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April 15, 2020

Via Electronic Mail

Honorable Kari K. Steele
and Honorable Members of the Metropolitan
Water Reclamation District of Greater Chicago
Board of Commissioners
100 East Erie Street
Chicago, Illinois 60601

Re: Independent Inspector General Quarterly Report (1st Qtr. 2020)

Dear President Steele and Members of the Board of Commissioners:

As you know, on April 18, 2019 the Board of Commissioners of the Metropolitan Water Reclamation District of Greater Chicago (MWRD) adopted Ordinance O19-003 entitled Office of the Independent Inspector General (MWRD OIIG Ordinance) that has been designed to promote integrity and efficiency in government and provide independent oversight of the MWRD. Additionally, an Intergovernmental Agreement between the County of Cook and MWRD became effective by full execution of the parties on May 17, 2019 (Sec. II. Term of Agreement) thereby authorizing the OIIG to initiate operations relating to the MWRD. This quarterly report is written in accordance with Section 2-287 of the MWRD OIIG Ordinance to apprise you of the activities of this office during the time period beginning January 1, 2020 through March 31, 2020.¹

OIIG Case Activity

In connection with the number of complaints received by the OIIG, please be aware we have received a total of 14 new complaints during this reporting period. This number also includes those matters resulting from the exercise of my own initiative (MWRD OIIG Ordinance Section Two (citing Cook County Code, Sec. 2-284(2))). Four OIIG investigations have been opened and

¹ In accordance with the MWRD OIIG Ordinance, this office reports quarterly the number of investigations initiated and concluded during the subject time period along with other relevant data concerning the activities of the office. Quarterly reports also set forth OIIG recommendations for remedial or other action following the completion of an investigation and track whether recommendations were adopted in whole or in part or otherwise not implemented by the MWRD. Finally, quarterly reports also describe miscellaneous activities of the OIIG that may be of interest to MWRD officials, employees, contractors and members of the public.

9 OIIG case inquiries have been initiated during this reporting period while a total of 24 OIIG case inquiries remain pending at the present time.² Please also be advised that no matters have been referred to other enforcement or prosecutorial agencies for further consideration this reporting period. Finally, please also be informed that the OIIG currently has no investigations open beyond 180 days of the issuance of this report.

OIIG Summary Reports

During the 1st Quarter of 2020, the OIIG issued five summary reports on MWRD matters. The following provides a general description of each matter and states whether OIIG recommendations for remediation or discipline have been adopted. Specific identifying information is being withheld in accordance with the OIIG Ordinance where appropriate.³

IIG19-0439. The OIIG initiated this review to assess the level of compliance by the MWRD with the training requirements mandated by the Illinois Open Meetings Act (“OMA”). According to OMA, a “public body” includes all “legislative, executive, administrative or advisory bodies of the State, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State” See 5 ILCS 120/1.02. The following MWRD entities meet this legal description: Metropolitan Water Reclamation District Board of Commissioners, Metropolitan Water Reclamation District Civil Service Board, and Metropolitan Water Reclamation District Retirement Fund Board of Trustees.

In order to assess the MWRD’s compliance with OMA, we obtained information concerning the MWRD public bodies, their respective appointed and elected officials, and the designees for each of these public bodies. We subsequently obtained OMA electronic training records from the Public Access Bureau of the Office of the Attorney General and compared the records to our lists of appointed and elected members serving on MWRD public bodies and MWRD designees to evaluate the level of compliance with OMA.

The preponderance of the evidence developed during the course of this review supports the conclusion that the MWRD has substantially complied with the training requirements of OMA. In order to achieve full compliance, we recommend consideration be given to the following:

² Upon receipt of a complaint, a triage/screening process of each complaint is undertaken. In order to streamline the OIIG process and maximize the number of complaints that will be subject to review, if a complaint is not initially opened as a formal investigation, it may also be reviewed as an “OIIG inquiry.” This level of review involves a determination of corroborating evidence before opening a formal investigation. When the initial review reveals information warranting the opening of a formal investigation, the matter is upgraded to an “OIIG Investigation.” Conversely, if additional information is developed to warrant the closing of the OIIG inquiry, the matter will be closed without further inquiry.

³ The OIIG issues a Quarterly Report relating to the MWRD separate from the one it issues for other government agencies under its jurisdiction. The Quarterly Reports for MWRD matters can be found at <https://www.cookcountyil.gov/service/metropolitan-water-reclamation-district-greater-chicago>.

- Two of the MWRD public bodies failed to submit lists of individuals designated to complete the electronic OMA training pursuant to 5 ILCS 120/1.05(a). Although these MWRD public bodies did not submit lists of designees, there were numerous employees who took electronic OMA training without being designated, in addition to the elected and appointed members to the MWRD public bodies. Going forward, the MWRD public bodies should officially designate individuals for training and submit their lists to the Attorney General's Public Access Counselor. These designees need to complete OMA electronic training within 30 days and complete the training each year thereafter. Additionally, these designee lists should be updated as additional individuals are designated for OMA electronic training.
- Our review revealed that two of three Members serving on the MWRD Civil Service Board completed electronic OMA training within the requisite timeframe pursuant to 5 ILCS 120/1.05. The third Member did not complete the training within the statutory time period; however, this Member did complete OMA electronic training before this review was completed.

The MWRD has adopted our recommendations. Please note that this report was issued as a public statement and the full report on this matter can be found on our website in the public statements section.

IIIG19-0485. The OIIG initiated this investigation after developing information suggesting that the Commissioners' Aides were engaged in an established custom of routinely failing to swipe their credentials at the Main Office Building ("MOB") police desk when entering the building. This alleged custom was in contrast to all other MWRD employees, each of whom were required to swipe their credentials upon entry to the building. Moreover, additional information developed through a review of MWRD system data revealed that the Commissioners' Aides were not included in standard timekeeping data. Accordingly, this review was initiated to assess the manner in which timekeeping is performed with regard to Commissioners' Aides, whether it represents a best practice for the MWRD and whether an operational objective exists to support their exclusion from swiping upon entry into the MOB.

OIIG investigators interviewed an accounting manager regarding the MWRD timekeeping swipe system. She stated the system was implemented in 2014 and is in use by all MWRD employees "except the second floor." When asked for clarification, the accounting manager stated that "second floor" referred to Commissioners and their Aides. The accounting manager stated that she had never received any information defending the practice and that historically she recalled a former MWRD Executive Director rejected suggestions that Commissioner Aides use the timekeeping system saying "don't even bring that to the second floor." The accounting manager stated in recent years an audit was performed by her department culminating in a recommendation to the MWRD Audit Committee that Commissioner Aides follow standard timekeeping practices.

Investigators interviewed a second accounting manager who stated that the Commissioners' Aides do not use the electronic timekeeping system to swipe in and out for work

each day. Rather, the Aides complete a handwritten daily time sheet which is to be signed by the Commissioner in whose office the Aide works. Those daily handwritten timesheets are submitted to his department where the information is entered, by hand, into the timekeeping system. The accounting manager stated this process is not efficient and that if the Aides were to use the electronic timekeeping system in place it would simplify matters significantly because his staff seldom receives all the timesheets in a timely manner. Because there is time pressure associated with processing payroll to meet deadlines every pay period, his staff dedicates considerable time contacting Commissioners' offices to obtain the timesheets in order to timely process payroll. Because those offices do not always respond quickly, employees from the Comptroller's office have to physically walk to the Commissioners' offices to locate the Aides and the outstanding timesheets. The accounting manager estimated an additional 10 hours per week is spent by his department obtaining and administering the handwritten timekeeping sheets. The accounting manager also noted that this time excludes the time spent by employees who answer inquiries from Commissioners' Aides regarding their available benefit time because it is not maintained in the electronic timekeeping system; rather, his department is forced to track their benefit time manually.

Investigators asked the Chief of Police to provide the rationale for the identification swipe console at the front doors of the two MWRD buildings on Erie Street. The Chief stated there are two purposes: (1) to verify that the person entering is an MWRD employee or contractor and (2) to enable the MWRD Police to be aware of who is physically present in the building. The Chief stated that the exceptions to this requirement are MWRD Commissioners, their staff and MWRD Police. When asked why the exceptions exist for the Commissioners' staff, the Chief stated "it's understood. I'm not sure why – it's always been that way."

The MWRD Telecommuting Agreement, required under the Administrative Procedures Manual, Section 10.9.0, is a detailed packet including a statement of conditions required for a telecommuting agreement, an employee questionnaire and approval sections by three layers of management: the employee's supervisor, the Chief of Human Resources and the Executive Director. This office reviewed the log of requests for (and subsequent approvals or denials of) Telecommuting Agreements at the MWRD since 2010. No Commissioner Aides are mentioned as having requested or subsequently received a Telecommuting Agreement.

A review of timekeeping materials for Commissioner Aides revealed the Aides use daily time sheets on which they record their arrival and departure times at the MWRD. The time sheet contains a list of codes for use in coding time, including telecommuting, working offsite, disability, personal leave, overtime, vacation, suspension and others. There is a signature line for the Commissioners' approval of the recorded time. In reviewing several months of such documents, this office made the following observations:

1. Several Aides' time was coded for telecommuting.
2. Leave is not consistently coded among Aides. For example, on days adjacent to MWRD holidays such as December 26 or December 31, for some Aides who were not present their time was coded as "0029 – Optional Holiday" whereas other Aides' time was coded as "0030 – Holiday" or "0060 – Vacation."

3. Some Commissioner authorization signatures are supplied via rubber stamp.
4. With very few exceptions, Aides supply the same clock-in and clock-out times each day (8:45 a.m. – 4:30 p.m.).

OIIG investigators reviewed the February 26, 2018 audit recommendations to which one of the accounting managers referred in her interview. The MWRD Audit culminated in findings that documented inefficiencies and lack of compliance with established mandates of the MWRD. When assessing the impact of the failure to include Aides in electronic timekeeping systems in favor of paper timesheets, the auditors stated the following:

Using paper timesheets for Aides misaligns action with Board established policies and goals. The TA system improves efficiency, transparency and accuracy in payroll processing and provides stronger internal controls in attendance tracking. District policy becomes action with administrative procedures. Using paper timesheets for Aides also results in inconsistent application of written procedures. Aides are employees of the District and all non-represented employees are required to use the TA system for clocking in and out per administrative procedure 10.24.0.... Expenditure resources on paper timesheet processing is not defensible in the context of District policy, values and goals as reflected in the appropriation ordinance and Strategic Business Plan. Under public scrutiny, undocumented exemption of Board appointed employees from an administrative procedure that increases efficiency, mitigates fraud risk, and strengthens alignment with stated values and goals, may undermine public trust and confidence in District governance.

We concurred with the audit recommendations and have identified no valid operational rationale to support the deviation from the established practices of the MWRD involving timekeeping and entry swipes by Commissioner Aides. To the contrary, there appear to be several negative consequences triggered by the current custom, including operational waste and the daily potential for inaccurate time recordation. Finally, the disparate application of MWRD policy to Commissioners' Aides creates the appearance that Commissioner Aides are being favored without operational justification due to their status as political appointees.

Based on all of the foregoing, we made the following recommendations:

- (1) MWRD should incorporate Commissioner Aides into the electronic timekeeping system and require their compliance with MWRD Administrative Procedures Manual.
- (2) The Commissioners' offices should become fully compliant with the MWRD telecommuting policy as outlined in Administrative Procedure 10.9.0.
- (3) The MWRD should cease the practice of excluding Aides from swiping their credentials at the MOB secure access points as such exemption serves only to foster a

culture that the Aides need not be subject to normal security and timekeeping requirements.

These recommendations are currently pending.

IIG19-0533. This office developed information that the MWRD was utilizing MWRD Pollution Control Boats to conduct boat tours in various Chicago waterways on behalf of MWRD Commissioners and their guests. After observing that the boat tours, unlike MWRD facility tours, are not publicly advertised on the MWRD website, this office opened an inquiry to determine the nature of this activity and whether it is in conflict with MWRD protocols and best practices.

Our investigation revealed that the use of MWRD watercraft to conduct tours of the Chicago waterways appears to have begun several years ago, possibly as an effort to lobby State legislators. After being relatively dormant for a period of time, the practice of boat tours has resumed at a significant pace. This office found that approximately 20 boat tours took place in 2019 at an estimated cost to the MWRD of approximately \$60,000.00. That figure does not include the costs associated with the use of MWRD pool cars and the time of Commissioners' staff and Public Affairs Department and Monitoring and Research ("M & R") Department employees who schedule and coordinate the tours and manage the employees who are directly involved. Our concerns are heightened considering the manner in which this program has evolved and is being administered. We highlight those concerns in our findings below:

1. Boat tours are not advertised to the public.⁴ Thus a person must be directly invited by a Commissioner in order to participate. This likely only takes place where the invitee is either known to the Commissioner or is of particular interest to the Commissioner. We are concerned that this creates a strong appearance of impropriety particularly where we have observed that invitees included a Commissioner's family member and where guest lists have been determined using political affiliation.
2. The boat tours create costs in the form of fuel, employee hours and wear and tear which are neither insignificant nor readily discernable to the public in the MWRD budget.
3. There are significant violations of, among others, Directive 02-01. While we acknowledge that this Directive was written regarding land-based tours, its security requirements of 30 days' notice and background check procedures are equally applicable to the boat tours. Records of boat tours and guests are haphazard and incomplete. It appears that in many cases Commissioners' offices never provided a complete guest list if one was provided at all. Guest lists were subject to last minute changes and no member of the MWRD Police, Public Relations or M & R Departments checked identification before tours.

⁴ With one exception: this office did identify an MWRD Commissioner who did advertise to the public via social media. However, we have heightened concerns where the link advertising the tour directed the public to the Commissioner's political website which itself seeks political contributions.

4. Public Affairs is not treating boat tour IDs/waivers in the same fashion as facility tours. The IDs which were sporadically provided were not sent to the MWRD Police for the background checks required under Federal law. Thus, it appears that no 2019 boat tour participant was subjected to a background check.
5. Commissioners' staff, when seeking to arrange tours or otherwise make requests of Public Affairs staff, are not first communicating with the Executive Director's office per the protocol of MWRD Administrative Procedures Manual 6.1.0.

Based on the foregoing, we recommended that the MWRD discontinue the practice of using MWRD M & R Pollution Control watercraft to conduct boat tours or otherwise engage in public relations. With very few exceptions, the boat tours appear to be a program exclusive to Commissioners and the guests they select using varied methods closed to the general public. This creates an appearance of impropriety. Secondly, Commissioners and their staff fail to adhere to the protocols in Administrative Procedures Manual 6.1.0. which requires Commissioners' offices to communicate with department heads through the Executive Director's office. The failure to adhere to this protocol in this case resulted in the creation of a cross-departmental program, complete with budget requirements, invisible to the public and without the managerial input or oversight of the Executive Director.

The MWRD has adopted our recommendation.

IIG19-0615. The OIIG initiated this review at the request of the MWRD Board of Commissioners to ascertain whether applicable MWRD protocols were followed in a workers' compensation settlement involving Elected Official A. During the course of this review, the OIIG interviewed various MWRD employees and contractors, reviewed files related to the MWRD workers' compensation claim policies and considered the State of Illinois Workers' Compensation Act, 820 ILCS 305/1, *et seq.*

The evidence developed during the course of this investigation supports the conclusion that MWRD officials and contractors followed standard protocols in administering the subject claim process and that Elected Official A did not receive special consideration as part of the claim. Elected Official A completed the MWRD's Accident Notification form and submitted it to the Safety Department. The Safety Department then entered the claim into the system, handing it over to a Third-Party Administrator ("TPA"). The TPA representatives each conducted normal procedures with Elected Official A's claim. The TPA representative completed the final tasks related to Elected Official A's claim by verifying all medical bills were paid and completing an analysis and proposed recommendation for settlement. The proposed settlement was presented to an outside attorney who confirmed the reasonableness of the offer.

All individuals involved with Elected Official A's claim were instructed by their supervisors to handle the claim in the same manner they would handle any other claim. None of the individuals believed that the claim was handled inappropriately or that special consideration had been applied to this case. Importantly, when Elected Official A issued her counteroffer signaling her dissatisfaction with the initial offer, the involved individuals rejected the non-

compensable damages that were part of the counteroffer. In other words, TPA and MWRD staff responded correctly by applying the law and facts to reach a reasonable proposal that was reviewed and approved by outside counsel.

IIG19-0329. The OIIG initiated this review based upon the request of an MWRD official to review lobbying activities at the MWRD. At the time this review was initiated, the MWRD did not have a lobbying ordinance. The OIIG worked with the MWRD Law Department to amend the MWRD's Ethics Ordinance and add a section on lobbying registration and reporting requirements to the newly amended Ethics Ordinance. The amended ordinance was passed by the MWRD Board by unanimous vote on January 23, 2020. *See also* IIG19-0279. During this process, the OIIG also assisted the MWRD's Information Technology ("IT") and Law Departments in identifying characteristics that should be included in the MWRD's new Lobbying Portal such as user-friendly features while promoting transparency. The OIIG reviewed other agency lobbyist registration websites, assisted the IT and Law Departments in testing the website, and made recommendations based upon the OIIG's research and testing of the website. At the time of this report, the MWRD's IT and Law Departments have made all aspects of the lobbying registration accessible, usable, and searchable to the public and lobbyists. The Lobbying Portal can be found on the MWRD's homepage at mwrld.org.

Miscellaneous OIIG Activity

Please be aware that our office recently welcomed one new investigator to our staff. Mr. Fount Hankle, Jr. joins the office with 27 years experience in Federal law enforcement having served as Assistant Special Agent-in-Charge for the Office of Inspector General, U.S. Department of Homeland Security, along with various other assignments. Mr. Hankle is a graduate of Governor's State University (M.P.A.), Indiana University (B.A.) and Resurrection University (B.S.N.) and is currently a Registered Nurse.

Conclusion

Thank you for your time and consideration to these issues. Should you have any questions or wish to discuss this report further, please do not hesitate to contact me.

Very truly yours,



Patrick M. Blanchard
Independent Inspector General

cc: Mr. Brian Perkovich, Executive Director
Ms. Susan T. Morakalis, General Counsel