

ACTIVITIES REPORT

JANUARY 2020 – JUNE 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

I am pleased to provide an update on the work my office has been doing for the last six months. We continue to build our foundation so that we may meet the expectations of California voters and legislators who desired independent oversight of taxpayer and ridership money funding BART operations and capital projects. While developing our office, we have also been working diligently to address complaints of suspected fraud, waste, and abuse and track management’s progress on the recommendations from our [October 2019](#) investigation of the M-Line Tunnel Lighting Upgrade project.

Due to the COVID-19 pandemic and the Board of Director’s need to focus on the District’s response, I determined it best to postpone issuing my office’s quarterly report in April. I expect to be able to issue quarterly reports on schedule moving forward. However, I recognize that the pandemic is ongoing and, therefore, I may again need to adjust my report timing. In the meantime, my office will continue forward in conducting audits and investigations to provide for transparency and accountability in BART’s use of public funds in providing a safe, clean, reliable, and fiscally sound transit system.

Harriet Richardson

Accomplishments



The last six months have been busy. Despite the disruption caused by the COVID-19 pandemic, we have been successful in achieving performance goals and establishing protocols to ensure that we can complete audits and investigations. There is still much more to do and certainly some big challenges to overcome. Nonetheless, we have accomplished the following since January 2020:



- Followed up on BART management's actions to address recommendations from our M-Line Tunnel Lighting Upgrade Project investigation. This is part of our mandate to report to the California State Legislature on whether management has taken corrective action.



- Hired an Assistant Inspector General with responsibility for managing and overseeing activities and operations within the OIG and to serve second to the Inspector General.



- Worked with the BART Board of Directors to help establish a temporary Ad-Hoc Audit Committee to assist the Board in meeting its fiduciary and oversight responsibilities. The committee will assist in developing the permanent Audit Committee.



- Assisted in drafting a charter for the permanent Audit Committee. This was done in partnership with the Office of Performance and Budget and the Office of the Controller-Treasurer.



- Drafted the Charter for the Office of the Inspector General to formally document the authority, expectations, and responsibilities of the office.



- Completed a Request for Quotations and selected a consultant to conduct a Districtwide risk assessment to identify areas to audit that will provide the most opportunity for improvement. Based on meeting all contract specifications, we awarded the contract to TAP International, the low bidder, for \$71,410.



- Attended a combined 81 hours of training covering a range of topics, including FEMA disaster cost recovery and internal investigations, the latter earning the Assistant Inspector General the designation Certified Internal Investigation Administrator.



- Developed written policies and procedures for conducting performance audits in compliance with the Government Auditing Standards and developed a framework for conducting investigations in compliance with the Standards and Principles for Offices of Inspector General.



- Developed a full range of written policies and procedures to complement our audit and investigation procedures, including procedures for Legal Considerations, Confidentiality, and Workpaper Management; Continuing Professional Education; and Social Media Use.



- Created 40 templates to simplify document creation; save time; allow for consistency and clarity; and ensure our work demonstrates compliance with our policies and the standards we follow.



- Selected ETHIX360, a cloud-based investigation case management and hotline system, with a \$1,500 one-time set-up fee and \$5,490 first-year service cost. We are working on implementation.
- Received 20 complaints of potential fraud, waste, or abuse:
 - One case completed
 - Two cases complete and pending reporting
 - One case currently in progress
 - Two cases forwarded to other departments as personnel issues
 - Two cases declined – one not fraud, waste, or abuse, and one not related to BART operations
 - Four cases identified as potential audits, not investigations
 - Eight cases evaluated for acceptance as investigations

Major Activities

Ensuring Appropriate Action on Recommendations

Our investigation of the M-Line Tunnel Lighting Upgrade Project found that BART approved light fixtures that did not meet contract specifications. BART subsequently terminated the contract with ABM Electrical & Lighting Solutions, although our recommendation was for BART to rescind its approval of the noncompliant light fixtures. During our follow-up, we learned that two months after terminating ABM’s contract, BART told ABM to purchase the fixtures, spending \$814,000 on lights that currently have no designated need. The District feels that the fixtures are compliant and is engaged with my office in an effort to provide documentation of conformance. Additionally, BART is currently negotiating with ABM regarding ABM’s claim for \$3.1M in contract settlement fees. We also expressed concern that BART management’s rationale for approving light fixtures that did not meet specifications is that BART typically issues specifications at the “highest standard” and may waive certain specifications as they review a product submittal. This practice limits the competitive procurement process and may allow for fraud to occur. It could unfairly eliminate potential suppliers, including small businesses. We are continuing to discuss resolution of these issues with BART management and will discuss the full details of our follow-up investigation in a future report.



BART’s contract practices limit competitive procurement, eliminate potentially qualified businesses, and allow for fraud and corruption.

[Investigation Report: 10/2019](#)



Our districtwide risk assessment will help us identify areas to audit that provide the greatest opportunity for improvement and that ensure we use our resources where they are needed most.

Districtwide Risk Assessment

Risk assessments are the foundation of an audit plan. They allow auditors to understand areas vulnerable to fraud, waste, and abuse, and identify inefficient and ineffective use of resources and other weaknesses that could result in a failure to meet objectives. They are instrumental in prioritizing risks so that audit resources are used when and where they are needed most. We have selected a consultant to complete a districtwide assessment to evaluate risk in each of BART’s major activities. This is a major undertaking; therefore, we put the project on hold in March due to the overwhelming impacts of the COVID-19 pandemic on BART but are restarting the project in July. We recognize that the virus itself has revealed significant vulnerabilities to BART operations. We will consider the risks of a pandemic in our assessment, as well as other high-impact risks that could quickly disrupt BART’s ridership and revenues and increase expenditures. How we ultimately prioritize our audit plan will depend on many factors, including our limited resources and the nature of the risks that present the highest probability of occurrence with the most detrimental impact on BART’s ability to achieve its objectives.

Major Activities

Governance: Ad Hoc Audit Committee and Charters

The Office of the Inspector General is a new function within BART and operates differently than the rest of the District's offices. An OIG's roles and responsibilities require that we remain independent from management and maintain full control over our work. This has required that we help teach others as to what an OIG is and how it fits within BART's operations. The BART OIG is modeled after the [Inspector General Act of 1978](#), consistent with all OIGs, and reflects the expectations of the California legislators and voters who established the OIG. However, the Inspector General Act of 1978 applies to only federal IGs. Therefore, we have been working with the BART Board of Directors to create a governance structure that clarifies the authority, expectations, and responsibilities of the OIG within BART and that supports our efforts. This has led to the creation of the Ad-Hoc Audit Committee and charters for both a permanent Audit Committee and the OIG. Combined, these allow us to fulfill our responsibilities and inform the Board of Directors of our findings and the necessary corrective actions to address those findings. In all, this goes a long way toward giving the public what they asked for when they voted for us.



The Ad Hoc Audit Committee and charters provide the structure necessary to allow our office to fulfill our responsibilities and meet legislative and public expectations to which we are fully committed.



Written policies and procedures create roadmaps to achieving goals and objectives by outlining the path to success.

Policies and Procedures to Guide our Work

Creating our written policies and procedures was one of our first and primary goals. The value of such guidance cannot be overstated. Our policies and procedures create the roadmap that allows us to achieve our objectives in alignment with the audit and investigation standards we follow. They lay out the path to completing the tasks and activities that ensure compliance with standards and doing so in a consistent and transparent manner. We created clear and comprehensive procedures for conducting audits to Government Auditing Standards and developed a framework for conducting investigations to the Standards and Principles for Offices of Inspector General. We also created procedures that complement those requirements. This includes, but is not limited to, Legal Considerations, Confidentiality, and Workpaper Management; Continuing Professional Education; and Social Media Use procedures. Further, we created 40 templates that simplify document creation; save time; allow for consistency and clarity; and ensure our work demonstrates compliance with our policies and the standards we follow. And we are not done yet!

Next Steps

Challenges to Accessing Information

It has been a challenge for both the District and my office to set reasonable parameters to obtain access to District staff and systems. We did recently gain access to several of BART’s systems that contain information that we need to conduct audits and investigations, and there has been healthy discussion on how to obtain information from employees without impeding their ability to manage their workload. However, BART management has asked that requests to go through them so that they can manage the workflow. While BART has clearly stated that they have no intentions on impeding investigations, this interference conflicts with the role and responsibility of an Office of the Inspector General, as well as with the professional standards we follow. We hold in high regard our duty to provide independent oversight. We will continue to work with BART management to achieve that independence so that we may function in a way that reflects the expectations of the legislation that created our office.



Management has limited our access to personnel to obtain information.



We will be reporting to the California Legislature by the end of July.

Reporting to the California State Legislature

We are committed to meeting the expectations of the legislation that made our office possible. We will soon be presenting our first annual report to the State Legislature in which will communicate our investigation findings, the status of our recommendations, management’s actions to address our concerns, and our evaluation of those actions. We will also discuss working with the Board of Directors to establish an audit committee that meets best practices of leaders in our field and that will allow us to provide the independent oversight the legislation desires.

COVID-19 Pandemic Increases Pressure for Fraud

It is commonly known that fraud occurs when three conditions exist: pressure, opportunity, and rationalization. COVID-19, with its crippling effect on the economy, increases the pressure to commit fraud. Our role in the OIG is to identify vulnerabilities that provide opportunities so that we can stop theft and corruption. Experts agree that with trillions of dollars of federal funding coming into the economy to aid in responding to and recovering from the pandemic, oversight is critical. As such, our role in safeguarding BART revenue, including the \$377 million in CARES Act funding dedicated to BART, is vital. We can use our audits to identify areas vulnerable to fraud and can independently investigate reports of fraud and corruption.



The OIG is critical to fighting fraud and corruption. We help correct vulnerabilities that provide the opportunities.

**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**

Complaint Form

bart.gov/about/inspector-general

Send it and supporting
documentation to:

InspectorGeneral@bart.gov

Call Us

510-464-6132

Come Talk to Us

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Oakland, CA 94612



Edits: After we submitted this report to the BART District Secretary for inclusion on the July 23, 2020 public Board of Directors meeting agenda, we added an image next to our discussion of management's restrictions on our access to information. We also updated the image credits below to reflect that change and made minor wording changes to correct editing errors. We did not change our messages or their meaning.

Image Credits: Inspection (pg. 1); risk (pg. 3); governance (pg. 4); roadmap (pg. 4); uphill challenge (pg. 5); and California capitol (pg. 5) by unknown authors and licensed by and obtained from [Creative Commons](https://creativecommons.org/). Unbalanced (pg. 3) and fraud triangle (pg. 5) labeled for use by and obtained from [Google Images](https://www.google.com/images/). BART train from BART Marketing. All images used to enhance public information only.