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Report of Investigation

FILE NO: 23-0013-C, 23-0014-C, 23-0019-C

SUBJECT MATTER: Allegation of abuse of authority by General Services Department Management through bullying, intimidation, harassment, and retaliation.

STATUS: Final

DocuSigned by:

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October 21, 2024

Date of Completion

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October 21, 2024

Date of Completion

See cautionary statement

VICTOR GRIEGO, CPA
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November 14, 2024

Date of Approval

DISTRIBUTION:

Honorable Mayor
President City Council
Chief Administrative Officer
City Councilors
Director Council Services
City Attorney
Deputy Chief Administrative Officer
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) Carry out the activities of the Office of Inspector General through independence in both fact and appearance, investigation and interdiction, and (4) Propose recommendations to increase the city's legal, fiscal and ethical accountability to ensure that tax payers' dollars are spent in a manner consistent with the highest standards of local governments.

As defined in the Inspector General Ordinance §2-17-3, fraud is the knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment. Waste is the thoughtless or careless expenditure, mismanagement, or abuse of resources to the detriment of the City. Abuse is the use of resources or exercise of authority that is contrary to rule or policy, or knowingly inconsistent with any established mission or objectives for the resource, or the position held by the person exercising the authority. Abuse does not necessarily involve fraud or illegal acts.

The Office of Inspector General (OIG) received three separate allegations of abuse of authority by members of the General Services Department (GSD) leadership through bullying, intimidation, harassment and retaliation related to removing duties and relocating the physical workspace of employees, high employee turnover, and compensation for a temporary upgrade.

The OIG determined that the allegations contained elements of potential abuse and that it was appropriate for the OIG to conduct a fact-finding investigation.

The purpose of the investigation was to collect evidence to substantiate or not substantiate the allegation of abuse of authority by GSD leadership through bullying, intimidation, harassment and retaliation.

The following is a summary of the findings, subsequent matters, and recommendations.

Findings:

- Abuse of authority by a former GSD Deputy Director through bullying, intimidation, harassment, and retaliation by removing duties and relocating the physical workspace of employees.
- Non-compliance with Code of Conduct 301.3 Standards of Conduct by a former GSD Director and a former GSD Deputy Director for creating an intimidating or offensive working environment.
- Non-compliance with Code of Conduct 301.17 Standards of Conduct by a former GSD Director and a former GSD Deputy Director for not complying with the provisions of the Merit System Ordinance, Labor Management Relations Ordinance, and Personnel Rules and Regulations.
- Non-compliance with the Merit System Ordinance Section 702.1 regarding temporary upgrades by a former GSD Deputy Director by not following the correct process to

temporarily upgrade an employee and possible non-compliance with the Collective Bargaining Agreement.

- Characteristics of a toxic work environment existed under the direction of a former GSD Director and a former GSD Deputy Director resulting in a high turnover.

Recommendations:

The City should create training on workplace bullying as a part of its annual training.

Ensure Annual Workplace Trainings are completed by all employees.

GSD should work with an HR Consultant to identify specific issues related to the high turnover and create a plan to address the issues to increase employee retention.

All City employees should comply with the City's Code of Conduct and Merit System Ordinance.

The City should ensure that City employees comply with Personnel Rules and Regulations for Temporary Upgrades, as well as comply with the Collective Bargaining Agreements

ABBREVIATIONS

City:	City of Albuquerque
D1:	Former GSD Director
DD1:	Former GSD Deputy Director
DMD:	Department of Municipal Development
E1:	City Employee
GSD:	General Services Department
HR:	Central Human Resources Department
OIG:	Office of Inspector General
RM:	Risk Management
SCS:	Safety Compliance Specialist

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 (City) to safeguard and preserve public trust. Investigations, inspections, evaluations, and reviews are conducted following AIG Standards.

Complaint:

The OIG received multiple complaints related to the City of Albuquerque's General Services Department (GSD) and its leadership. These complaints included allegations of abuse of authority through bullying, intimidation, harassment, and retaliation related to removing duties and relocating the physical workspace of employees, high employee turnover, and compensation for a temporary upgrade.

Background:

The City created GSD in July 2022. There are four divisions within GSD: Metro Security; Energy & Sustainability Management; Fleet Surplus; and Facilities. These divisions were within the Department of Municipal Development (DMD) but were moved under GSD when it was created. The Mayor appointed an Acting Director and several months later, an official Director for GSD was hired and the Acting Director assumed the position of the Deputy Director.

SCOPE AND METHODOLOGY

Scope:

Evidence identified during the investigation on specific instances of alleged abuse of authority through bullying, intimidation, harassment, and retaliation from the following methodologies:

- Conduct information-gathering interviews
- Review City policies and procedures
- Review of documentation provided and pertinent City records

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

INVESTIGATION

Allegations:

Allegation 1: Abuse of authority by GSD leadership through bullying, intimidation, harassment and retaliation by removing duties and relocating the physical workspace of employees.

Allegation 2: Abuse of authority by GSD leadership by pushing employees out of the department and the City.

Allegation 3: Abuse of authority by GSD leadership regarding the treatment of employees to include a temporary upgrade where the employee did not receive additional compensation in accordance with the Merit Ordinance Section 702.1.

Definitions:

The OIG considered the following definitions when analyzing the allegation:

Black's Law Dictionary defines Harassment¹ as:

Repeated conduct that is not wanted and is known to all parties as offensive.

The City's Central Human Resource Labor and Relations Office defines Retaliation as:

Any action a reasonable employee would believe is intended to discourage protected activity.

The Society for Human Resource Management (SHRM) website defines Workplace Bullying² as:

Repeated, unreasonable actions of individuals (or a group) directed towards an employee (or a group of employees), which are intended to intimidate, degrade, humiliate, or undermine; or which create a risk to the health or safety of the employee(s).

Workplace bullying often involves an abuse or misuse of power. Bullying behavior creates feelings of defenselessness and injustice in the target and undermines an individual's right to dignity at work.

Abuse of Authority in the workplace is when someone in a position of power misuses their authority to gain an unfair advantage or harm others.

¹ <https://thelawdictionary.org/harassment/>

² <https://www.shrm.org/content/dam/en/shrm/topics-tools/news/employee-relations/Bullying.pdf>

These definitions were used for references to the report because the City has not provided a definition in ordinances.

Authority:

Article 17, Inspector General Ordinance

Article 7, Whistleblower Ordinance

Personnel Rules and Regulations 702.1 Temporary Upgrade for Management, Executive and Information Systems Series Pay Plans

301.3 Standards of Conduct:

Employees shall not use insulting, abusive or offensive language or actions toward the public or co-workers. Ethnic or sexist jokes, slurs and other comments or actions that might embarrass or offend others are prohibited. Employees shall not harass others by making sexual advances or by creating an intimidating or offensive working environment or by making false accusations regarding such conduct. Display of visual materials that may be sexually or racially offensive is also prohibited.

301.17 Supervision of Employees:

Employees with supervisory duties or responsibilities shall, in all instances, ensure that all supervisory actions comply with the provisions of the Merit System Ordinance, Labor-Management Relations Ordinance, Personnel Rules and Regulations, applicable legislation, and relevant judicial/administrative decisions."

Evidence:

Interviews
City Policies
City Documents

Interviews:

The OIG conducted interviews with various City employees regarding the allegations of harassment and retaliation within GSD. Multiple GSD employees stated that issues began to arise following the creation of GSD and when the divisions previously under DMD were moved to GSD.

The following is a summary of the common themes from the OIG interviews:

Former GSD Deputy Director (DD1) abuses their authority by requiring employees to work outside their job classification without compensation, requiring special treatment for certain high-level City employees, circumventing previously established policies and procedures, and promising temporary upgrades to employees for additional duties but not following through on those promises.

Employees did not feel free to express their opinions if their opinions differed from DD1.

DD1's demeanor changed towards employees who questioned the actions of or disagreed with DD1. Employees expressed that you did not want to get on DD1's bad side.

DD1 showed favoritism to employees who agreed with or complied with DD1's requests.

DD1 and a City employee (E1) intimidated employees who did not agree with DD1 or do what DD1 wanted.

DD1 micromanaged employees as a means of intimidation.

DD1 circumvented the process of work order requests for DD1's advantage. This included circumventing the process for certain employees who were friends of or who had influence with DD1.

DD1 used their authority to purchase furniture to redecorate and to repaint DD1's office numerous times.

DD1 moved employees around to different locations without rhyme or reason.

DD1 did not engage with staff but had E1 provide information on employees to DD1.

DD1 did not provide clear direction for the division employees leaving them to carry on as they had while in DMD and then punished or retaliated against employees.

Even when D1 arrived, employees stated it was DD1 who ran the department.

Multiple employees addressed their concerns with a former GSD Director (D1) but D1 did nothing and even informed DD1 of the complaints resulting in more intimidation, bullying, harassment, and retaliation to the employees by DD1 and E1. The employees no longer felt comfortable trusting or going to D1.

DD1 would remove duties and responsibilities from employees without discussion or counseling.

DD1 and E1 were monitoring employees on their lunch breaks.

DD1, D1, and E1 created an intimidating and offensive environment.

DD1 and E1 were responsible for the high turnover and low morale.

DD1 and E1 controlled the hiring process to ensure their friends or individuals of their choosing were hired, even when they didn't meet qualifications.

Analysis of each allegation:

Allegation 1: Abuse of authority by GSD leadership through bullying, intimidation, harassment, and retaliation by removing duties and relocating the physical workspace of employees.

The OIG reviewed documentation reflecting a previous complaint against DD1 by one of the employees whereby a finding for the employee was reached.

The OIG physically inspected the physical workspace of employees noting that two of the offices were significantly smaller than other spaces and were unable to accommodate a standard-sized desk. Employees interviewed indicated that these spaces were originally designed to be spaces for storage. Both of the small offices had limited space to maneuver around which created the potential for a workplace hazard.

The OIG reviewed a report from Risk Management (RM) which revealed that a Safety Compliance Specialist (SCS) observed one of these smaller offices. The SCS noted that they observed that there was a space of less than 2 feet for the employee to exit their office. The SCS also noted that the space between the employee's desk and their chair was "very small". The SCS recommended that GSD must either provide the employee with "a smaller desk or a larger office to remove the hazards". The SCS also noted that they met with the employee and the employee's supervisor and provided two options for the office space. One option was to move furniture in the office to have more workspace, and the second option was for the employee to move to a cubicle which offered more workspace. The RM report noted that the employee chose to stay in the existing office space and have the furniture moved. When the OIG spoke with the employee, the employee explained that due to their position, they had files and documents that contained sensitive information and needed to be in a secure place. The employee further explained that with an office they were at least able to close the door, which the employee felt offered slightly more security than a cubicle.

The OIG interviewed numerous GSD employees and learned that it was common knowledge that duties had been removed from several employees if employees disagreed with or had differing views from DD1, if employees questioned the actions of DD1 or did not do what DD1 wanted, or even if employees had prior negative history with DD1.

In another instance, the OIG reviewed evidence that an employee was issued a Letter or Instruction because DD1 thought the employee was talking negatively about DD1.

Interviews with GSD employees corroborated the events. Employees also shared that DD1 would move other GSD employees around to different locations without rhyme or reason.

During our investigation, it was noted that OIG requests for information from GSD and the Human Resources Department (HR) were impeded when DD1 filed a counter-complaint against one of the witnesses thus subjecting information necessary to our investigation as "Attorney-Client Privilege" as HR initiated an investigation.

By abusing their authority through bullying, intimidation, harassment, and retaliation, GSD leadership was in non-compliance of 301.3 for creating an intimidating or offensive working environment. GSD leadership was also in non-compliance of 301.17 for not complying with the provisions of the Merit System Ordinance, Labor Management Relations Ordinance, and Personnel Rules and Regulations.

Finding:

The OIG's investigation did provide sufficient evidence of the relocation of employees' physical workspace and for removing duties. The OIG was unable to obtain sufficient evidence to support the allegation of bullying, intimidation, harassment, and retaliation by one of the employees due to the HR investigation asserting "Attorney/Client privilege" over the subject matter.

Recommendation:

HR should assist GSD in establishing objective standards of required documentation for relocations and assignments or the removal of assignments to ensure that actions are not punitive. The standards should be clear and concise, and documented to provide context and understanding of the purpose for all parties.

Management Response:

The "summary" provided by the OIG does not provide sufficient information to provide a meaningful response. Of particular note, the OIG makes a finding regarding the "relocation of employees' physical workspace" when it has provided no information, in the summary, describing any such allegations. The City reiterates its request that the OIG provide sufficient information for the City to provide a meaningful response. The City further asserts that this inquiry was outside the purview of the OIG. This appears to be a personnel matter that should have been referred to the administration. The type of interpersonal conflicts described by the OIG do not constitute abuse that would fall within the OIG's jurisdiction. The OIG's summary acknowledges that there was a Human Resources investigation into the same issue.

Allegation 2: Abuse of authority by GSD leadership by pushing employees out of the department and the City.

The OIG heard testimony of numerous GSD employees who were seeking alternative positions within the City or who were considering leaving the City due to the intimidation, bullying, and the lack of accountability by DD1 and D1.

The OIG reviewed data provided by HR for the period of July 1, 2022, through March 31, 2024, noting that 105 employees left employment with GSD. Of those who left GSD, 36 employees transferred out and 54 employees left employment with the City of their own accord. Of the 90 employees who left City employment of their own accord, 14 of those employees retired. D1 was one of the 36 employees who transferred out of GSD. However, it should be noted that D1 had a position change to a different City department, which was the reason for the transfer.

The OIG further assessed this information, reviewing by fiscal year. In Fiscal Year 2023 (FY23), GSD was budgeted for 237 full-time positions. During FY23, the OIG noted that 58 employees left employment with GSD. Of those who left GSD, 23 transferred out of GSD and 28 employees left employment with the City of their own accord. Of the 28 employees who left City employment of their own accord, 8 of those employees retired. These 51 employees accounted 87.9% of employees who left GSD during FY23.

The OIG reviewed the time period of July 1, 2023 through March 31, 2024, which was three quarters (3/4) of Fiscal Year 2024 (FY24). During FY24, GSD was estimated to be budgeted for two-hundred and thirty-eight (238) full-time positions. During this period, the OIG noted that 47 employees left employment with GSD. Of those who left GSD, 13 transferred out and 26 left of their own accord. Of the 26 employees who left City employment of their own accord, 6 retired. These 39 employees accounted for 82% of total employees who left GSD during the stated period.

Of the employees interviewed 55% stated they left GSD or were seeking employment elsewhere because they felt as though they were targeted by DD1, they were not listened to or appreciated for their knowledge, and they were forced to find other positions or face termination. Many of the employees interviewed had long-term employment with the City. They expressed concerns over potentially losing their retirement or other benefits acquired through their years of service.

GSD employees expressed the actions of GSD leadership (DD1 and D1) created an intimidating or offensive working environment in violation of 301.3. The employees perceived this was an abuse of authority which resulted in high turnover and low morale.

Finding:

The OIG's investigation revealed significant evidence that GSD leadership, particularly DD1 and D1, fostered an intimidating or hostile work environment in violation of 301.3. This misuse of authority contributed to poor employee morale and was a contributing factor to high turnover.

Recommendation:

GSD should work in conjunction with an HR consultant to identify specific issues resulting in the high turnover of GSD employees and create a plan to address those issues to ensure employee retention.

Management Response:

The "summary" provided by the OIG does not provide sufficient information to provide a meaningful response. Of particular note, the OIG makes a finding regarding the "relocation of employees' physical workspace" when it has provided no information, in the summary, describing any such allegations. The City reiterates its request that the OIG provide sufficient information for the City to provide a meaningful response. The City further asserts that this inquiry was outside the purview of the OIG. This appears to be a personnel matter that should have been referred to the administration. The type of interpersonal conflicts described by the OIG do not constitute abuse that would fall within the OIG's jurisdiction. The OIG's summary acknowledges that there was a Human Resources investigation into the same issue.

Allegation 3: Abuse of authority by GSD leadership regarding the treatment of employees to include a temporary upgrade where the employee did not receive additional compensation in accordance with the Merit Ordinance Section 702.1.

The OIG reviewed emails and other documentation to support that the employee was told they would receive a temporary upgrade for additional duties assigned. The OIG reviewed payroll records and the PeopleSoft HR system which revealed that the employee's temporary upgrade was not entered into the PeopleSoft HR system, and the employee did not receive compensation for the upgraded role and additional duties performed until approximately two and a half months after assuming the duties of the upgraded role. In addition, the employee stated they were not compensated for all of the time they served in the upgraded role.

Interviews with the employee and other GSD employees revealed that this was one of the main contributing factors for the employee seeking other employment despite enjoying the position held in GSD.

The OIG reviewed an email dated 2/15/2023 which was sent to the employee from GSD HR. GSD HR told the employee that the proper approvals had been received for the temporary upgrade and would be routed to Central HR to approve and finalize. The email further stated that the temporary upgrade was effective for the period of 12/31/2022 through 1/22/2023.

The OIG reviewed another email dated 2/28/2023 sent to the employee from GSD HR which stated that the temporary upgrade had been extended and approved through 2/10/2023. The employee responded and asked "Can you tell me what are my options about being compensated from the 11th to the 28th when I was still technically doing the job?"

The OIG reviewed the employee's paycheck summary for the paycheck issued on 4/14/2023. In reviewing the paycheck summary, the OIG identified that the employee was retroactively paid for the temporary upgrade for the time period of 12/31/2022 through 2/24/2023. A new pay period began on 2/25/2023. Although the employee indicated they performed additional duties through 2/28/2023, the employee did not receive compensation for workdays 2/27/2023 and 2/28/2023.

The OIG contacted Central HR and was informed that Central HR did not have record of a temporary upgrade for the employee. Central HR then followed up with the OIG and provided information that was found with Classification and Compensation. The information revealed that the employee was temporarily upgraded. The time period for the upgrade was 12/31/2022 – 2/24/2023. Classification and Compensation received this request on 2/15/2023 and it was approved on 2/26/2023. Central HR confirmed that a memo for a temporary upgrade exception should have been submitted to Central HR, but shared that it was common for supervisors to tell employees they will be upgraded and then supervisors do not follow through with the process, resulting in Central HR finding out about the upgrade later than it should.

Finding: The OIG's investigation found there was non-compliance with the Merit Ordinance temporary upgrade section 702.1 due to DD1 not following the process to temporarily upgrade an employee, and may also be non-compliant with the Collective Bargaining Agreement.

Although there was sufficient evidence to show that a GSD employee was not provided compensation in a timely manner for additional duties performed, there was not sufficient evidence to show that the employee was not compensated for all of the time they served in the upgraded position.

Recommendation: All City employees should comply with the City's Code of Conduct and Merit System Ordinance.

Management Response:

The "summary" provided by the OIG does not provide sufficient information to provide a meaningful response. Of particular note, the OIG makes a finding regarding the "relocation of employees' physical workspace" when it has provided no information, in the summary, describing any such allegations. The City reiterates its request that the OIG provide sufficient information for the City to provide a meaningful response. The City further asserts that this inquiry was outside the purview of the OIG. This appears to be a personnel matter that should have been referred to the administration. The type of interpersonal conflicts described by the OIG do not constitute abuse that would fall within the OIG's jurisdiction. The OIG's summary acknowledges that there was a Human Resources investigation into the same issue.

SUBSEQUENT MATTER & OBSERVATION

Subsequent Matter:

Observation:

The OIG's investigation revealed an environment and culture within GSD under the Direction of D1 and DD1 that employees found demeaning, offensive, and intolerable, resulting in high turnover. Characteristics of a toxic work environment include:

Directors, managers, supervisors, and employees who demean other employees
 A lack of transparency or a culture of secrecy and a lack of communication
 Unrealistic expectations and insufficient support
 Stress due to constant pressure and or scrutiny
 Excessive micromanagement
 Favoritism and unfair treatment
 A lack of accountability
 A lack of constructive feedback
 Lack of opportunity for growth and other opportunities

While the common themes provided during this investigation may not rise to a level of retaliation under Article 3, entitled Whistleblower Ordinance, it appears to be indicative of a toxic work culture.

Recommendations:

The OIG recommends the City:

- Review both GSD and the City's workplace culture to identify poor management practices that often lead to a toxic workplace
- Establish clear expectations and policies that leave no room for ambiguity

- Foster transparent communication
- Ensure a safe mechanism for reporting where employees do not have to fear retribution
- Encourage collaboration
- Ensure accountability for employees not adhering to laws, regulations, policies, and procedures
- Recognize and reward positive behavior
- The City should create training on workplace bullying as a part of its annual training
- The City should ensure that annual workplace trainings are completed by all employees

Updates:

The OIG recently learned that GSD is now under different leadership. DD1 is no longer with GSD and is now with a different City department, and D1 has left the City altogether. The OIG followed up with individuals who stated that things at GSD are better, but that continuous improvements should be made and monitored.

Management Response:

The "summary" provided by the OIG does not provide sufficient information to provide a meaningful response. Of particular note, the OIG makes a finding regarding the "relocation of employees' physical workspace" when it has provided no information, in the summary, describing any such allegations. The City reiterates its request that the OIG provide sufficient information for the City to provide a meaningful response. The City further asserts that this inquiry was outside the purview of the OIG. This appears to be a personnel matter that should have been referred to the administration. The type of interpersonal conflicts described by the OIG do not constitute abuse that would fall within the OIG's jurisdiction. The OIG's summary acknowledges that there was a Human Resources investigation into the same issue.



City of Albuquerque
Accountability in Government Oversight Committee
P.O. Box 1293 Albuquerque, New Mexico 87103

**Cautionary Statement of the Inspector General's Report, File No. 23-0013-C,
23-0014-C, and 23-0019-C**

Upon the Accountability in Government Oversight Committee (Committee) review and vote to not approve the Report prepared by the Office of the Inspector General (OIG), titled "Allegation of abuse of authority by General Services Department Management through bullying, intimidation, harassment, and retaliation", File Nos. 23-0013-C, 23-0014-C, and 23-0019-C, dated October 21, 2024 ("Report"), the Committee provides this cautionary statement as inclusion with the published Report. This cautionary statement is issued and included in the published Report, pursuant to City of Albuquerque Ordinance § 2-10-5(L).

The Committee met on November 14, 2024 to review and consider the Report. In its review of the Report, the Committee found the OIG lacked sufficient jurisdiction under the Inspector General Ordinance § 2-17-1 et seq. to investigate one or more of the allegations contained in the report. For this reason, by vote of 5-0, the Committee did not provide approval of the Report. Readers are advised to review this published Report and its content with the understanding that the Committee did not approve this Report.

Sincerely,

Victor Griego, CPA
Chair, Accountability in Government Oversight Committee
City of Albuquerque

Johnny I. Mangu, CPA
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cc: Brook Bassan, City Council Member
Kevin Sourisseau, Chief Financial Officer