



**OFFICE OF INSPECTOR GENERAL**  
*City of Albuquerque*

Melissa Santistevan  
Inspector General

P.O. Box 1293, Suite 5025  
Albuquerque, New Mexico 87103  
Telephone: (505) 768-3150  
Fax: (505) 768-3158

**Report of Investigation**

**FILE NO:** 22-0022-C

**SUBJECT:** Waste of City Resources

**STATUS:** Final

**INVESTIGATOR:** J. O'Connell

DocuSigned by:  
*Melissa R. Santistevan*  
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**MELISSA SANTISTEVAN**  
**INSPECTOR GENERAL**  
**OFFICE OF INSPECTOR GENERAL**

4/14/2022  
**Date of Completion**

DocuSigned by:  
*Edmund E. Perea, Esq.*  
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**EDMUND E. PEREA, ESQ**  
**ACCOUNTABILITY IN GOVERNMENT**  
**OVERSIGHT COMMITTEE CHAIRPERSON**

4/27/2022  
**Date of Approval**

**DISTRIBUTION:**

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## EXECUTIVE SUMMARY

The Office of Inspector General (OIG) received an anonymous complaint on February 8, 2022 through the OIG online Tip and Reporting Form. The complainant stated they had been interviewed regarding a matter and was very upset because they received a letter from the OIG about the investigation and also a letter from a private investigator via the City's Central Human Resources Department (Central HR). The complainant expressed concerns about there being two separate investigations into the same matter; one investigation being conducted by the City's OIG and the other being conducted by a private investigations firm. The complainant questioned why there are two investigations and feels it is a waste of taxpayer money when the City has investigators. The complainant stated the private investigators letter told them they were "at risk" and described the letter as "scary". The complainant questioned why staff have to be put through two investigations.

Pursuant to City Ordinance 2-17-2, the Inspector General's goals are to: (1) Conduct investigations in an efficient, impartial, equitable and objective manner; (2) Prevent and detect fraud, waste and abuse in city activities including all city contracts and partnerships; (3) Deter criminal activity through independence in fact and appearance, investigation and interdiction; and (4) Propose ways to increase the City's legal, fiscal and ethical accountability to insure that tax payers' dollars are spent in a manner consistent with the highest standards of local governments.

Due to the complainant's allegations of waste, the OIG determined that it was appropriate to conduct a fact-finding investigation independent of the investigation to which the complainant had received two separate letters for and as result, had expressed their concerns.<sup>1</sup>

The OIG investigated the matter by reviewing relevant policies, procedures, and ordinances; reviewing Notices of Investigations that were issued to employees; reviewing emails; reviewing contract between the City of Albuquerque and outside investigative firm; and by speaking with relevant employees.

The OIG's investigation confirms that the City's Legal Department advised that a third-party investigative firm should be brought in to investigate the complaint received on January 7, 2022 regarding allegations of timecard fraud in the Aviation Department's Finance and Warehouse divisions. Although there were discussions between the Aviation Director, Aviation HR and the IG regarding this complaint, and although the Aviation Department and City Legal were aware that the OIG would be conducting an investigation into this complaint, the Aviation Department and City Legal proceeded with steps to request a third-party investigative firm to come in. As a result, two investigations into the same allegations were conducted.

The City's actions may constitute waste, as waste can generally be described as using or expending resources carelessly, negligently, extravagantly, or to no purpose, whether intentional or not. Waste includes incurring unnecessary costs as a result of inefficient or ineffective practices, systems, or internal controls and often results from inadequate oversight. As a result of our investigation, the OIG has made one (1) recommendation for improvement. See the OBSERVATIONS AND RECOMMENDATIONS section on pages 7 - 8 of the report.

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<sup>1</sup> The OIG is not independent with regard to this matter but did take extraneous precautions to ensure that this investigation was conducted by an investigator who was independent of case 22-0002-C.

## **ABBREVIATIONS**

AVHR1: Aviation Human Resources employee 1  
AVHR2: Aviation Human Resources employee 2  
Central HR: City of Albuquerque Central Human Resources Department  
City: City of Albuquerque  
City Legal: City of Albuquerque Legal Department  
Director: Aviation Director  
IG: Inspector General  
OIG: Office of Inspector General

## **INTRODUCTION**

The mission of the Office of Inspector General (OIG) is to promote a culture of integrity, accountability, and transparency throughout the City of Albuquerque in order to safeguard and preserve the public trust.

The Office of Inspector General (OIG) received an anonymous complaint on February 8, 2022 through the OIG online Tip and Reporting Form. The complainant stated they had been interviewed regarding a matter and was very upset because they received a letter from the OIG about the investigation and also a letter from a private investigator via the City's Central Human Resources Department (Central HR). The complainant expressed concerns about there being two separate investigations into the same matter; one investigation being conducted by the City's OIG and the other being conducted by a private investigations firm. The complainant questioned why there are two investigations and feels it is a waste of taxpayer money when the City has investigators. The complainant stated the private investigators letter told them they were "at risk" and described the letter as "scary". The complainant questioned why staff have to be put through two investigations.

Due to the complainant's allegations of waste, the OIG determined that it was appropriate to conduct a fact-finding investigation independent of the investigation to which the complainant had received two separate letters for and as result, had expressed their concerns.

## **SCOPE AND METHODOLOGY**

The scope of the investigation involved the performance of certain procedures to assess whether an outside investigative firm was conducting an investigation into the same allegations that the OIG was investigating. The methodology consisted of:

- Review of relevant policies, procedures, and ordinances
- Review of Notices of Investigations that were issued to employees
- Review of emails
- Review of contract between the City of Albuquerque and outside investigative firm
- Discussions with relevant City employees

This report was developed based on information from interviews, observations, and the OIG's review of selected documentation and records.

## INVESTIGATION

### Background

The City of Albuquerque Office of Inspector General was created in 2004 and is an independent entity that has the responsibility for promoting accountability, integrity, efficiency, and transparency within the City of Albuquerque. The OIG strives to ensure there is compliance with laws, regulations, City ordinances, and policies, and as part of its duties, the OIG conducts investigations into allegations of fraud, waste and abuse. The City's OIG employs three investigators, overseen by the Inspector General.

The City's approved budget for the OIG for fiscal year 2022 (FY22), which runs from July 1, 2021 through June 30, 2022, shows an approved budget of five hundred seventy-one thousand (\$571,000) for the OIG. Of this, five hundred and forty-eight thousand (\$548,000) is for personnel, benefits, training and software.

On January 7, 2022 a complaint was received by the OIG with allegations of timecard fraud in the Aviation Department's Finance and Warehouse divisions. The OIG initiated an investigation into these allegations and as part of its investigation scheduled interviews with Aviation employees.

Interviews took place on February 8, 2022 and on that same date, the OIG received an anonymous complaint from an individual who indicated they were interviewed earlier that day for a matter they "cannot discuss." The complainant stated they were "very upset", as they received a letter not only from the IG about the investigation but they also received a letter from the City's Central HR Department "from a private investigator." The complainant then questioned why there were two investigations, and stated it is a waste of tax payer money when "we have investigators for the City". The complainant also shared that the letter from the private investigators stated they were "at risk" and the complainant described the letter as "scary". The complainant asked why they (the City) need to do that; why have two investigations and put staff through that.

One of the ways that "waste" can be looked at is that it relates to inefficiencies. It can also generally be described as using or expending resources carelessly, negligently, extravagantly, or to no purpose, whether intentional or not. Waste includes incurring unnecessary costs as a result of inefficient or ineffective practices, systems, or internal controls and often results from inadequate oversight.<sup>2</sup>

### Inspector General Ordinance

As per the Inspector General Ordinance for the City of Albuquerque:

#### *ARTICLE 17: INSPECTOR GENERAL*

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<sup>2</sup> Description of waste per the Bay Area Rapid Transit OIG.

*§ 2-17-12 PENALTY; COOPERATION; RETALIATION PROHIBITED.*

*(A) All city officials, employees and contractors shall promptly notify the Inspector General of every instance of theft or other disappearance of cash, check, or property, of misfeasance or nonfeasance, defalcation, improper governmental actions as defined in the Whistleblower Ordinance and non-compliance with federal and state law, city ordinances and city regulations of which they are aware.*

**Review of Documents**

On January 7, 2022 a complaint was sent to both the City’s Inspector General (IG) and the Director for the Aviation Department (Director) via their respective City email accounts stating that time card fraud should be addressed at the Aviation Department with the Finance Division, including Warehouse employees.

An email string on this same date shows the Director reached out to the IG to coordinate a time to discuss this complaint, with the IG responding that they were available to have a telephonic discussion regarding the complaint.

An email string from January 13, 2022 shows the Director reached out to AVHR1 to inquire as to whether the Aviation Department would be using an outside agency to conduct the investigation into the complaint received on January 7, 2022. AVHR1 responded “Yes” and that AVHR2 would be submitting a request to the City’s Legal Department (City Legal) that same day.

An email from January 13, 2022 shows that AVHR2 sent a request for investigation to City Legal and stated that “as discussed” City Legal would inform the IG of the second investigation, as the Aviation Department wishes to “cooperate in full” with the IG’s office, and that the Aviation Department would be sending copies of the signed notices of investigation to the IG once those were received back from the employees.

Attached to the January 13, 2022 email was a “City of Albuquerque Internal Investigation Initiation Process Instructions and Request Form”. This form is a “request for an Internal Investigation to be conducted by a third-party investigator” which “must be initiated by a department director or his/her designee in writing”. This completed form contained the following information:

*Internal Investigation File Set-Up:*

- 1. Name of Department and Division: Aviation Department, Finance Division*
- 2. Date of Loss: January 7, 2022 (or date problem became known)*
- 3. Name of Person(s) or activity under investigation:  
Finance division – Finance Staff and Finance Warehouse Staff*
- 4. Brief description of the reason for the investigation:  
Complaint received regarding timecard fraud from Office of Inspector General on Finance and Warehouse employees*

An email from City Legal dated January 18, 2022 states that City Legal would be authorizing two investigations on behalf of the Aviation Department (one of which was regarding the complaint received on January 7, 2022). City Legal also stated that in anticipation of litigation, City Legal would be requesting an investigator from an outside investigative firm. City Legal also stated in the email that the City's IG is also aware of the issues and it is believed that the IG will be conducting their own investigation into the issues.

In email communication dated February 25, 2022 between the OIG and AVHR2, it was confirmed that the Aviation Department did contract with a third-party investigations firm to conduct two investigations, one being an investigation into the same allegations of timecard fraud that the OIG was investigating, and that notices were issued to Aviation employees. The OIG reviewed Notices of Investigation that were issued to Aviation Finance, Warehouse, and Operations employees on January 12, 2022 by the City's Human Resources Department (HR). The OIG also reviewed Amended Notices of Investigation that were issued to Aviation Finance, Warehouse, and Operations employees on February 22, 2022 by the City's HR.

### **Interview with AVHR2**

The OIG spoke with AVHR2 who stated that with regard to how incoming complaints are handled, every situation is different and is dependent on the nature of the complaint as to how the Aviation Department handles it. AVHR2 stated that it is not standard practice of the Aviation Department to contract with outside investigative firms when a complaint is received by the Aviation Department. Each situation has to be looked at individually, and in some situations the union comes into play. AVHR2 also provided the example of a situation involving workplace violence and how this would be a situation in which an outside investigative firm may be brought in.

AVHR2 shared that they were not aware of the existence of the City's OIG, and as such, did not advise the Aviation Director to contact and coordinate with the OIG. They stated that the Director advised AVHR2 to confer with the City's Central HR and City Legal departments, and that City Legal thought it would be best for Aviation to contract with an outside investigative firm to look into the complaints received involving the Aviation Operations and Finance Divisions.

AVHR2 explained that Amended Notices of Investigation were issued to employees in the Finance Division only. They stated that these employees are part of the M-series union and with regard to the original Notices of Investigation, the union cited prohibited practice to the labor board and it was requested that additional information be included in the Notices of Investigation. However, AVHR2 explained that initially, they only had very vague and limited information with regard to the complaint and therefore, could not provide more detailed information in the initial Notices of Investigation.

### **Interview with Director**

The Director stated that when the complaint was received on January 7, 2022 stating that "Time card fraud should be addressed at Aviation Department with Finance including Warehouse employees", the Director had AVHR1 contact Central HR to get guidance from them and from City Legal as how to proceed. City Legal advised to have a third-party investigative firm come in as an outside and impartial party to conduct the investigation, as opposed to having the investigation be conducted internally by the Aviation Department.

The Director provided a bit of background and history and stated that back on October 25, 2021 the management team was notified of a similar complaint. At that time, it involved only one individual. Sometime around November or December 2021, a request was received to do a badge swipe report for this employee, who was in the Aviation Finance department. The Director stated that by the time the request was made to do a badge swipe report, too much time had passed, as union timelines have to be considered. As a result, the only thing that could be done at that point was they could monitor the employee, they could provide counseling, and they could issue a letter of instruction. Then the complaint from January 7, 2022 was received concerning similar improprieties, but involved more than just one employee.

The Director stated that both the Director and AVHR2, had a telephonic meeting with the IG on January 7, 2022 to discuss the complaint received on that date. The Director stated that the complaint was very general and vague and all it said was that “time card fraud should be addressed at Aviation Department with Finance including Warehouse employees.” The Director explained that Warehouse reports to Finance. The Director stated they are aware that the City has an OIG that conducts investigations, and during the January 7, 2022 discussion the Director did advise that the Aviation Department would be contacting Central HR and City Legal to confer on how best to proceed. The Director went on to say that it was understood that the OIG would proceed with conducting their own investigation. The Director also pointed out that because many of the employees are bargaining unit employees, union timelines had to be considered. The Director stated that it was City Legal who advised that City Legal had made the decision that a third-party investigative firm would conduct an investigation, in addition to the OIG’s investigation. The Director stated they felt that the proper procedures have been done with regard to this matter.

### **Interview with City Legal**

With regard to the allegations involving the Aviation Department’s Finance and Warehouse employees, City Legal confirmed that the City’s Central HR and Legal Departments advised that a third-party investigative firm be brought in to look into the allegations of timecard fraud.

City Legal stated that it has been a long-standing practice for the City to utilize outside investigative firms. One of the reasons for this being that often times there are union timelines that have to be considered and the requirement to abide by these timelines. City Legal indicated that the mandate for the OIG is different; for the OIG it is more important to complete the investigation in whatever time it requires. The viewpoint of City Legal was also that the OIG looks for broader policy violations more so than wrongdoing, which is what many of the administrative investigations look into. City Legal confirmed that the case involving Aviation Finance and Warehouse involved most, if not all, employees who are part of a collective bargaining unit, which according to City Legal, has a history of being litigious and has a history of “fighting everything”.

City Legal stated that utilizing outside investigative firms also provide protections; work product is privileged, falling under the attorney/client privilege. City Legal stated that they checked with their “client” to see if the client was willing to waive confidentiality so that information could be shared with the OIG. However, City Legal stated that their client declined. With regard to this matter, the “client” would be the City -- the Aviation Department and Administration.



## **Review of Contract with Investigative Firm**

The OIG reviewed the contract between the City of Albuquerque's Legal Department and an outside investigative firm. The Agreement was for "Investigative services" with a Scope of Services which includes providing "Investigative services, including testifying at Personnel Board hearings and serving subpoenas for administrative matters." The Contract Term was from 03/16/2021 through 06/30/2021 and the Contract Amount was for \$5,000.00 with FY Aggregate \$7,500.00

The OIG also reviewed the "First Supplemental Agreement" between the outside investigative firm and the City's Legal Department. This agreement was to "Extend Time" for investigative services. The contract term was from 07/01/2021 through 06/30/2022 and the Contract Total was for \$5,000.00.

## **CONCLUSION**

The OIG's investigation confirms that the City's Legal Department advised that a third-party investigative firm should be brought in to investigate the complaint received on January 7, 2022 regarding allegations of timecard fraud in the Aviation Department's Finance and Warehouse divisions. Although there were discussions between the Aviation Director, Aviation HR and the IG regarding this complaint, and although the Aviation Department and City Legal were aware that the OIG would be conducting an investigation into this complaint, the Aviation Department and City Legal proceeded with steps to request a third-party investigative firm to come in. As a result, two investigations into the same allegations were conducted.

The City's actions may constitute waste, as it could be viewed that there is an unnecessary expenditure of Government funds, given that the City has a department with employees who are tasked with conducting investigations into allegations of fraud, waste, and abuse related to City functions and employees.

As a result of our investigation, OIG has made one (1) recommendation for improvement.

## **OBSERVATIONS AND RECOMMENDATIONS**

### **Two simultaneous investigations into the same matter.**

**Condition:** A complaint was submitted to both the IG and the Director for the Aviation Department. The date of receipt of the complaint, the Director and the IG discussed the fact that the IG would be investigating this complaint. Subsequent to that conversation, Aviation conferred with City Legal, who advised that a third-party investigative firm should be brought in to investigate the allegations brought forth in the complaint. City Legal and the Aviation Department acknowledged that the OIG would be conducting its own investigation into these allegations as well.

**Criteria:** The City has an Office of Inspector General. The OIG is an independent City department whose function and purpose is to conduct investigations into allegations of fraud, waste, and abuse.

**Cause:** The City has a contract with a third-party investigative firm for “investigative services” of employee misconduct. City Legal cited one of the reasons for hiring the third-party investigative firm as the complaints involve bargaining unit employees and therefore, union timelines and the requirement to abide by these timelines have to be considered. City Legal also stated that utilizing outside investigative firms provides protections such as attorney/client privilege, and that there are times in which litigation comes into play.

**Effect:** Duplicating the services of the Office of Inspector General may constitute waste, as it could be viewed that there is an unnecessary expenditure of Government funds, or that resources are being used or expended carelessly, negligently, extravagantly, or to no purpose, whether intentional or not.

**Recommendation:** The OIG is a City budgeted department whose purpose is to investigate allegations of fraud waste and abuse, and because the OIG has successfully met union as well as other timelines with past investigations, the City should consider allowing cases to go to the OIG first and allowing the OIG to make the decision as to whether a case might be better handled by another department or entity.

**Management Response:** Management states that the “condition” paragraph above should clarify that the current investigative report is predicated on a complaint about the manner in which a prior complaint (“Prior Complaint”) was investigated. In this case, Management did consider whether to allow the OIG to complete the OIG investigation before proceeding with a separate investigation. In consideration of the nature and timing of the Prior Complaint, Management made a good-faith decision to use all means at its disposal to investigate, including hiring a third-party investigator. Management conferred with the Human Resources Department prior to commissioning a private investigation, and Management’s decision was made in consultation with legal counsel. Moreover, the Prior Complaint was so vague that it was difficult to determine if it implicated matters of labor law outside of the OIG’s jurisdiction. Aviation did not interfere with OIG’s investigation of the Prior Complaint. In hindsight, Aviation’s decision was prudent. In cases when a complaint is submitted simultaneously to Aviation and the OIG, Aviation will continue to consider allowing OIG to issue a decision or recommendation before requesting a separate investigation by a department other than Aviation or a private firm.