



**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.”

**Metropolitan Water Reclamation District of Greater
Chicago
Quarterly Report
1st Quarter 2021**

April 15, 2021



OFFICE OF THE INDEPENDENT INSPECTOR GENERAL

Patrick M. Blanchard, Inspector General

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April 15, 2021

Transmittal 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. 2021)

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, 2021 through March 31, 2021.¹

OIIG Case Activity

In connection with the number of complaints received by the OIIG, please be aware we have received a total of 8 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))). Six OIIG investigations have been opened and six OIIG case inquiries have been initiated during this reporting period while a total of eight OIIG

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.

case inquiries remain pending at the present time.² One matter has been referred to management or other enforcement or prosecutorial agencies for further consideration. The OIIG currently has three matters under investigation and one investigation open beyond 180 days of the issuance of this report.

OIIG Summary Reports

During the 1st Quarter of 2021, the OIIG issued three summary reports on MWRD matters. The following provides a general description of the matters 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

IIG19-0579. The OIIG received an anonymous complaint that an MWRD senior official hired a friend of a family member to be her Secretary to Officer. As a result, this office opened an investigation to determine the circumstances of the hire.

This office examined documents related to the hiring sequence in question and determined that the Human Resources Department (“HR”), working with the subject senior official, assisted in the development of the posting for the position, posted the position and ranked the 167 ensuing applicants based on the applicants’ individual qualifications. We immediately observed that the person hired, hereinafter “Employee C,” was, per HR screening, among the lowest scoring applicants for the position yet was among seven candidates selected for interview. During the investigation, we reviewed various documents relating to the subject hiring sequence and interviewed various witnesses involved in the hiring process, including the subject senior official and Employee C, as well as a family member of the subject official who is also employed at the MWRD.

The preponderance of the evidence developed by the investigation showed that Employee C received special considerations in her application for employment at the MWRD. Further, those special considerations, including an offsite private meeting with the subject official prior to formal interviews, flowed exclusively from Employee C’s relationship with the subject senior official’s family. The special considerations given to Employee C elevated Employee C’s standing among all applicants despite the contrary professional judgement of HR that Employee C was among the

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 issued involving MWRD matters can be found at <https://www.cookcountyil.gov/service/metropolitan-water-reclamation-district-greater-chicago>.

least qualified. Thus, the special considerations and ensuing hire of Employee C constituted a breach of the subject senior official's fiduciary duty to the MWRD given that these circumstances create a strong appearance of impropriety.

During the investigation, witnesses asserted that Employee C was never expressly promised the position and has been successful at the MWRD. Further, it has been asserted that the scoring method used by HR to assess qualified candidates was not optimal given the needs of the department and that the position is, after all, exempt from civil service requirements. All of that may be accurate. However, those circumstances are insufficient to overcome the clear appearance of impropriety in this hire. Despite the assertion of Employee C's qualifications and the attestations that no promises were made and every applicant was given equal and fair consideration, the larger circumstances surrounding this hire demonstrate otherwise. Those additional circumstances include that the subject senior official, based on a referral from a family member, chose to disregard the judgement expressed in HR rankings by elevating Employee C, a family friend, from the bottom of those rankings. That the subject senior official arranged, even before the position was posted, a private offsite meeting with Employee C to discuss the position compels the conclusion that the special considerations afforded Employee C were dispositive and the ensuing HR posting activities meaningless.

We note the posting for the position in question contained the following language:

The Metropolitan Water Reclamation District of Greater Chicago is committed to hiring and employment practices that base employee selection on an applicant's knowledge, skill and ability to perform effectively on the job; provide equal employment opportunity to all qualified applicants; *prohibit the entry of political reasons or factors and other improper considerations into any stage of the selection and hiring processes; and create a transparent, honest and fair hiring system.* (Emphasis added.)

This office takes this language to mean all applicants were on an equal footing when they applied for this position. Yet the evidence developed by the investigation demonstrates this was not the case, and it is doubtful the other applicants for public position would view the considerations afforded Employee C as part of a "transparent, honest and fair hiring" sequence.

Finally, the evidence developed by the investigation highlighted that the hiring procedures used in filling vacant Secretary to the Officer positions have been inconsistent. The civil service exemption codified in the MWRD statute has allowed for a practice of inconsistent hiring procedures and, in this hire, an appearance of impropriety resulting from significant special considerations afforded a family friend.

Accordingly, based upon the foregoing, we respectfully recommended that the MWRD:

1. Create a uniform process to be utilized by HR and officers for the hiring of Secretaries to Officers which includes:
 - a. Job descriptions including minimum qualifications;
 - b. Public posting of vacant positions;
 - c. A requirement that all employment recommendations be in writing and based on the author's personal knowledge of the candidate's work experience, skills or other job-related qualifications.
2. Counsel and admonish the subject senior official against such future hiring decisions creating an appearance of impropriety by the MWRD.

The OIIG recommendations are currently pending with the MWRD.

IIG20-0286. The OIIG received a complaint alleging that the MWRD is improperly paying funds to separated employees for unused vacation time from prior years. OIIG investigators conducted a review of the vacation time policy and spoke to officials from the Finance and Human Resources Departments regarding MWRD protocols. The OIIG also reviewed Separation Payout information from 2018-2020.

The preponderance of the evidence developed by the investigation demonstrates that employees who separate from the MWRD after March 31st each year are being paid out for vacation time they have accrued in the prior year and carried over. Despite that the District Vacation Allowance Usage Policy states that all vacation carried over into the following year shall be used by March 31st, the investigation revealed that from 2018-2020 at least 41 individuals received payouts after March 31 for the prior years' vacation time which was carried over. For the last three years this has totaled \$99,687.00 in payouts in carryover vacation time. (This amount is separate from the appropriate vacation time payouts based on vacation time accrued in the year the separation occurred.)

Further, the preponderance of the evidence reveals that the use of the forms to request and document approval of vacation carryover is not uniform nor always in compliance with the particulars of the policy, namely extended use deadlines and stating the reason for the request, etc.

The OIIG recommended that the MWRD:

1. Configure its SAP platform to automatically strike any unused carryover vacation time from employees' vacation balances on April 1st;
2. Counsel all directors regarding the particulars of the Vacation Allowance Usage Policy so as to ensure full compliance in processing future requests.

The OIIG recommendations are currently pending with the MWRD.

IG20-0353. An anonymous complainant alleged that an employee has been subjected to ongoing abuse from a senior official. During the investigation, the OIIG also learned that the subject senior official would occasionally bring a child to the workplace. OIIG investigators conducted interviews of employees in the department, witnesses from other MWRD departments, and the subject senior official. OIIG investigators also reviewed various MWRD policies and Illinois law.

OIIG Findings and Conclusions

- I. MWRDGC Administrative Procedure 10.27.0 – Rules for Employee Conduct, states, in part, that:

- 1.(a) “Employees are expected ... to conduct themselves in a manner acceptable in the workplace.”

In assessing whether the conduct of the subject senior official and, in particular, her conduct in relation to the particular employee rises to the level of harassment, we must recognize that the senior officials’ efforts were directed toward correcting and improving the employee’s work performance. The information developed consistently suggested that the employee had been experiencing performance issues. The subject senior official has further described the employee’s resistance to instruction and oversight. Human Resources, in investigating the employee’s earlier complaints, has concluded that she is a difficult employee unwilling to accept constructive criticism. On the other hand, the employee and certain other witnesses have described the subject senior official’s behavior as condescending toward the employee and has included yelling and screaming. The subject senior official has acknowledged her level of frustration toward the employee’s performance issues may have been apparent to others when she communicated with her, but she denied ever yelling or screaming. Notwithstanding the apparent disparate views of these circumstances, it is clear that the level of tension between the employee and the subject senior official is high.

The senior official is responsible for the employee performance of those individuals she is charged with supervising. This includes imposing discipline where appropriate, giving instructions, correcting mistakes, monitoring work performance and addressing issues of underperformance. We also recognize that aggressive supervision can be seen by subordinate employees as supervisor harassment.

We have carefully considered all of the circumstances surrounding these allegations and do not believe that the conduct of the subject senior official represents employee harassment or intimidation. However, the preponderance of the evidence does support the conclusion that the subject senior official’s management style has included yelling and screaming at employees and that her level of frustration with employee performance resulted in yelling or screaming at the particular employee. Particularly persuasive in corroborating this were the MWRD employees in close proximity to the subject senior official’s office who were otherwise not assigned to her unit who could hear yelling and screaming through the walls of her office. In this regard, the evidence

supports the conclusion that the subject senior official's conduct crossed the line from simply a management style to conduct unacceptable in the workplace in violation of section 10.27.0 of the Administrative Procedure Manual. We believe that this finding is independent of the fact that the employee has, in no small measure, contributed to the circumstances causing difficulty in the work environment.

II. MWRDGC Human Resources 10.14.0 - Children in the Workplace.

The preponderance of the evidence developed during the course of this investigation supports the conclusion that the subject senior official violated policy by bringing her grandson to work on multiple occasions. Administrative Procedure 10.14.0 states that it is inappropriate for children to be present in any District workplace for anything other than a brief visit during working hours. Employees are directed not to bring children into the workplace in lieu of making appropriate childcare arrangements.

Several witnesses have confirmed that the child is in the office for extended periods while one witness stated that she cared for the subject senior official's grandchild for 30-40 minutes while the senior official attended a work meeting. The subject senior official has advised this office that she has brought her grandchild into the office on occasion though minimized these incidents by stating she usually brings the child to the MWRD on her off day to come to the office to take care of something. Whether the number of times the child was present were numerous or limited, a policy violation occurs.

OIIG Recommendations

Based on all of the forgoing, we recommended that:

1. The subject senior official be counselled to undertake a self-assessment to ensure her conduct promotes the ideals of the MWRD in the workplace. In this regard, she should be counselled to eliminate behavior that amounts to yelling or screaming in the workplace and to always maintain a professional and respectful rapport with co-workers; and
2. The subject senior official receive admonishment and/or discipline consistent with past instances of violation of the Children in the Workplace policy.

The OIIG recommendations are currently pending with the MWRD.

Outstanding OIIG Recommendations

In addition to the new cases 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 to respond to recommendations. Below is an update on the outstanding recommendations.

From the 4th Quarter 2020

IG19-0518. The OIIG received information suggesting that contract participation for the Affirmative Action Program⁴ entities may be substantially below the MWRD's aspirational goals. The OIIG subsequently initiated this review to assess the MWRD's Affirmative Action Program ("AAP").

During our review, we interviewed key MWRD senior officials familiar with the MWRD's procurement process and AAP. These MWRD officials include a member of the MWRD Board of Commissioners, the Director of Procurement, the Director of Maintenance & Operations, and the Diversity Administrator. We also interviewed the Director of the Cook County Contract Compliance Office to obtain insights from a different government unit administering a MWBE Program.

The OIIG received Appendices from the Diversity Administrator that describe the contract participation for the AAP.⁵ We selected specific MWRD contracts to sample for compliance with the Appendices. We assessed the AAP actual contract participation according to the stated contract goals and assessed the process for monitoring AAP contract participation.

The OIIG reviewed MWRD Board meeting information on the legistar website for contracts that the MWRD awarded over a three year period (2016-2019). This timeframe served as the baseline period for our AAP review. We arranged the list according to the highest dollar amount, and our judgmental sample resulted in 20 contracts worth \$193,282,707. The actual level of contract distribution amounted to \$118,192,474.

We compared the aspirational goals stated in the contracts to the aspirational goals in the Appendices. The MWRD does not generate reports that compare disbursements made to the prime contractor to payments made to the AAP participants. Therefore, the OIIG received payment information made to the prime contractors provided by the Finance and Procurement Departments. We compared the Finance Department's disbursements to prime contractors to the payments AAP participants reported to the AAP. The AAP are required to report their payments to the AAP.⁶ As discussed below, this methodology presented challenges to compare relevant payment information between the prime contractors to the AAP participants during the same baseline period.

⁴ The "SBE" reference in this report includes both SBE and VBE. VBE and SBE have different criteria, but are combined for SBE participation pursuant to the MWRD's policies. There is no separate tracking and reporting for VBE and SBE.

⁵ The Appendices are found in each contract.

⁶ The AAP Director provided the OIIG with payment information as of January 2020. The Director of Finance provided us with disbursements made pursuant to the respective contracts through May 2020. Therefore, there could be some timing differences between payments and reporting.

The mission of the AAP includes reviewing contracts, setting aspirational goals, and monitoring contract participation. The AAP operates in accordance with the contract Appendices.⁷

The Appendices establish the “aspirational goals” for AAP participation in contracts that exceed certain prescribed monetary thresholds.⁸ These aspirational goals are as follows:

Type of Contract	Minority	Women	SBE
Consulting/Professional/ Services	20%	10%	10%
Construction	19.6%	6.9%	0%
Goods	0%	0%	0%

There are two general exclusions in connection with the AAP. For one, the MWRD has no Appendix for AAP participation with contracts for goods. Additionally, construction contracts do not have a provision for SBE participation.

Based upon all of the foregoing, we respectfully offered the followings recommendations:

1. The Engineering Department met the AAP’s aspirational goals for 4 MBE’s and 6 WBE’s in the 10 contracts our Office examined for this review. While there will likely be variations on AAP participation based on different contracts and timing, the data nonetheless provides a snapshot at a moment in time. The OIIG recommended that the MWRD Board requests quarterly reports from senior management that show the aspirational goals and actual outcomes. This could provide the basis for constructive discussions from the AAP, contract managers or resident engineers, and contractors – including the MBE, WBE, VBE, and SBE participants.
2. When we reviewed the Engineering Department contracts, 9 of 10 contracts had dual representation where the SBE was also the MBE or WBE. For dual representation, the MWRD does not increase the percentage of proceeds that goes to the MBE/WBE and SBE. The MBE/WBE percentage covers the SBE’s percentage. In effect, the general contractor is allowed to retain more of the contract proceeds than if he/she included a different SBE to participate in the contract through this loophole. We recommended increased aspirational goals for dual participation scenarios.

⁷Appendix A covers *MBE, WBE, and SBE* participation in professional services contracts; Appendix C covers *MBE and WBE* participation in construction contracts; Appendix K covers *MBE and WBE* apprenticeships in contracts; and Appendix V covers *VBE and SBE* participation in professional services and construction contracts (collectively “*SBE*”).

⁸ The monetary threshold for AAP participation for service contracts and apprenticeships are the total estimated expenditures exceeding \$100,000. The threshold for AAP participation for construction contracts is contracts that are estimated to exceed \$10,000 (applies to Cook County only).

3. The Engineering Department uses dual participation that could be undermining the spirit of the SBE classification. SBE's provide opportunities for business owners within a certain entity size despite their race or gender. We recommended that the MWRD reviews this practice to determine the intent supporting small business participation and adjust this practice – if necessary. Accordingly, the MWRD should establish and track separate goals for SBE's.
4. Our review revealed that the AAP does not include Furnish and Deliver contracts because the MWRD deems this practice commercially useful. Furnish and Deliver contracts are issued for goods and commodities. The three furnish and deliver contracts in our review generated \$28,917,207 (54.9%) in contract activity for our M&O sample. The OIIG recommended that the MWRD Board of Commissioners ensures that that the external consultant hired to conduct a Disparity Study assesses this policy and determine whether AAP should also apply to furnish and deliver contracts.
5. Our investigators had to create reconciliations to assess the level of MWBE participation for our review. This methodology presented challenges to compare relevant payment information amongst the MWRD, the prime contractors and the AAP participants during the same baseline period. The AAP is currently working to implement new tracking software set to go online in early 2021. MWRD senior management should ensure the AAP has the resources and assistance to meet this goal through implementation and thereafter.
6. Our review identified an intergovernmental agreement (“IGA”) between the MWRD and a workgroup totaling \$4,718,895. The contract had no aspirational goals because the AAP was not provided the IGA for MBE/WBE/SBE participation. Note that the AAP does not have an opportunity to review Furnish and Deliver contracts. The AAP's inability to directly participate in the MWRD's overall mission and strategic planning endeavors may put the AAP at a disadvantage. The OIIG recommended that the MWRD determine whether diversity and inclusion could be improved if the AAP is elevated to a department and included as part of the Executive Team.
7. We identified circumstances where contracts with no or low aspirational goals failed to include documentation that explained the reasons for modifying the aspirational goals. In our experience, documentation serves as an important internal control and provides an audit trail. Moreover, the practice would provide sources of information to evaluate the effectiveness and shortcomings of the AAP. The OIIG recommended that the AAP document the reasons for setting tailored goals. We do not believe that this practice would unduly impede upon the Diversity Administrator's professional discretion as suggested.
8. We received statements that MBE/WBE/SBE businesses do not bring concerns to the AAP about the lack of inclusion in their contracts. We recommended the MWRD encourage prime contractors and subcontractors to report issues implicating AAP goals to either AAP

or to the Inspector General's Office. This may be achieved by adding a general condition requiring the same.

In its response, the MWRD accepted recommendations 5, 6, and 7. The remaining recommendations are pending as MWRD is waiting for the results of the above-referenced Disparity Study to make a decision on the remaining recommendations.

From the 3rd Quarter 2020

IIIG19-0320. In 2019, the OIIG received a communication expressing concern that the MWRD may not be prepared to properly and efficiently respond to a major disaster or a flu pandemic. The OIIG initiated this matter to review the MWRD's emergency response program. During our review, we interviewed key MWRD personnel familiar with the emergency response program, including a member of the MWRD Board of Commissioners, the Executive Director, the Risk Manager, Director of Maintenance & Operations, an Assistant Director of Maintenance & Operations, and three Water Reclamation Plant Managers. We also reviewed the MWRD's Emergency Response Plans, emergency procedures manuals for Water Reclamation Plants, training and practice drills documentation and the *President's Council on Integrity and Efficiency, IG Guide to Evaluating Agency Emergency Preparedness* (Nov. 2006)(incorporating the *National Response Plan*).

The primary goal for this review was to confirm the existence of emergency plans and assess whether these plans met the standards recommended by the *President's Council on Integrity and Efficiency, IG Guide to Evaluating Agency Emergency Preparedness* and the National Incident Management System's ("NIMS") *National Response Plan*. We also sought to determine whether key MWRD personnel were aware of such plans and whether they have been trained to implement them. Accordingly, the OIIG applied limited auditing procedures and investigative techniques to assess the MWRD emergency response program. Below are specific findings and corresponding recommendations based on our review:

1. We noted that the MWRD's Emergency Response Plans did not contain all the provisions found in the federal standards established for emergency response plans. The OIIG review revealed that the MWRD met 30 of the 33 recommended standards (90.9%) stated in the NIMS checklist related to its Emergency Operations Plan. We also noted that the MWRD met 26 of the 29 recommended standards (89.7%) stated in the NIMS checklist established for the MWRD's Business Continuity Plan. The OIIG recommended that the MWRD Executive Director ensures that senior management review these omitted provisions and formally document whether these items should or should not apply to the MWRD's emergency response plans.
2. Our review revealed that 9 of the 16 MWRD Incident Management Team Members (staff) did not fulfill their Federal Emergency Management Agency ("FEMA") training obligations prior to an OIIG confirmation request made in March 2020. The MWRD

should create a policy that imposes an obligation upon personnel to complete the FEMA training within a reasonable timeframe after joining the MWRD.

3. OIIG investigators received statements from MWRD senior management that it is a challenge to maintain a current contact list for the Emergency Response Plans. We recommended that the MWRD follow a suggestion from a senior manager and make the contact list “live” as a cloud-based contact directory.
4. The OIIG received and reviewed memoranda from the Executive Director that was addressed to the Board of Commissioners in connection with transmitting updated Emergency Response Plans on an annual basis. Senior management, however, does not appear before the Board to explain the contents or provide updates in person. The OIIG recommended that the Board consider an annual Board Meeting agenda item be added to apprise the Board and ensure the emergency response program is prioritized throughout the MWRD.
5. We recommended a heightened attention to employee training, practice drills and exercises, and the reconciliation of the Emergency Response Plans (District-wide versus facilities).
6. During our review, we learned that the Risk Manager was tasked with an enormous responsibility for creating an emergency response program and the subsequent training for the entire MWRD. Although the Risk Manager obtained input from other MWRD personnel, the Risk Manager was ultimately responsible for the creation, implementation, and continued monitoring of the emergency response plans. We recommended that the MWRD consider the assignment of additional staff to support the Risk Manager in fulfilling these responsibilities. Such additional support could be dedicated to training, monitoring, and unifying the numerous plant specific emergency response plans discussed above.
7. Our review revealed that the MWRD does not conduct formal New Employee Orientation training related to its emergency response program. This training is a provision contained in the MWRD’s emergency response plans. We recommended that Human Resources coordinate its efforts with the Risk Manager to formulate materials to address this issue.
8. The MWRD should consider procuring and implementing Emergency Management software. The State of Illinois, City of Chicago and Cook County government currently use emergency management software called the “WebEOC.” We were told that this is relatively inexpensive cloud-based software that enables organizations to streamline the creation and execution of practice drills and exercises, emergency response plans and subsequent updates, and real time communication internally and externally to coordinate emergency responses including requests for supplies and equipment.

Honorable Kari K. Steele and
Honorable Members of the Board of Commissioners
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On November 10, 2020, the MWRD timely issued a response adopting recommendations 2 through 8. Recommendation 1 has subsequently been substantially adopted.

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