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Report of Investigation

FILE NO: 22-0168-C

SUBJECT MATTER: Abuse of Time

STATUS: Final

INVESTIGATOR: M. Santistevan

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November 30, 2022
Date of Completion

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Edmund Perera

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ACCOUNTABILITY IN GOVERNMENT
OVERSIGHT COMMITTEE CHAIRPERSON

January 4, 2023
Date of Approval

DISTRIBUTION:

Honorable Mayor
President City Council
Chief Administrative Officer
City Councilors
Director Council Services
City Attorney
Department Director
Members, Accountability and Government Oversight Committee
File

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EXECUTIVE SUMMARY

According 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.

On September 14, 2022, the Office of Inspector General (OIG) received an anonymous complaint alleging a Family & Community Services (FCS) employee (E1) is abusing time. The complaint alleges E1 works from home most days but the City Administrative Instruction says only two days per week is permitted. It also alleges that E1 leaves at 2:00 pm for family obligations and E1 goes on vacation but does not put in for vacation. The OIG determined that the allegations contained elements of potential fraud, waste, or abuse and that it was appropriate for the OIG to conduct a fact-finding investigation. The purpose of the investigation was to determine if E1 is abusing time.

As a result of the investigation, the OIG was able to substantiate the allegation regarding E1's abuse of time.

ABBREVIATIONS

FCS: Family & Community Services
City: City of Albuquerque
E1: FCS Employee (subject)
E2: FCS Employee
E3: FCS Employee
E4: FCS Employee
E5: FCS Employee
E6: FCS Employee
E7: FCS Employee
E8: FCS Employee
E9: FCS Employee
OIG: Office of Inspector General

INTRODUCTION

The mission of the Office of Inspector General (OIG) is to provide independent and objective insight, oversight, and foresight in promoting integrity, efficiency, overall effectiveness, accountability, and transparency in government to safeguard and preserve public trust.

Complaint

Allegation of a Family & Community Services (FCS) employee (E1) abusing time. The complaint alleges E1 works from home most days but the City Administrative Instruction says only two days per week is permitted. It also alleges that E1 leaves at 2:00 pm for family obligations and E1 goes on vacation but does not put in for vacation.

Background

In 2020, the City of Albuquerque began to issue Administrative Instructions (AIs) to address City operations during the COVID-19 pandemic. Initially, the AIs addressed the need for Public Emergency Sick leave, but as vaccinations were introduced and the effects of the pandemic appeared to be slowing the City issued AI 7-66 regarding remote work.

In October 2021, the City issued AI 7-66 and the purpose was to guide City Department Directors on establishing a department remote work policy for certain departmental employees or divisions. This includes guidance to ensure a safe and productive remote work environment. Directors are responsible for making the ultimate decision as to whether any position's functions are compatible with a remote work schedule under this Administrative Instruction. This decision must be made with careful consideration of the missions of the department and the City. AI-7-66 allows the employee to perform assigned duties at an alternate work site during some of their scheduled work hours. The Department Director may submit a proposed telecommuting policy to the Chief Administrative Officer to allow eligible employees or divisions to work remotely for up to two (2) days/work shifts in a one-week work period.

SCOPE AND METHODOLOGY

Scope: Time reporting information for E1 for the period December 1, 2021, to September 27, 2022.

The methodology consisted of:

- Research employee information for those identified
- Send out Notices of Investigations
- Send out Notices of Interviews
- Develop interview questions
- Conduct interviews
- Contact Legal to see if there is any pending litigation
- Contact Risk Management to see if there is any pending litigation
- Complete report

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

INVESTIGATION

Allegation: A Family & Community Services (FCS) employee (E1) abusing time. The complaint alleges E1 works from home most days but the City Administrative Instruction says only two days per week is permitted. It also alleges that E1 leaves at 2:00 pm for family obligations and E1 goes on vacation but does not put in for vacation.

Authority: *AI-7-66 Teleworking/Work from Home*

Under this administrative instruction and the guidelines below, a Department Director may submit a proposed telecommuting policy to the Chief Administrative Officer. Such a policy may allow eligible employees or divisions to work remotely for up to two (2) days/work shifts in a one-week work period. Each proposed policy must include a justification for why the position, group of positions, or division is suitable for remote work. This justification should also detail any unique reasons specific to an individual Department and its affected divisions for issuing a remote work policy. The Chief Administrative Officer shall approve or deny each Department's policy. Such a policy may not be implemented until it has been affirmatively approved by the Chief Administrative Officer.

Before implementation of any remote work agreement, an employee shall sign a copy of the Department's policy acknowledging receipt, understanding, and agreeing to comply with the terms of the Department's remote work policy.

Each policy must include the following provisions:

- Employees may be required to work at their City worksite as needed and remote work days will not be guaranteed.

- Rescheduling, delaying, or postponement of work assignments or meetings based upon a remote work schedule is not allowed.
- Specific examples in which an employee/division would be required to work at a City worksite, even if previously scheduled to work from home.
- Remote work days/shifts may not be intermittent or be divided throughout the work week nor set as an employee's normal work schedule (e.g., if an employee works an 8-hour shift per day, they should only be allowed to work remotely for two solid 8-hour shifts in one work week, an employee may not be allowed to regularly split the 16 hours throughout the week).
- Any exceptions should only be made occasionally and after approval of the Department Director on a case-by-case basis. Department Directors may authorize direct supervisors to manage and track occasional or periodic work-from-home arrangements for more than two (2) days in a one-week time period. Such arrangements should be the exception and not the norm. Any exceptions shall be documented and kept in the employee's department file.
- The City will determine, with information supplied by the employee and direct supervisor, the appropriate equipment needs and VPN access for each telecommuting arrangement. The Human Resources Department (HRD) and Department of Technology and Innovation (DTI) will serve as resources in this matter.
- Work product and intellectual property generated as a result of any remote work agreement remain the property of the City, as is true of any work product and intellectual property generated during onsite work.
- Employees must perform all work securely and safeguard any confidential information. Employees must follow all City cybersecurity practices. Any computer or security issues must be reported to the Employee's supervisor and the appropriate service desk for the Employee's department.
- Employees must adhere to any applicable record retention policies or procedures.
- Each policy must include a procedure on how scheduling will be approved and that implementation is contingent upon Director approval. Telecommuting employees who are not exempt from the overtime requirements of the Fair Labor Standards Act will be required to record all hours worked in a manner designated by the City. Hours worked in excess of those specified per day and per workweek, in accordance with state and federal requirements, will require the advance approval of the Department Director.
- Each policy must specify instances when an employee is not or may not be eligible for remote work. For example, probationary employees, and employees that have received disciplinary action within a 12-month period.
- A Department director may revoke a remote work agreement with or without notice for any reason. If the remote work agreement is revoked for any reason other than a violation of City policy regarding telecommuting, discipline, or proposed discipline, reasonable notice of revocation will be provided to employees at least one week prior to revocation when possible. Each Department policy should clarify any additional circumstances in which a remote work agreement may be terminated.
- Procedures for appropriate assurances of work productivity and recording of hours worked should be included.
- Unless otherwise approved by an employee's direct supervisor, an employee's alternate work location shall be at the employee's home. The City may, with 24-hour notice, access the alternate work location to assess safety and security. The City is not liable for any injury to others at the alternate work location.
- The City is not responsible for any utility costs, including but not limited to the cost of an internet connection or cell phone, associated with the use of a computer or the performance of work functions at the alternate work location. Unless explicitly and previously approved

by the Department Director, the City is not responsible for the costs of equipment or supplies required to work from an alternate location. Any request to take City office supplies or equipment to a remote worksite shall be approved by the employee's direct supervisor.

- Any employee who has requested to work remotely is responsible for providing, maintaining, and repairing employee-owned equipment in addition to paying for electronic service expenses used at the remote work location at personal expense.
- Any equipment supplied by the City is to be used for business purposes only. Employees will provide an inventory of all office property and take appropriate action to protect items from damage or theft. All equipment, records, and materials provided by the City will remain the property of the City. All equipment, records, and materials must be returned to the City within five days of the end of the telecommuting period, or earlier if requested.
- Employees are responsible for any tax or insurance consequences as a result of this arrangement. Employees are responsible for conforming to any local zoning regulations.
- Injuries sustained by the employee while at his or her alternative work location and in conjunction with his or her regular work duties may be covered by the company's workers' compensation policy. However, each employee is responsible for providing themselves with an ergonomic work environment. Telecommuting employees are responsible for notifying the employer at the earliest possible opportunity of such injuries in accordance with the City's workers' compensation procedures.

Any failure to comply with the provisions of this agreement may lead to disciplinary action.

301.2 Professional Excellence

Employees are encouraged to strive for personal and professional excellence as a means of keeping current on relevant issues and administering the public's business with professional competence, efficiency, and effectiveness.

301.3 Standards of Conduct

Employees shall in all instances maintain their conduct at the highest personal and professional standards in order to promote public confidence and trust in the City and public institutions and in a manner that merits the respect and cooperation of co-workers and the community.

301.9 False Statements/Fraud

No employee shall willfully make any false statement, certificate, mark, rating, or report regarding any test, certification, appointment, or investigation, or in any manner commit any fraud, conceal any wrongdoing or knowingly withhold information about wrongdoing in connection with employment with the City in connection with the work-related conduct of any City employee.

301.11 City Funds

Employees are personally accountable for City money over which they have possession or control. All employees who are in control of City funds must maintain accurate and current records of all such funds. Employees must comply with all policies, practices, and procedures promulgated by the Department of Finance and Administrative Services and approved by the Chief Administrative Officer and in accordance with Generally Accepted Accounting Principles regarding the receipt, recording, and disbursement of public monies.

301.13 City Records and Accounting

All City records, including reports, vouchers, requisitions, payroll, and personnel records must be prepared factually and accurately. It is the personal obligation of the employee completing such

records as well as the supervisor to ensure that such records are accurate and comply with federal, state, and City record-keeping and accounting requirements.

Evidence: A review of E1's signed and approved teleworking/work-from-home agreement dated November 10, 2021, revealed that E1 was authorized to work from their home address on file on Thursdays and Fridays of each week. The Director had no additional documentation on file to indicate other exceptions were documented and existed as required by AI 7-66.

A review of the timecard audit trail between December 1, 2021, to September 27, 2022, revealed E1's requested vacation and other time off entered into the Kronos system. Most entries were made by E1, however, the OIG noted that thirteen (13) system adjustments were made by the payroll department to modify time off or time worked that had not been previously entered. Additionally, there were four (4) entries made by the Director to add additional vacation or other time off taken that had not been previously entered. The addition of the entries, by the Director, was indicative of approval. The OIG was able to verify that these entries were reflected in E1's pay stubs.

The OIG requested E1's Outlook calendar from E1 and upon review of events logged on the calendar it was noted that May 26, 2022, and May 27, 2022, were marked as "Busy". The OIG compared the information on the personal calendar to the VPN logs for E1 and it was revealed that E1 was logged into the VPN between May 26, 2022, through May 28, 2022, for 33 hours, and 32 minutes that the system reflected an idle timeout twice for this period. The geolocation of the VPN was Gypsum, CO. There was no entry through badge swipes at the FCS office for these two dates. Thursday and Friday were scheduled to be remote work days from the home address on file per the telework agreement. There was no time off entered into Kronos or reflected in E1's pay stub for these two days. E1's calendar revealed that E1 combines two fifteen-minute breaks into one thirty-minute break each day. E1's calendar also revealed notations for eleven (11) personal events that did not correlate to time off taken through Kronos.

A review of E1's badge swipes revealed when E1 utilized a badge to enter the FCS offices through a side door. It is important to note that use of the front entrance of the FCS office did not require a badge swipe, therefore, rendering the door swipe dates and times unreliable themselves, however, when compared to the other sources of information, they provided evidence that E1 utilized the badge at the work site on days scheduled to work from the office. During this period, there were one-hundred twenty-nine (129) days that E1 was scheduled to work in the office, however, twenty-four (24) of those days were attributable to having taken approved time off. The OIG found forty-two (42) days out of one-hundred-five (105) days that E1 was required to be working in the office, where E1 used their badge to swipe into the FCS side door.

On June 6, 2022, E1's calendar indicates "out" between 12:00 pm and 5:00 pm, however, E1 only took two (2) hours of Compensatory time off -Blood Donation or Special Recognition (CTOS) banked time off.

On Wednesday, December 29, 2021, E1 took four (4) hours of “other” time off between 8:00 am and 12:00 pm. This was a day E1 was designated to work from the office, however, E1 used the VPN to remote access the system at 1:46 pm and was intermittently logged into the system for only 1 hour, and 36 minutes of the remaining four (4) hours of the work day.

A review of VPN logs reflected remote access into the City’s software even while taking time off or after normal working hours. Many of these logins after hours or while on vacation were for short durations.

The following schedule is the OIG’s analysis of the teleworking/work-from-home days from December 1, 2021, to September 27, 2022. This schedule reveals two (2) teleworking days where E1 did not log into the VPN, these days are noted in blue. While conducting the analysis, the OIG noted that E1 logged into the City’s system through multiple VPNs at the same time, making it difficult to ascertain the exact duration of working time. On May 26, 2022, and May 27, 2022, E1 logged into the City remotely from an IP address in Gypsum, Colorado on a network different from E1’s identified home network. E1 did not take time off for these two days.

Many times, the VPN was not disconnected as revealed through the durations over days which are noted in green. Seventeen (17) times, the VPN connection was disconnected as a result of idle timeouts, indicating no activity as noted in purple.

Date	Day	From IP Address	Duration	Event	Reason
12/2/2021	Thursday	73.127.205.57		Connected	
12/3/2021	Friday	73.127.205.57	1d 4h:03m:30s	Disconnected	User Requested
12/9/2021	Thursday	73.127.205.57		Connected	
12/9/2021	Thursday	73.127.205.57	10h:26m:20s	Disconnected	User Requested
12/10/2021	Friday	174.205.99.146		Connected	
12/16/2021	Thursday	73.127.205.57		Connected	
12/16/2021	Thursday	73.127.205.57	3h:47m:00s	Disconnected	User Requested
12/17/2021	Friday	73.127.205.57		Connected	
12/17/2021	Friday	73.127.205.57	8h:35m:59s	Disconnected	User Requested
12/17/2021	Friday	73.127.205.57		Connected	
12/17/2021	Friday	73.127.205.57	2h:16m:11s	Disconnected	User Requested
12/23/2021	Thursday	No VPN Login			
12/24/2021	Friday	City Holiday			
12/30/2021	Thursday	73.127.205.57		Connected	
12/30/2021	Thursday	73.127.205.57	7h:02m:56s	Disconnected	User Requested
12/31/2021	Friday	City Holiday			
1/6/2022	Thursday	73.127.205.57		Connected	

1/6/2022	Thursday	174.205.97.232		Connected	
1/6/2022	Thursday	73.127.205.57	17h:06m:07s	Disconnected	Idle Timeout
1/7/2022	Friday	174.205.97.232	11h:04m:07s	Disconnected	Idle Timeout
1/7/2022	Friday	73.127.205.57		Connected	
1/7/2022	Friday	174.205.104.153		Connected	
1/13/2022	Thursday	174.205.42.1		Connected	
1/13/2022	Thursday	174.205.42.1	1h:51m:53s	Disconnected	User Requested
1/13/2022	Thursday	73.127.205.57		Connected	
1/13/2022	Thursday	73.127.205.57	5h:01m:07s	Disconnected	User Requested
1/14/2022	Friday	73.127.205.57		Connected	
1/14/2022	Friday	174.205.97.45		Connected	
1/14/2022	Friday	174.205.97.45	0h:38m:14s	Disconnected	User Requested
1/14/2022	Friday	98.50.113.77		Connected	
1/14/2022	Friday	98.50.113.77	0h:05m:47s	Disconnected	User Requested
1/14/2022	Friday	73.127.205.57	9h:09m:32s	Disconnected	User Requested
1/20/2022	Thursday	73.127.205.57		Connected	
1/20/2022	Thursday	73.127.205.57	12h:14m:51s	Disconnected	User Requested
1/21/2022	Friday	No VPN Login			
1/27/2022	Thursday	73.127.205.57		Connected	
1/27/2022	Thursday	73.127.205.57	7h:53m:30s	Disconnected	User Requested
1/28/2022	Friday	73.127.205.57		Connected	
1/28/2022	Friday	73.127.205.57	9h:13m:31s	Disconnected	User Requested
2/3/2022	Thursday	73.127.205.57		Connected	
2/3/2022	Thursday	73.127.205.57	8h:45m:47s	Disconnected	User Requested
2/4/2022	Friday	73.127.205.57		Connected	
2/4/2022	Friday	73.127.205.57	2h:40m:47s	Disconnected	User Requested
2/4/2022	Friday	73.127.205.57		Connected	
2/4/2022	Friday	73.127.205.57	0h:19m:13s	Disconnected	User Requested
2/10/2022	Thursday	73.127.205.57		Connected	
2/10/2022	Thursday	73.127.205.57	9h:57m:01s	Disconnected	User Requested
2/11/2022	Friday	73.127.205.57		Connected	
2/17/2022	Thursday	73.127.205.57		Connected	

2/18/2022	Friday	73.127.205.57	1d 0h:10m:07s	Disconnected	User Requested
2/18/2022	Friday	73.127.205.57		Connected	
2/18/2022	Friday	73.127.205.57	14h:00m:34s	Disconnected	User Requested
2/24/2022	Thursday	73.127.205.57		Connected	
2/24/2022	Thursday	73.127.205.57	10h:33m:09s	Disconnected	User Requested
2/25/2022	Friday	73.127.205.57		Connected	
2/25/2022	Friday	73.127.205.57	10h:22m:41s	Disconnected	User Requested
3/3/2022	Thursday	73.127.205.57		Connected	
3/3/2022	Thursday	73.127.205.57	3h:21m:52s	Disconnected	User Requested
3/3/2022	Thursday	73.127.205.57		Connected	
3/3/2022	Thursday	216.243.114.86		Connected	
3/3/2022	Thursday	174.205.102.11	1h:20m:06s	Disconnected	User Requested
3/4/2022	Friday	73.127.205.57	19h:42m:36s	Disconnected	User Requested
3/4/2022	Friday			Door Swipe	
3/4/2022	Friday	174.205.66.120		Connected	
3/4/2022	Friday	73.127.205.57		Connected	
3/4/2022	Friday	73.127.205.57	1h:21m:13s	Disconnected	User Requested
3/10/2022	Thursday	73.127.205.57		Connected	
3/10/2022	Thursday	73.127.205.57	11h:44m:16s	Disconnected	User Requested
3/11/2022	Friday	73.127.205.57		Connected	
3/11/2022	Friday	73.127.205.57		Connected	
3/11/2022	Friday	73.127.205.57	7h:46m:21s	Disconnected	User Requested
3/11/2022	Friday	73.127.205.57	12h:12m:32s	Disconnected	Idle Timeout
3/17/2022	Thursday	73.127.205.57		Connected	
3/17/2022	Thursday	73.127.205.57	10h:40m:08s	Disconnected	User Requested
3/18/2022	Friday	73.127.205.57		Connected	
3/18/2022	Friday	73.127.205.57	9h:38m:01s	Disconnected	User Requested
3/24/2022	Thursday	73.127.205.57		Connected	
3/24/2022	Thursday	73.127.205.57	8h:32m:53s	Disconnected	User Requested
3/24/2022	Thursday	73.127.205.57		Connected	
3/24/2022	Thursday	73.127.205.57	0h:10m:34s	Disconnected	User Requested
3/25/2022	Friday	73.127.205.57		Connected	

3/31/2022	Thursday	174.205.171.111	10h:17m:21s	Disconnected	Idle Timeout
3/31/2022	Thursday	73.127.205.57		Connected	
3/31/2022	Thursday	73.127.205.57	10h:11m:55s	Disconnected	User Requested
4/1/2022	Friday	73.127.205.57		Connected	
4/1/2022	Friday	174.205.248.117		Connected	
4/1/2022	Friday	174.205.230.74		Connected	
4/1/2022	Friday	174.205.230.74	0h:00m:03	Disconnected	User Requested
4/1/2022	Friday	174.205.230.74		Connected	
4/1/2022	Friday	174.205.230.74		Connected	
4/1/2022	Friday	174.205.174.233	11h:55m:35s	Disconnected	Idle Timeout
4/1/2022	Friday	174.240.1.61	12h:31m:03s	Disconnected	Idle Timeout
4/1/2022	Friday	174.205.230.74	10h:22m:12s	Disconnected	Idle Timeout
4/7/2022	Thursday			Door Swipe	
4/8/2022	Friday	73.127.205.57		Connected	
4/14/2022	Thursday	73.127.205.57		Connected	
4/14/2022	Thursday	73.127.205.57	9h:10m:53s	Disconnected	User Requested
4/15/2022	Friday	73.127.205.57		Connected	
4/21/2022	Thursday	73.127.205.57		Connected	
4/22/2022	Friday	50.226.104.50		Connected	
4/22/2022	Friday	50.226.104.50	2h:17m:57s	Disconnected	User Requested
4/22/2022	Friday	73.127.205.57	1d 12h:25m:07s	Disconnected	User Requested
4/28/2022	Thursday			Door Swipe	
4/28/2022	Thursday	174.205.227.137		Connected	
4/28/2022	Thursday	174.205.229.137	2h:26m:47s	Disconnected	User Requested
4/28/2022	Thursday			Door Swipe	
4/29/2022	Friday	73.127.205.57		Connected	
4/29/2022	Friday	73.127.205.57	8h:01m:10s	Disconnected	User Requested
5/5/2022	Thursday	73.127.205.57		Connected	
5/6/2022	Friday	73.127.205.57	22h:34m:29s	Disconnected	User Requested
5/6/2022	Friday	73.127.205.57		Connected	
5/6/2022	Friday	73.127.205.57		Connected	
5/6/2022	Friday	174.205.174.235		Connected	
5/6/2022	Friday	174.205.174.235		Connected	
5/6/2022	Friday	174.205.174.235		Connected	

5/6/2022	Friday	73.127.205.57	16h:54m:52s	Disconnected	Idle Timeout
5/12/2022	Thursday	174.205.230.133		Connected	
5/12/2022	Thursday	174.205.229.190		Connected	
5/12/2022	Thursday	174.205.229.190	0h:31m:56s	Disconnected	User Requested
5/12/2022	Thursday	174.205.230.133	15h:18m:31s	Disconnected	Idle Timeout
5/13/2022	Friday	174.205.177.203		Connected	
5/13/2022	Friday	174.205.177.203	11h:19m:22s	Disconnected	Idle Timeout
5/13/2022	Friday			Door Swipe	
5/19/2022	Thursday	98.48.48.62		Connected	
5/19/2022	Thursday	98.48.48.62	11h:34m:48s	Disconnected	User Requested
5/20/2022	Friday	98.48.48.62		Connected	
5/20/2022	Friday	50.232.213.35		Connected	
5/20/2022	Friday	50.232.213.35	0h:42m:30s	Disconnected	User Requested
5/26/2022	Thursday	68.233.148.70		Connected	
5/27/2022	Friday	68.233.148.70	16h:48m:46s	Disconnected	Idle Timeout
5/27/2022	Friday	68.233.148.70		Connected	
5/27/2022	Friday	68.233.148.70	3h:14m:02s	Disconnected	User Requested
5/27/2022	Friday	68.233.148.70		Connected	
6/2/2022	Thursday	98.48.48.62		Connected	
6/2/2022	Thursday	174.205.224.205		Connected	
6/2/2022	Thursday	24.248.176.60	10h:14m:27s	Disconnected	User Requested
6/3/2022	Friday	24.248.176.60		Connected	
6/3/2022	Friday	174.240.2.81		Connected	
6/3/2022	Friday	174.240.2.81	0h:03m:08s	Disconnected	User Requested
6/3/2022	Friday	174.205.161.48	15h:07m:45s	Disconnected	Idle Timeout
6/9/2022	Thursday	174.205.244.224		Connected	
6/9/2022	Thursday	174.205.239.234	5h:47m:46s	Disconnected	User Requested
6/9/2022	Thursday	98.48.48.62		Connected	
6/9/2022	Thursday	98.48.48.62	0h:24m:04s	Disconnected	User Requested
6/10/2022	Friday	98.48.48.62		Connected	
6/10/2022	Friday	209.189.130.121		Connected	
6/10/2022	Friday	209.189.130.121	4h:20m:04s	Disconnected	User Requested
6/16/2022	Thursday	98.48.48.62		Connected	

6/16/2022	Thursday	98.48.48.62	9h:52m:33s	Disconnected	User Requested
6/17/2022	Friday	98.48.48.62		Connected	
6/17/2022	Friday	174.205.173.131		Connected	
6/17/2022	Friday	174.240.1.99	4h:19m:28s	Disconnected	User Requested
6/23/2022	Thursday	173.11.43.185		Connected	
6/23/2022	Thursday	173.11.43.185	2h:19m:34s	Disconnected	User Requested
6/24/2022	Friday	97.64.79.172		Connected	
6/24/2022	Friday	97.64.79.172	10h:31m:48s	Disconnected	Idle Timeout
6/30/2022	Thursday	174.205.174.111		Connected	
6/30/2022	Thursday	98.48.48.62		Connected	
6/30/2022	Thursday	98.48.48.62	6h:06m:12s	Disconnected	User Requested
6/30/2022	Thursday	98.48.48.62	8h:55m:49s	Disconnected	User Requested
6/30/2022	Thursday	98.48.48.62		Connected	
6/30/2022	Thursday	98.48.48.62	0h:22m:47s	Disconnected	User Requested
7/1/2022	Friday	98.48.48.62		Connected	
7/1/2022	Friday	98.50.112.10		Connected	
7/1/2022	Friday	98.48.48.62	1h:44m:35s	Disconnected	User Requested
7/7/2022	Thursday	98.48.48.62		Connected	
7/7/2022	Thursday	98.48.48.62	12h:01m:07s	Disconnected	User Requested
7/8/2022	Friday	98.48.48.62		Connected	
7/28/2022	Thursday	98.48.48.62		Connected	
7/28/2022	Thursday	98.48.48.62	10h:30m:34s	Disconnected	User Requested
7/29/2022	Friday	98.48.48.62		Connected	
7/29/2022	Friday	98.48.48.62	9h:00m:22s	Disconnected	User Requested
8/4/2022	Thursday			Door Swipe	
8/4/2022	Thursday	98.48.48.62		Connected	
8/4/2022	Thursday	98.48.48.62	0h:51m:25s	Disconnected	User Requested
8/5/2022	Friday	98.48.48.62		Connected	
8/5/2022	Friday	98.48.48.62	9h:48m:29s	Disconnected	User Requested
8/5/2022	Friday	98.48.48.62		Connected	
8/5/2022	Friday	98.48.48.62	0h:05m:00s	Disconnected	User Requested
8/11/2022	Thursday	98.48.48.62		Connected	

8/11/2022	Thursday	98.48.48.62	8h:29m:08s	Disconnected	User Requested
8/12/2022	Friday	98.48.48.62		Connected	
8/18/2022	Thursday	98.48.48.62		Connected	
8/18/2022	Thursday	98.48.48.62	9h:04m:57s	Disconnected	User Requested
8/19/2022	Friday	50.226.104.90		Connected	
8/19/2022	Friday			Door Swipe	
8/19/2022	Friday	216.243.114.86	0h:31m:51s	Disconnected	User Requested
8/19/2022	Friday			Door Swipe	
8/19/2022	Friday	174.205.99.239		Connected	
8/19/2022	Friday	174.205.99.239	2h:24m:44s	Disconnected	User Requested
8/25/2022	Thursday	98.48.48.62		Connected	
8/25/2022	Thursday	98.48.48.62	8h:20m:59s	Disconnected	User Requested
8/26/2022	Friday	98.48.48.62		Connected	
8/26/2022	Friday	98.48.48.62	8h:39m:48s	Disconnected	User Requested
9/1/2022	Thursday	98.48.48.62		Connected	
9/1/2022	Thursday	98.48.48.62	1h:28m:13s	Disconnected	User Requested
9/2/2022	Friday	98.48.48.62		Connected	
9/2/2022	Friday	98.48.48.62	9h:10m:11s	Disconnected	User Requested
9/8/2022	Thursday	98.48.48.62		Connected	
9/8/2022	Thursday	98.48.48.62	9h:33m:38s	Disconnected	User Requested
9/9/2022	Friday	98.48.48.62		Connected	
9/15/2022	Thursday	73.98.53.221		Connected	
9/15/2022	Thursday	73.98.53.221	8h:49m:14s	Disconnected	User Requested
9/16/2022	Friday	73.98.53.221		Connected	
9/22/2022	Thursday	50.226.104.50		Connected	
9/22/2022	Thursday	50.226.104.50	0h:17m:56s	Disconnected	User Requested
9/22/2022	Thursday	50.226.104.50		Connected	
9/22/2022	Thursday	73.98.53.221		Connected	
9/22/2022	Thursday	73.98.53.221	2h:40m:46s	Disconnected	User Requested
9/22/2022	Thursday	73.98.53.221		Connected	
9/22/2022	Thursday	73.98.53.221		Connected	
9/22/2022	Thursday	73.98.53.221		Connected	
9/23/2022	Friday	73.98.53.221	10h:00m:10s	Disconnected	Idle Timeout

9/23/2022	Friday	73.98.53.221	16h:42m:37s	Disconnected	Idle Timeout
9/23/2022	Friday	73.98.53.221	14h:46m:28s	Disconnected	Idle Timeout
9/23/2022	Friday	73.98.53.221	10h:23m:01s	Disconnected	Idle Timeout
9/23/2022	Friday	73.98.53.221		Connected	

Interviews: During our interview with E1, E1 stated that the City issued AI 7-66 regarding teleworking and that each agreement required Director approval. The entire fiscal division of FCS was required to install specified software and telework Thursdays and Fridays. Telework agreements identify specific terms such as location, hours days, the ability to revoke the agreement, and the fact that an employee may be required to be in the office for meetings. Telework is based on the honor system. Any deviations to the regular work schedule must be documented in writing and approved by the Employee, Supervisor, Fiscal Manager, and Director. E1 is not aware of any long-standing deviations being granted in the department. Exempt employees do not receive compensatory time for hours worked over 40 per week but also that there are no consequences for working less than 40 hours either. Interviews with E2, E3, E4, E5, and E6 corroborated that the FCS Fiscal Division teleworked from home every Thursday and Friday and that remote work relies on the employees being honest in their reporting of time worked and leave taken. All employees must abide by the signed agreement, and any changes to the agreement must be documented and approved by E1 and the Director. None of those interviewed knew of any long-standing deviations from the agreements being made within the department.

During the interviews, the OIG inquired about the process for taking time off. E5 stated that vacation time must be submitted 24 hours prior and must be approved by the Fiscal Manager. E5 stated that time off must be entered into the Kronos timekeeping system and that an employee cannot make-up time for appointments. E3 stated that for most employees it is not acceptable to work outside your approved schedule but, that for some employees, exceptions are made.

E1 stated that E1 chooses not to have a city-issued cell phone for personal reasons but did not elaborate on what those reasons are. E2, E3, E4, E5, and E6 corroborated that FCS Fiscal Division employees do not have city-issued cell phones. As a condition of teleworking, each must use their personal cell phone and is not reimbursed.

E1 stated that it is not customary for employees to work while on leave. E1 stated that E1 works on leave because E1 has to work until the job is done. E1 said E1 does not ever flex extra time worked while on vacation or leave. Once E1 was out on leave for a funeral, worked a half day, and still took eight hours of leave. E1 stated leave was not formally approved by Director, E1 stated that the Director was aware that E1 works 50 to 60 hours per week. E1 stated that E1 uses flex time for personal matters because E1 works through lunch and stays late. E1 stated that the demand is great, E1 takes calls from everyone and is on-call 24-7 and E1 is not compensated for the extra hours worked. E1 stated that E1 does not flex her time but may allow staff to use flex

time. Sometimes E1 takes flextime for personnel matters, but not often. E2, E5, and E6 corroborated E1's statement that it is not customary for employees to work on their vacation days. Additionally, E3 and E4 stated that sometimes individuals on vacation get a text to address a matter and they will review it. This does not happen often but does when there is a high volume of work. E2 stated that some managers send emails out after hours and on weekends further supporting that work occurs after normal business hours.

E1 stated that the point an employee is considered at work depends on whether the employee clocks in. Generally, it is when an employee is in the building, taking calls or answering emails. E1 stated that E1 is flexible with staff and allows deviations to the work day but that E1 doesn't get that same flexibility. Interviews with E2, E3, E4, E5, and E6 supported that an employee is considered at work when they are at their desk and logged into the City's system or clocked in.

When asked about the culture of the Fiscal Division, E5 stated that many of the employees stay to themselves and that interaction is limited to work matters. E3 stated remote work can be difficult and that it has impacted the culture of the department. E3 stated that E1 can be very direct and might be intimidating to some employees. E3 and E4 stated that most of the time consequences for actions appear to be warranted. E4 also stated that E1 targets employees and that managers have to run interference and this is affecting morale; there is a culture of fear. E6 says the culture is very good and that everyone is very helpful. E1 also stated that E1 thinks the staff has it made. E1 supports them and leads by example. E1 takes pride in E1's work and says that is hard to find these days. E1 does acknowledge making mistakes.

E1 acknowledged holding a meeting where E1 advised the staff that there were complaints that timelines were not being met. E1 stated that E1 did not call out anyone specifically but that employees could have perceived they were being called out. E1 stated that if the complainant had identified a specific employee or an isolated incident, E1 would have addressed the specific employee involved but, in this instance, the complaint was generalized to the Fiscal Division. E1 stated that E1 is direct. E1 did state that telework was a privilege and that it could be taken away. E1 said E1 did pull the telework agreement for one employee and that E1 did see improvement after the meeting. In support of E1's statement, E2 indicated that E4 took time off due to frustration over upper management's handling of flex time. E1 and E7 suggested taking away flex schedules because work was not getting done. E4 felt the team was getting work done. According to E2, it seemed that everyone was upset about flex time being taken away based on "a few bad eggs".

E3, E4, and E6 stated that E8 and E9 were discussing an event that occurred in the office where they overheard an argument between E1 and another employee that occurred in E1's office. E6 stated that both E1 and the other employee apologized to each other. E3 stated that a general meeting was conducted by E1 to advise the employees that there were complaints that timelines were not being met. E1 did state that telework was a privilege and that it could be taken away. E4 stated that there was a heated argument between E1 and an employee. E4 stated that a grievance had been filed with the FCS Human Resource liaison. Subsequently, a letter of instruction was

issued to the employee more than two weeks after the event, and it was perceived as retaliation for filing the grievance.

During our interviews, E2, E3, E4, E5, and E6 stated that they were not aware of instances where current employees were not complying with their approved schedules.

E5 stated that the FCS side door where badges must be used to gain access to the department is utilized by all employees, including City maintenance employees. The door is not monitored from within FCS.

In response to the OIG's inquiry of why someone made a complaint to the OIG's office, E1 stated that E1 believes that there are a couple of disgruntled employees in the office. E1 indicated now that some employees have to be in the office while others are teleworking, this had an impact on the employees.

Analysis: The evidence obtained by the OIG indicates anomalies consistent with abuse of time. The OIG considered the culmination of the facts identified through the evidence during our analysis. The evidence reveals that E1 was not at the home address on certain telework days and that there is no evidence of leave taken by E1 for those days. There was no time off entered into Kronos or reflected in E1's pay stub for those days. E1's calendar also revealed notations for eleven (11) personal events that did not correlate to time off taken through Kronos. There are no documented deviations in the schedule on file to explain the anomalies identified. VPN logs indicate two days where there was no log-in on a telework day. Additionally, multiple VPN logins on the same day along with the fact that the VPN is disconnected through idle timeouts is indicative that E1 is signing in and failing to log out, and may be suggestive of a deception reflecting E1 is working when they are not.

During the period of investigation, there were one-hundred twenty-nine (129) days that E1 was scheduled to work in the office, however, twenty-four (24) of those days were attributable to having taken approved time off. The OIG found forty-two (42) days out of one-hundred-five (105) remaining days that E1 was required to be working in the office, where E1 used their badge to swipe into the FCS side door. The absence of evidence during an investigation must also be considered as it can be indicative of anomalies.

Based on the VPN information obtained for Wednesday, December 29, 2021, the evidence suggests that there are two (2) hours, and twenty-three (23) minutes unaccounted for.

On June 6, 2022, E1's calendar indicates "out" between 12:00 pm and 5:00 pm, however, E1 only took two (2) hours of CTOS banked time off. Excluding a half hour for lunch and two (2) fifteen break periods the evidence obtained by the OIG suggests that E1 received pay for two (2) additional hours not worked.

On Wednesday, December 29, 2021, E1 took four (4) hours of “other” time off between 8:00 am and 12:00 pm. This was a day E1 was designated to work from the office, however, E1 used the VPN to remote access the system at 1:46 pm and was intermittently logged into the system for one (1) hour, and thirty-six (36) minutes.

The OIG’s analysis of the teleworking/work-from-home days from December 1, 2021, to September 27, 2022, revealed two (2) teleworking days where E1 did not log into the VPN.

On May 26, 2022, and May 27, 2022, E1 logged into the City remotely from an IP address in Gypsum, Colorado on a network different from E1’s identified home network. E1 did not take time off for these two (2) days.

On multiple occasions, E1 logged into the City’s system through more than one VPN at the same time. This suggests access from multiple devices, yet in each instance, the log-in time exceeds ten (10) hours and these instances overlap with each other. In addition, rather than disconnecting manually, each device disconnects due to an idle timeout, often on subsequent days. An idle timeout indicates that an employee logged into the City’s system and then abandoned the device rather than working for the recorded duration.

A review of VPN logs reflected remote access into the City’s software even while taking time off or after normal working hours. Many of these logins after hours or while on vacation were for short durations. The OIG acknowledges that there is an indication in the evidence that E1 works hours above their regularly scheduled work day, however, the City of Albuquerque’s personnel policy states that exempt employees are not entitled to compensation for hours worked over forty (40) hours per week. The interview with E1 revealed that E1 provided a rationale that E1 works many hours and is not compensated for these extra hours.

Although the interviews were less informative, they provided information to suggest that there was an incident that precipitated a complaint to the OIG. The interviews also provided support for the fact that the requirements relayed to certain employees may be different from what occurs for all employees. The disparity of consistency in application leads to low morale, disgruntled employees, and the perception of retaliation.

In total, the OIG was able to identify 4 days, 5 hours, and 59 minutes where E1 was not logged in on remote telework days or where E1 was not at their approved telework location and did not have approved time off. Based on E1’s current rate of pay, this amounts to \$1,689.15 in abused time.

Finding regarding allegation: The evidence obtained by the OIG substantiated the allegation of abuse of time by E1.

Recommendation: The FCS Director should take appropriate action to recoup the time not worked and not coded to other time off pay codes and determine if disciplinary action is necessary.

Additionally, the FCS Director should ensure proper teleworking protocols are being followed and any deviations are monitored and documented.

FCS should require E1, and other employees as deemed appropriate, to take additional training on the proper application of AI 7-66 and time recordkeeping. The FCS Director may consider requiring employees to take ethics training through the Center for Public Trust (CPT), which specializes in ethics training.

The Department of Technology and Information should reduce the VPN disconnect time to one (1) hour to prohibit unauthorized use and to mitigate potential theft through misuse of the VPN. Additionally, multiple simultaneous VPN logins from a single employee should not be permitted.

Management Response: The telecommute signed agreement with this employee allows for telecommuting on Thursdays and Fridays. The allegation that the employee works from home most days is incorrect. As the supervisor of the employee, I have not received any information collected to indicate time has been coded incorrectly. I approve all vacation time and am not aware of vacation time taken without leave submitted and approved. As a Division Manager, who is exempt, there may be times that a Manager may adjust time and leave earlier than regular hours. Typically, I am aware when adjustments are made (because of a late evening or extra hours spent to address deadlines-audits, budget, etc.), this is discussed with the employee and me, as their supervisor. This is not a regular pattern. This employee has a cell phone that is used to discuss work matters at any time as needed which does occur. VPN is one tool used by employees who are telecommuting. I do not have VPN information that indicates there is a problem. As the supervisor of this employee, I was not interviewed to provide information on this concern or provided with data regarding these allegations.

Addendum to Report of Investigation

ABBREVIATIONS

FCS:	Family & Community Services
City:	City of Albuquerque
E1:	Complainant
E2:	FCS Employee
E3:	FCS Director
FCSHR1:	FCS Human Resource liaison
OIG:	Office of Inspector General

Additional Information:

(E1) stated that an in-person request for an Administrative transfer out of the department was made on September 7, 2022. The OIG was unaware of the request for the Administrative transfer out at the time the initial complaint was made to the OIG, which was September 14, 2022. The Office of Inspector General completed its investigation regarding the abuse of time by an FCS employee on November 25, 2022. On November 28, 2022, the OIG received information alleging retaliation by the Family & Community Services (FCS) Department for a matter that had been reported to the Department's Human Resources liaison and the OIG.

The addendum to the Report of Investigation for case 22-0168-C was developed based on information from interviews, inspections, observations, and the OIG's review of selected documentation and records.

Evidence:

Emails between E3 and E1 and FCSHR1 and an Interoffice memorandum from E3 to E1. Note: each email has been modified to replace names with abbreviations.

An email submitted to the OIG on November 28, 2022, is as follows:

Good Afternoon,

I just wanted to give you a heads up. I asked for an administrative transfer because of the stuff happening with E2 and as a result my position is getting moved to Child Development in Family & Community Services effective Monday. I don't have an option. E2 is designing all the specifications for the new job and I will no longer be able to have the flex schedule I currently have and I won't be able to telework like the rest of the fiscal staff in Family & Community Services. I feel like E2 having control of this is another form of retaliation. I've attached the Memo that they are saying I have to sign by this afternoon or tomorrow morning.

The Interoffice memorandum dated November 28, 2022, revealed the following.

SUBJECT: Change in Work Location and Reports To

Effective Monday, December 5, 2022, you will be relocated from your current location at FCS Administration to FCS Child and Family Development Administration and your reports to will change. This location/reports to change will not affect your current grade, step, hourly rate, FLSA status or union status.

The changes to your location and reports to are as follows:

Report To: [REDACTED]

*Location: FCS Child and Family Development Administration (Randolph)
1820 Randolph Rd SE, Albuquerque, NM 87106*

Time: 8:00 am

Report Date: Monday, December 5, 2022

An email provided to the OIG on November 29, 2022, meant to recap a meeting held on November 28, 2022, between E1, E3 and FCSHR1 is as follows:

Good Evening,

I would like to recap today's follow up meeting requested by E3. I was given the above attached notice of a change in work location and reports to as a way to honor my request for a transfer.

Today I was told I would I would report to [REDACTED] at 1820 Randolph Rd SE, Albuquerque, NM 87106 on Monday, December 5, 2022 at 8:00am. I was also told that I would no longer be able to have the flex schedule I currently have of 7:00am - 3:30pm with a half hour lunch and I would no longer be allowed to telecommute two days a week as I'm currently allowed to do in fiscal. It was also brought to my attention that E2 was currently working on what the specifications of my new position would be and we would all (E3, FCSHR1, E2 and E1) have to meet to discuss what these responsibilities would look like later in the week. In addition, though I would now report to [REDACTED], I would still have to occasionally work with E2 regarding fiscal matters. I was also asked not to attend the fiscal staff meeting scheduled for Tuesday, November 29, 2022 as my remaining four employees would be told that their reports to would be shifting away from me as well. I was later told that I can attend the meeting if I chose to do so.

When I was given the memo for signature, I asked if I could think about it and was told that I would have to sign it as the move was at the discretion of E3.

For clarification, the request originally made in person on September 7, 2022, was to be administratively transferred out of the department. At that time there were at least 4 positions at a pay grade of E17, the same as my existing position.

This was the second time I met with FCSHR1 regarding communication and harassment issues with E2, Fiscal Manager. The first was on August 22, 2022. On the day I made the transfer request, Sept 7th, E2 and E1 got into an argument because E2 had been harassing me regarding following rules for taking annual leave instead of sick leave. Due to health issues brought on by the harassment I was forced to go on FMLA

beginning September 10 - 23. E1 was then given a letter of instruction, via FCSHR1 from my supervisor E2, for the argument on September 7th on September 28th, but the memo was dated September 22, 2022, while I was out on FMLA. This transfer does not satisfy my request to be moved out of the department as I would still be required to work with E2.

I am not in agreement with the move as it appears as though I am being reprimanded for bringing complaints regarding my working conditions to human resources and subsequently E3. In addition to losing privileges such as flex schedules and teleworking that is offered to other fiscal staff in the division, the move would add miles and time to my commute, increase my household expenses for transportation and have an adverse effect on my family life. I am a single mother who doesn't share custody with anyone, making me the sole provider to my children. This move is set to happen with only one week notice. When an employee is leaving to another job, it is good practice for them to give the supervisor a two week notice and I am not given the same consideration. I will lose the five employees/positions that I currently supervise so it appears that this move is not to help me but instead to send me away in retaliation for bringing issues of a hostile work environment to light. This move would be a demotion regardless of whether the pay would remain the same.

I will not be signing the memo. I do not agree to be moved to the Child Development Division of Family & Community Services.

E1

A subsequent email response dated November 29, 2022, from E3 is as follows:

Good morning, E1

Thank you for your email. We will take the information you have provided in your email and be back in touch before week's end with the next steps.

At any time, come see me if you want to discuss concerns.

*Thank you,
E3*

Analysis: On the surface, this move appears to resolve the matter by accommodating E1's request for an administrative transfer, however, some of the more serious implications of this relocation were disregarded. The OIG considered the following factors during its analysis.

The evidence obtained by the OIG revealed that despite the request for an Administrative transfer out of the department, the interoffice memorandum seems to indicate a relocation to a division within the department that merely placed another employee between E1 and E2, while still requiring a working relationship with E2.

Having E2 design the job specifications implies that E2's position is a position of authority over E1.

This relocation alleviated E1 of all supervisory duties and eliminated the privileges previously afforded to E1, such as flexible work hours and a teleworking schedule for two days per week, and only provided one week's notice of the relocation.

The OIG considered whether the division where E1 was being relocated to previously had an equivalent position and found that it did not. This fact is of concern because the job title and duties remain the same, however, E1 will hold this position for a division with fewer responsibilities while other employees holding this job title and position do so for departments that house multiple divisions and thus have more responsibilities.

E1 had gone to FCSHR1 regarding ongoing issues with E2. After filing a grievance with FCSHR1, E1 received a letter of instruction for an event that occurred the day the grievance was filed and was the reason for the grievance. The Letter of Instruction came three (3) weeks after the event and after E1 was out on FMLA. E1 requested an administrative transfer out of the department on September 7, 2022, but no action occurred until the November 28, 2022 letter indicating a relocation within the department. Knowing that a grievance for harassment had been filed against E2, an employee in a higher and more powerful position, FCSHR1 should have considered involving Central HR for guidance in this volatile situation.

On November 30, 2022, the OIG spoke to Central Human Resources and found that they had not been made aware of this matter. This is of concern because without having discussions at the proper levels and obtaining sound advice and guidance, FCSHR1 and the Department created a potential liability for the City.

On December 2, 2022, a meeting was held with E1, E2, E3, and FCSHR1. At this meeting the date of the relocation for E1 was pushed back to December 12, 2022, to afford the time to address matters with E1 and E2. E1 indicated feeling pressure to accept the relocation due to the toxic work environment and a fear of further retaliation.

The OIG had to consider whether having a Human Resource liaison embedded in each department is the best as there can be potential for an inherent bias towards those who can affect their positions.

The manner in which this request for transfer was resolved does not provide for an equitable transfer and given that this was a request by E1 and not the result of disciplinary action, there should be no negative consequences to E1. Furthermore, the requirement to relocate, give up supervisory duties, but still have to work together with E2 creates the perception of a reprimand and potential retaliation.

Finding regarding allegation: The evidence obtained by the OIG substantiated the perception of retaliation.

Recommendation: The Department Director should put a hold on the relocation and immediately coordinate with the Human Resources Director to discuss any implications that may arise with this relocation and should collaborate to find an amenable resolution to this matter that does not create liability for the City.

All future transfers/relocations that are the subject of a grievance should require input and guidance from the Human Resource Director or a designee from Central Human Resources to ensure that all factors have been considered before finalizing any type of transfer.

Central HR should consider rotating Departmental Human Resource liaisons periodically to mitigate unintended biases toward Departmental staff.

Management Response: I am aware there was/is an OIG investigation; however, I do not know the specifics or the people reporting a concern. I am aware that there is an employee in the Fiscal Division who has requested an administrative transfer to another Dept. Discussions occurred with two Depts.; however, an administrative transfer was not possible and the employee interviewed for positions but was not selected. To honor the request for a transfer, a location has been identified within the Dept. We have met with Central HR.

OIG Cautionary statement: On December 30, 2022, the OIG learned that the Central Human Resources Department may put a hold on any transfers which could affect the OIG finding.