements on the condition of testimonial or use immunity described in this paragraph.

(c) Every officer or employee of the City shall cooperate fully with the Commissioner and the Inspectors General. Interference with or obstruction of an investigation conducted by the Commissioner or an Inspector General shall constitute cause for removal from office or employment or other appropriate penalty.

(d) Every officer and employee of the City shall have the affirmative obligation to report, directly and without undue delay, to the Commissioner or an Inspector General any and all information concerning conduct which they know or should reasonably know to involve corrupt or other criminal activity or conflict of interest, (i) by another City officer or employee, which concerns his or her office or employment, or (ii) by persons dealing with the City, which concerns their dealings with the City. The knowing failure of any officer or employee to report as required above shall constitute cause for removal from office or employment or other appropriate penalty.

(e) Upon receipt of any information concerning corrupt or other criminal activity or conflict of interest related to his or her agency, the Inspector General of such agency shall report directly and without undue delay such information to the Department of Investigation, and shall proceed in accordance with the Commissioner's directions.

(f) No officer or employee other than the Commissioner, an Inspector General, or an officer or employee under their supervision, shall conduct any investigation concerning corrupt or other criminal activity or conflicts of interest without the prior approval of the Commissioner or an Inspector General.

§ 5. *Formal Disciplinary Proceedings.*

(a) Within six months of the effective date of this Order, the Inspector General of each agency shall be responsible for the preparation and prosecution of all formal administrative proceedings, including removal and other disciplinary proceedings for misconduct or incompetence, initiated by such Inspector General or any other person authorized by the agency head to initiate such proceedings on behalf of the agency. The Inspector General or an attorney-designee (including attorneys of the Department of Investigation) shall prosecute such matters. Any agency head may for good cause apply to the Commissioner for the modification or waiver of any provision of this paragraph.

(b) The Inspector General of an agency may, with the approval of the agency head, suspend the employment of that agency pending the timely service of formal charges.

#16

(c) Officers or employees of the City convicted of a crime relating to their office or employment, involving moral turpitude or which bears upon their fitness or ability to perform their duties or responsibilities, shall be removed from office or employment, absent compelling mitigating circumstances set forth in writing by the head of the employing agency. Proof of said conviction, as a basis for removal or other disciplinary action, must be established in accordance with applicable law.

§ 6. *Informal Disciplinary Proceedings.*

(a) Each agency head shall, with the advice of the Commissioner, establish appropriate reporting requirements, disposition standards and other administrative procedures for informal disciplinary proceedings to permit the fair and expeditious resolution of minor violations of the standards of conduct established by such agency head under this Order, without prejudice to any rights provided to officers or employees of the City by law or by contract.

(b) Informal disciplinary proceedings may be undertaken on the following conditions:
(i) the employee or official who is the subject of such proceedings all consent to accept a predetermined penalty upon a finding of cause in lieu of the filing of formal disciplinary

charge; and (ii) the record and result of the informal disciplinary proceedings shall be expunged from all permanent personnel or employment files of the subject official or employee after one year in which such person has not been penalized as a result of any subsequent formal or informal disciplinary proceedings.

(c) The Inspector General of each agency shall be notified of the disposition of all informal disciplinary proceedings.

§ 7. *Background Investigations.*

(a) The Department of Investigation shall conduct background investigations of all persons to be appointed to or employed in positions with salary rates equal to or greater than the minimum rate of the Management Pay Plan or any successor plan, whether or not the person is to become a member of such plan.

(b) Background investigations need not be made under this Order with respect to the appointment or employment of persons for positions with salary rates equal to or greater than the minimum rate of the Management Pay Plan or any successor plan where such person is to be appointed to a permanent civil service position in the competitive class.

(c) The Mayor or any agency head may in the public interest direct that the appointment, employment or assignment of any person be subject to a background investigation by the Department of Investigation.

(d) The appointment or employment of any person requiring background investigations under this Order shall be made subject to the completion of such investigation and a determination by the appointing authority that the appointee has the appropriate qualifications, is free from actual or potential conflicts of interest and is one in whom the public trust may be placed.

(e) All prospective appointees and employees subject to background investigation under this Order shall comply with all procedures established by the Commissioner for such purpose, including the completion of a background questionnaire and full disclosure of financial holdings and relationships.

(f) Background investigations conducted under this Order shall include the collection of all available criminal history information relating to the prospective appointee, which shall be considered in accordance with applicable law.

(g) The making by a person of an intentional false or misleading statement in connection with a background investigation required under this Order, or otherwise failing to comply with the background investigation procedures established by the Commissioner, may constitute cause for removal from office or employment or other appropriate penalty.

§ 8. *Dissemination of Information.*

(a) All agency heads shall distribute to each officer and employee of their respective agencies within 90 days of the effective date of this Order and to each officer and employee appointed thereafter, a statement prepared by the Commissioner explaining the responsibilities of the Commissioner, Inspectors General, agency heads and all City officers and employees under this Order.

(b) Knowledge of the responsibilities of the Commissioner of Investigation and the Inspectors General and of relevant provisions of Articles 195 and 200 of the Penal Law, the City Charter, the Code of Ethics and this Order shall constitute an employment responsibility which every officer and employee is expected to know and to implement as part of their job duties and is to be tested in promotional examinations beginning January 1, 1979.

§ 9. *Regulations and Procedures.* The Commissioner may establish such regulations, procedures and reporting requirements with respect to Inspectors General or as may be otherwise necessary or proper to fulfill the Commissioner's responsibilities under this Order and other applicable law. The Inspectors General may, with the approval of the Commissioner and the respective agency heads, establish such regulations and procedures as may be necessary or proper to fulfill their responsibilities under this Order and other applicable law.

§ 10. *Waiver of Provisions.* Any agency head may for good cause apply to the Commissioner for the modification of waiver of any provision within the jurisdiction of the Commissioner under this Order.

§ 11. *Construction with Other Laws.* Nothing in this Order shall be deemed to limit the powers and duties of the Commissioner, the Department of Investigation, the Department of Personnel, the Office of Municipal Labor Relations or any other agency under the City Charter or as may be otherwise provided by law.

§ 12. *Preservation of Rights.* Nothing in this Order shall be deemed to limit the rights of any person under law or contract.

§ 13. *Revocation of Executive Orders.* Executive Order No. 21, dated August 19, 1970, Executive Order No. 21, dated October 17, 1974, and Personnel Policy and Procedure No. 715-77, dated February 15, 1977 are hereby revoked.

§ 14. *Effective Date.* This Order shall take effect immediately.

a2-8

EDWARD I. KOCH, Mayor.

Amended
Ex Order 72
Apr 23, 1984

Amended
Ex Order 78
Oct 5, 1984

#16