



**Metropolitan Water  
Reclamation District  
of Greater Chicago**



# **Office of the Independent Inspector General**

*“[T]o detect, deter and prevent corruption, fraud, waste, mismanagement, unlawful political discrimination or misconduct in the operation of County government.”*

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**Metropolitan Water Reclamation District of Greater Chicago**

**Quarterly Report  
2nd Quarter 2020**

**July 15, 2020**

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July 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 (2nd 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 April 1, 2020 through June 30, 2020.<sup>1</sup>

**OIIG Case Activity**

In connection with the number of complaints received by the OIIG, please be aware we have received a total of six 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))). Two OIIG investigations have been opened and eight OIIG case inquiries have been initiated during this reporting period while a total of 26 OIIG

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<sup>1</sup> 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.

case inquiries remain pending at the present time.<sup>2</sup> 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. Please also note that a number of program reviews have been initiated and are scheduled to be released in the coming quarter including the Emergency Response Program Review, Cyber Security Program Review and Aspirational Goals in Contracting Review.

### **OIIG Summary Reports**

During the 2nd Quarter of 2020, the OIIG issued one summary report on MWRD matters. The following provides a general description of the 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.<sup>3</sup>

IIG20-0238. The OIIG initiated this investigation after developing information that the MWRD, in response to the Coronavirus COVID-19 pandemic, had implemented a policy to provide additional compensation in the form of either overtime or compensatory time to its unrepresented (*i.e.*, non-union) employees. Initial information disclosed that employees who are normally *Fair Labor Standards Act* (FLSA) exempt and whose salaries are among the highest in the MWRD were earning sometimes in excess of 20 hours of compensatory time for each week worked.

The current Business Continuity Plan (“BCP”) was approved by the Executive Director on December 1, 2019. The BCP, initially implemented in 2016, is revised annually and makes use of a Revision Control Table which appraises the reader of any changes in the current year. The 2018 BCP did not contain provisions regarding additional compensation during a pandemic to unrepresented employees. The December 1, 2019 BCP listed the following changes:

Updated contact information throughout; added location detail in Table 9 for Command Centers and Alternate Facilities; revised Section 6 Pandemic/Public Health Emergencies; updated guidance in Section 10 External Communications;

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<sup>2</sup> 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.

<sup>3</sup> 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>.

removed Appendix C: Key External Contacts (now found in the Crisis Communication Plan); added content to Appendix E: Pandemic/Influenza.

Section 6, dealing with pandemic, offers a detailed continuum of escalating MWRD responses associated with the catastrophic effects of a pandemic. Specifically, different MWRD responses are triggered with increasing “call-off” rates associated with greater numbers of employees who have fallen ill and cannot come to work. The first steps are triggered when the call-off rate exceeds 17%, or the normal daily call-off rate for the MWRD. The ensuing steps are associated with call-off rates of 20%, 25%, 30% and 35%. When the call-off rate exceeds 35%, a host of responses are triggered, including a declaration of emergency, the activation of the Emergency Operations Center, minimum staffing, MWRD messaging, work locations, social distancing, vaccinations, time tracking, accommodations for extended shifts, compensation, quarantine and monitoring absenteeism. Within this response to a call-off rate exceeding 35%, the BCP states: “It is assumed that the duration of the emergency plan for a pandemic may be 12 to 18 months.”

Page 19 of the BCP addresses compensation as follows: “For a partial, full-day, or extended (e.g., week-long) closing or move to minimum staffing (collectively referred to as “Closing”), the leave and pay practices listed below will be applied. For closings that are longer than one-week, other guidelines may be established.” The relevant leave and pay practices in this section state as follows: “Nonexempt employees who are designated essential personnel are compensated at a premium (one-and-one-half times the employees’ regular pay rate) for the entire emergency-closing period. Exempt essential employees may be granted compensatory time off for hours worked during the emergency-closing period.”

OIIG interviews of MWRD staff yielded that the pandemic compensation terms introduced in the current BCP did not arise from any one person at the MWRD but rather were terms in previous drafts of other similar documents. Evidence developed during the investigation showed that the MWRD drafted crisis response plans in 2006 and 2009 which included these compensation terms. MWRD staff, in compiling the current BCP, incorporated those compensation terms from the 2006 and 2009 crisis response plans so as to continue to make the BCP as comprehensive a plan as possible in 2019. This office has reviewed those archival documents and confirmed the compensation terms therein.

Through reviews of MWRD Board records and interviews with MWRD staff, it appears the December 1, 2019 BCP was distributed to Board members in hard copy and was also made available in electronic format via the MWRD employee portal. The Board did not vote to approve or otherwise ratify the document.

On Tuesday, March 17, 2020, the MWRD Human Resources Department advised MWRD employees that new compensation procedures were being implemented for employees TAM 17 and above as follows:

### Employees in Pay Grades TAM 17 – 18

Employees who are directed to report to work at a District facility or other location that is part of the District's service area should clock in and out as usual. These employees shall be compensated at 1-1/2 times their hourly rate for all hours worked. If these employees only work a partial workday, these employees will be coded 0017a – Employee Benefit for any regularly scheduled hours not worked during their scheduled workday.

### Employees in Pay Grades TAM 19 and above

Employees who are directed to report to work at a District facility or other location that is part of the District's service area should clock in and out as usual. These employees will be compensated one-half hour of compensatory time for each hour worked. If these employees only work a partial workday, these employees will be coded 0017a – Employee Benefit for any regularly scheduled hours not worked during their scheduled workday.

On April 17, 2020 the MWRD Human Resources Department advised MWRD employees that the Pandemic Compensation Plan would cease on April 20, 2020 following the MWRD's successful transition to remote working for its various departments.

In our interviews with MWRD employees and review of financial records, this office determined that the pandemic compensation policy implemented on March 17, 2020 was not automatically applied to eligible employees but rather required a manual entry to code the time of the employee. Thus, the policy was applied if the eligible employee requested application of the policy. Our review of the use of the policy yielded the following observations:

1. There existed wide variation in application for compensatory time by eligible TAM 19 and above employees who worked at MWRD facilities after March 17, 2020. Some employees requested the compensatory time and others did not.
2. Following the March 17, 2020 implementation, the Executive Director requested all Director level employees (who are included in the "TAM 19 and above" classification) to report to work at the MWRD until further notice. After approximately two weeks, the Executive Director advised the Directors to use their best judgement in determining whether to work remotely or at the MWRD.
3. The greatest expense to the MWRD in managing the pandemic arises from compensatory time (which carries a dollar value reflected in the MWRD's financial statements) and premium pay rates associated with all classes of employees including both the bargaining units and the aforementioned TAM 17-19 and above employees. Specifically, for all groups combined, the MWRD accrued approximately \$3,800,000.00 in payroll liability during the period of implementation due in large part to

approximately 47,000 hours of compensatory time awarded to both represented and non-represented employees. Although we calculate that the compensatory time awarded to TAM 19 and above employees at one point totaled 839 hours and is thus a small portion of that hourly total, it is significant nonetheless given that the higher rates of pay for those TAM 19 and above employees mean those 839 compensatory hours have a greater average hourly fiscal impact to the MWRD.

4. Beginning in April, several non-represented TAM 19 and above staff who had accrued substantial compensatory time as a result of the pandemic compensation policy (with some earning over 80 hours of compensatory in time in approximately one month) sought to, and did, relinquish the accumulated compensatory time.

5. By mid-April the MWRD leadership realized that the financial impact of the pandemic compensation policy and related terms in collective bargaining agreements was not sustainable. The MWRD thereafter terminated the pandemic compensation policy for unrepresented employees and engaged the various bargaining units in discussions regarding how to address the growing financial impact.

Based on our investigation, we made several findings and conclusions.<sup>4</sup> First, it is clear in the BCP that the MWRD expected a pandemic to present in a manner that caused increasing employee absence over time triggering greater responses as the effects of the pandemic became more severe. The BCP, like most people in 2020, did not anticipate a pandemic which would result in preemptive orders from state and local government for all persons to shelter in place for an extended period. Thus, when those orders arrived, the highest call-off rates specified in the BCP, and the ensuing policies triggered thereunder, went into effect immediately. However, this was not because of widespread debilitating illness within the ranks of the MWRD and the general public but part of the broader strategy to “flatten the curve.”

Second, we found that the pandemic compensation protocols in the BCP related to unrepresented employees constituted waste. We found this to be the case given that the majority of such employees were able to work substantially from home, were able to rotate days or shifts with other employees to minimize the number of employees at the MWRD and/or utilize office configurations which enable them to socially distance while in the office as opposed to represented employees who work at the reclamation plants.

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<sup>4</sup> We recognize that very few organizations were fully prepared to embrace the realities of working through this pandemic. Every institution has had to make critically important decisions not methodically or cautiously but during a compressed timeframe and alongside incomplete or evolving public health information. With that in mind, we wish to make clear that our recommendations are based primarily on the actions of the MWRD prior to the pandemic, specifically the terms of the BCP and the manner by which the MWRD advised the Board of those terms. In the course of our investigation, we have specifically sought to avoid making assessments about why particular employees worked remotely or worked at the MWRD and why some employees requested application of the official policy where others did not. We thus have declined to delve into whether employees receiving the pandemic compensation had no alternative to working from the MWRD, preferred to work at the MWRD, were incentivized by the pandemic compensation or worked at the MWRD for some other reason.

Third, while it did receive a copy of the BCP prior to the pandemic, the Board of Commissioners was not otherwise asked to approve or ratify its contents. This was significant considering the financial implications within the BCP regarding pandemic compensation. We believe Board approval to be less necessary concerning the strictly operational provisions of the BCP, but where the BCP permitted significant *ad hoc* modifications to the compensation packages of the most highly compensated MWRD employees, we concluded prior Board approval would have been a more prudent course, particularly given that the BCP itself contemplated a pandemic will last 12 to 18 months.

Based on our findings, we recommended the MWRD strike from its BCP the provisions granting pandemic compensation to unrepresented employees. Should the MWRD wish to retain a pandemic compensation schedule for unrepresented employees, we recommended the following:

1. The MWRD Board vote whether to approve the pandemic compensation schedule for unrepresented employees;
2. The compensation schedule for unrepresented employees be subject to a recordkeeping requirement requiring a written directive whenever an employee is required to work from an MWRD facility and detailing the basis for such directive that the work be performed at an MWRD facility.

These recommendations are currently pending.

### **Outstanding OIIG Recommendations**

In addition to the new case being reported this quarter, the OIIG has followed up on outstanding recommendations for which no response was received at the time of our last quarterly report. Under the OIIG Ordinance, responses from management are required within 45 days of an OIIG recommendation or after a grant of an additional 30-day extension (if applicable) to respond to recommendations. Below is an update on these outstanding recommendations.

#### **From the 1<sup>st</sup> Quarter 2020**

IIG19-0485. 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.... Expending 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. Due to the circumstances surrounding COVID-19, the MWRD has been granted an extension to reasonably consider the subject recommendations.

#### **Miscellaneous OIIG Activity**

Please be advised that OIIG operations have continued during the quarantine period. We have significantly increased use of technology to continue to meet the mandate set forth in the MWRD OIIG Ordinance by adopting protocols for the conduct of witness interviews on-line, daily on-line supervisor conferences and document management on-line through the OIIG case management system. Additionally, like many other offices, we have integrated Microsoft Teams into our daily activities. We will continue to operate using these practices as required and maintain one person on-site at the main office building in the coming weeks.

#### **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