

ACTIVITIES REPORT

July 2020 – September 2020

Office of the Inspector General

Fraud, Waste, and Abuse Investigations

The OIG investigates indications of fraud, waste, or abuse regarding BART's programs, operations, and suppliers. Employees, contractors, and citizens are encouraged to report their observations.

Every individual, regardless of religion, race, immigration or documentation status, or national origin, is safe to seek and obtain assistance from the OIG.

Audits

The OIG conducts performance audits that contribute to public accountability and transparency by providing independent and objective analysis of the efficiency and effectiveness of BART programs, operations, and activities.



Message from the Inspector General

Being an Inspector General is not an easy job. What keeps me going – what keeps the audit and investigation community going – is the support of those who appreciate our work and value independent oversight. It is particularly inspiring when those who could be subject to audits and investigations welcome the oversight, especially people in leadership roles.

I attended the virtual [23rd Biennial Forum of Government Auditors](#), which had many great speakers and presenters from federal, state, and local government offices. This included Chicago's Mayor Lightfoot whose words rang true to my ears – that oversight is more important than ever. Her message was clear: it is about doing better for the public. I could not agree more.

Mayor Lightfoot's support of auditors and investigators was good to hear. It is important to know that people welcome the work of those who might not always have good news and rather than see that as a negative, see it as a way to do better. My job is to protect the public's interest and hold management accountable to taxpayers. And that I shall do. The road ahead continues to present challenges, but my office will do what is right, address those challenges directly, and always place the public first so that we may meet the expectations of those who created our office. My integrity and the integrity of my profession demand it.

Harriet Richardson

Accomplishments



We have been hard at work establishing our office and managing fraud, waste, and abuse investigations. Our focus remains on conducting audits and investigations to the highest standards and providing transparency and accountability regarding BART's use of public funds for providing a safe, clean, reliable, and fiscally sound transit system. We continue to face obstacles to getting our work done, which has significantly delayed our work. Despite the setbacks, we have been successful in moving some work forward so that we may achieve our performance goals. Our accomplishments include:



- Restarting our districtwide risk assessment to identify areas to audit that will provide the most opportunity for improvement and make the best use of our limited resources. However, BART management halted our progress and we are currently working to resolve the issue.
- Continuing to follow up on management's actions to address findings from our M-Line Tunnel Lighting Upgrade Project investigation. Management presented new information that expanded our investigation. We will perform onsite observations as follow up to some of their comments.
- Continuing work on the draft charters for both the Audit Committee and the Office of the Inspector General. Management raised questions regarding our OIG charter, which resulted in delaying the Audit Committee's discussion of it. Through a productive working partnership with the Office of Performance and Budget and the Office of the Controller-Treasurer, we made progress on the Audit Committee charter and it is near completion.
- Launching our new whistleblower hotline and announcing its availability to all BART employees. Complainants may easily report their fraud, waste, and abuse concerns confidentially and anonymously online at www.bart.gov/OIGHotline or by phone at 510.464.6100. All reports go through our third-party provider to ensure anonymity to callers who prefer that.
- Implementing our new case management system to track and manage fraud, waste, and abuse investigations. The system includes tools for benchmarking and trend analysis.
- Creating a new job classification, *Principal Investigative Auditor*, and receiving confirmation from Human Resources that we may start moving forward with recruitment. This new position will add much needed support to our office.
- Attending extensive training to enhance our knowledge, skills, and abilities: *Effective Auditing of Construction Activity* and *23rd Biennial Forum of Government Auditors*. Both were held using virtual platforms.
- Submitting our first [annual report](#) to the California State Legislation discussing our first year of operations, including our accomplishments and the challenges we face in our efforts to fulfill our duties.
- Receiving two new complaints of potential fraud, waste, or abuse.

Major Activities

Relaunched Our Districtwide Risk Assessment – Management Then Halted It

Voters approved the creation of the independent Office of the BART Inspector General *“to ensure that the district makes effective use of bridge toll revenue and other revenue and operates efficiently, effectively, and in compliance with applicable federal and state laws.”* That language describes performance audits. Common to those in the performance auditing profession is the understanding that risk assessments are the best tool for deciding what to audit. They ensure that scarce audit resources are used where needed the most: critical functions that are not operating efficiently, effectively, or in compliance with laws.

After putting our districtwide risk assessment on hold in March to provide management the time necessary to develop protocols to address BART’s responses to the COVID-19 pandemic, we relaunched it in July 2020. The risk assessment will result in our creating an audit plan that will identify areas to audit that will provide the most benefit to the District and make the best use of our two-person office. After doing interviews with only one critical work area, BART management directed staff to hold off on meeting with our risk assessment team. BART management expressed concern that our meeting discussion topics were outside the scope of our office. Our meeting topics included, among others, service delivery, internal controls, and streamlining workflows. These are all areas routinely assessed through performance audits by auditors across the nation, as well as by OIGs tasked with providing independent oversight of the Washington Metro Area, New York City, and Los Angeles County Metro transit authorities.

The legislation creating our office does not place limitations on what we may audit and outlines our responsibilities. Those responsibilities align with performance audits as defined by [*Generally Accepted Government Auditing Standards \(GAGAS\)*](#) and are umbrellas over the topics management did not believe are under our purview. Those familiar with GAGAS understand that our responsibilities codified in [*California Public Utilities Code Section 28840-28845*](#) equate to performance audits and that performance audits evaluate such topics as service delivery, internal controls, and streamlined operations.

Our risk assessment was still on hold as of September 30, 2020. This delayed our progress and prevented us from achieving our goals and meeting our responsibilities. We are working with BART management to address their concerns, clarify any misunderstandings, and further explain how the topics of our risk assessment fall under our requirement to conduct audits.

We remain committed to meeting the voters’ expectations of our office and conducting audits to the highest form of professional standards. We hope to be able to share in our next activities report that we have made significant progress with our risk assessment and are set to release an audit plan soon.

Topics Commonly Covered by Performance Audits

Cost Savings &
Revenue



Workflows



Gaps &
Overlaps



Internal
Controls



Service
Delivery



Environmental
Sustainability



Asset & Grants
Management



Major Activities

Concerns on M-Line Tunnel Lighting Project Continue

Management brought forward new information during our follow-up investigation of the M-Line Tunnel Lighting Upgrade Project. We are scheduled to complete a walk-thru of the M-Line tunnel to verify their statements and are currently evaluating whether management took appropriate corrective actions to address our original findings. We are not sharing the details of that work at this time because we have not yet drawn our conclusions and discussed them with management. However, as we previously reported, we continue to have concerns that BART's contracting practices limit the competitive procurement process, which could allow for fraud to occur or waste BART revenue. We will discuss resolution of these issues with BART management and will present the full details of our follow-up investigation in a future report.



Physical inspections are the strongest form of evidence supporting investigation findings.



OIG independence is crucial to exercising objective and impartial judgment.

OIG Charter Development Delayed

We shared the draft of our charter with BART management and they responded with comments suggesting they were requiring us to make changes. The Office of the Inspector General is independent of management. This is clearly stated in [California Public Utilities Code Section 28840-28845](#). Management's actions create the appearance of having authority over our office. They have said that this was not their intent and we are working with them to clarify our independence. We have let them know that we embrace the global meaning of independence as understood by independent auditors and investigators around the world and the independence principles described in the [Government Auditing Standards](#) and [Principles and Standards for Offices of Inspector General](#), which we adhere to. Those standards require we remain free from any appearance that BART management may direct or influence our work.

New 24/7 Whistleblower Hotline & Case Management System

Our new 24/7 whistleblower hotline allows employees, contractors, residents, and other stakeholders to report allegations of fraud, waste, or abuse of BART resources online or by phone. The online tool is mobile-friendly, and the system allows for reports in almost any language. Complainants may report their concerns anonymously and check on the status of their cases without needing to contact our office. We announced the hotline to employees through a districtwide email and are working to expand our marketing campaign (copy of poster to be hung in work sites is attached). Our selection of a hotline from [Ethix360](#) includes a case management system, CaseTrac, for tracking our investigations and running analytics that will help us see where there may be recurring problems requiring a more in-depth performance audit.



Report What You See
to the OIG



www.bart.gov/OIGHotline



510-464-6100

Next Steps

Principal Investigative Auditor Recruitment

We are starting the process to recruit for our newly created *Principal Investigative Auditor* position. We have submitted our request to Human Resources and plan to announce the opportunity soon. If all goes according to plan, we hope to complete our recruitment by January 2021. This new addition is greatly needed, as we are severely understaffed. The *Principal Investigative Auditor* will be responsible for conducting a broad range of fraud, waste, and abuse investigations and performance audits. We expect investigations to be the position's initial primary responsibility so that we can catch up on our caseload.



Our new investigative auditor will be a much-needed addition to our under-resourced office.



Contracted services will assist in relieving the strain on our limited resources and take deep dives into fraud concerns.

Contracted Services

We are seeking contracted services to assist our office in completing investigations or audits of construction and construction-related contracts and projects. We have received complaints and identified fraud risks that require detailed, in-depth analyses that exceed our office's current staffing capacity. We will obtain the services of independent professional firms with the analytical and technical expertise necessary for fraud and construction contracting investigations. This will allow us to move forward on work we have had to delay due to competing, high-priority projects. The Assistant Inspector General will serve as the project manager on this work while also addressing other needs of our office. We identified several small businesses to which we will send our request for quotations, along with some well-known organizations that do the work we need. Our expected new hire may take on some of this work in the future. In the meantime, the contracted services will help fill our gaps in staffing so we can better manage our workload.

Fraud, Waste, & Abuse Investigation Reports & More

We will be presenting four investigation reports at the Ad Hoc Audit Committee meeting on October 29, 2020. The investigations looked at pricing for standard computer equipment, recruitment and staffing practices, and the BART passes provided on Bike to Wherever day. The issues came into our office as fraud, waste, or abuse complaints. We will also be evaluating our case backlog to determine how best to prioritize and assign other open cases, which will go to either our expected new employee or the professional firms we contract with for investigation and auditing services.



Four new investigation reports.

Office of the Inspector General



Harriet Richardson
Inspector General



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Providing Independent Oversight of the District's Use of Revenue

Stop Fraud, Waste, and Abuse
Report What You See to the OIG



24/7 Fraud, Waste, & Abuse
Whistleblower Hotline





www.bart.gov/OIGHotline



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EXAMPLE OF POSTER TO BE HUNG IN WORK SITES




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