



San Francisco Bay Area Rapid Transit

Office of the Inspector General Fiscal Year 2024 Semiannual Report

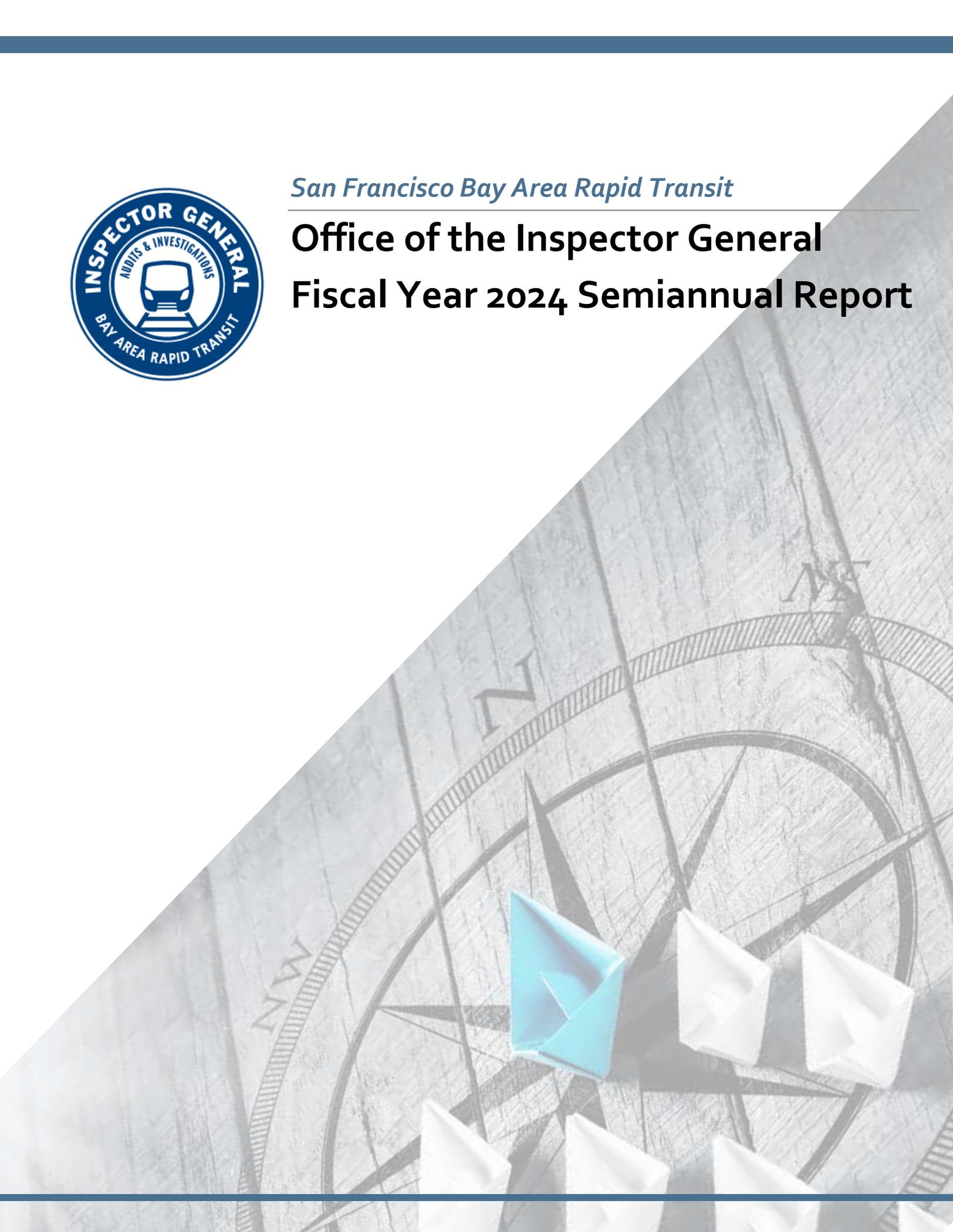


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MESSAGE FROM THE INSPECTOR GENERAL



The first six months of the 2024 fiscal year went by in a blur. We successfully completed our most complicated investigation to date, identifying \$1.7M in invoices that lacked proper support or verification making contractors potentially liable for \$8.3M in damages and penalties. The investigation was a significant milestone for us. We also made significant progress on other contractor fraud investigations and several nepotism and time-theft investigations.

The OIG [FY24-26 Audit Plan](#) and [FY24-28 Strategic Plan](#) were top priorities for me this year. I issued both in September 2023, laying the groundwork for what is to come. My team and I then got to work preparing to start several audits in the new year. Although the contracting process slowed our progress to obtain professional services to conduct those audits, we ended 2023 with the BART Board of Directors awarding four contracts to our selected consultants.

The last six months shed light on areas of needed change for the OIG to bolster independence. The first is our need to obtain independent counsel and the second is to ensure that management does not play a role in approving the needs of the OIG, such as staffing and contracting. Addressing these changes now will ensure that those who rely on our work have a reasonable assurance of our independence and avoid any potential independence impairments in the future.

I am happy to share that I welcomed Zurvohn Maloof as my new Deputy Inspector General. He comes to the OIG with a wealth of investigative experience having worked for multiple federal Inspector General Offices during his career, including with the Department of Transportation. I am also happy to share that Jorge Oseguera accepted an offer to join the OIG. Mr. Oseguera previously served as the Sacramento City Auditor, having been instrumental in establishing the city's first independent internal audit function.

Regards,

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

FY24 Midyear Highlights

We investigate fraud, waste, or abuse allegations made against employees, vendors, and contractors. Our major accomplishments in this area and the most significant issues we investigated during the first half of fiscal year 2024 include:

9 Closed Investigations: We completed nine investigations that addressed allegations of fraud, conflicts of interest, and policy violations.

27 New Complaints: We received and evaluated 27 new whistleblower complaints, which tracks with our average and resulted in us opening 19 investigations into allegations of fraud, waste, or abuse.

False Claims: We completed an investigation of contractor fraud and determined that the contractors may be liable for \$8.3M in penalties and damages because they knew or should have known that \$1.7M in invoices that they submitted to BART were not properly supported or verified in accordance with contract terms. Certified Fraud Examiners (CFE) opined that there is a “high potential” that the contractors “defrauded” BART, supporting a viable civil action under the [False Claims Act](#).

Time Theft: We concluded work on four investigations into allegations of time theft, substantiating three. Our findings are with Executive Management for their response. Over the last two years, we have investigated and substantiated five whistleblower allegations of time theft, elevating our concern that timekeeping requires stronger oversight.

Nepotism: We concluded work on three investigations into allegations of nepotism, substantiating one. Our findings are with Executive Management for their response. Our substantiated investigation identified a need for improved processes for identifying familial relationships among employees but did not identify theft or misappropriation.

Case Statistics All Years

	complaints received	213
	under investigation	20
	investigated	83
	forwarded	47
	declined	63
	substantiated	35
	not/unsubstantiated	34
	inconclusive	14

Trends



Fraud

We received **54 (25%)** allegations of fraud or misappropriation.

Timesheet and contracting fraud are the most common suballegations.

26	<u>investigated</u>	13	<u>substantiated</u>
11	<u>under investigation</u>	11	<u>not/unsubstantiated</u>
17	<u>forwarded/declined</u>	3	<u>inconclusive</u>



Compliance

We received **44 (21%)** allegations of noncompliance. Unfair competition and noncompliance with policies and procedures are the most common suballegations.

26	<u>investigated</u>	12	<u>substantiated</u>
3	<u>under investigation</u>	12	<u>not/unsubstantiated</u>
15	<u>forwarded/declined</u>	2	<u>inconclusive</u>



Unprofessional Conduct

We received **33 (15%)** complaints alleging unprofessional conduct.

Harassment and inappropriate behavior are the most common suballegations.

6	<u>investigated*</u>	1	<u>substantiated</u>
25	<u>forwarded/declined</u>	5	<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.



Conflict of Interest

We received **16 (8%)** complaints alleging a conflict of interest.

Financial interest in a contract is the most common suballegation.

12	<u>investigated</u>	7	<u>substantiated</u>
1	<u>under investigation</u>	4	<u>not/unsubstantiated</u>
3	<u>forwarded/declined</u>	1	<u>inconclusive</u>

Improvements

Corrective Actions

Tracking Progress: We obtained status updates from BART Executive Management on their progress implementing our recommendations. Since July 1, 2023, they implemented four recommendations. They also continued to move forward on implementing 17 other recommendations, all of which are carried over from prior fiscal years. Appendix II provides detail on our recommendations and Executive Management's progress to improve contracting compliance, avoid conflicts of interest, and strengthen timekeeping controls.

Improved Conflict of Interest Disclosures: BART updated the District Contractor Code of Conduct to address real or potential conflicts of interest. Improvements include restrictions on post-employment contracting by former BART employees and providing direction on disclosing actual or potential conflicts of interest. BART also updated its Contractor Conflict of Interest Declaration form, which is required during contract solicitation and on an ongoing basis when a contractor detects or learns of an actual or potential conflict of interest. The form also requires contractors to attest that no conflicts exist if they have none to report.

Seeking Restitution: The Alameda County District Attorney's Office declined to file criminal charges against a former employee who falsified their timecard, which removed BART's ability to obtain restitution under the criminal justice system. However, in response to our recommendation to seek restitution, the District reported that it is seeking to obtain a civil restitution to recover the wages. As we reported in [February 2023](#), the employee was arrested after we substantiated an allegation that the employee was not reporting to work but being paid, and then referred the matter to the BART Police Department for criminal investigation.

Recommendations

all years

#	total recommendations	75
+	accepted	66
x	not accepted	9
✓	implemented	49
⚙	in progress	17

Performance Highlights

Major Progress

Span of Control: We evaluated the number of management layers within the District to identify potential areas where organizational change may allow for faster decision making, improved communication, and streamlined operations. Results of the audit are intended to assist BART in addressing the fiscal challenge of reduced revenue resulting from the slow return to optimal ridership levels. TAP International, Inc. (TAP) conducted the audit on our behalf and has presented us with their draft report. We will work with TAP to obtain management responses to the recommendations and expect to issue the report in April 2024.

Consultant Contracts: We completed the solicitation process to award four on-call professional services contracts. Our selected consultants will play a major role in our ability to complete our [FY24-26 Audit Plan](#). We had hoped to have at least two audits underway by the end of calendar year 2023. Unfortunately, the solicitation process took much longer than anticipated, setting us back three months. However, we are positioned to have the consultants begin work as soon as the contracts are fully executed. First order of business will be the overtime audit.

Preparing to Launch



overtime use



construction contract change orders



asset management



Link21 spending

Implementation Progress

Significant Step Forward

New CFO Structure: We are pleased with the progress that BART is making to implement a Chief Financial Officer (CFO) structure. Our [audit](#) of BART's financial organization resulted in two recommendations to improve financial management.¹ The first was to adopt a CFO structure and the second was to have a committee oversee implementation. Sjoberg Evashenk Consulting conducted the audit for us and determined that a CFO structure will improve financial accountability.

BART created the Financial Structure Ad Hoc Committee and engaged the services of the consulting team of Bell Burnett & Associates and Uplift Collaborative to identify how to create and implement the CFO structure. The team presented their report to the committee on [November 16, 2023](#), which included a recommendation to put an interim CFO in place while the District moves forward with amending the [BART Act](#) to change from the current controller-treasurer structure. The team also detailed steps for effective change management to successfully implement the new CFO structure. BART's actions are important steps toward aligning strategic and financial objectives and navigating the District's fiscal crisis.

Recommendations

#	total recommendations	2
+	accepted	2
✓	implemented	1
⚙️	in progress	1

CFO TIMELINE

ROADMAP

Q4 2023

Board Approved



INTERIM CFO

Q2 2024

Target Hire Period



PHASE I

Q2 2025

Target Completion



PHASE II

Q4 2025

Target Implementation



Phase I includes amending the BART Act, refining processes, and hiring the permanent CFO.

Phase II Includes reviewing and refining organizational changes.

¹ [Performance Audit of the Organizational Structure of BART's Financial Operations \(September 1, 2022\) Conducted by Sjoberg Evashenk Consulting](#)

Expenditures to Date

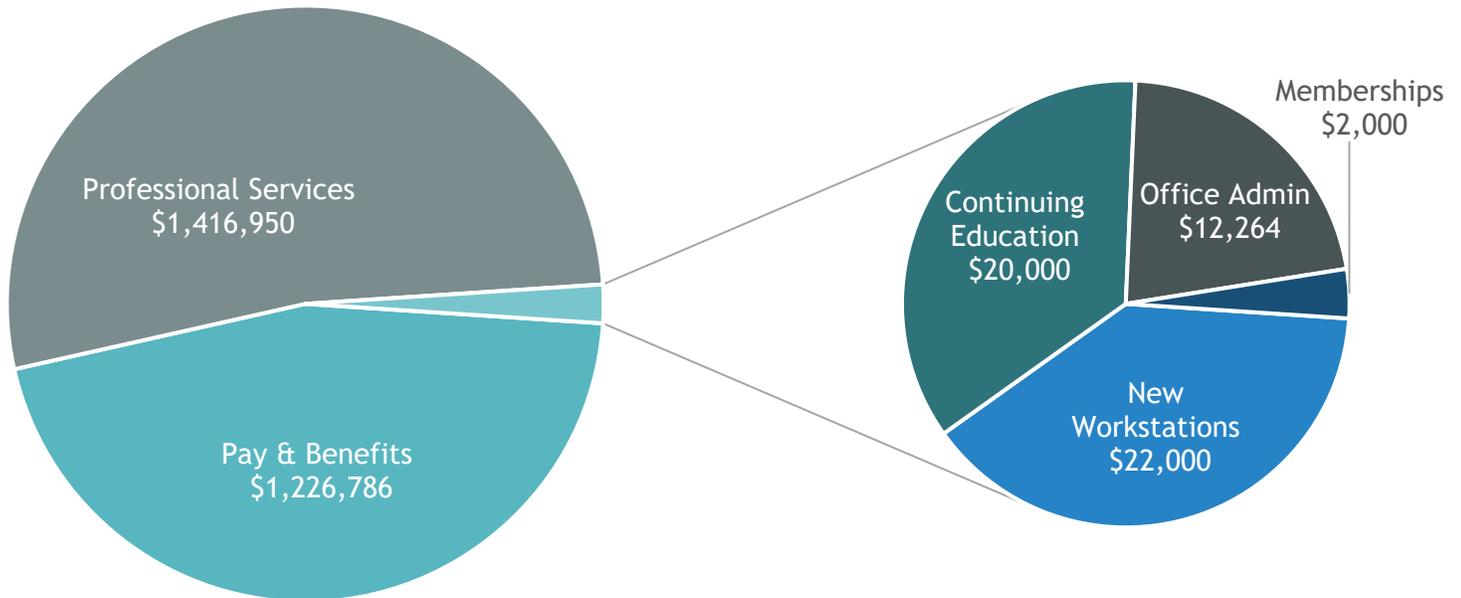
Big on Transparency

Use of Funding: We are committed to letting BART stakeholders know how we are using the public funding we have been entrusted with to perform our duties. Due to the lag times in hiring new employees and obtaining contracted services, we used only \$602,513 (22%) of our \$2.7M budget during the first half of fiscal year 2024. Most of that was for our team members who focused their time on investigations, project management, and office administration. The next largest expenditure went to our contracts for audit and fraud examination services. In all, 96% of what we have spent has gone directly to conducting audits and investigations.

Spending Details

	employee pay & benefits	\$417,906
	professional service contracts	\$159,261
	new workstations	\$21,245
	continuing education	\$1,856
	office administration	\$1,845
	memberships	\$400

Fiscal Year 2024 OIG Adjusted Budget*
Total Budget \$2.7M



*The OIG adjusted budget takes into consideration the timing of hiring new employees, which is not established in the District's budget. This allows the OIG to use funding originally planned for labor on contracted services.

Looking Ahead

Changes on the Horizon continuous development



We will be modifying our investigative auditor job classifications so that the description of duties and compensation better align with the work of our staff.



We are soon welcoming our new executive assistant who will handle our administrative tasks and assist with investigations and audits as part of career development and advancement.



Our new website is just around the corner. The new design embodies what we envisioned with a more modern look and feel to engage BART stakeholders.



BART will be installing new workspaces in our office to accommodate our growing staff and provide space for our consultants when they work onsite.



We will be implementing a new audit management system to securely store our audit documentation off the District network and improve our ability to collaborate on audits remotely.

Change in Staffing Needs: True to our [FY24-28 Strategic Plan](#), we continued to evolve to remain highly effective and efficient. In doing so, we evaluated our staffing structure and determined that – to be compliant with our standards – we require an attorney position in lieu of hiring two senior investigative auditors. The Association of Inspectors General’s revised [Principles and Standards for Offices of Inspectors General](#) clarify the need for OIGs to have independent counsel.² Having independent counsel will provide the public with further assurance that our work is fully independent from the District.

We have started discussions on this need with the District and hope to obtain consensus on this critical change. Based on a pay analysis by the District’s Class & Comp team, our staffing change would provide for more than \$700K in labor savings over the next five years, which we would apply to auditing services.

“The OIG should have on staff, or have access to, legal counsel to advise the OIG, independent of the agency or jurisdiction subject to the OIG’s oversight.”

~ Principles and Standards for Offices of Inspectors General

² The revised *Principles and Standards for Offices of Inspectors General* go into effect July 1, 2024.

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, including misuse of authority or position for personal interests.

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.

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.

Common Terms Used by the BART Office of the Inspector General

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

BART Executive Management’s Progress on Open Recommendations

Provides information on only the status of recommendations not yet implemented as of June 30, 2023, and only the most current reported corrective actions. Refer to prior period annual and activities [reports](#) for older information.

Some recommendations have been edited for brevity.

No Evidence of Fraud but Employees Would Benefit from Training on Their Fiduciary Responsibilities

Open Recommendation Update	Status
<p>1 Develop training and guidance to assist BART employees in fulfilling their fiduciary responsibility in reviewing and approving invoices.</p> <p>Executive Management Response</p> <p>Due to other high-priority work, staff has not had the resources to complete this recommendation. A new internal auditor is onboarding in January 2024, which should free-up some resources to transform the already completed fraud awareness materials into a viable training tool.</p>	<p>Partially Implemented</p> <p>Expected Implementation: April 2024</p>

Summary of Time Thefts Investigations

Open Recommendations Update

Status

- 1 Require supervisors to enter the information that SEIU employees are required to provide when conducting union business when they manually clock out SEIU union representatives who leave their worksites during their work shifts to conduct union business.

Executive Management Response

Union Business Time Reporting Codes have been developed in coordination with SEIU to ensure accuracy, and have been in place since January 8, 2024.

Implemented

- 2 Require utility workers assigned to graffiti car cleaning shifts to use the TCD machines to clock out of their shifts at the yards at which they are conducting the cleaning, regardless of which yard they are regularly assigned to work.

Executive Management Response

Rolling Stock & Shops has implemented a new car graffiti removal program:

Implemented

- Graffiti procedure was revised and added to the Car Cleaning Maintenance Manual on 8/25/2023.
- Rolling Stock & Shops Training Department trained Utility Workers across the 4 primary maintenance shops.
- Graffiti cars are cleaned locally at each primary shop so no travel to other shops required.
- Utility workers use TCD machine at their report locations to clock in and out so no time reporting by foreworkers should be necessary.
- Per SEIU CBA section 14.6 F, employees assigned to Exterior Car cleaning receive \$1 above their regular straight time.

Potential Conflict of Interest May Require Voiding a \$40 Million Construction Management Contract and Not Paying \$5.4 Million of Invoices

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.

Executive Management Response

The BART Board of Directors adopted an amended Contractor Code of Conduct on December 7, 2023. The update adds a section regarding post-employment contracting by former BART employees; clarifies the District’s options for enforcing the Code; and gives direction to contractors for how to disclose actual or potential conflicts of interest.

Staff has also modified Exhibit 4 “Statement of Qualifications and Business References” of the District’s standard Request for Proposals language to include a conflict-of-interest attestation that directs proposers to a new District Contractor Conflict of Interest Declaration form on BART’s website should they have an actual or perceived conflict-of-interest. Existing contractors will be asked to review the new Contractor Code of Conduct and submit the required declaration form as necessary.

The updated Contractor Code of Conduct and District Contractor Conflict-of-Interest Declaration can be found here: <https://www.bart.gov/about/business/procurement>

Partially Implemented

Expected Implementation: Employee Code of Conduct: April 2024

Contractor Code of Conduct implemented December 7, 2023

4 Revise the Proposal Evaluation and Award Confidentiality and Conflict of Interest Certification as necessary to align it with the updated Employee Code of Conduct 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.

Executive Management Response

Management plans to update the Employee Code of Conduct in early-2024, followed by updating the Proposal Evaluation and Award Confidentiality and Conflict of Interest Certification. The updated Employee Code of Conduct will be distributed to all BART employees upon completion and then sent annually to all BART employees thereafter.

Partially Implemented

Expected Implementation: April 2024

Workplan Selection Process Gives Appearance that Favored Firms Could Receive an Unfair Advantage

Open Recommendation 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.

Executive Management Response

Management continues its review of its entire work plan consultant selection process. Management is developing an evaluation template for both contractors and staff to improve both contractor and District performance on capital projects. Management intends to develop preliminary guidelines by March 2024.

In Progress

Expected
Implementation:
March 2024

Open Recommendations Update

Status

- 1 Create a standardized form that prime contractors must complete and submit to the OCR that justifies their proposed subconsultant addition by clearly identifying the special skills or resources required.

Executive Management Response

Management is preparing a draft form that will be routed to all affected parties (Agreement Management, Infrastructure Delivery, Office of Civil Rights) for review in January 2024. Methods for contractors to access and submit the form are being developed.

Partially Implemented

Expected Implementation: February 2024

- 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 staff are developing policies and procedures for the Professional Service Agreement division. As part of the development, staff will determine the best location(s) and format(s) to convey the message that BART staff is to NOT direct, request, or suggest that a prime contractor should add a specific subconsultant to their contracts, which may include the Procurement Manual. Management is considering drafting a memo to project staff in addition to language for the relevant manuals. In addition, the proposed updated Employee Code of Conduct will contain similar language.

Partially Implemented

Expected Implementation: June 2024

\$56,000 in Project Administration Costs Were Avoidable

Open Recommendation Update

Status

- 1 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

Management continues to explore available emergency/urgent procurement methods to determine how they apply to the situation that prompted the recommendation.

In Progress

Expected
Implementation:
April 2024

Caution is Needed to Avoid Conflict of Interest Violations

Open Recommendation Update

- 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.

Status

Executive Management Response

The BART Board of Directors adopted an amended Contractor Code of Conduct on December 7, 2023. The update adds a section regarding post-employment contracting by former BART employees that reads: "Former District Officials who were required to, or should have been required to, file a Form 700 (Statement of Economic Interests), are prohibited from contracting with BART (as a contractor or subcontractor, or employee of a contractor or subcontractor) for twelve months after terminating BART employment, regardless of whether the former District Official participated in the making of that contract while employed by BART."

Partially
Implemented

Expected
Implementation:
Employee Code of
Conduct: April
2024

Similar language will be added to the Employee Code of Conduct when it is updated in early 2024. In March 2023, the General Manager informed all employees about the planned post-employment rules via a memo that reads: "In order to further strengthen protections against conflicts of interest, I intend to request Board approval of an amendment to the District's Code of Conduct to prohibit former BART employees who were required to, or should have been required to, file a Form 700, from contracting with BART (either directly or indirectly as a contractor/subcontractor) for twelve months after terminating BART employment, regardless of whether the former BART employee participated in the making of that contract, except that retirees may enter into retired annuitant employment contracts with BART, subject to CalPERS restrictions on employment after retirement."

Contractor Code
of Conduct
implemented
December 7, 2023

BART Employee Collected Pay and Benefits for Time Not Worked

Open Recommendations Update

Status

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

Executive Management Response

The Alameda County District Attorney's office has declined to file criminal charges in this matter. The District is evaluating the potential for civil restitution to recover wages.

In Progress

Expected
Implementation:
March 2024

- 2 Coordinate with CalPERS to make the appropriate years-of-service adjustment for the employee's retirement calculation.

Executive Management Response

Adjustment of the employee's pension benefit is permitted only upon conviction of specified crimes. Because the District Attorney has declined to prosecute the former employee, CalPERS will not be able to make an adjustment to the pension benefit.

Alternative
Implemented

Link21 Expenditures Missing from Public Reports

Open Recommendations Update

Status

- 1 Provide regular public financial reports showing contractor, scope of work, expenditures to date, and award amount for Link21 and other large-scale program and project contracts.

Executive Management Response

Link21 project managers will commence reporting actual expenditures - "Spent to Date" - by contract category (Table 4 of Link21 Quarterly Report) in February 2024.

In Progress

- Strategic Advising and Project Management Contract #1
- Strategic Advising and Project Management Contract #2
- Engagement and Outreach
- Travel Demand and Land Use
- Planning and Engineering
- Environmental

Expected

Implementation:
February 2024

Open Recommendations Update

Status

3 Work with NextRequest to determine how to use the tools that can assist BART staff to quickly and easily associate emails with their attachments.

District Secretary’s Response

NextRequest has been preoccupied with other priorities. It seems that our desire to keep the emails and attachments together will require a new feature and it does not seem like they have the bandwidth for that at the moment.

Closed

OIG Note: We confirmed the District Secretary’s statements by reviewing her email exchange with NextRequest. Because there is no foreseeable timeframe for when – or if – NextRequest will be implementing the necessary feature, we are closing this recommendation. We would also like to note that, during our investigation, we contacted NextRequest multiple times to discuss the desire to keep attachments associated with emails. They assured us this capability exists though it appears now that this is not the case and requires programming. This change from NextRequest has no adverse impact on our original findings.

Open Recommendations Update	Status
<p>1 Ensure the nine employees in the protected classes are compensated in a manner reflective of their experience, education, and other applicable bona fide factors.</p> <p>Executive Management Response</p> <p>The Class & Compensation team has commenced a salary analysis and will make any necessary adjustments.</p>	<p>In Progress</p> <p>Expected Implementation: June 2023</p>
<p>3 Ensure all internal and external applicants understand that they may negotiate their starting salary and that doing so will not jeopardize their offer, but that the District is not required to accept their requests.</p> <p>Executive Management Response</p> <p>For all new non-rep and AFSCME salaried positions, BART will incorporate language in the respective postings that informs candidates that their starting salaries are negotiable.</p>	<p>Open</p> <p>Expected Implementation: June 2023</p>
<p>4 Ensure managers involved with recruitment understand the District’s provision to allow applicants to negotiate starting salaries.</p> <p>Executive Management Response</p> <p>Hiring managers will continue to be provided with a draft of the job posting, which will now include language that starting salaries are negotiable (see Recommendation 3).</p>	<p>Open</p> <p>Expected Implementation: June 2023</p>
<p>5 Limit non-represented employee temporary upgrades to six months or until a recruitment is completed to fill a vacancy.</p> <p>Executive Management Response</p> <p>BART is working to clear its backlog of temporary upgrade appointments, which is due mainly to the 2021 District Retirement Incentive Program. On a parallel track, BART is in the process of revising its Temporary Upgrade policy. Pursuant to this revised policy, temporary assignments will typically last for no longer than six (6) months unless otherwise approved by</p>	<p>In Progress</p>

Inconsistent Compensation & Hiring Practices Perpetuate Pay Disparities

Open Recommendations Update

Status

the Assistant General Manager, Administration and in all cases BART will continue to administer the temporary upgrade program consistent with the CalPERS regulations.

Expected
Implementation:
June 2023

7 Complete a Districtwide pay equity audit.

Executive Management Response

The District agrees to the recommendation and will conduct a Districtwide pay equity audit in FY25.

Open

Expected
Implementation:
Fiscal Year 2025

8 Ensure that the improvements identified in these recommendations are reflected in standard operating procedures.

Executive Management Response

The Class & Compensation standard operating procedures have been documented and are in the process of being finalized, which will incorporate the necessary improvements.

In Progress

Expected
Implementation:
June 2023

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

Executive Management Response

A comprehensive update to the Non-Rep Handbook is in process and will include updated and necessary changes to employment terms and conditions.

In Progress

Expected
Implementation:
Summer/Fall 2023

OIG Note: We inadvertently omitted these recommendations from our follow up with Executive Management. Therefore, the status for these recommendations is as of June 1, 2023, when we received their initial response to our recommendations. Based on regular communications with Human Resources staff, we are aware that they are working on the recommendations. We will provide Executive Management’s formal response in our annual report in July 2024.

Open Recommendations Update

Status

- 1 Modify the organizational structure of BART to allow for the creation of a Chief Financial Officer within the span of control of the General Manager.

Executive Management Response

Management's consultant team's recommendations and roadmap were adopted by the Board of Directors on December 7, 2023, which rescinded 2007's Board Resolution No. 5018 to allow the GM to have management authority over the Controller-Treasurer, and adopted the financial structure roadmap, including to: (1) move the Controller-Treasurer position and all functions, departments, and subordinate staff to the Controller-Treasurer under the span of control of the General Manager; (2) create a Chief Financial Officer (CFO) position and fill it on an interim basis until the District Act is amended, and on a permanent basis after the District Act is amended; and (3) implement a people-focused Organizational Change Management (OCM) strategy that builds involvement and engages staff before, during, and after implementation of the roadmap.

At the same meeting, the Board passed a motion to extend a consultant contract to provide OCM services, as previously recommended.

Concurrently, management is moving forward with a change to the District Act that will give the GM the ability to appoint a CFO.

In Progress

Expected
Implementation:
Fiscal Year 2025