



MADELINE SINGAS
ACTING DISTRICT ATTORNEY

OFFICE OF
THE DISTRICT ATTORNEY
NASSAU COUNTY

September 28, 2015

Hon. Norma Gonsalves
Presiding Officer, Nassau County Legislature
1550 Franklin Avenue
Mineola, New York 11501

Re: Nassau County Inspector General

Dear Ms. Gonsalves:

As you know, my office recently conducted a comprehensive review of Nassau County's contracting process. Our review uncovered an archaic and inefficient system that is vulnerable to manipulation and abuse, and we issued a report in July with detailed recommendations for reform. Our report also called upon County Executive Mangano to appoint a panel of experts to assist the County in its efforts to modernize the procurement process and to insulate county contracts from improper influence, waste, and fraud.

The County Executive appointed a distinguished group of business leaders. My staff and I met with the independent panel, shared our investigative findings and recommendations, and on Friday the panel recommended urgent action to improve the contracting process. In our report, we called upon the Legislature to establish an independent inspector general, and the expert panel also recommended the appointment of an independent procurement director and auditor. These reforms are critically important and the Legislature should take immediate action on this, the panel's other recommendations, and those in our report.

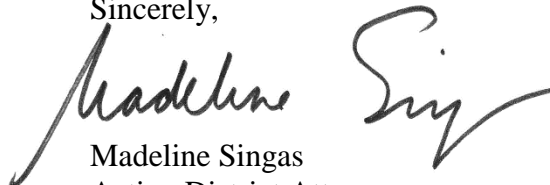
Because the 2016 Nassau County Budget is being drafted now, and will be reviewed by the County Legislature by October 30, 2015, there is no time to wait. If the Legislature fails to act now and budget for an independent county inspector general, the taxpayers will be left for another year without proper real-time oversight of county contracts.

Nearly five months have passed since federal authorities alleged shocking corruption in Nassau's contracting process, and to date, the Legislature has taken no action. Not one hearing. My office examined its many problems and offered comprehensive recommendations, and our review of individual contracts is ongoing. Now a distinguished and independent panel has validated many of our recommendations and offered additional reforms. There is no excuse for further delay. The Legislature should take immediate action to establish an independent watchdog to prevent corruption, fraud, and waste in Nassau's contracting process.

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To assist the Legislature, I have drafted legislation to create an independent county inspector general. Please find that bill attached. My office remains ready to assist the Legislature in any way we can as you consider legislation to fortify the County's contracting process.

Sincerely,



Madeline Singas
Acting District Attorney

Enclosure: NCDA Legislative Bill Draft / Inspector General / County of Nassau

Cc: Hon. Kevan Abrahams, Minority Leader, Nassau County Legislature
Hon. Edward Mangano, Nassau County Executive

LOCAL LAW NO. __ – 2015

A LOCAL LAW TO AMEND THE COUNTY CHARTER IN RELATION TO THE ESTABLISHMENT OF AN INDEPENDENT OFFICE OF INSPECTOR GENERAL FOR THE COUNTY OF NASSAU.

WHEREAS, a review of the past twenty years of Nassau County contracting practices has demonstrated that it is entirely susceptible to procurement manipulation, that it has indeed fallen victim to procurement manipulation, and that this type of vulnerability has devastated and will continue to devastate the County's finances unless and until significant reform is achieved; and

WHEREAS, the vulnerabilities have been illustrated by criminal prosecutions and administrative audits, as follows:

- (a) Between 2000 and 2005, the Office of the Nassau County District Attorney and the Office of the United States Attorney for the Eastern District of New York secured multiple convictions in relation to a county contract procurement scandal that implicated high-ranking members of county government;
- (b) In 2012, the Office of the Nassau County District Attorney secured convictions in relation to a several-year "pay to play" scheme that implicated members of county and local government in connection with the manipulation of a large-scale community redevelopment project;
- (c) In 2013, the Office of the New York State Comptroller conducted an audit of the county's contracting processes and notes various control deficiencies therein;
- (d) In 2015, the United States Attorney for the Southern District of New York filed an indictment in federal court, the substance of which related to the manipulation of the

county's contracting process with respect to a multi-million dollar contract for professional services; and

WHEREAS, the aforesaid events are merely a few examples of pervasive vulnerabilities noted in the contracting processes of Nassau County; and

WHEREAS, the losses to the county as a result of the aforesaid manipulation can be and have been quantified in the tens of millions of dollars; and

WHEREAS, in 2011, in a stated effort to save approximately one-hundred thousand dollars on an annual basis, the independent office of Commissioner of Investigations was merged with the Department of Human Resources, and thereafter, in 2012, merged into the Office of the County Attorney; and

WHEREAS, the Department of Investigations received an appropriation of only \$5,500 in the 2015 County Budget, \$5,400 in the 2014 County Budget, and \$15,400 in the 2013 County Budget – none of said appropriations being designated for personnel; and

WHEREAS, the Office of the County Attorney has received no perceivable corresponding increase in its annual budget appropriation for subsuming the responsibility for the Department of Investigations; and

WHEREAS, pursuant to section 1102 of the County Government Law of Nassau County, a substantial part of the County Attorney's function is to defend the county's activities, methods, and employees; and

WHEREAS, pursuant to section 206 of the County Government Law of Nassau County, the substantial part of the Commissioner of Investigations' function is to investigate the county's activities, methods, and employees; and

WHEREAS, pursuant to the aforesaid, the roles of County Attorney and Commissioner of Investigations are inapposite; and

WHEREAS, section 206 of the County Government Law, on its face, contemplates independent, sustained, and devoted investigative functionality; and

WHEREAS, the county has a strong interest in preserving and promoting integrity in its contracting and business processes; and

WHEREAS, there is a documented and demonstrated financial justification for the establishment of an independent office to monitor ethics and compliance in the aforesaid processes, archive vendor screening and performance documentation, and coordinate internal administrative investigations; and

WHEREAS, the approval path for Nassau County contracts as outlined in the County Government Law does not presently expressly include a conflict of interest review:

BE IT ENACTED by the County Legislature of the County of Nassau as follows:

§ 1. Section 206 of Article II of the County Government Law of Nassau County (the County Charter) is amended as follows:

§ 206. ~~Commissioner of Investigations~~ **Inspector General; appointment; powers; duties.** The County Executive ~~may~~ **shall** ~~from time to time~~ appoint, ~~without subject to~~ confirmation by a ~~supermajority of the County Legislature, a~~ ~~an~~ ~~Commissioner of Investigations~~ **Inspector General** who shall receive a compensation to be fixed by the County Executive ~~with the advice and consent of the County Legislature.~~ ~~and a~~ **An** appropriation for that amount and purpose shall be included in each annual budget. The ~~Commissioner of Investigations~~ **Inspector General** shall have power to examine the financial and other records of the ~~Comptroller and Treasurer~~ **county departments** and to make such other examinations as he or she may deem to be for the best interest of the county, of the accounts, methods and activities of each department, institution, office or agency of the county and of the towns and special districts, except only the County Legislature and Office of Legislative Budget Review, and to report to the County Executive ~~and County Legislature~~ **the findings thereon.** ~~Any such report of findings shall be made available for public inspection.~~ The ~~Commissioner of Investigations~~ **Inspector General** shall ~~have power to~~ appoint such assistants, ~~employees and deputies~~ **of his or her office as may be provided by ordinance and** within the limits

Additions are indicated by underline; deletions by ~~strikeout~~.

of the appropriation made by the County Legislature ~~as he or she deems necessary for the performance of his or her duties~~. Whenever the term “Commissioner of Accounts” appears in any provision of the County Government Law of Nassau County, or the Nassau County Administrative Code, or any local law, ordinance or resolution heretofore adopted by the governing body of Nassau County, it shall be deemed to mean and refer to the ~~Commissioner of Investigations~~ Inspector General.

§ 2. Section 203 of Article II of the County Government Law of Nassau County (the County Charter) is amended as follows:

§ 203. **Responsibility for administration; powers of appointment and removal.** 1. It shall be the duty of the County Executive to supervise, direct, and control, subject to the provisions of the act, the administration of all departments, offices and functions of the county government. In the exercise of this responsibility, the County Executive shall be authorized, in addition to such other powers as may be necessary to maintain the efficient operation of county government, to develop, maintain and administer services on a county-wide basis that are common needs of all departments of county government, including, but not limited to, personnel and labor management; building security; management of county-owned vehicles; the provision of services to departments involving relations with the press and photography, mail, printing, reproduction and graphic art; grant application and administration; and the receipt and response to communications from members of the public. The County Executive shall appoint, except as otherwise provided in this act, subject to confirmation by the County Legislature, the head of every county department and office and members of county boards and commissions. The County Executive may at any time remove any person so appointed; provided that in the case of members of boards and commissions appointed for definite terms and the Inspector General, no removal shall be made until the person to be removed has been serviced with a notice of the reasons for such removal and given an opportunity to be heard, publicly if he or she desires, thereon by the County Executive, or, in the case of the Inspector General, by the County Executive and County Legislature. The decision of the County Executive shall be final, except that a decision to remove the Inspector General must be upon consent of a supermajority of the County Legislature and only after the above-referenced opportunity to be heard. The County Executive shall also appoint without confirmation by the County Legislature, and remove at his or her pleasure, the employees in his or her own office and such employees shall not be members of the classified service.

§ 3. Subparagraph (c) of subsection 3 of Section 300-A of Article III of the County Government Law of Nassau County (the County Charter) is amended by adding a new subdivision (3) as follows:

- c. Prior to execution, every contract shall follow the following approval path:
- (1) Contract initiative by Department Head after consultation with office of County Executive and notification to collective bargaining units;
 - (2) Certification of Budget Office that funds are available and services are appropriate;

Additions are indicated by underline; deletions by ~~strikeout~~.

- (3) Approval by Inspector General;
- ~~(3)~~ ~~(4)~~ Preparation of Contract by County Attorney including approval as to form in accordance with § 2206 of the County Government Law;
- ~~(4)~~ ~~(5)~~ Approval of Insurance Department if insurance is required;
- ~~(5)~~ ~~(6)~~ Approval by Office of County Executive after consultation with department head;
- ~~(6)~~ ~~(7)~~ Approval and/or encumbrance of funds by County Comptroller;
- ~~(7)~~ ~~(8)~~ Submission to County Legislature for legislative approval if same is required;
- ~~(8)~~ ~~(9)~~ Signature of County Executive.

§ 4. Section 2213 of Article XXII of the County Government Law of Nassau County (the County Charter) is amended as follows:

§ 2213. **Power to administer oaths and issue subpoenas.** The County Executive, the County Comptroller, the County Fire Marshal, the ~~Commissioner of Accounts~~ Inspector General and such members of his or her staff as he or she may designate, members of the County Civil Service Commission and its secretary, members of the County Board of Assessors, the chairman of the County Planning Commission, the County Medical Examiner and his or her deputies and any other officers who may be designated by ordinance shall have the power to administer oaths and affirmations and to compel the attendance of witnesses and the production of books and papers, and any person disobeying a valid subpoena thereof, or who willfully refuses to make oath or affirmation when requested to do so thereby, shall be guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars or imprisonment for not more than three months, or by both such fine and imprisonment.

§ 5. Subsection 6 of Section 2218 of Article XXII of the County Government Law of Nassau County (the County Charter) is amended as follows:

6. Misuse of County resources. No officer or employee of the County shall use the resources of the County in furtherance of his or her business, professional or political interests or activities, or in furtherance of the interests or activities of any outside entity other than pursuant to a County contract with such entity, without the written approval of the head of his or her agency, ~~and the written approval of the Board of Ethics upon a finding by the Board that such activity is in furtherance of the interests of the County,~~ and the written approval of the Inspector General.

§ 6. Subparagraph (b) of subsection 10 of Section 2218 of Article XXII of the County Government Law of Nassau County (the County Charter) is amended as follows:

b. The Board shall have the authority to investigate complaints of actions in violation of this section. The results of any such investigation may be shared, in the discretion of the Board, with necessary and appropriate County officers and law enforcement officials. In furtherance of

this investigatory function, the Board may request that the ~~Commissioner of Investigations~~ Inspector General use the power and resources of his or her office to assist the Board.

§ 7. Severability. If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

§ 8. This local law shall take effect on the first of January in the year after which it is passed.