



**Metropolitan Water
Reclamation District
of Greater Chicago**



Office of the Independent Inspector General

“[T]o detect, deter and prevent corruption, fraud, waste, mismanagement, unlawful political discrimination or misconduct in the operation of County government.”

**Metropolitan Water Reclamation District of Greater
Chicago
Quarterly Report
4th Quarter 2022**

January 5, 2023



OFFICE OF THE INDEPENDENT INSPECTOR GENERAL

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January 5, 2023

Transmittal via electronic mail

Honorable Kari K. Steele
and Honorable Members of the Metropolitan
Water Reclamation District of Greater Chicago
Board of Commissioners
100 East Erie Street
Chicago, Illinois 60601

Re: Independent Inspector General Quarterly Report (4th Qtr. 2022)

Dear President Steele and Members of the Board of Commissioners:

As you know, on April 18, 2019 the Board of Commissioners of the Metropolitan Water Reclamation District of Greater Chicago (MWRD) adopted Ordinance O19-003 entitled Office of the Independent Inspector General (MWRD OIIG Ordinance) that has been designed to promote integrity and efficiency in government and provide independent oversight of the MWRD. Additionally, an Intergovernmental Agreement between the County of Cook and MWRD became effective by full execution of the parties on May 17, 2019 (Sec. II. Term of Agreement) and was extended by the MWRD on March 3, 2022 thereby authorizing the OIIG to continue operations relating to the MWRD. This quarterly report is written in accordance with Section 2-287 of the MWRD OIIG Ordinance to apprise you of the activities of this office during the time period beginning October 1, 2022 through December 31, 2022.¹

OIIG Case Activity

In connection with the number of complaints received by the OIIG, please be aware we have received a total of 8 new complaints during this reporting period. This number also includes those matters resulting from the exercise of my own initiative (MWRD OIIG Ordinance Section Two (citing Cook County Code, Sec. 2-284(2))). Seven OIIG case inquiries have been initiated during this reporting period and a total of 23 OIIG case inquiries remain pending at the present time.² We have referred one matter to management or other enforcement or prosecutorial agencies

¹ In accordance with the MWRD OIIG Ordinance, this office reports quarterly the number of investigations initiated and concluded during the subject time period along with other relevant data concerning the activities of the office. Quarterly reports also set forth OIIG recommendations for remedial or other action following the completion of an investigation and track whether recommendations were adopted in whole or in part or otherwise not implemented by the MWRD. Finally, quarterly reports also describe miscellaneous activities of the OIIG that may be of interest to MWRD officials, employees, contractors and members of the public.

² Upon receipt of a complaint, a triage/screening process of each complaint is undertaken. In order to streamline the OIIG process and maximize the number of complaints that will be subject to review, if a complaint is not initially opened as a formal investigation, it may also be reviewed as an "OIIG inquiry." This level of review involves a determination of corroborating evidence before opening a formal investigation. When the initial review reveals

for further consideration this reporting period. The OIIG currently has five open OIIG cases and no cases open more than 180 days of the issuance of this report.

OIIG Summary Reports³

During the 4th Quarter of 2022, the OIIG issued two summary reports on MWRD matters. The following provides a general description of the matter and states whether OIIG recommendations for remediation or discipline have been adopted. Specific identifying information is being withheld in accordance with the OIIG Ordinance where appropriate.

IIG22-0193. The OIIG received a complaint alleging that an MWRD employee was recently elected as the Assessor of a local township. The OIIG initiated this investigation as the subject employee's secondary employment may create a conflict with his MWRD position in violation of the MWRD Ethics Ordinance. It was also noted that the employee did not submit his secondary employment form within 14 days of the secondary employment as required by policy but rather submitted it over two months late after being told he needed to do so.

During its investigation, the OIIG reviewed the MWRD Ethics Ordinance and MWRD Secondary Employment Forms. The OIIG conducted interviews of the subject employee and the Township Administrator of the local township where the subject employee serves as Assessor.

Review of the MWRD Ethics Ordinance

The MWRD Ethics Ordinance states that all Commissioners, Officers, and Employees are required to complete and submit a Secondary Employment Form, attesting that the Commissioner, Officer or Employee does or does not have compensated secondary employment. Amended reports are required within 14 days of any change in secondary employment status.

Interview of the Subject Employee

The employee stated that his Assessor position is a paid position. The employee stated that his duties include but are not limited to assisting residents with property tax issues such as appeals and exemptions. The employee stated that property tax assessments are not handled at the township level. The employee stated his position is part-time and does not require him to keep office hours. The employee stated that he does not manage any employees. The employee stated that he attends Board meetings every first and third Tuesday of each month at 7:00 p.m. The employee stated that his Assessor duties do not overlap with his MWRD duties. The employee stated that if he needs to

information warranting the opening of a formal investigation, the matter is upgraded to an "OIIG Investigation." Conversely, if additional information is developed to warrant the closing of the OIIG inquiry, the matter will be closed without further inquiry.

³ The OIIG issues a Quarterly Report relating to the MWRD separate from the one it issues for other government agencies under its jurisdiction. The Quarterly Reports issued involving MWRD matters can be found at <https://www.cookcountyil.gov/service/metropolitan-water-reclamation-district-greater-chicago>.

conduct any meetings for the Assessor's office during regular working hours, he uses vacation or personal time from the MWRD. The employee stated that he also uses MWRD vacation time or personal time if he needs to attend any special events during regular work hours; however, most special events are in the evening hours. The employee admitted that he did not immediately fill out a Secondary Employment form when he took office as the Assessor for the local township. The employee stated that he filled out the form after he was alerted to do so by his supervisor. The employee stated that he had filled out a secondary employment form in the past for a different position.

Interview of Local Township Administrator

The local Township Administrator ("Administrator") stated that the Assessor position is part-time and compensated. The Administrator stated that the Assessor and other elected officials are not required to have regular office hours. The Administrator stated that the Assessor and other elected officials attend meetings every first and third Tuesday of each month at 7:00 p.m. The Administrator stated that the Assessor does not have a permanent office space at the township. The Administrator stated that the Chief Deputy Assessor is responsible for the day-to-day operations of the Assessor's Office and reports to the Administrator.

OIG Findings and Conclusion

The preponderance of evidence developed during this investigation supports the allegation that the subject employee violated Article II Code of Conduct, Section(C)(5) of the MWRD Ethics Ordinance by failing to notify the District of his secondary employment by completing a secondary employment form within 14 days as required by the Ordinance. The employee admitted that he did not complete a Secondary Employment form for his new position until he was directed by his supervisor to do so months after his new position began.

OIG Recommendation

Based on all of the foregoing, we recommend that disciplinary action be imposed on the subject employee in the form of a written reprimand.

This recommendation is currently pending.

IIG22-0734. The OIG received a complaint alleging that Diversity Officer A was shoved by a Senior Diversity Officer from behind with enough force to cause Diversity Officer A to lose her balance while standing at the desk of another employee.

During its investigation, the OIG reviewed the MWRD Administrative Procedures Manual 10.40.0 Workplace Violence policy and an MWRD police report and interviewed MWRD diversity employees including the Diversity Officer A, the subject Senior Diversity Officer, and witnesses to the occurrence.

The preponderance of evidence developed during this investigation supports the allegation that the subject Senior Diversity Officer violated MWRD Administrative Procedures Manual 10.40.0 Workplace Violence, Section IV: Types and Degrees of Workplace Violence.⁴ The Senior Diversity Officer initiated unwanted physical contact with Diversity Officer A while Diversity Officer A was standing at the cubicle of Diversity Officer B. When interviewed by the OIIG, the Senior Diversity Officer denied ever making intentional or accidental physical contact with Diversity Officer A while at Diversity Officer B's cubicle. However, when interviewed by the OIIG, the statements of Diversity Officer A, Diversity Officer B and Diversity Officer C contradicted Senior Diversity Officer's account of the incident. Diversity Officer A, Diversity Officer B, and Diversity Officer C all stated that Senior Diversity Officer made intentional physical contact with Diversity Officer A when she bumped into Diversity Officer A from the rear with the right side of her body when entering the cubicle of Diversity Officer B while Diversity Officer A was facing forward. In addition, Diversity Officer A and Diversity Officer B stated that Senior Diversity Officer did not merely bump into Diversity Officer A, but the amount of force utilized by Senior Diversity Officer to make contact with Diversity Officer A was so great, it caused Diversity Officer A to lose her balance and stumble.

Based on the foregoing, we would have recommended that disciplinary action be imposed on the subject Senior Diversity Officer. Because of the serious nature of the violation and the fact that the Senior Diversity Officer was still under a probationary review, we would have recommended that the Senior Diversity Officer's employment be terminated. However, these recommendations would have been moot because, after we concluded our investigation but before issuing this report, MWRD management terminated the subject Senior Diversity Officer on its own accord.

Outstanding OIIG Recommendations

The OIIG has followed up on outstanding recommendations for which no response was received at the time of our last quarterly report. Under the OIIG Ordinance, responses from management are required within 45 days of an OIIG recommendation or after a grant of an additional 30-day extension to respond to recommendations. Below is an update on the outstanding recommendations.

⁴ II. Policy: "It is the policy of the Metropolitan Water Reclamation District of Greater Chicago to provide a workplace free from all forms of workplace violence, including threatening or intimidating words or actions. There will be no tolerance for employees or others who threaten or harm individuals on District property, or while engaged in any business concerning the District or while representing the District at any time.

IV. Types and Degrees of Workplace Violence: Workplace violence may include written or verbal communication or behavior, whether direct or indirect, which is threatening, intimidating or coercive in nature, or causes, or is intended to cause physical harm to people or damage to property. Examples of workplace violence include but are not limited to the following escalating degrees of behavior: veiled threats, intimidating or bullying actions or words (threatening, humiliating, or intimidating behaviors, and work interference/sabotage), stalking, pushing, grabbing, hitting or striking, specific threats, vandalism, sabotage or other destruction of District or personal property, assault, or homicide. It also includes acts and threats that are later claimed to have been made in jest.

From the 3rd Quarter 2022

IIG21-0520-B. IIG21-0520-A was initiated after the OIIG received an anonymous complaint that Sheet Metal Worker A was observed on several occasions leaving the work premises around 9:30-10:00 a.m. and failing to return to clock-out until approximately 3:00-3:30 p.m. During the investigation of Sheet Metal Worker A, information regarding Sheet Metal Worker B was revealed which led to this related investigation. During this investigation, the OIIG reviewed financial records, secondary employment forms, MWRD timesheets for Sheet Metal Worker B, MWRD gate records obtained from the MWRD Police, and work order assignments for Sheet Metal Worker B. Numerous interviews of MWRD staff were also conducted.

The preponderance of evidence developed in this investigation supports the conclusion that Sheet Metal Worker B violated MWRD Ethics Ordinance – Article II, Code of Conduct, Section C(5): the Secondary employment rule. Sheet Metal Worker B admitted to having compensated outside employment that extended several years with Sheet Metal Worker A.⁵ Based on this finding, we recommended the imposition of disciplinary action consistent with the treatment of past infractions of a similar nature.

This recommendation is currently pending.

From the 4th Quarter 2020

IIG19-0518. The OIIG received information suggesting that contract participation for the Affirmative Action Program⁶ entities may be substantially below the MWRD’s aspirational goals. The OIIG subsequently initiated this review to assess the MWRD’s Affirmative Action Program (“AAP”).

During our review, we interviewed key MWRD senior officials familiar with the MWRD’s procurement process and AAP. These MWRD officials include a member of the MWRD Board of Commissioners, the Director of Procurement, the Director of Maintenance & Operations, and the Diversity Administrator. We also interviewed the Director of the Cook County Contract Compliance Office to obtain insights from a different government unit administering a MWBE Program.

The OIIG received Appendices from the Diversity Administrator that describe the contract participation for the AAP.⁷ We selected specific MWRD contracts to sample for compliance with

⁵ The preponderance of evidence developed during this investigation fails to establish that Sheet Metal Worker B participated in outside employment during MWRD working hours.

⁶ The “SBE” reference in this report includes both SBE and VBE. VBE and SBE have different criteria but are combined for SBE participation pursuant to the MWRD’s policies. There is no separate tracking and reporting for VBE and SBE.

⁷ The Appendices are found in each contract.

the Appendices. We assessed the AAP actual contract participation according to the stated contract goals and assessed the process for monitoring AAP contract participation.

The OIIG reviewed MWRD Board meeting information on the Legistar website for contracts that the MWRD awarded over a three-year period (2016-2019). This timeframe served as the baseline period for our AAP review. We arranged the list according to the highest dollar amount, and our judgmental sample resulted in 20 contracts worth \$193,282,707. The actual level of contract distribution amounted to \$118,192,474.

We compared the aspirational goals stated in the contracts to the aspirational goals in the Appendices. The MWRD does not generate reports that compare disbursements made to the prime contractor to payments made to the AAP participants. Therefore, the OIIG received payment information made to the prime contractors provided by the Finance and Procurement Departments. We compared the Finance Department’s disbursements to prime contractors to the payments AAP participants reported to the AAP. The AAP are required to report their payments to the AAP.⁸ As discussed below, this methodology presented challenges to compare relevant payment information between the prime contractors to the AAP participants during the same baseline period.

The mission of the AAP includes reviewing contracts, setting aspirational goals, and monitoring contract participation. The AAP operates in accordance with the contract Appendices.⁹

The Appendices establish the “aspirational goals” for AAP participation in contracts that exceed certain prescribed monetary thresholds.¹⁰ These aspirational goals are as follows:

Type of Contract	Minority	Women	SBE
Consulting/Professional/ Services	20%	10%	10%
Construction	19.6%	6.9%	0%
Goods	0%	0%	0%

There are two general exclusions in connection with the AAP. For one, the MWRD has no Appendix for AAP participation with contracts for goods. Additionally, construction contracts do not have a provision for SBE participation.

⁸ The AAP Director provided the OIIG with payment information as of January 2020. The Director of Finance provided us with disbursements made pursuant to the respective contracts through May 2020. Therefore, there could be some timing differences between payments and reporting.

⁹ Appendix A covers *MBE, WBE, and SBE* participation in professional services contracts; Appendix C covers *MBE and WBE* participation in construction contracts; Appendix K covers *MBE and WBE* apprenticeships in contracts; and Appendix V covers *VBE and SBE* participation in professional services and construction contracts (collectively “*SBE*”).

¹⁰ The monetary threshold for AAP participation for service contracts and apprenticeships are the total estimated expenditures exceeding \$100,000. The threshold for AAP participation for construction contracts is contracts that are estimated to exceed \$10,000 (applies to Cook County only).

Based upon all of the foregoing, we respectfully offered the followings recommendations:

1. The Engineering Department met the AAP's aspirational goals for 4 MBE's and 6 WBE's in the 10 contracts our Office examined for this review. While there will likely be variations on AAP participation based on different contracts and timing, the data nonetheless provides a snapshot at a moment in time. The OIIG recommended that the MWRD Board request quarterly reports from senior management that show the aspirational goals and actual outcomes. This could provide the basis for constructive discussions from the AAP, contract managers or resident engineers, and contractors – including the MBE, WBE, VBE, and SBE participants.
2. When we reviewed the Engineering Department contracts, 9 of 10 contracts had dual representation where the SBE was also the MBE or WBE. For dual representation, the MWRD does not increase the percentage of proceeds that goes to the MBE/WBE and SBE. The MBE/WBE percentage covers the SBE's percentage. In effect, the general contractor is allowed to retain more of the contract proceeds than if he/she included a different SBE to participate in the contract through this loophole. We recommended increased aspirational goals for dual participation scenarios.
3. The Engineering Department uses dual participation that could be undermining the spirit of the SBE classification. SBE's provide opportunities for business owners within a certain entity size despite their race or gender. We recommended that the MWRD reviews this practice to determine the intent supporting small business participation and adjust this practice – if necessary. Accordingly, the MWRD should establish and track separate goals for SBE's.
4. Our review revealed that the AAP does not include Furnish and Deliver contracts because the MWRD deems this practice commercially useful. Furnish and Deliver contracts are issued for goods and commodities. The three furnish and deliver contracts in our review generated \$28,917,207 (54.9%) in contract activity for our M&O sample. The OIIG recommended that the MWRD Board of Commissioners ensures that that the external consultant hired to conduct a Disparity Study assesses this policy and determine whether AAP should also apply to furnish and deliver contracts.
5. Our investigators had to create reconciliations to assess the level of MWBE participation for our review. This methodology presented challenges to compare relevant payment information amongst the MWRD, the prime contractors and the AAP participants during the same baseline period. The AAP is currently working to implement new tracking software set to go online in early 2021. MWRD senior management should ensure the AAP has the resources and assistance to meet this goal through implementation and thereafter.
6. Our review identified an intergovernmental agreement (“IGA”) between the MWRD and a workgroup totaling \$4,718,895. The contract had no aspirational goals because the AAP

was not provided the IGA for MBE/WBE/SBE participation. Note that the AAP does not have an opportunity to review Furnish and Deliver contracts. The AAP's inability to directly participate in the MWRD's overall mission and strategic planning endeavors may put the AAP at a disadvantage. The OIIG recommended that the MWRD determine whether diversity and inclusion could be improved if the AAP is elevated to a department and included as part of the Executive Team.

7. We identified circumstances where contracts with no or low aspirational goals failed to include documentation that explained the reasons for modifying the aspirational goals. In our experience, documentation serves as an important internal control and provides an audit trail. Moreover, the practice would provide sources of information to evaluate the effectiveness and shortcomings of the AAP. The OIIG recommended that the AAP document the reasons for setting tailored goals. We do not believe that this practice would unduly impede upon the Diversity Administrator's professional discretion as suggested.
8. We received statements that MBE/WBE/SBE businesses do not bring concerns to the AAP about the lack of inclusion in their contracts. We recommended the MWRD encourage prime contractors and subcontractors to report issues implicating AAP goals to either AAP or to the Inspector General's Office. This may be achieved by adding a general condition requiring the same.

All of these recommendations were adopted by the MWRD.

Conclusion

Thank you for your time and consideration to these issues. Should you have any questions or wish to discuss this report further, please do not hesitate to contact me.

Very truly yours,



Steven E. Cyranoski
Interim Inspector General

cc: Mr. Brian A. Perkovich, Executive Director
Ms. Susan T. Morakalis, General Counsel
Mr. John T. Joiner, Administrative Aide to the President