



San Francisco Bay Area Rapid Transit

Office of the Inspector General Fiscal Year 2025 Semiannual Report



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MESSAGE FROM THE INSPECTOR GENERAL



The first six months of the 2025 fiscal year showcased the continued growth and impact of the Office of the Inspector General (OIG). This period was marked by major milestones in our investigative and audit work, organizational developments, and active engagement with stakeholders to promote transparency, accountability, and efficiency at BART.

A key achievement was the implementation of Missionmark, our new audit and investigative case management software. We have successfully used it to streamline the collection of recommendation updates from management and are in the process of setting it up to enhance our audit and investigation processes and, thus, boost the efficiency of those workflows.

Our [FY24-26 Audit Plan](#) and [FY24-28 Strategic Plan](#) remain top priorities for us. Progress with our audit plan is on track, with three of four audits in various stages of fieldwork. Our fourth audit is nearing completion and has generated some excellent recommendations for improving overtime management.

By leveraging our core values and focusing on excellence, we have met key strategic goals. We continuously evaluate our workload and resources to maximize productivity and respond effectively to emerging challenges. Our flexible and collaborative approach has positioned us for sustained growth and success.

Recent staffing changes reflect our ongoing organizational evolution. Despite these transitions, our dedicated team remains focused and effective, continuing to drive progress toward a stronger and more impactful OIG.

I am deeply proud of my team's dedication and look forward to building on this momentum in the coming months. We remain steadfast in our mission to deliver value to BART and its stakeholders.

Regards,

Claudette Bemeret

WHAT WE DO



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

VALUE ADDED



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

OIG CORE VALUES



Whistleblower Complaints

FY25 Midyear Highlights

Our fraud, waste, or abuse investigations resulted in several noteworthy accomplishments and significant issues being addressed in the first half of fiscal year 2025, including:

9 Closed Investigations: We completed nine investigations that addressed theft, misuse of resources, or policy violations.

38 New Complaints: We received and evaluated 38 new whistleblower complaints, which is above our average for the mid-year mark and resulted in us opening 16 investigations into allegations of fraud, waste, or abuse.









Suspension & Debarment Policy: At our recommendation, BART adopted a suspension and debarment policy. The policy acts as a deterrent against fraudulent, dishonest, or unethical behavior, encouraging compliance with legal and contractual obligations, and is a critical mechanism for holding contractors accountable in their use of public funds.

False Claims: We substantiated two allegations of contractors submitting false claims. As we recommended, General Counsel successfully recovered \$11,900 from one contractor and is pursuing \$16,713 in restitution from the second contractor.

Time Theft: Allegations of time theft remain a trend. Though we substantiated only one of the four we investigated this period, the pattern of individuals who work autonomously falsifying their time remains a high-risk area for BART.

Retaliation Allegations: We are committed to implementing a comprehensive plan to address reports of retaliation. It is concerning that complainants hesitate to have us take action out of fear of worsening their situation. In response, we have enhanced our tracking system for retaliation allegations to detect patterns and identify trends, enabling us to take proactive measures in supporting those affected.

Case Statistics All Years

	complaints received	282
	under investigation	19
	investigated	106
	forwarded	61
	declined	96
	substantiated	42
	not/unsubstantiated	49
	inconclusive	15

Trends

Common Allegation Types

Fraud, noncompliance, and unprofessional conduct continue to be the three leading types of allegations we receive, accounting for 59% of all 282 reported complaints. Notably, fraud—or theft—remains the most prevalent issue. The remaining 41% encompasses a mix of allegation categories, including conflicts of interest (8%), unfair hiring practices (6%), misuse of resources (3%), and instances of retaliation (2%).

We investigate approximately half of the complaints we receive, while the rest are either lacking sufficient information or fall outside our jurisdiction. Among the investigated cases, we find a nearly equal division between those that we substantiate and those that we do not, reflecting on the complexity of the concerns we address.



Fraud - 74 (26%)

Timesheet and contracting fraud are the most common suballegations.

37	<u>investigated</u>	17	<u>substantiated</u>
11	<u>under investigation</u>	17	<u>not/unsubstantiated</u>
26	<u>forwarded/declined</u>	3	<u>inconclusive</u>



Noncompliance - 50 (18%)

Unfair competition and circumvention of policies and procedures are the most common suballegations.

27	<u>investigated</u>	13	<u>substantiated</u>
3	<u>under investigation</u>	12	<u>not/unsubstantiated</u>
20	<u>forwarded/declined</u>	2	<u>inconclusive</u>



Unprofessional Conduct - 41 (15%)

Harassment and inappropriate behavior are the most common suballegations.

9	<u>investigated*</u>	1	<u>substantiated</u>
2	<u>under investigation</u>	4	<u>not/unsubstantiated</u>
30	<u>forwarded/declined</u>	4	<u>inconclusive</u>

*We investigate unprofessional conduct only when it is not a personnel matter that falls under Human Resources' purview or an Equal Employment Opportunity matter that falls under the Office of Civil Rights' purview.

Improvements

Corrective Actions

Tracking Progress: We obtained status updates from BART executive management on their efforts to implement the recommendations resulting from our fraud, waste, or abuse investigations. Since July 1, 2024, they have successfully implemented 12 recommendations, including 4 that we issued the first half of the fiscal year, and made progress on 17 others. Appendix II offers detailed information about our recommendations and the District's initiatives to deter fraudulent, dishonest, or unethical contractor behavior; hold employees accountable for falsifying time reports; and recover funds lost to theft.

Upholding Integrity - Suspension & Disbarment Policy: On December 5, 2024, BART implemented our recommendation and adopted a suspension and debarment policy, aligning itself with longstanding practices in the federal government and various other agencies. This significant step recognizes the need for accountability and ethical standards in the use of public funds. It also enhances transparency and integrity and fosters trust among stakeholders by demonstrating a proactive approach to mitigating risks associated with fraud, waste, and unethical behavior.

Ensuring Effort & Accuracy - Contract Oversight: Executive management implemented or made strides implementing our investigatory recommendations to enhance oversight of contractors. This includes establishing monitoring and review procedures to ensure contractors deliver services as outlined in their contracts and that their invoices accurately reflect the work completed. However, preliminary results from our audits suggest that staff's capacity to provide sufficient monitoring and a lack of proper segregation of duties still expose the District to contractor fraud.

Recommendations

all years

#	total recommendations	104
+	accepted	94
×	not accepted	10
✓	implemented	74
⚙	in progress	17
↓	dropped	3

Performance Highlights

Major Progress

Improvements on the Way: Three of our four current audits are progressing well, and are in various stages of completion. We expect to release the overtime audit in the third quarter of fiscal year 2025, featuring recommendations designed to assist the District in effectively managing and budgeting for overtime expenses. Fieldwork for our audits on construction contract change orders and Link21 spending is also coming to a close. Potential recommendations will focus on enhancing oversight of the change order process and ensuring timely deliverables from contractors involved in the Link21 project.

Our workers' compensation audit is also progressing well and marks the first time we are using Missionmark to manage audit workflow and streamline routine audit tasks. Another first is the development of a survey to gather feedback from BART employees regarding their perceptions of the workers' compensation program, which will be distributed districtwide in January 2025. Although a recent staffing vacancy in our office has delayed our timeline for this audit, we remain committed to delivering an audit that adds significant value.

Current Audits



overtime use



construction-contract change orders



Link21 spending



workers' compensation

Launching in FY25



employee compensation & reporting



hiring practices

Please Note: In the third quarter of fiscal year 2025, we will be reviewing our FY24-26 Audit Plan to evaluate potential adjustments based on staffing changes within both the OIG and BART, as well as other factors that influence our audit priorities moving forward.

Workers' Compensation Fast Fact

Effective return-to-work programs are beneficial in many transit agencies, helping injured workers reintegrate into their jobs, which can lead to lower overall worker's compensation costs.

Updates

Monitoring Actions

Tracking Progress: In response to our recommendations from the span of control audit, BART is developing guidelines for updating job position data and organizational charts, as well as providing guidance on using span of control principles in organizational decision-making related to job classifications and compensation.

Realized Changes: BART has made significant enhancements to its financial structure following our performance audit, "Organizational Structure of BART's Financial Operations." By July 2024, BART fully implemented our recommendations by having the BART Act amended to eliminate the controller and treasurer as positions subject to appointment and removal by the Board of Directors.

As a result, executive management hired Joseph Beach on December 9, 2024, to serve as BART's first Chief Financial Officer. Beach is focusing on initiatives to stabilize BART's financial outlook. This is an exciting time for the District, and we at the OIG are pleased to witness the positive outcomes of our audit efforts. By adopting a strategic approach to its finances, BART has aligned itself more closely with its peer agencies, paving the way for future success.

Recommendations

#	total recommendations	7
+	accepted	7
✓	implemented	2
⚙	In progress	5





Expenditures & Value

Big on Transparency





Use of Funding: Transparent spending showcases our unwavering commitment to accountability. We strategically allocate our budget to tackle theft and other high risks to BART. During the first half of fiscal year 2025, we invested just over \$1.2 million (45%) of our \$2.7 million budget to drive our mission forward. We dedicated the funds to advance audits, conduct fraud investigations, implement oversight initiatives, and enhance training and technology, all aimed at boosting our capacity to detect misuse of funds and inefficiencies. Our thoughtful approach to spending is essential to guaranteeing we deliver exceptional value while upholding the highest standards of integrity in all our operations.

Return on Investment – Tip of the Iceberg: The financial benefits of our office are often seen in what does not happen due to our effective, independent oversight: saving resources, preventing fraud, and ensuring responsible stewardship of public funds. This proactive approach not only protects BART but ultimately serves the best interests of the public. So far, our work has uncovered a potential benefit of over \$15 million and recovered a realized benefit of nearly \$120 thousand. We may not be able to quantify what lies beneath, but we know that what we can quantify is just the tip of the iceberg.

Spending Details

	employee pay & benefits	\$696,658
	professional service contracts	\$511,826
	continuing education	\$5,666
	office administration	\$2,889

OIG Budget Allocation

	workforce pay & benefits	\$1.47M
	consultants professional services	\$1.23M
	employee development training & memberships	\$27.4k
	office administration supplies & marketing	\$4.8k



Looking Ahead

Short-Term Goals



Obtain a peer review to assess the sufficiency of our quality management system.



Participate in the new employee orientation program as part of our outreach efforts.



Include a pay-equity analysis in our employee compensation and reporting audit.



Create a new investigative auditor position that specializes in construction.



Reassess our audit plan and make changes to align with current conditions, if needed.



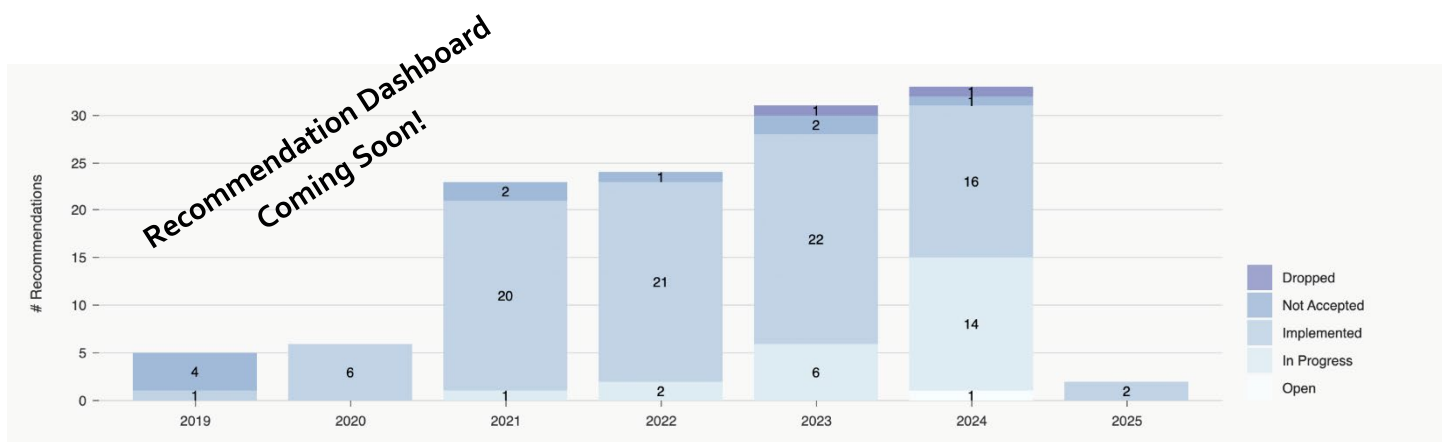
Complete the OIG charter and present it to the Board of Directors for adoption.

On the Horizon

Recommendation Dashboard: Our public-facing recommendation dashboard is on the horizon! This tool will provide enhanced visibility into our findings, recommendations, and project outcomes. Our goal is to enhance transparency, accountability, and trust with the public. We are in the final testing phase, addressing a few technical issues before we launch.

Staffing Changes: We are thrilled to share that former BART OIG Deputy Inspector General Zurvohn Maloof is now serving as the City of Oakland’s Inspector General. We wish him great success in this next phase of his professional journey. Mr. Maloof’s departure was a loss, but we are fortunate that our OIG Investigative Auditor, Jorge Oseguera, stepped in as Acting Deputy Inspector General, bringing exceptional leadership and expertise to the role.

Our top priority is filling the Deputy Inspector General position, followed by assessing our staffing structure in line with our [FY24-28 Strategic Plan](#). With a small team, we are carefully considering the best approach to meet our standards for achieving excellence.



Providing Independent Oversight of the District's Use of Revenue

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



24/7 Fraud, Waste, & Abuse
Whistleblower Hotline



www.bart.gov/oighotline



510-464-6100

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REPORTS

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

Appendix I: Definitions

Common Terms Used by the BART Office of the Inspector General

Abuse: Behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary.

Allegation: A claim or assertion that someone has done something illegal, wrong, or inappropriate. Also referred to as a complaint.

Complaint: A claim or assertion that someone has done something illegal, wrong, or inappropriate. Also referred to as an allegation.

Declined: Allegation lacked sufficient information to investigate or was too broad for a fraud, waste, or abuse investigation.

Dropped: Recommendation is no longer relevant or not feasible.

Economical: An organization's administration of its programs, functions, or activities with honesty, integrity, and impartiality and in a manner that advances the collective interest of the public rather than private gain.

Effective: An organization's ability to achieve its intended goals and objectives.

Efficient: An organization's ability to get the most value from its available resources.

Equitable: An organization's consistency in serving members of the public, distributing public services, and implementing public policy in a manner that promotes fairness, justice, and equality.

Forwarded: Allegation outside the OIG's area of influence and oversight and sent to the correct oversight function.

Fraud: In broad terms, an act that is intended to swindle someone or an organization. It is the intentional misrepresentation of the facts for monetary or personal gain.

Inconclusive: No evidence to support that the allegation of fraud, waste, or abuse, or noncompliance did or did not occur.

Insufficient: Not enough evidence proving that it is more than probable that a fraud, waste, or abuse allegation did occur, or to support audit findings and conclusions.

Not Substantiated: Insufficient evidence to support that an allegation of fraud, waste, or abuse, or noncompliance did or did not occur.

Out of Scope: Outside of the OIG's parameters for conducting fraud, waste, or abuse or noncompliance investigations or audits.

Performance Audit: Objective analysis, findings, and conclusions that assist with improving program performance and operations, reducing costs, facilitating decision making, initiating corrective action, and contributing to accountability.

Scope: The boundary of the audit or investigation tied directly to the objective or allegation, or area over which an oversight body has jurisdiction or influence as stated by law or policy.

Substantiated: Sufficient evidence supported that the allegation of fraud, waste, or abuse, or noncompliance did occur.

Sufficient: Enough evidence proving that it is more than probable that a fraud, waste, or abuse allegation did occur, or the quantity of evidence to support the audit findings and conclusions related to the audit objectives.

Unsubstantiated: Sufficient evidence supported that the allegation of fraud, waste, or abuse, or noncompliance did not occur.

Waste: Using or spending resources carelessly, extravagantly, or to no purpose.

Appendix II: Recommendation Progress

Upcoming Change

Beginning in fiscal year 2026, the rollout of the OIG’s recommendation dashboard will replace this appendix. The dashboard will offer comprehensive information on all OIG recommendations, showcasing the OIG’s suggested improvements and the actions taken by management to implement our recommended changes. Additionally, users will be able to search for recommendations by specific audits or investigations and gain insights into the types of categories those recommendations fall into.

District’s Progress on Open Recommendations

This appendix provides information on only the status of recommendations issued since June 30, 2024, and recommendations not yet implemented as of June 30, 2024. Only the most current reported corrective actions are included. Please refer to prior period annual and activities reports for older information.

Some recommendations have been edited for brevity.

\$56,000 in Project Administration Costs Were Avoidable – Issued 2/3/23

Open Recommendation Update

Status

- 1 Require Procurement to ensure that the scope of services for all on-call contract workplans is in alignment with the contract scope of services and work with the requestor to identify and use a more appropriate procurement process when work outside the scope of work is being requested.

Executive Management Response

Agreement management has circulated a memo to all contractors and BART project staff reflecting requirements for ensuring that awarded work matches the overall scope of the agreement. The memo also reiterated that contractors cannot directly charge administrative service expenses to a project unless they are directly related to that contract. BART staff continues to look at alternative methods for awarding necessary work that does not fall under the scope of its on-call projects.

In Progress
Expected
Implementation:
TBD

Open Recommendations Update

Status

- 1 To ensure the success of strategies that promote cost-effective communication and collaboration, the Human Resources Director should develop processes to ensure that the HRIS includes an up-to-date dataset of reporting relationships among BART employees, including the lower organizational layers.

Executive Management Response

Human Resources Department is preparing a memo for Human Resources Administrator's review, to be distributed to management employees, which provides instructions for updating their position data and organizational charts. This communication will also provide guidance on span of control and how it should factor into organizational decision-making from a classification and/or compensation perspective. The goal is to incorporate all 5 of the OIG's recommendations within this communication.

In Progress
Expected
Implementation:
January 31, 2025

- 2 The BART General Manager should set expectations that executive offices maintain up-to-date organization charts that include consideration of workloads created by contract management responsibilities, making transparent where accountability and the workload for reporting and oversight activities resides.

Executive Management Response

Human Resources Department is preparing a memo for Human Resources Administrator's review, to be distributed to management employees, which provides instructions for updating their position data and organizational charts. This communication will also provide guidance on span of control and how it should factor into organizational decision-making from a classification and/or compensation perspective. The goal is to incorporate all 5 of the OIG's recommendations within this communication.

In Progress
Expected
Implementation:
January 31, 2025

- 3 The BART General Manager should establish guidance and/or criteria on the factors that executives should follow when assessing their organizational frameworks and making changes to spans of control to improve organizational health or performance.

Executive Management Response

Human Resources Department is preparing a memo for Human Resources Administrator's review, to be distributed to management employees, which provides instructions for updating their position data and organizational charts. This communication will also provide guidance on span of control and how it should factor into organizational decision-making from a classification and/or compensation perspective. The goal is to incorporate all 5 of the OIG's recommendations within this communication.

In Progress
Expected
Implementation:
January 31, 2025

Open Recommendations Update

Status

- 4 The BART General Manager should adopt span of control as a management tool.

Executive Management Response

Human Resources Department is preparing a memo for Human Resources Administrator's review, to be distributed to management employees, which provides instructions for updating their position data and organizational charts. This communication will also provide guidance on span of control and how it should factor into organizational decision-making from a classification and/or compensation perspective. The goal is to incorporate all 5 of the OIG's recommendations within this communication.

In Progress
Expected
Implementation:
January 31, 2025

- 5 The BART General Manager should establish policies stipulating the conditions supporting span of control ratios of one supervisor to one employee.

Executive Management Response

Human Resources Department is preparing a memo for Human Resources Administrator's review, to be distributed to management employees, which provides instructions for updating their position data and organizational charts. This communication will also provide guidance on span of control and how it should factor into organizational decision-making from a classification and/or compensation perspective. The goal is to incorporate all 5 of the OIG's recommendations within this communication.

In Progress
Expected
Implementation:
January 31, 2025

Open Recommendations Update

Status

- 1 Establish procedures to verify during the product evaluation process that a product has a current UL or ETL safety certification when contract specifications require a product to meet certain safety requirements.

Executive Management Response

Infrastructure Delivery has developed and implemented procedures to verify product certification.

Implemented

- 2 When soliciting for a construction that includes installing a product that is not currently available on the open market, do two separate solicitations. The first solicitation should be to design and obtain BART’s approval of the product based on the contract specifications using a negotiated procurement method allowed under the Public Contract Code. BART should purchase the approved product directly to avoid incurring additional mark-up costs by the contractor who will install the product. The second solicitation should be for the project construction with a requirement to use the product approved by BART in the first solicitation.

Executive Management Response

For each new solicitation, BART Engineering and Delivery staff will work with the Procurement department and General Counsel’s Office to validate the appropriate contracting mechanism.

Implemented

- 3 Provide a timeline to the BART Board of Directors for when the work will be performed and how, i.e., BART staff or contract, along with updated estimated costs that correspond to that timeline.

Executive Management Response

Infrastructure Delivery is continuously working towards making progress. The lights are being installed by BART personnel in concurrence with regular maintenance work and scheduled shutdowns. The lights are being installed in multiple tunnels throughout the system as necessary. The work is being sequenced depending on when staff can access the tunnel areas where the lights will be installed. There is no set timeline as this work will be scheduled relative to ongoing maintenance and operational priorities. To date, 556 of approximately 2,100 lights have been installed.

In Progress
Expected
Implementation:
TBD

Open Recommendation Update

Status

- 4 Update the District Contractor Code of Conduct and Employee Code of Conduct to ban former employees from entering into new contracts with the District for a minimum of one year post District employment.

Executive Management Response

An updated Employee Code of Conduct and related Employee Conflict of Interest Declaration are under review.

In Progress
Expected
Implementation:
June 30, 2025

Open Recommendation Update

Status

- 1 Recover the \$11,900 identified in this investigation for services the contractor did not render or did not render to contractual standards.

Executive Management Response

The contractor has agreed to pay the District \$11,900 in settlement of this matter.

Implemented

- 2 Seek damages and penalties as permissible under the California False Claims Act.

Executive Management Response

The Office of the General Counsel settled this matter for \$11,900 rather than pursuing the claims through litigation.

Not Accepted

- 3 Provide contract management training to BART staff who are responsible for providing those services.

Executive Management Response

BART Maintenance & Engineering (M&E) Project Managers (PMs) have implemented increased accountability for all service contracts by establishing kick-off meetings/trainings with contractors and BART contract-responsible personnel to review the scope of services, frequency, post-work performance reports, auditing, and invoicing for any new contracts going forward. In addition, M&E is conducting post kick-off meetings/trainings for all service contracts that are currently in place to reiterate the same purpose and goal of educating BART staff on professional contract management best practices. M&E PMs have implemented a required post-work performance report for all service contracts and developed an auditing tracking metric that will capture the number and frequency of follow-up audit inspections per service contract. M&E also met with each service contractor to communicate new rules and procedures going forward, as well as auditing requirements for post-work claims prior to approving invoicing.

Implemented

- 4 Ensure BART staff adhere to contract terms when managing contracts and that they require the same of contractors.

Executive Management Response

M&E managers distributed a memo to all maintenance staff outlining how maintenance contracts should be managed. M&E has implemented contract reviews & training for contracts that identify a specific person responsible for managing a program. The PM will perform, in person 'contractor check' and document reports/notes/photos of these visits in a dedicated folder. The PM and their reporting manager will meet quarterly to review the contractor's performance and all reports/notes of the PM. If at any time a PM encounters Contractor scope of service deviations or nonconformity, the PM will document and notify their reporting manager immediately.

Implemented

Open Recommendations Update

Status

- 1 Recover the \$5,571.09 identified in this investigation for services the contractor did not render or did not render to contractual standards.

Executive Management Response

BART's General Counsel's Office has prepared a preliminary draft of the demand letter and is awaiting communication from staff regarding the amount that is to be demanded for settlement. A meeting is being coordinated to discuss the legalities of the demand once a rough figure is agreed upon.

In Progress
Expected
Implementation:
TBD

- 2 Seek damages and penalties as permissible under the California False Claims Act.

Executive Management Response

BART's General Counsel's Office has prepared a preliminary draft of the demand letter and is awaiting communication from staff regarding the amount that is to be demanded for settlement. A meeting is being coordinated to discuss the legalities of the demand once a rough figure is agreed upon.

In Progress
Expected
Implementation:
TBD

- 3 Terminate the contract for either convenience or cause.

Executive Management Response

BART Maintenance & Engineering (M&E) Project Managers (PMs) decided not to terminate the contract. Instead, they implemented increased accountability for all service contracts by establishing kick-off meetings/training with Contractors and BART contract responsible personnel to review scope of services, frequency, post work performance reports, auditing and invoicing for any new contracts going forward. In addition, M&E is performing post kick-off meetings/trainings with all service contracts that are currently in place to reiterate the same purpose and goal of educating professional Contract management best practices with BART staff. Maintenance & Engineering Project Managers also implemented a required post work performance report for all service contracts and developed an auditing tracking metric that will capture the number and frequency of follow up audit inspections per service contract. M&E also met with each Service Contactor to communicate new rules and procedures going forward, as well as auditing requirements for post work claims prior to approving invoicing.

Dropped

Note: The OIG opted to drop this recommendation due to confirming that the contractor had made marked improvements, and BART had taken measurable steps to prevent noncompliance in the future. That coupled, with seeking restitution, penalties, and damages, demonstrates efforts to hold the contractor accountable. However, the OIG will revisit this recommendation if satisfactory settlement is not reached.

Open Recommendations Update

Status

- 4 Evaluate the accuracy of the contractor’s invoices and daily work performance reports since February 2024 and make any necessary adjustments to payments.

Executive Management Response

BART Maintenance & Engineering (M&E) Project Managers (PMs) instituted and identified a Level 1 responsible person for approval of each service contract. They trained each level 1 approver on the scope of services for the contracts they are responsible for managing, as well as the auditing requirements established for those contracts. Training efforts are ongoing to ensure all M&E Section Managers and above are trained on the new service contract management procedures.

Implemented

Open Recommendations Update

Status

7 Complete a Districtwide pay equity audit.

Executive Management Response

The audit report was reviewed and approved by Human Resources on December 13, 2024.

Implemented

Note: The referenced audit was generated in response to the FTA (Federal Transit Administration) Equal Employment Opportunity Program (EEO) mandate, which requires FTA recipients to assess pay data using the Office of Federal Contract Compliance Programs (OFCCP) audit standards. We agree this report addresses our recommendation as stated. However, it's important to note that while the referenced audit analyzes EEO workplace pay compliance, it is not exclusively a "pay equity audit." Rather, it ensures organizations receiving federal FTA funds conduct pay-equity reviews and analyses as part of their EEO compliance efforts.

In light of this, and because the OIG is initiating an employee compensation audit in February 2025, we decided to incorporate a pay-equity analysis into the upcoming audit. This will allow us to explore some aspects not covered by the OFCCP review or that require a more in-depth examination beyond what the OFCCP provides. It also is a more effective use of resources given that pay-equity analysis naturally aligns with a compensation audit.

9 Update the Non-Rep Handbook to be reflective of current employment terms and conditions for non-represented employees.

Executive Management Response

Human Resources has made significant progress on updating the Non-Rep Handbook. The target implementation date is January 2025.

In Progress
Expected
Implementation:
January 2025

Open Recommendations Update

Status

- 1 Develop standard operating procedures that clarify the District’s requirements for tech memos and drawings, including the meaning of prepared and checked by as discussed in this investigatory report, and that require the completion of a BART Engineering Change Order to ensure drawings are recorded to BART’s official records.

Executive Management Response

The Design Quality Management Plan (DQMP) has been completed, published and all staff trained on 17 modules which include the requirements for reviews and checking.

Implemented

- 2 Record the technical drawings associated with this investigation to BART’s official records.

Executive Management Response

In addition to confirming that the drawings are included in the official project file for this project, we also completed a review of other projects with similar tech memos to ensure they are properly documented. For projects where documentation was missing, the necessary information was added to the project file.

Implemented

Open Recommendations Update

Status

- 1 Obtain settlement from the contractors.

Executive Management Response

The Board has approved settlements with both contractors and BART's General Counsel's Office is preparing/negotiating settlement agreements with both contractors.

In Progress
Expected
Implementation:
TBD

- 2 File civil action against the firms if they fail to settle in good faith.

Executive Management Response

The Board has approved settlements with both contractors and BART's General Counsel's Office is preparing/negotiating settlement agreements with both contractors.

In Progress
Expected
Implementation:
TBD

- 3 Establish a suspension and debarment process.

Executive Management Response

On December 5, 2024, the BART Board adopted a Suspension and Debarment Policy that included a suspension and debarment process.

Implemented

Open Recommendations Update

Status

- 2 Work with the General Counsel's Office to seek \$9,003.80 in restitution from former employee. Determine if the District should seek more if admitted to theft prior to the period covered in our investigation.

Executive Management Response

The criminal case is with the District Attorney (DA). BART's General Counsel's Office will monitor the status of this case and provide any updates from the DA. Implementation will resume once the criminal case is resolved.

In Progress
 Expected
 Implementation:
 TBD

- 3 Coordinate with CalPERS to make the appropriate years-of-service adjustments for the former employee's retirement calculation, pending results of prosecution.

Executive Management Response

The criminal case is with the District Attorney (DA). Adjustment of the employee's pension benefit is permitted only upon conviction or admitted guilt of specified crimes. BART's General Counsel's Office will monitor the status of this case and provide any updates from the DA. The District will follow-up with CalPERS depending on the outcome of the case.

In Progress
 Expected
 Implementation:
 TBD

Open Recommendation Update

Status

- 2 Develop training and guidance to assist BART employees in fulfilling their fiduciary responsibility in reviewing and approving invoices. Include examples that demonstrate common invoice errors and methods by which vendors might attempt to or could submit false information. Require personnel to complete the training before they are inserted into the PeopleSoft invoice approval workflow. Training need not be in person and can be achieved through online tutorials and videos.

Executive Management Response

Management has implemented the main recommendations, which were to prepare/update desk guides for Accounts Payable staff and put controls in place that prevent non-BART (contract) staff from performing financial approvals. The remaining item, online overall fraud training, has been delayed due to operational audit schedule delays.

In Progress
Expected
Implementation:
June 30, 2025

Open Recommendations Update

Status

- 1 Create a standardized form that prime contractors must complete and submit to the OCR.

Executive Management Response

Management is preparing a draft form that will align with the new manual developed by Agreement Management (see response to Recommendation #2). The form will be routed to all affected parties (Agreement Management, Infrastructure Delivery, Office of Civil Rights) for review. Methods for contractors to access and submit the form are being developed.

In Progress
Expected
Implementation:
June 30, 2025

- 2 Update the Procurement Manual to prohibit BART staff from directing, requesting, or suggesting that a prime contractor add a specific subconsultant to their contracts.

Executive Management Response

Agreement Management has developed a new manual called "On-call Agreement Compliance Manual" to address the recommendation.

Implemented

Potential Conflict of Interest May Require Voiding a \$40Million Construction Management Contract and Not Paying \$5.4 Million of Invoices – Issued 4/8/22

Open Recommendations Update

Status

3 Review and update the Contractor and Employee Codes of Conduct to ensure discussions of conflicts of interest are clear and consistent for both contractors and employees, including when and to whom to report them, and that they incorporate appropriate provisions of both federal and state conflict-of-interest prohibitions.

Executive Management Response

An update of the Employee Code of Conduct and related Employee Conflict of Interest Declaration are under review.

In Progress
Expected
Implementation:
June 30, 2025

6 Revise the Proposal Evaluation and Award Confidentiality and Conflict of Interest Certification as necessary to align it with the updated Employee Code of Conduct (see Recommendation 3) and expand its use of to include all staff who are involved in any way in the procurement and contract administration process for a project. The timing of when an employee signs the form should align with when their participation in the process is to begin.

Executive Management Response

The Proposal Evaluation and Award Confidentiality and Conflict of Interest Certification will be revised once the Employee Code of Conduct is updated (see Recommendation 1). Staff is reviewing the positions needed to be included in the certification.

In Progress
Expected
Implementation:
August 31, 2025

Summary of Investigations into Allegations of Theft – Issued 12/11/24

Open Recommendations Update

Status

- 1 Seek civil restitution from the employee for an amount to be determined by management.

Executive Management Response

The Employee resigned from the District. Case will be referred to the General Counsel's office for a decision regarding restitution.

In Progress
Expected
Implementation:
TBD

- 2 In accordance with the appropriate Collective Bargaining Agreement, address the employee violations of District Operations Rules and Procedures.

Executive Management Response

The Employee resigned from the District before disciplinary action could be implemented. Case will be referred to the General Counsel's office for a decision regarding restitution.

Dropped

Open Recommendations Update

Status

- 5 Formally document known familial relationships between District employees and provide the information to Human Resources and to the General Manager, Deputy General Manager, or Assistant General Manager as appropriate based on the organizational work area of the involved employees.

Executive Management Response

Human Resources gathers information about familial relationships during the application process and uses that information to a) determine whether an applicant still qualifies for the job based on that relationship, and b) notify the Hiring Manager of the relationship. Human Resources will be creating a process where they communicate this information quarterly to Assistant General Managers and above.

In Progress
Expected
Implementation:
March 2025

- 6 Establish and formally document mitigating controls that ensure familial relationships between BART employees will not result in one relative supervising the other or having control over the other’s work area.

Executive Management Response

Management has met several times with Union representatives and passed a proposed policy. They are now waiting to hear back from the Union representatives. Labor Relations has received no counter proposals from the Union, but will re-start meet and confer negotiations with them. Labor Relations current nepotism policy is still in place while this process continues.

In Progress
Expected
Implementation:
March 2025

Open Recommendations Update

Status

- 1 Implement written workplan selection guidelines that create more transparency and support accountability in how firms are chosen to perform work under their on-call contracts. Some options include a rotational basis that results in firms receiving work in a sequence or having all firms with on call contracts submit workplan proposals for evaluation. Regardless of the option chosen, the process should minimize the risk that favoritism is the driver or gives the appearance of being the driver behind the selection. The guidelines should include a requirement to consider overhead rates in the selection decision and to document the rationale for the selection for future reference.

Executive Management Response

The Professional Service Agreements team developed a rubric for assigning work to contractors. Agreement Management has developed a policy that details the process for requesting professional services from architectural, engineering, construction management, and planning on call vendors. This methodology will support transparency and fairness in work plan distribution among primes consulting firms. The policy was finalized October 2024.

Implemented