



SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT INDEPENDENT OFFICE OF THE INSPECTOR GENERAL

DISTRICT'S PERMIT ISSUANCE PROCESS DOES NOT BYPASS SUBJECT MATTER EXPERTS

INVESTIGATION



In October 2023, a condominium developer was issued a permit to conduct utility installation work adjacent to the 19th Street BART station with work ending on March 30, 2024. During construction in January 2024, a water leak occurred impacting the 19th Street station. According to BART senior management, the developer failed to notify the District before starting the work as required by their permit, and District staff were not present to immediately learn of the leak. Six months later, in June 2024, the same developer carried out urgent roadway repairs above the 19th Street station without a permit, as their permit had expired.

We received a whistleblower tip alleging that the District's streamlined permit issuance process bypasses Subject Matter Experts (SMEs), such as licensed Professional Engineers (PEs), which allowed for the two instances of permit noncompliance. We unsubstantiated the allegation.

RELEVANT DISTRICT TERMS & PROCESS



The District issues permits to private entities, who typically require physical access to BART property for the purpose of maintaining or connecting to electricity and water hookups to their abutting properties. The District streamlined its permit issuance process in 2023 into a web-based portal where private entities may apply online for their permits. This modernized process has a built-in "Engineer Decision Chart" delegating workflow and approval to SMEs based on the nature of the construction.

WHY THIS INVESTIGATION MATTERS

Permit processes serve to balance development and progress with safety, responsibility, and legality, ensuring that activities contribute positively to society without creating significant risks or negative outcomes.

INVESTIGATIVE FINDINGS



The developer's October 2023 permit was reviewed and approved by four separate District licensed PE. The developer's failure to notify the District of the January 2024 permitted construction that caused the water leak at the 19th Street station, and then later performing unpermitted roadway work in June 2024, was due to their individual non-compliance with BART's permit terms and process. It was not because the District's permit issuance process bypasses SMEs.

Although the developer did not have a permit before conducting the June 2024 roadway repair, it did notify the District, including at least one PE, prior to starting work. District senior management reported the developer is expected to submit a permit application before performing any remaining water leak repairs and permanent roadway work repair.

RECOMMENDATIONS

There are no recommendations associated with this report.

OIG DISCLOSURE PRACTICES

We identify those involved in our investigations in only limited circumstances. This avoids violating privacy and confidentiality rights granted by law and creating unwarranted actions against those involved with our investigation. The decision to provide names is made on a case-by-case basis and considers all elements of an investigation. This practice does not prevent individuals from requesting documents under the California Public Records Act (CPRA). However, such disclosures may be restricted or limited by law. The case described in this report is associated with case number 254-2024.

The role of the OIG is not to prove wrongdoing, but to uncover facts and find the truth. At times, this means we determine an allegation does not have merit as there is evidence clearing the subject of wrongdoing. Such evidence is generally not available to complainants.

The possibility of not substantiating an allegation is one of the reasons we maintain strict confidentiality over an investigation. It could harm the subject to release information about the allegation when no evidence supports wrongdoing.

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