



**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 2022**

April 14, 2022



OFFICE OF THE INDEPENDENT INSPECTOR GENERAL

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April 14, 2022

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. 2022)

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, 2022 through March 31, 2022.¹

OIIG Case Activity

In connection with the number of complaints received by the OIIG, please be aware we have received a total of 12 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))). Five OIIG inquiries have been upgraded to an OIIG investigation this reporting period while 12 OIIG case inquiries have been initiated during this reporting period and a total of 19 OIIG case inquiries remain pending at the present time.² We

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.

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

have referred no matters to management or other enforcement or prosecutorial agencies for further consideration this reporting period. The OIIG currently has no matters open more than 180 days of the issuance of this report.

OIIG Summary Reports³

During the 1st Quarter of 2022, the OIIG issued four 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.

IIG20-0475-A. This review was initiated to evaluate delays and additional costs in the completion of construction contracts and is a supplement to our prior review of these issues completed last year. *See* IIG20-0475 MWRD Contract Delivery Review, June 30, 2021. After we released the initial report, we received additional complaints with heightened concerns in relation to the construction contract delays identified in the initial review. We subsequently performed investigative and audit procedures to further consider these issues and made the following findings and recommendations:

1. During our prior contract delivery review, OIIG investigators identified lengthy construction delays. Many of the delays were due to change orders for additional work. During this supplemental review, evidence revealed that the original construction schedules are not adjusted to reflect the additional work from change orders. Accordingly, we recommended that the Engineering Department produce reports for the Board and public review that will show delays and additional work attributed to change orders separately and apart from the original construction schedules. The Engineering Department has indicated that it plans to regularly submit a table with this information to the Board.
2. Our previous review revealed the reasons for delays included weather conditions (rain or winter), the COVID Pandemic, structures underwater or underground, and more deterioration than could be identified during the planning stages for the contract. During our supplemental review, the Director of the Engineering Department (“Director”) stated that the Engineering Department will institute a change to include historical data in its information system that is easily available for engineers. This

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>.

practice is intended to provide the engineers better access to such information when devising construction schedules with contractors.

3. Our initial review revealed that all the construction contracts in our sample exceeded the projected construction completion dates by at least 100%. However, the Director explained that the MWRD and public are not completely deprived of use during construction. The MWRD and public are able to use completed segments of the construction despite construction delay. We recommended that the MWRD Engineering Department report partial use construction to the Board and public on a regular basis.

These recommendations are currently pending.

IIG21-0183. This matter was initiated based upon information suggesting MWRD Commissioners' Aides do not have written job descriptions and perform substantially different duties from each other. During the review, OIIG investigators conducted interviews of each MWRD Commissioner regarding their staff's job descriptions and conducted an interview of an HR representative. The OIIG also reviewed salary information pertaining to Commissioner Aides.

The evidence revealed that most MWRD Commissioner offices do not have written job descriptions for their Aide positions and that the Aides at times perform substantially different duties from each other. This review also revealed that all other positions within the MWRD utilize job descriptions that provide minimum qualifications while outlining the duties and functions of the position. Moreover, other positions in the MWRD designate salary based on education, experience and skill level in discharging the function of the position. This also is contrary to the Aide positions within the Commissioners' offices.

We found that no justifiable rationale exists to support a distinction between MWRD employees and Commissioner staff members when it relates to the existence of job descriptions and corresponding salary tables for the positions. In the experience of this office, this added HR measure fosters better transparency along with other important governmental objectives. Accordingly, we recommended that Commissioners work with the HR Department to set minimum qualifications and scope of duties for the Aide positions. These qualifications, duties and functions should also correlate with established salary ranges of MWRD positions with similar qualifications and duties.

This recommendation is currently pending.

IIG21-0468. The OIIG received an anonymous complaint alleging Human Resources ("HR") deemed certain candidates who did not have a qualifying bachelor's degree but had a qualifying master's degree as qualified, but disqualified others for both the Administrative Services Officer and Financial Analyst positions.

During its investigation, the OIIG reviewed job descriptions (original and promotional) for the Administrative Services Officer and Financial Analyst positions, candidate lists, exam results, oral board member security statements, and the “not qualified” letter issued to candidates deemed unqualified. Investigators also interviewed a Senior Human Resource Analyst.

The preponderance of the evidence developed during this investigation does not support the conclusion that HR personnel failed to follow policies, rules or procedures in the hiring process. While some errors were made when reviewing candidates for both the Administrative Services Officer and Financial Analyst positions, those errors were successfully discovered and promptly corrected. Although the allegation was not sustained, we noted that material changes and a final determination were made in connection with this hiring sequence which were not memorialized in the hiring file. We believe that HR Analysts should maintain a written record of any changes made to a candidate’s application status as well as the reasons for making any such changes. By establishing this audit trail, HR would be in a better position to respond to challenges or questions raised involving a hiring sequence. Moreover, we also believe that by taking such steps other important governmental interests are served such as transparency in the hiring process.

This recommendation is currently pending.

IIG22-0043. This investigation was initiated after the OIIG received a request from the MWRD to examine a series of emails it had received from a private company (Company) that was testing a product which the MWRD was analyzing on behalf of the Chicago Park District (CPD). The emails alleged an MWRD engineer allowed his personal bias to influence the conclusions of the analysis, which were summarized in a Final Report drafted by the MWRD. The email also alleged the same engineer acted unprofessionally when commenting about the Company’s product at a conference.

During our investigation, OIIG investigators examined the referenced emails from the Company. The OIIG then interviewed the co-founder/managing partner of the Company, the subject engineer, the subject engineer’s supervisor, an MWRD commissioner and the Executive Director of the MWRD.

The preponderance of the evidence developed during this investigation does not support the allegations of the complaint. The complaint called into question the integrity of an MWRD engineer and alleged the engineer’s bias affected his conclusions regarding the effectiveness of the Company’s product. The evidence failed to reveal any evidence to support the allegations of the complainant. It should be noted that among those interviewed during this investigation were two senior MWRD executives who had been identified by the Company’s Managing Partner as being aware of the existence of bias on the part of the subject engineer. The investigation further revealed that a local university had been provided with the raw data used by the MWRD and that it performed its own independent analysis of the Company’s system. The university reached the same conclusions as to the effectiveness of the Company’s system as was reached by the MWRD engineers. The university’s corroborating analysis was unknown to the Managing Partner of the

Company prior to the OIIG investigation. The university's analysis provides further corroboration of the lack of bias being interjected in the analysis by the subject engineer.

Outstanding OIIG Recommendations

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

IIG19-0518. 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

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.

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.

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 request 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.

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.

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).

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.
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 five recommendations were pending as the MWRD was waiting for the results of the above-referenced Disparity Study to make a decision on those recommendations. We understand that the Disparity Study is now complete and has been submitted to the MWRD and anticipate a response to the remaining recommendations in the near future.

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 A. Perkovich, Executive Director
Ms. Susan T. Morakalis, General Counsel
Mr. John T. Joiner, Administrative Aid to the President