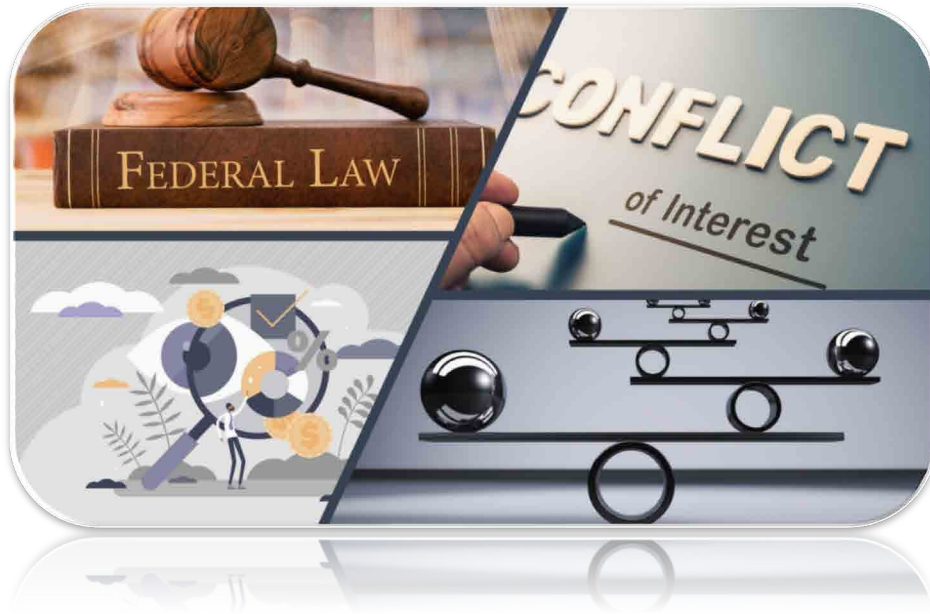


Office of the Inspector General



Fiscal Year 2022 Annual Report

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MESSAGE FROM THE INSPECTOR GENERAL



It's been quite a year. It came with great accomplishments and continued challenges. Having our new Principal Investigative Auditor onboard meant we could spend more time on our fraud, waste, or abuse investigations, which is critical work. Although we remain woefully understaffed due to our funding constraints, I am incredibly impressed and pleased with the work my team accomplished. We made great headway with our backlog of investigations and tackled some serious allegations. My staff also earned multiple professional designations, which not only demonstrate our value as an office, but also my team's commitment to quality and excellence. We also achieved two of our major goals. We now use animated videos to provide educational information about our office and to present our reports, and we developed a system to follow up on complaints that we forwarded to BART management. These complaints typically pertain to allegations of harassment or unprofessional conduct, and their significance means that we must ensure that action was taken to protect employees from mistreatment.

Although the accomplishments are ones that my team and I take great pride in, we are discouraged by BART's attempts to diminish our work. Words cannot fully express how demeaning it is to have our credibility challenged, and to face attempts to remove our ability to do our work in compliance with the professional standards that we hold in high regard. The BART Board of Directors and management opposed the legislation brought forward by Senator Steven Glazer to ensure my office has the authority to do its work in the manner intended. [Senate Bill 1488](#) was met with resistance by those who claim to welcome oversight. The bill proposes language to address challenges my office has faced over the last three years by clarifying our role and authority. The proposed legislation models that of other Offices of Inspector General (OIGs) and the California State Auditor. Two of the points challenged by BART leadership are access to records and confidentiality. Both are critical to the success of audits and investigations. In fact, the former is so well understood that years ago, BART's General Manager granted the Internal Audit Division "unlimited access" to records, and the Board of Directors granted the Office of the Independent Police Auditor "unfettered access" to records. Yet BART leadership wants to deny us that same level of access. As for confidentiality, BART and its unions are asking that we notify unions of all interviews with represented employees. Doing so would undermine the OIG's authority by inserting the union in our independent work. It could also violate state laws regarding whistleblower protections and our requirement to follow professional auditing standards.

As you can see, it was quite a roller-coaster year with extreme highs and extreme lows. My team and I are proud of the work we have accomplished. Although the challenges we face weigh heavily on us, we do not waiver from our commitment to serve the public with integrity and objectivity.

Harriet Richardson

WHAT WE DO



We investigate indications of fraud, waste, or abuse regarding BART's programs, operations, and suppliers; and conduct performance audits that contribute to public accountability and transparency. We do this by providing independent and objective analysis of the efficiency and effectiveness of BART programs, operations, and activities. All our work supports those two objectives, either directly or indirectly.

VALUE ADDED



We play a key role in providing oversight of BART programs, activities, and operations so the public can feel assured that their tax dollars and ridership fees are used in the manner intended. We add leverage to BART's limited resources by investing our time into finding ways to make the District more effective, efficient, and equitable.

Core Values













Honesty

Integrity

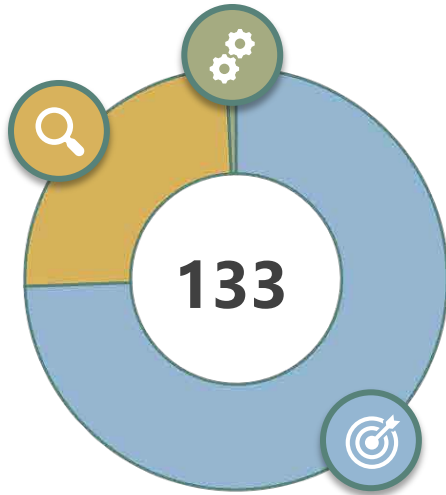
Accountability

Transparency

YEAR IN REVIEW

- Over the year, we shared the work we have done to advance our office, complete investigations, and move forward with audits. Our quarterly reports are available on our BART [webpage](#). The following is a recap of the major events we shared in those reports and our major accomplishments this last quarter. This year, we:
- 
 - Completed 23 fraud, waste, or abuse investigations and had one report, addressing 11 separate allegations, near completion at year's end.
 - 
 - Issued our office's strategic plan that outlines our goals for fiscal year 2022 and beyond. We exceeded our goals for completing fraud, waste, or abuse investigations. Resource restrictions put us off target with our other goals, but we made progress toward them, and our dynamic process allowed us to make real-time strategic adjustments.
 - 
 - Completed our financial structure audit. Our consultant, Sjoberg Evashenk Consulting, presented to us their final audit, which identifies a path forward for BART to enter the modern era of financial management. We expected to issue the report in June 2022, but that was delayed so we could first have briefing meetings with the other Board Directors.
 - 
 - Reviewed BART's suggested amendments to [Senate Bill 1488](#) and held multiple discussions with them about those proposed amendments.
 - 
 - Gave multiple presentations to BART's Board of Directors and Audit Committee. Subjects included our quarterly activities, investigations, and funding shortfalls.
 - 
 - Created animated videos to communicate our work to the public. The videos are engaging and summarize our reports in a modern way so that busy people on the go have an opportunity to quickly digest our reports. We are set to release our first five videos in July 2022. Our videos also provide an opportunity for the visually impaired to listen to our reports. Our next goal is to find a way to add closed captioning.
 - 
 - Created animated educational materials. We created a series of animated GIFs that we put into rotation on Twitter. The GIFs and Tweets cover topics such as fraud, waste, and abuse, and our professional standards. We also created educational videos to help BART employees understand how to file a complaint with our office as well as other BART oversight functions. We will be coordinating distribution through BART management.
 - 
 - Revamped our process for following up on our recommendations and conducted follow up on our completed investigations to determine what action management has taken to address our recommendations.
 - 
 - Implemented a process to follow up on cases that we have forwarded to BART management for investigation so that we may ensure that all complaints that come into our office are addressed.
 - 
 - Conducted an in-depth evaluation of our fraud, waste, or abuse cases to identify or, if necessary, change case priorities and determine how best to allocate our investigators' time to address our case backlog.
 - 
 - Obtained professional designations: Assistant Inspector General Claudette Biemeret obtained her Certified Inspector General and Leadership Professional in Ethics & Compliance designations; and Principal Investigative Auditor Jeffrey Dubsick obtained his Certified Inspector General Investigator designation.
 - 
 - Gained professional appointments: Inspector General Harriet Richardson was appointed to the Governmental Accounting Standards Advisory Council and The Institute of Internal Auditors' International Internal Auditors Standards Board; and Assistant Inspector General Claudette Biemeret was appointed to the Association of Inspectors General Western States Chapter Board.

FRAUD, WASTE, & ABUSE INVESTIGATIONS AT A GLANCE



133 Complaints Received Since OIG Inception



33

Under Active Investigation



1

Pending Resolution



99

Resolved

99 Cases Resolved Since OIG Inception



34

Investigated



40

Declined for Insufficient Information or Out of Scope



25

Forwarded to Another Oversight Function



Most Common Allegations

Fraud

We received *26* complaints alleging fraud or misappropriation. Timesheet and contracting fraud are the most common suballegations.

Unprofessional Conduct

We received *27* complaints alleging unprofessional conduct. Conflict of interest and harassment are the most common suballegations.

Compliance

We received *31* complaints alleging noncompliance. Unfair competition, conflict of interest, and policy and procedural noncompliance are the most common suballegations.

YEAR'S BIGGEST ACCOMPLISHMENTS & CHALLENGES



Completed Investigations & Audits

Our biggest accomplishments are the investigations and audits that we complete, resulting in recommendations that improve BART processes and protect the District against fraud, waste, and abuse. Since our inception, we have completed 34 investigations and made 47 recommendations. Management accepted 40 of those recommendations and implemented 31 of them while making progress on the remaining nine. BART leadership rejected seven of our recommendations, which aimed to address problems with contracting and social media use. A complete list of our recommendations and their status is in [Appendix I](#).

FY 2022
35 Recommendations

- 32 Accepted**
- 23 Implemented**
- 9 In Progress**
- 3 Not Accepted**

The addition of our Principal Investigative Auditor had a tremendous impact on our productivity. In fiscal year 2022, we completed 23 fraud, waste, or abuse investigations and had one report near completion at year’s end that addressed 11 allegations of fraud, waste, or abuse. Our fiscal year 2022 investigations resulted in 35 recommendations that addressed a range of concerns including potential false claims, timekeeping controls, contract administration and compliance, and conflicts of interest. Management accepted 32 of our fiscal year 2022 recommendations and, as of June 30, 2022, had implemented 23, made progress on 9, and did not accept 1. Two of our fiscal year 2022 recommendations were addressed to the Board of Directors to improve their policies regarding their social media use, which the Board did not accept.

We also worked on two audits from our [FY22-24 Audit Plan](#). We completed preliminary work on our span of control audit but resource restrictions prevented us from moving that forward. Our fraud, waste, or abuse investigations demanded a significant amount of our time, leaving our staff of three little time to work on audits. With the financial assistance of the BART General Manager’s Office, we were able to contract with the firm, Sjoberg Evashenk Consulting (SEC), to complete our financial structure audit. The General Manager’s Office funded half of the contracted work and allowed us to use their on-call contract with SEC to expedite getting the audit started. We expected to issue the report in June 2022, but that was delayed so we could first have briefing meetings with the Board Directors. We are excited about this work and the recommendation that we believe provides an ideal opportunity for BART to use a financial structure that is best for the District, not just today but also for the next 50 years and beyond.

YEAR'S BIGGEST ACCOMPLISHMENTS & CHALLENGES

BART Board of Directors Silenced Inspector General

BART's Office of External Affairs presented the District's analysis of [Senate Bill 1488](#) to the BART Board of Directors on [April 14, 2022](#). Inspector General Harriet Richardson attempted to address misinterpretations made in that analysis during the meeting so the Board could better understand that the information they received did not properly reflect the intent of the proposed legislation, and that many of the proposed edits would undermine the OIG, as well as lead to violations of state law. Instead of being allowed to speak, the Board majority voted to end further discussion of the bill and then voted to oppose the legislation unless amended. Not only was Ms. Richardson denied the ability to present the information, but the public was also denied their right to transparent, complete, and accurate information.



The Office of External Affairs did not reach out to discuss the bill with Inspector General Richardson prior to initiating their analysis. Although they met with her after completing their analysis, the discussion was simply to tell her what BART was opposing; not to obtain her input on the appropriateness of their specific points of opposition. Inspector General Richardson first saw what BART would actually seek as amendments after they were provided to the Board in the April 14th agenda packet. This removed Ms. Richardson's ability to provide meaningful feedback and address misinterpretations before the Board and the public received the information. Further, BART's Board President and Vice President submitted a letter to the Senate Transportation Committee (bit.ly/3uvAszX) that raised several concerns about the bill without having any discussion with Inspector General Richardson. It was only after the Board meeting that the Office of External Affairs began having discussions with Ms. Richardson that allowed for both parties, and Senator Steven Glazer's Office, to agree on potential changes to the bill. Some points, however, remain unresolved.

BART opposes our office having unlimited access to records because they believe it limits their ability to resist providing access to confidential, privileged, or security-sensitive records without identifying a law that expressly prohibits us from such access. One of the most common authorities provided to OIGs and audit offices is unlimited access to records, including confidential records. As an independent office, we are separate from management. This means management does not know the details of our work and why we require access to certain documents. That makes it inappropriate for them to determine whether we should or should not have access to specific records. BART granted its Internal Audit Division and its Office of the Independent Police Auditor unlimited access to records years ago, demonstrating the District's long-time understanding that those departments' ability to be effective requires unlimited access to records. Yet they oppose such access for our office. It should be noted that SB 1488 protects our documentation from disclosure, and specifically prohibits unlawful release of confidential information.

BART also opposes us having unlimited access to personnel. As mentioned, BART management does not know the details of our work. This means they do not know why we may need to interview certain personnel, which makes it inappropriate for them to make the decision as to whom we can or cannot interview. Access to employees is as equally common with OIGs and audit offices as is access to records. Further, we must have access to employees without having to notify anyone



The OIG complies with Weingarten Rights & goes beyond its requirements.

outside of our office to ensure we are able to conduct confidential investigations that protect the identity of whistleblowers, witnesses, and subjects until and if appropriate to release that identity. We fully understand and have complied with our obligations to adhere to federal and state law regarding the rights of represented employees. This includes the [Weingarten](#) law, which was specifically cited as a concern by both BART management and its union leaders.

YEAR'S BIGGEST ACCOMPLISHMENTS & CHALLENGES




Weingarten allows the subject of an investigation to have a union representative present when they have a reasonable belief that an investigation may result in disciplinary action. We proactively worked with the Office of General Counsel in 2020 to understand those obligations and to ensure we comply with all laws regarding employee rights as we conduct our investigations. Although we are not required under the law to notify the subject of an investigation of their Weingarten rights, we have always taken the extra step to do so.



SB 1488 does not eliminate any employees' rights under existing law. However, the request to notify unions of all interviews removes an employee's ability to make decisions for themselves regarding who is notified of their involvement in an investigation. Removing that ability has the potential to violate California's [law](#) regarding whistleblower protections. The law is meant to encourage employees to come forward with information about wrongdoing and feel secure in doing so. An employee cannot feel such freedom if they know others will be notified of their involvement without their consent. They are made most secure when they have stronger assurances of anonymity. It must also be remembered that a person initially identified as a subject could actually be the victim of a larger scheme that is uncovered only through their

cooperation with a confidential investigation. If these employees do not feel they can maintain confidentiality, they may be too afraid to speak up, further victimizing them by keeping them as the subject of an investigation. Their rights must be protected. Having too many people aware of an ongoing investigation can also compromise our ability to conduct a fair and objective investigation. And now, SEIU is trying to insert itself even more directly in our work by requiring all investigation interviews with its members who request to have union representation, whether the member is the subject of an investigation or a witness, to be scheduled through the union president. This is the equivalent of witness tampering, impairs our ability to maintain the confidentiality of investigations, and cannot be tolerated.

It is perplexing that while BART leadership opposes the bill and its common language and authorities that are widely accepted by OIGs and audit offices across the nation and California, they do not impose restrictions on their other oversight functions. As already discussed, BART granted unlimited access to records to the Internal Audit Division. Likewise, the [Citizen Oversight Model](#), which the Board of Directors adopted, grants the Office of the Independent Police Auditor "unfettered" access to records. With two of BART's oversight offices already having unlimited access to records with full support from BART leadership, it begs the question, why are they wanting special limits on us?

		
Office of the Independent Police Auditor	Internal Audit Division	Office of the Inspector General
OIPA shall have unfettered access to police reports and police personnel records. All parties who have access to confidential information shall comply with all confidentiality requirements of the BPD, the District, and all state and federal laws.	Internal Audit shall have unlimited access to and authority to examine and copy any and all documents.	The OIG shall have access and authority to examine all records, files, documents, accounts, reports, correspondence, or other property of the district and external entities that perform work for the district.
BART Granted Access	BART Granted Access	BART Opposes Access

YEAR'S BIGGEST ACCOMPLISHMENTS & CHALLENGES

BART's proposed amendments undermine our mandated obligations and threaten our independence. People have told us they no longer want to hear about independence and have heard our position on that matter one too many times. But independence is the foundation on which all OIGs are built and is well defined in our professional standards. Effective oversight cannot be accomplished without it. Though we can appreciate that it may seem repetitive to have us discuss the matter, the amendments BART proposed to SB 1488 and the Board's opposition to the bill, tell a clear story: The matter of our independence and how we accomplish it is either not understood or not supported by most of BART leadership.

As of the writing of this report, SB 1488 has successfully passed the California State Senate Transportation, Judiciary, and Appropriations Committees and the full Senate, as well as the Assembly Transportation and Judiciary Committees. We are grateful for their support to align our responsibilities and authority with those of other OIGs and audit offices in California, including CalTrans, the Department of Corrections, LA Metro, and the State Auditor's Office, as well as with OIGs and audit offices throughout the country.

Intent of Conflict-of-Interest Law Ignored



Our [investigation](#) into conflicts of interest found that a construction-management firm doing business with BART potentially violated [Government Code §1090](#), which prohibits a public officer or employee from participating in making a government contract in which the official or employee within the agency has a financial interest. We presented our report to a joint Board of Directors and Audit Committee meeting on [April 14, 2022](#). Both bodies expressed appreciation for our work and commended our recommendations to strengthen BART's internal controls. However, some Directors and Committee Members commented that they did not believe a conflict existed or that the failure to disclose did not lead to misuse of public funds, implying there is no real concern. BART management made a

similar assessment saying, "management believes all agreements, work plans, and invoicing with this firm are fair and reasonable." This may be true. Our work did not reveal any evidence to the contrary. However, our finding was not about whether the contract was fair and reasonable, but rather that there was a potential violation of law.

According to the [Fair Political Practices Commission \(FPPC\)](#), "*The [§1090] prohibition applies even when the terms of the proposed contract are demonstrably fair and equitable, or are plainly to the public entity's advantage*" [emphasis added]. Further, it was the profit-sharing income that a BART manager's spouse received from the firm that would create the violation. In a similar case regarding employee stock ownership, the [FPPC](#) said, "This is exactly the type of interest Section 1090 attempts to thwart." For those reasons, we believe there is a strong potential that a violation exists.

The comments made by some members of BART leadership reflect a disconnect with the purpose of the law. This is troubling. These leaders are entrusted to protect the public's interest and a lack of understanding of conflict-of-interest laws poses a risk to the District, as well as to its contractors. The basis of leadership's comments seemed to stem more from a long-standing, positive relationship with a contractor than with the meaning of the law. While strong, positive contractor relationships are of tremendous value, they cannot take precedence over the law. When stripped to its core, Section 1090 is about removing conflicts that do or *could* lead to decisions that are not in the public's best interest. We have work to do to have that understood.

YEAR'S BIGGEST ACCOMPLISHMENTS & CHALLENGES

Funding Request Message: No More Funding for the OIG



Our minimum annual allocation of \$1 million is not enough for us to meet our state mandate to conduct audits and investigations. The historical rise of inflation has significantly decreased our purchasing power, putting us at risk that we will be unable to function at even our current capacity in the very near future. After conducting a thorough analysis of our funding needs, we determined that we require an additional \$1.7 million to \$1.8 million in annual funding to achieve our objectives and ensure that we function as an independent office. With that information, we requested that the [Bay Area Toll Authority \(BATA\)](#) increase our budget to \$2.7 million and \$2.8 million in fiscal years 2023 and 2024, respectively. [California PUC §28841](#) gives BATA the authority to increase our funding to the extent that we request and justify our needs, which we did. BATA's reply was a resounding no, not now, and likely, not ever. BART is also resistant to assisting with our funding needs. Other OIGs throughout the country are funded by their own agencies, but BART leadership has indicated several times that it is not willing to do so.

Knowing that BATA and BART are unwilling to increase our funding, we have deep concerns about our office's future. As our purchasing power dwindles, so does our ability to achieve our mandates to conduct audits and investigations. Our \$1 million budget will soon be unable to cover our current costs, thereby threatening our staffing and our ability to outsource for services. While the potential exists for us to receive a one-time funding distribution from the state, that will not address our long-term needs. We will continue to seek additional funding, but our options are limited.

Follow Up Processes

This year, we redesigned our system for tracking recommendations and implemented a new process for following up on their status and reviewing documentation to confirm implementation. We are pleased to say that management took swift action to implement our recommendations and consistently responded on time to our requests for updates. As reported above, in total, management has implemented 31 of the 40 recommendations they accepted and made progress on the remaining 9. We conducted quarterly follow ups and presented detailed information on management's actions to the Audit Committee so they could track progress. In keeping with our commitment to provide the Audit Committee with quarterly updates, [Appendix II](#) provides information on the recommendations that were unimplemented as of our [January to March 2022 Activities Report](#).

In addition to our recommendations, we also created a process to follow up on the allegations of harassment or unprofessional conduct that we forwarded to management because they are personnel matters outside of our purview. Given the severity of these issues, we thought it prudent to ensure that management addressed the complaints. We followed up on 13 forwarded allegations in the last quarter of fiscal year 2022. Because the nature of the complaints is private and confidential, we are not providing information on the specific allegations. However, we can say that management reported that they addressed 12 of the 13 allegations and are in the process of addressing one. We reviewed management's actions and we consider six of the addressed allegations resolved. We will be having discussions with management on six of the allegations that they reported as addressed to gain clarification on their specific actions to address the matters. Although many of these allegations come to us anonymously and with little specifics, having the data will allow management to look for trends and patterns. Management felt that our follow-up process was helpful and found value in having the data for those reasons.

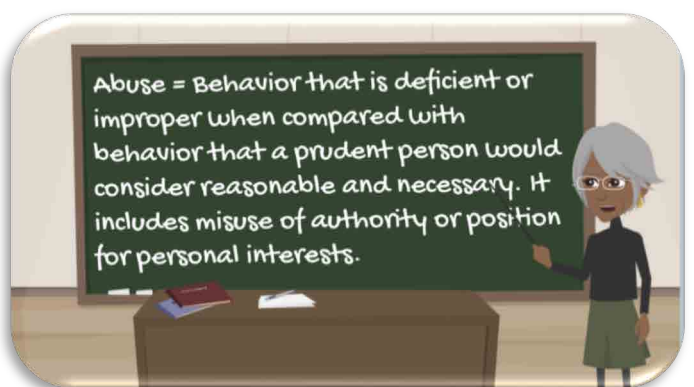
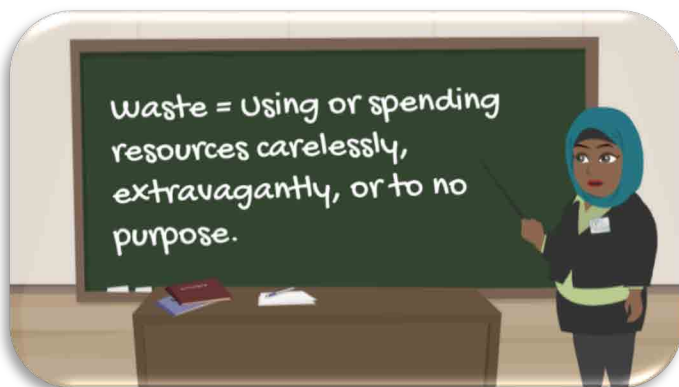
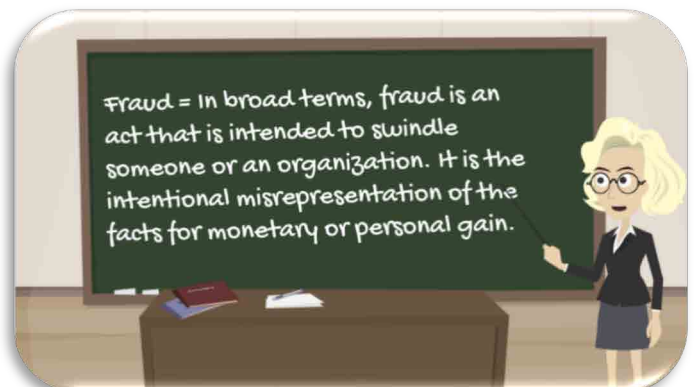
YEAR'S BIGGEST ACCOMPLISHMENTS & CHALLENGES

Animated Video Communications

We are excited to announce that we began creating video content using animation software to communicate our reports to the public and to provide educational information to BART employees. Our first round of videos will go out in July when we issue the related reports. Our first educational video, which focuses on filing fraud, waste, or abuse concerns to our office, is already posted to BART's internal website, MyBART. Our other educational video will be released in the next month or two. It provides detail about our office, BART's Whistleblower and Antiretaliation Policy, and how to submit complaints to us and other BART oversight functions, such as the Office of Civil Rights. Currently, we must coordinate distribution of our educational videos through BART management. Moving forward, however, we will seek to obtain the ability to send out districtwide email blasts on our own so that we are not dependent on management to do it for us. We will also be working with BART management to make our detailed educational video a required training for all employees.

We also created a series of GIFs that we post to Twitter on a rotational basis. These cover topics such as our independence; our professional standards; and definitions of fraud, waste, and abuse. This work is part of our effort to engage more with the public and bring them important information about BART and the oversight we provide for how their taxpayer and ridership dollars are spent. You may follow us [@oigsfbart](https://twitter.com/oigsfbart) to see our GIFs and report videos. In the meantime, enjoy a glimpse of some of our favorite GIFs.

Snapshot: New OIG GIFs!

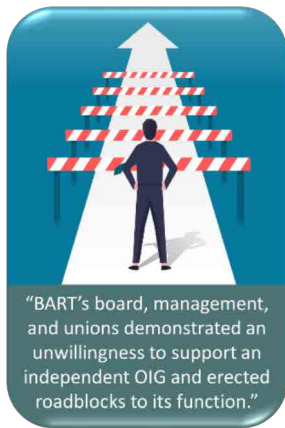


ALAMEDA COUNTY CIVIL GRAND JURY REPORT

“BART Is on the Wrong Track With Independent Oversight”

On June 28, 2022, the Alameda County Civil Grand Jury issued its [2021-2022 Final Report](#), which included an investigation of the BART OIG titled, “BART Is on the Wrong Track With Independent Oversight.” The report focused on the OIG’s lack of independence and its significantly inadequate funding. The Grand Jury’s conclusions echo comments that we have repeatedly expressed in our quarterly and annual reports – that our ability to conduct independent oversight has been obstructed, and that our office is significantly underfunded. Both of these concerns limit our ability to fulfill our mission to conduct audits and investigations to uncover waste, fraud, and abuse and to identify opportunities to improve the efficiency and effectiveness of BART operations as mandated in [Public Utilities Code § 28840-28845](#).

BART’s Roadblocks Prevent Independent Oversight



The Grand Jury’s investigation found that BART’s board, management, and unions had established “a pattern of obstruction” through their unwillingness to support an independent OIG and having put roadblocks in place that prevent the OIG from providing the independent oversight mandated in state law. The report concluded that, “Four years after the voters spoke, some members of BART’s board and management continue to resist the independence of the OIG mandated by voters and the legislature.”

The Grand Jury cited the [Inspector General Act of 1978](#) and [Government Code § 1236](#), which prescribes professional standards that special district auditors are required to follow, as authoritative sources for an OIG’s independence. It also cited [Public Utilities Code § 28840](#), which created the OIG, and emphasized “*independent*,” in the sentence from the law that says, “There is hereby created in the district an independent Office of the BART Inspector General...” The common point among these references is that independence is supposed to provide the OIG a clear path to do its work, without interference or influence from others. Such impediments are called an “undue influence threat” under our professional independence standards. The report cites several examples of when we have not had that clear path, including when management and the unions wanted to dictate how we would perform our work in the charter we were developing to clarify our responsibilities for independent oversight. While we do not believe BART’s obstruction is necessarily intentional, BART leadership’s lack of willingness to understand what the independence standards require for how OIGs should function have contributed to the findings in this report. We hope the Grand Jury’s findings will serve as a catalyst for BART leadership to make honest and appropriate efforts to better understand the OIG function within the context of its professional standards.

“Paltry” Budget

The Grand Jury referred to our \$1 million annual budget as “paltry,” and confirmed how significantly underfunded our office is when compared to other transit OIGs. It acknowledged that the funding deficiency means we are unable to fulfill our mission to uncover fraud, waste, and abuse, but that some Board Directors’ have refused to even consider looking for additional funding for our office. Indeed, the BART Board itself has been unwilling to provide funds from its own \$2.5 billion annual budget for independent oversight.

Responding to the Report

The Board of Directors is required to respond to the Grand Jury report. We are hopeful that as a result of this report, the issues we have continued to raise will finally be addressed in a positive way that will allow us to do our work without interference. We also hope that in developing its response, the Board will accept OIG input in the context of the authoritative sources cited in the report and which we have also referenced in our own reports.

LIST OF OUR ACTIVITIES FOR THE YEAR

- Completed 23 fraud, waste, or abuse investigations and had one report addressing 11 allegations near completion at year's end.
- Redesigned our system for tracking recommendations and implemented a new process for following up on the status of our recommendations and reviewing documentation to confirm implementation.
- Performed quarterly follow up and either confirmed that management implemented our recommendations or obtained information on the progress they made with our recommended corrective actions.
- Contracted and collaborated with a Certified Fraud Examiner to assist us in a fraud investigation that requires a deep dive into a complex allegation of theft. The case is ongoing.
- Worked on two audits from our [FY22-24 Audit Plan](#). We contracted with a consulting firm for our financial structure audit. The audit is complete but pending release. We performed preliminary work on our span of control audit.
- Performed detailed evaluations of our caseload of fraud, waste, or abuse allegations to prioritize our cases and determine the best use of our limited resources.
- Gave multiple presentations to BART's Board of Directors and Audit Committee. Subjects included our quarterly activities, investigations, and funding shortfalls. We also coordinated a presentation on OIG independence from the Association of Inspectors General.
- Developed multiple budget scenarios that would allow us to meet our legislative mandates for conducting audits and investigations, which showed we need at least an additional \$1.7 to \$1.8 million in annual funding.
- Had discussions with the BART Board Directors and BART's Office of External Affairs on the best path forward for us to increase our budget. Following that advice, we issued a letter to and met with the Bay Area Toll Authority, which said that, unequivocally, they did not see it as their responsibility to provide additional funding to the OIG.
- Reviewed BART's proposed amendments to [Senate Bill 1488](#) and held multiple discussions with the Office of External Affairs about the proposed amendments.
- Attempted to discuss during a BART Board of Directors meeting why BART's proposed amendments to [Senate Bill 1488](#) would harm the OIG but were denied the ability to do so.
- Along with two Board Directors and the Assistant General Manager of External Affairs, met with Senator Steve Glazer to discuss changes to the OIG's legislation that he introduced in [Senate Bill 1488](#).
- Held ongoing discussions with Senator Steve Glazer's office regarding BART's points of opposition and how their proposed amendments to [Senate Bill 1488](#) would prevent us from doing our work as intended and required.
- Developed our office's strategic plan that outlines our goals for fiscal year 2022 and beyond.
- Implemented a process to follow up on cases that we have forwarded to BART management for investigation.
- Created animated educational videos for BART employees.
- Improved our public communications: We developed a series of 30 animated GIFs to inform the public of our work via Twitter and began developing short, engaging animated videos to present our work.
- Attended training workshops and conferences to enhance our knowledge, skills, and abilities for conducting investigations and audits and to achieve compliance with our continuing professional education requirements.
- Obtained professional designations and gained appointments to professional organizations.
- Completed three quarterly activities reports and our annual report to the State Legislature.

.....

**Providing Independent
Oversight of the District's
Use of Revenue**

.....

**Stop Fraud, Waste, & Abuse
&
Report What You See
to the OIG**



**24/7 Fraud, Waste, & Abuse
Whistleblower Hotline**



www.bart.gov/oighotline



510-464-6100

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REPORTS

You can read this and all the Office of the Inspector General's reports on our website at www.bart.gov/about/inspector-general/reports.

APPENDIX I

Complete List of OIG Recommendations with Current Status¹

Recommendations have been edited for brevity. You may find the full recommendation in the related investigation report via the provided hyperlinks. Information is provided in the order in which the OIG issued its reports.

BART APPROVED A FIXTURE FOR THE M-LINE TUNNEL LIGHTING UPGRADE THAT DID NOT MEET KEY CONTRACT SPECIFICATIONS (10/25/19)		
#	Recommendation	Status
1	Rescind approval of the Xeleum fixture.	Unaccepted
2	Request ABM to provide new fixture submittals, based on the contract.	Unaccepted
3	Provide modifications, if any, to the specifications prior to requesting the new submittals.	Unaccepted
4	Provide appropriate extensions of time to ABM, without penalty, to complete the contract work.	Unaccepted
5	Improve service to contractors by responding appropriately to requests for information.	Implemented

MORE FREQUENT REVIEWS OF DELL PRICING WILL ENSURE BART PAYS LESS FOR ITS COMPUTER EQUIPMENT (10/29/20)		
#	Recommendation	Status
1	Require vendor to include in their quote information showing that their negotiated prices for BART are lower as compared to current Dell Small Business prices.	Implemented
2	Directly address employees' concerns when they have reason to believe that prices for computer equipment may be excessive.	Implemented
3	Move forward with including the OCIO's computer purchasing requirements on the employee website.	Implemented

¹ The intent of this appendix is to ensure that the State Legislature has a complete list of all of recommendations made to date. Future annual reports will include the status of current fiscal year recommendations and an update of only the open recommendations from previous years.

CORRECT CANDIDATE SELECTED, BUT A BETTER PROCESS IS NEEDED TO IDENTIFY SCORING ERRORS (10/29/20)		
#	Recommendation	Status
1	Provide each candidate with a report of their points after the recruitment process ends but before offering a position to any candidate. Allow the candidate a reasonable period of time to contact Human Resources if the candidate believes there is a discrepancy.	Implemented

UNMANNED STOREROOM ACCESS PROCEDURE IS OUTDATED (01/06/21)		
#	Recommendation	Status
1	Update the “Issues – During Unattended Stores Hours” procedure to align with current practices, positions, and automated systems.	Implemented
2	Provide employees with the updated “Issues – During Unattended Stores Hours” procedure and enforce its use. Follow appropriate performance evaluation actions when employees fail to follow the procedure.	Implemented

SPECIAL COMPENSATION REPORTABLE TO CALPERS IS LIMITED BY LAW (04/09/21)		
#	Recommendation	Status
1	Develop a template for use in providing a written agreement between BART and employees that explains the terms of special assignments and special compensation, including if the special compensation is reportable to CalPERS for pension purposes.	Implemented

NO EVIDENCE OF FRAUD BUT EMPLOYEES WOULD BENEFIT FROM TRAINING ON THEIR FIDUCIARY RESPONSIBILITIES (08/13/21)		
#	Recommendation	Status
1	Obtain the \$3,204 from HNTB Corporation for the invoice error.	Implemented
2	Develop training and guidance to assist BART employees in fulfilling their fiduciary responsibility in reviewing and approving invoices.	In Progress

BART REQUIRED DRIP RETIREES TO RETURN PROPERTY BUT INDIVIDUAL NONCOMPLIANCE OCCURRED (08/13/21)

#	Recommendation	Status
1	Contact the remaining 157 DRIP retirees whose offboarding checklists were not returned to ensure BART property is returned.	Implemented

BART HAS BEEN UNRESPONSIVE TO POLICE RETIREES IN CORRECTING PAY AND BENEFIT REPORTING ERRORS (08/13/21)

#	Recommendation	Status
1	Create a tracking system to monitor the resolutions of retiree benefit inquiries.	Implemented
2	Designate a single office to manage retiree benefit inquiries for timely resolutions.	Implemented
3	Set a firm date by which to have the CalPERS underreporting error corrected and communicate with the affected parties that BART is working on the problem, when BART expects to have it corrected, and then when the error is corrected.	Implemented

CIRCUMVENTION OF PROCUREMENT RULES RISKS DISRUPTION TO PAYROLL (08/13/21)

#	Recommendation	Status
1	Plan for long-term contractual needs for maintaining and updating PeopleSoft beyond one fiscal year.	Implemented
2	Use BART's competitive contracting process to obtain proposals from multiple consultants who can provide the necessary PeopleSoft technical support.	Implemented

USE OF EXISTING CONTRACT ACCEPTABLE BUT BART DOUBLE PAID FOR SOME DELIVERY SERVICES AND INCURRED AVOIDABLE CUSTOMS STORAGE FEES (08/13/21)

#	Recommendation	Status
1	Update the Procurement Manual with procedures for handling international shipments to clarify who is required to handle customs and to define BART's process for receiving goods from an international supplier.	Implemented
2	Recoup \$325 from Stadler Bussnang for services agreed to in the delivery terms but not rendered.	Implemented
3	Amend the contract with Transpak to ensure it covers customs brokerage services and the potential use of a third party to handle those services.	Implemented

MISUNDERSTANDING OF THE NASPO PROGRAM LED TO BART MAKING PURCHASES WITHOUT PROPER CONTRACTS IN PLACE (08/13/21)		
#	Recommendation	Status
1	Provide training and education on the rules concerning the NASPO ValuePoint cooperative purchasing program to staff with a role in making, reviewing, and approving purchases.	Implemented
2	Institute procedures whereby Procurement verifies that proposed purchases are covered by NASPO agreements prior to submitting the EDD to the Board.	Implemented
3	Institute procedures whereby staff are required to cite the specific NASPO Master Agreement or California Participating Addendum on EDDs submitted to the Board, or state that BART received a Letter of Authorization from DGS.	Implemented
4	Ensure appropriate contracts are in place with Oracle and SHI to continue using them as suppliers.	Implemented

ELECTED OFFICIAL SOCIAL MEDIA USE DOES NOT FOLLOW BEST PRACTICES (11/12/21)		
#	Recommendation	Status
1	Revise the Board of Directors Code of Conduct to require separate business and personal social media accounts and to include a disclaimer on personal accounts that opinions are their own.	Unaccepted
2	Work with the District Secretary's Office to formally approve the revisions and update the BART Code of Conduct in a manner consistent with District procedures.	Unaccepted

PURCHASE ORDER CHANGE ACCEPTABLE BUT BACKEND PROGRAMMING CHANGES ARE AN INTERNAL CONTROL WEAKNESS (11/12/21)		
#	Recommendation	Status
1	Require buyers to verify remittance information with the selected vendor when creating a purchase order to avoid a need to make corrections.	Implemented
2	Complete Peoplesoft programming updates so that vendor corrections made on a purchase order are automatically transmitted to Maximo.	Implemented

POTENTIAL CONFLICT OF INTEREST MAY REQUIRE VOIDING A \$40 MILLION CONSTRUCTION MANAGEMENT CONTRACT AND NOT PAYING \$5.4 MILLION OF INVOICES (04/08/22)

#	Recommendation	Status
1	Permanently reassign to another manager all work related to contracts with the contractor that employs the BART manager's spouse and sibling to avoid even the appearance of a conflict of interest between the BART manager and the contractor.	Implemented
2	Seek an expert outside opinion from the FPPC or other appropriate source to determine if the conflicts of interest violate California Government Code § 1090. If they do, void remainder of the affected contracts with the firm and notify Accounts Payable to not pay the \$5.4 million in unpaid invoices, as required by law and notify the contractor of these actions and the reasons why.	Unaccepted
3	Review and update the Contractor and Employee Codes of Conduct to ensure discussions of conflicts of interest are clear and consistent for both contractors and employees.	In Progress
4	Revise boilerplate language in RFP and other bid documents to consolidate information on conflict-of-interest prohibitions, appropriate federal and state references, BART's Contractor Code of Conduct reference, and reporting requirements in a single location.	In Progress
5	Create a template that contractors are required to use to disclose potential personal, financial, and contractual conflicts of interest.	In Progress
6	Revise the Proposal Evaluation and Award Confidentiality and Conflict of Interest Certification as necessary to align it with the updated Employee Code of Conduct (see Recommendation 3) and expand its use of to include all staff who are involved in any way in the procurement and contract administration process for a project.	In Progress
7	Develop and require employees to participate in training to ensure their understanding of the Employee Code of Conduct and the conflict-of-interest prohibitions in Government Code § 1090, et. seq. and FTA regulations.	Implemented
8	Establish and implement a process for review of all future FPPC Forms 700 (Statement of Economic Interests) employee submissions and inform respective management of any identified potential conflicts.	Implemented
9	Revise the cover letter sent to inform BART staff of their responsibility to file a Form 700 to include language reminding them that they are personally responsible for understanding their reporting requirements and verifying completeness and accuracy.	Implemented

SUMMARY OF TIME THEFTS INVESTIGATIONS (04/08/22)		
#	Recommendation	Status
1	Require supervisors to enter to provide purpose of leave in comment field, when they manually clock out SEIU union representatives who leave work for union business.	In Progress
2	Require utility workers assigned to graffiti car cleaning shifts to use the time collection device to clock out of their shifts at the yards at which they are conducting the cleaning.	In Progress

QUESTIONABLE CREDIT CARD PURCHASES BY BART EMPLOYEE - EXPECTED RELEASE DATE JULY 8, 2022		
#	Recommendation	Status
1	Either return the wagon and headphones or find uses for them within the District.	Implemented
2	Determine the appropriate use and placement of the refrigerator currently kept in a private office.	Implemented
3	Adjust the \$378.86 purchase so that it is recorded to the Board of Director's account code.	Implemented

END OF SHIFT TIMEKEEPING REQUIRES CLARIFICATION & BETTER TRANSPARENCY - EXPECTED RELEASE DATE JULY 8, 2022		
#	Recommendation	Status
1	Provide written guidance on the implementation of ATU Collective Bargaining Agreement (CBA) Section 34.6 and the types of exceptions may allow for exceeding the 30-minute standard.	In Progress
2	Require Station Agent supervisors to enter clear descriptive information in the timekeeping system explaining why they manually applied Section 34.6 of the ATU CBA for time exceeding 30 minutes.	In Progress

APPENDIX II

BART Management’s Progress on Open Recommendations

The following provides information on only the status of OIG recommendations that BART management had not yet implemented as of the timing of our [January to March 2022 Activities Report](#).

NO EVIDENCE OF FRAUD BUT EMPLOYEES WOULD BENEFIT FROM TRAINING ON THEIR FIDUCIARY RESPONSIBILITIES (8/13/21)				
Recommendations	Original Management Response	Status	Implementation Dates	Management Updates
<p>Develop training and guidance to assist BART employees in fulfilling their fiduciary responsibility in reviewing and approving invoices. Include examples that demonstrate common invoice errors and methods by which vendors might attempt to or could submit false information. Require personnel to complete the training before they are inserted into the PeopleSoft invoice approval workflow. Training need not be in person and can be achieved</p>	<p>Management concurs with the recommendation. AP will coordinate with HR, OCIO, and IA to develop a training plan that will provide guidance and assistance to BART employees on how to conduct and perform a proper review of invoices. Currently OCIO conducts ‘Purchase Requisitions and Receiving’ and ‘Creating and Approving Expense Reports’ training on a quarterly and ‘as needed/requested’ basis, both including approval processes. Due to shelter-in-place, the frequency of training has diminished. OCIO will return to scheduled training as soon as possible. All the current training materials are also posted and available in Employee Connect.</p> <p>Performance & Innovation (P&I) performed an Accounts Payable Improvement Initiative in FY21 that resulted in the development of invoice process desk guides for AP staff. Both the online and P&I training materials focus on the PeopleSoft process and not necessarily on fraud detection. IA will</p>	<p>Partially Implemented</p>	<p>2) July 2022</p>	<p><u>6/27/22</u></p> <p>2) Fraud Awareness training materials have been produced and are in final production. Final product will first be provided to Accounts payable (which already has fraud tips with its desk guides) and then District-wide. Working to determine best method of rollout to the entire District.</p>
			<p>3) May 2022 (Project Manager)</p>	<p>3) OICO has created separate security roles for 'Project Manager' (BART staff) and 'Project Manager Consultant', with the latter limited to review only and cannot provide approvals. Next step is to create similar roles for other job classifications.</p>
			<p>August 2022 (other job classifications)</p> <p style="text-align: center;">-----</p>	<p><u>3/23/22</u></p>
			<p>1) February 2022</p> <p>2) Early-April 2022</p>	<p>1) Desk guides updated to include fraud tips and distributed to AP manager.</p> <p>2) Draft fraud awareness and training material developed and under review for specific application to BART.</p>

No EVIDENCE OF FRAUD BUT EMPLOYEES WOULD BENEFIT FROM TRAINING ON THEIR FIDUCIARY RESPONSIBILITIES (8/13/21)

Recommendations	Original Management Response	Status	Implementation Dates	Management Updates
<p>through online tutorials and videos.</p>	<p>work with AP to conduct fraud awareness training, and training materials will be enhanced to include fraud awareness and prevention techniques to detect fraud and fraud red flags.</p> <p>To prevent instances of inappropriate segregation of duties, the OCIO will check the system configuration in PeopleSoft to determine if there is a way to prevent or not allow subcontractors and contractors from being inserted as a fiscal approver of invoices. In cases where it is necessary to obtain concurrence from the contractor or subcontractor due to the nature of the work they were engaged to perform, the system will be configured to allow them to be inserted only as 'reviewer'. IA will also add a review of invoice approval policies and procedures to its master audit plan.</p> <p>Approval by District staff knowledgeable about the charges being billed will always be required. It should be noted that BART AP staff would be required to adhere to existing procedures for fiscal approval, regardless of 3rd party reviewers.</p>		<p>3) April 2022</p> <p>-----</p> <p>Spring 2022</p> <p>1) December 2021</p> <p>2) Late-January 2022</p> <p>3) 10/13/2021</p>	<p>3) OCIO has proposed solution for not allowing a non-BART employee to be designated as project manager invoice approver during project set-up. Internal Audit, Finance, and OCIO performing evaluation for how to proceed with recommendation to minimize impact on BART project staff.</p> <p><u>12/29/21</u></p> <p>AP, Performance & Audit, and OCIO are working to determine the extent of the training, which will drive the training materials. Current desk guides apply only to Accounts Payable staff for processing invoices. Staff will need to develop training material for an online course.</p> <p>1) Desk guides were updated by AP staff to reflect updates requested by staff. The revised desk guides were received in December 2021. Fraud detection tips will be added to the desk guides by the end of January 2021.</p> <p>2) Draft has been prepared and will soon go out for review.</p> <p>3) OCIO modified the PeopleSoft workflow to only allow a BART employee to be inserted as an approver into workflow. Sub-contractors may be added as a reviewer only. This change was completed on 10/13/2021.</p>

No EVIDENCE OF FRAUD BUT EMPLOYEES WOULD BENEFIT FROM TRAINING ON THEIR FIDUCIARY RESPONSIBILITIES (8/13/21)				
Recommendations	Original Management Response	Status	Implementation Dates	Management Updates
			<p>Early 2022</p> <p>-----</p> <p>N/A</p>	<p>Internal Audit, Finance, and OCIO are evaluating the PeopleSoft workflow to ensure that a BART employee is the final invoice approver. Next steps will be based on the evaluation that will take place early in 2022.</p> <p><u>9/27/21</u> (V. Thomas) HR spoke with AP and advised they will need to work with M&E, who is responsible for managing the Pathlore Training system to coordinate district wide training - CLOSED</p> <p>(D. Markham) Operations Training & Development, AP, OCIO, and Performance & Audit (Internal Audit) are working together to:</p> <ol style="list-style-type: none"> 1) review AP desk guides to determine where specific fraud detection tips should be added; 2) develop and configure fraud awareness and prevention training material; 3) determine if and how security roles in PeopleSoft and other enterprise software can be updated to ensure that contract staff cannot be final approvers of certain workflows. <p>Item #3 is the most difficult and will take the most time to implement once an approach is determined. Current timing is TBD. Item #2 is in progress and projected deployment is no earlier than early in calendar 2022. Item #1 is in development and planned to be deployed in October 2021.</p>

SUMMARY OF THEFT OF TIME INVESTIGATIONS (4/8/22)

Recommendations	Original Management Response	Status	Implementation Dates	Management Updates
<p>To allow for proper oversight of timekeeping, BART should require supervisors to enter the information that SEIU employees are required to provide when conducting union business - location, area of the activity, estimated time needed, and specific nature of the union business involved - into the timekeeping comment field, when they manually clock out SEIU union representatives who leave their worksites during their work shifts to conduct union business. This is in addition to ensuring supervisors enter the appropriate union code into the timekeeping system when they make time adjustments to account for union business time.</p>	<p><u>At Issue:</u> We are currently working with payroll to increase the input of information on fields explaining the nature of the business. The persons inputting time will be required to fill all applicable fields for a person to be paid Union Business. That pay code will require the inputter to fill in all fields with information for the payroll to be accepted by the system, if the required fields are not filled in properly the employee in question will have an error status. Which will trigger a secondary review of the persons payroll.</p> <p>-----</p> <p>OIG Note: We spoke with BART management to gain clarification on their response, and they do intend to implement the recommendation. Management’s goal is to capture the union time and identify location, area of the activity, estimated time needed, and specific nature of the union business involved in the time keeping system. Still under evaluation is whether it is possible to add new data fields to the time keeping system vs. using the comment field and, if so, what the time frame is for making those changes.</p>	<p>In Progress</p>	<p>September 2022</p>	<p>Labor Relations is working with OCIO and TAAD (timekeeping) to refine Union Business (UB) Time Reporting Codes (TRCs) to act as 'reason codes' on timesheets. Supervisors will be required to use the comments field to provide additional information about the TRC (location, area of the activity, estimated time needed, and specific nature of the union business). OCIO, Labor Relations, and TAAD will review current procedures and evaluate the potential to modify the process as necessary.</p>

SUMMARY OF THEFT OF TIME INVESTIGATIONS (4/8/22)

Recommendations	Original Management Response	Status	Implementation Dates	Management Updates
<p>To allow for proper oversight of timekeeping, BART should require utility workers assigned to graffiti car cleaning shifts to use the TCD machines to clock out of their shifts at the yards at which they are conducting the cleaning, regardless of which yard they are regularly assigned to work.</p>	<p>At Issue: Assistant Chief Leo Pica has investigated this issue and the following direction in process will be reinforced. A worker should clock in at their headquartered location and clock out when their shift is completed, and they are released. If this cannot be accomplished due to travel or change of start location, the Foreworker in charge of graffiti remediation will manually enter the time of the crew.</p> <p>-----</p> <p>OIG Note: We spoke with BART management to gain clarification on their response, and they do intend to have the utility workers use the time collection devices at the yard at which they conducted the car cleaning to remove the graffiti. This removes the need for the workers to return to their headquartered location, at which they may have started their workday, to clock out of their shifts.</p>	<p>Unimpleme nted</p>	<p>June 27, 2022</p>	<ul style="list-style-type: none"> • Every graffiti job task is coded per time used, including Foreworkers. • If the graffiti car is located at the employee’s bid location, the employee will punch IN and OUT using the time collection device (TCD), where they conduct the car cleaning to remove the graffiti. • If the graffiti car is located in the employee’s non-bid location, Utility Foreworker will perform the Transfer In and Transfer Out punches for the employees conducting the cleaning of the graffiti at that location. • Employee will punch out after returning to their appropriate bid location, as necessary. • Manager and Foreworker will review times and schedules after work is completed. <p>-----</p> <p>OIG Note: The response does not address our recommendation as foreworkers will still be completing time entries for the workers who do not drive back to their bid locations to clock out. We spoke to management on this and our understanding is that having the foreworkers make the time entries will be an exception because SEIU will expect workers to drive back to their bid location to clock out, per their collective bargaining (CBA) agreement with BART management. We believe that would be burdensome after working long days, including up to 16 or 17 hours to clean a graffitied train car, which is what our investigation uncovered. We also have concerns about safety. The potential to get into an accident increases for workers driving back to their bid location after</p>

SUMMARY OF THEFT OF TIME INVESTIGATIONS (4/8/22)				
Recommendations	Original Management Response	Status	Implementation Dates	Management Updates
				<p>having worked such long hours doing during physically taxing work. BART management agrees with our recommendation and that it is a better internal control and more convenient for the utility workers doing the cleaning. However, SEIU says the recommendation does not align with their collective bargaining agreement with management. We have asked SEIU to let us know which provision(s) of the agreement they are referring to, but we have not received a response yet. We have also asked SEIU for a meeting to discuss their concerns, but we have not yet heard back on a meeting date. Because we are concerned that there may be a misunderstanding as to our intent, we are keeping this recommendation in unimplemented status for now. We will attempt to have a discussion with SEIU on the matter. However, if by our next quarterly update, SEIU maintains its position, we will consider this recommendation unaccepted.</p>

POTENTIAL CONFLICT OF INTEREST MAY REQUIRE VOIDING A \$40 MILLION CONSTRUCTION MANAGEMENT CONTRACT AND NOT PAYING \$5.4 MILLION OF INVOICES (4/8/22)

Recommendations	Original Management Response	Status	Implementation Dates	Management Updates
<p>Review and update the Contractor and Employee Codes of Conduct to ensure discussions of conflicts of interest are clear and consistent for both contractors and employees, including when and to whom to report them, and that they incorporate appropriate provisions of both federal and state conflict-of-interest prohibitions.</p>	<p>Management is reviewing Contractor and Employee Codes of Conduct, Conflict of Interest Code (COIC), and procurement (RFP/bid/proposal evaluation) and contract documents to ensure that they reflect current federal and state conflict of interest rules/codes. Additionally, management will review to ensure that all BART codes and policies are internally consistent and align with each other.</p>	<p>In Progress</p>	<p>September 2022</p>	<p>Management is evaluating the recommendations from the FTA Triennial Review to ensure that it implements both the OIG and FTA recommendations concurrently.</p>
<p>Revise boilerplate language in RFP and other bid documents to consolidate information on conflict-of-interest prohibitions, appropriate federal and state references, BART’s Contractor Code of Conduct reference, and reporting requirements in a single location.</p>	<p>See Recommendation #3</p>	<p>In Progress</p>	<p>August 2022</p>	<p>Management is evaluating the recommendations from the FTA Triennial Review to ensure that it implements both the OIG and FTA recommendations concurrently. Management is also working with BART’s General Counsel’s office to best determine how to implement these recommendations.</p>
<p>Create a template that contractors are required to use to disclose potential personal, financial, and contractual conflicts of interest. Include a preamble on the template that refers bidders to the consolidated conflict-of-interest information in the bid documents and a statement that bidders are required to sign indicating that they have read and understand the disclosure requirements.</p>	<p>BART will include a separate Conflict of Interest disclosure form in each contract for contractors to specifically disclose and attest to any potential conflict of interest.</p>	<p>In Progress</p>	<p>July 2022</p>	<p>Form is under development and will be inserted into the standard contract template.</p>

POTENTIAL CONFLICT OF INTEREST MAY REQUIRE VOIDING A \$40 MILLION CONSTRUCTION MANAGEMENT CONTRACT AND NOT PAYING \$5.4 MILLION OF INVOICES (4/8/22)

Recommendations	Original Management Response	Status	Implementation Dates	Management Updates
<p>Revise the Proposal Evaluation and Award Confidentiality and Conflict of Interest Certification as necessary to align it with the updated Employee Code of Conduct (see Recommendation 3) and expand its use of to include all staff who are involved in any way in the procurement and contract administration process for a project. The timing of when an employee signs the form should align with when their participation in the process is to begin.</p>	<p>See Recommendation #3. In addition, BART management will review, update, and enhance the existing internal Conflict of Interest Certification processes to include additional staff who are involved in procurement and contract administration. The design is currently underway to include an annual position-based certification and a project/agreement/contract-specific certification of conflict of interest. This new multi-layered system of certifications would provide BART with more robust controls surrounding Conflict of Interest certifications and achieve the required Federal-level standard (per FTA Circular 4220.1F) of including the administration of contracts.</p>	<p>In Progress</p>	<p>October 2022</p>	<p>Management is working with Administration (Procurement and Human Resources), General Council, Office of the Chief Information Officer, and Program Management to develop a comprehensive effective process that reflects the recommendations. Processes are in development and technology solutions are being discussed. Progress has been slowed by resource constraints.</p>