CITY OF ATLANTA

OFFICE OF THE INSPECTOR GENERAL

OIG INVESTIGATION INTO THE CITY OF ATLANTA'S POLICIES CONCERNING VEHICLE USE, DRUG AND ALCOHOL TESTING, AND VEHICLE DAMAGE REIMBURSEMENT

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EXECUTIVE SUMMARY

The City of Atlanta Office of the Inspector General (OIG) Compliance Division investigated a complaint that a Department of Public Works (DPW) employee (Employee) was involved in a collision while operating a City vehicle and was not issued a drug or alcohol test until several days after the collision as part of a "cover-up" by DPW management. While OIG found no evidence to substantiate the allegation that Employee was issued a delayed drug test as part of a cover-up, in the course of its investigation, OIG determined that Employee was administered a post-accident drug and alcohol test that was noncompliant with COA drug and alcohol testing protocols. OIG identified inconsistencies and conflicts among COA policies governing vehicle use and drug and alcohol testing, and the City of Atlanta Municipal Code of Ordinances (Atlanta Code), and found that the City does not seek reimbursement from employees for costs to repair vehicles damaged as a result of City employee negligence.

OIG investigation revealed that on October 7, 2021, Employee collided with another vehicle at an intersection while driving a City vehicle. Employee informed the responding officers from the Atlanta Police Department (APD) and DPW's Safety Division (Safety) that the collision was the fault of the non-city vehicle driver. The Safety officer recorded Employee's accident as "non-preventable," a classification established by the COA Vehicle Use Policy (VUP), and the APD officer did not issue Employee a citation. Employee was allowed to leave the scene without being issued a drug or alcohol test. As the collision caused damage to the City vehicle, the vehicle was transported to an auto repair shop for service. Estimates from the vehicle service shop indicated that it would cost approximately $2,900 to repair the vehicle.

Three days later, Safety shared with DPW management the vehicle's dashcam footage, which showed that Employee's use of a cell phone contributed to the collision. As a result, Employee's accident was reclassified as preventable. The VUP requires that a City employee involved in preventable accidents take a drug and alcohol test, and so Employee was required to take a drug and alcohol test on October 12, 2021, five days after the collision. Employee passed the drug and alcohol test and was permitted to resume working with DPW.

In response to the accident, Employee was reassigned to a new work site and his vehicle use privileges were suspended. OIG determined that Employee was not disciplined according to guidelines established by the VUP and Atlanta Code. The VUP and Atlanta Code required that Employee be subject to discipline up to and including termination for causing a preventable accident with City property damages exceeding $2,500; for being involved in a vehicle collision in which his use of a cell phone was a contributing factor, Atlanta Code required that Employee be terminated. Under the VUP and Atlanta Code, the City had grounds to pursue reimbursement from Employee for the costs of repairing damage to the vehicle.

The delay in administering Employee's drug and alcohol test, as well as the divergence from City of Atlanta discipline guidelines, alerted OIG to the possible existence of vulnerabilities in DPW's post-accident procedures. OIG reviewed DPW accident data and drug and alcohol testing data to determine if the five-day gap between Employee's collision and his drug and alcohol test was part of a larger pattern. OIG found that most City employee drug and alcohol screenings

occurred the same day as the accident and that the five-day lapse in time before Employee was administered a drug test represented an outlier.

OIG reviewed approximately 180 preventable accidents, across four City departments including DPW, and discovered that departments are inconsistent in recording accident data. The City has two primary databases for tracking vehicle accidents, Origami, the City's accident recording database, and Assetworks, a database to track service to City vehicles. Of the approximately 180 preventable accidents reviewed, approximately 30% were discovered in Assetworks and 10% were discovered in Origami.

OIG reviewed department compliance with the employee reimbursement provisions established in the VUP and Atlanta Code, which require that employee-drivers who damage City vehicles, due to negligence and other factors, reimburse the City for damage caused. Despite these requirements, the four City departments informed OIG that employees have not been required to reimburse the City for the cost of repairing damage to City vehicles. Across four departments, OIG calculated more than $300,000 in damages that were attributed to preventable accidents in Fiscal Year 2022; the City received no reimbursement.

OIG review found several conflicts between the guidelines established by the VUP and Atlanta Code, as well as other City policies, regarding: the prerequisites for issuing an employee a post-accident drug and alcohol test, the disciplinary procedures for employees involved in accidents, and the process for employee reimbursement for damage to City property. Specifically, OIG found that the VUP (as well as the Department of Human Resources Drug and Alcohol policy) provisions regarding post-accident drug screening diverged from Atlanta Code. While the VUP includes accident preventability as a standard for issuing a post-accident drug and alcohol screening, Atlanta Code only allows post-accident drug and alcohol screenings based on the issuance of a citation by a law enforcement officer or based on reasonable suspicion of drug and alcohol use. The VUP introduces two interrelated employee disciplinary schemes for employees responsible for preventable accidents, neither of which conform to the progressive discipline framework articulated in Atlanta Code. The VUP's provisions for reimbursement for damage to City property omits certain procedural steps required by Atlanta Code.

As a result of this investigation, OIG issued recommendations to DPW, the Department of Human Resources (DHR), the Office of Enterprise Risk Management (Risk), the Department of Law (Law), and the City's Chief Operating Officer (COO) to ensure that City departments comply with the standards and guidelines set by Atlanta Code and the VUP, and to ensure that City policies relating to vehicle use, drug and alcohol testing, and vehicle damage reimbursement are consistent with the requirements outlined in Atlanta Code.

In response to OIG's referral of its findings, the City stated that it would take appropriate action upon further review and evaluation.

BACKGROUND

OIG Investigation

In October 2021, OIG received an allegation that Employee was involved in an automobile accident and was issued a delayed drug and alcohol screening as part of a "cover-up" orchestrated by DPW management. In the course of the investigation OIG: obtained from DPW and reviewed, the data and documents regarding the accident; reviewed accident dashcam footage; interviewed the parties involved in the accident including the Employee, the Employee's supervisor, and the Safety officer who responded to the accident; consulted with DPW, Risk, and several other City departments regarding accident procedures and guidelines; reviewed Atlanta Code, and the City's policies regarding drug and alcohol screenings, discipline, and other guidelines; reviewed email, personnel records, drug and alcohol testing data, City databases, and department accident data.

COA Law and Policies

I. *COA Accident Procedures*

OIG reviewed Safety's Standard Operating Procedure (SOP)[1] for accidents. SOP Rules 4.1 through 4.3 require City employees involved in a motor vehicle accident to contact their immediate supervisor and emergency personnel immediately after the accident. SOP Rule 5.1.1 requires the employee's supervisor to notify Safety of the accident. SOP Rule 5.1.2 instructs Safety officers to complete a Safety Investigation Preliminary Report (preliminary report) to provide details of the occurrence. According to the SOP, the preliminary report must be completed by a Safety officer within 24 hours of the incident.

SOP Rule 5.2.6 requires Safety officers to determine if an accident is "preventable or non-preventable." A preventable accident is defined "as an accident that may have been prevented if due care and attention were exercised." A non-preventable accident is defined as "an accident where it was determined that the employee had exercised all due care and attention and could not have been prevented." Although not indicated in the SOP, Safety staff informed OIG that Safety officers are required to make and include this preventability determination when completing the preliminary report. The SOP does not provide guidance on what evidentiary standard must be satisfied for a finding that an accident was preventable or non-preventable (e.g., the preponderance of the evidence, clear and convincing evidence).[2] Rule 5.2.6. also states that the preventable/non-preventable status is "subject to change after review."

Accidents are also governed by the COA Vehicle Use Policy (VUP). The VUP establishes a different standard for preventability than the standard articulated in the SOP. Where Safety's SOP describes a preventable accident as an accident that "may have been prevented" with due care and attention, Section 29 (b) of the VUP describes a preventable accident as an accident that "*would*

[1] OIG notes that the SOP received from DPW is identified as a "draft." However, Safety informed OIG the draft version received is the operating document for DPW and Safety.

[2] OIG inquired with Safety if there were any supplemental guides detailing the evaluation process for the preventability/non-preventability determination. OIG was informed that the SOP serves that function.

not have occurred if the employee had exercised due care and attention, regardless of whether a citation was issued by the police" (emphasis added). Like the SOP, the VUP does not provide an evidentiary threshold to evaluate whether an accident is preventable.

After Safety submits its preliminary report, SOP Rule 5.1.2 requires that Safety conduct a full investigation of the accident. SOP Rule 5.2.10 indicates that it is Safety's responsibility to determine the root cause of any accident to determine if any violation of the VUP occurred. Upon the conclusion of the investigation, Safety provides a final report that should include "a police report, pictures, witness statement(s), etc." The final report is then submitted to DHR and the City's Claims Division upon request. SOP Rule 5.1.3 states that, "upon receipt of the final report, the Safety Director shall make a recommendation to [DHR] regarding disciplinary action in accordance with" the VUP, and that DHR "will relay the recommendation to the Commissioner/Deputy Commissioner." SOP Rule 5.1.4 also states that "the immediate Supervisor shall notify the appropriate division head of the occurrence."

Similarly, Section 24 of the VUP states that, when an employee is involved in a motor vehicle accident or collision, supervisors shall:

- *Report the motor vehicle accident in the Risk Management Information System as soon as possible, and in no case later than forty-eight (48) hours of the occurrence of the accident*. (emphasis in original)
- Supervisors or safety officers shall also be responsible for overseeing the alcohol/controlled substance testing procedures for the involved vehicle operator and for contacting the Office of Fleet Services to obtain a vehicle repair estimate.
- Ensure that all required information is entered into the Risk Management Information System and that police accident reports, together with all other relevant documentation including photographs of all property damage, including infrastructure such as hydrants, light poles, traffic control devices, etc., are uploaded in the Risk Management Information System for automatic routing to the Office of Fleet Services, Office of Risk Management, and Department of Law's Claims Unit.
- Supervisors or safety officers must notify Risk Management to preserve the DRMS[3] video.

OIG contacted Risk and was informed that the Risk Management Information System identified above is an online database called Origami. As will be discussed in a later section, supervisors inconsistently enter accident data into Origami.

II. *COA Drug and Alcohol Testing Policies*

The Atlanta Code states that "[w]hen a supervisor has reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol, the supervisor must

[3] Driver Risk Management System.

immediately notify the appointing authority or designee."[4] That appointing authority or designee "may require the employee to submit to a drug and/or alcohol analysis."[5] But to form a factual basis to establish reasonable suspicion, certain observations about an individual must lead the reasonable person to suspect drugs or alcohol are involved.[6] These observable circumstances and behaviors include actual possession of drugs or alcohol, slurred speech, alcohol on breath, inability to walk in a straight line, and behavior "so unusual and inappropriate in its nature as to create an unsafe work environment or disrupt the normal working condition."[7] Atlanta Code also permits a finding of reasonable suspicion for (1) accidents in which City employees are cited for traffic violations; or (2) any other accident involving City property in conjunction with the observable circumstances and behaviors outlined above.

The VUP states that when a City "vehicle operator is involved in a motor vehicle accident or collision, all supervisors or safety officers notified … shall ensure that an alcohol/drug analysis is conducted if (1) the accident was classified as preventable; or (2) reasonable suspicion exists." The VUP has a drug and alcohol policy as well. Under the VUP, reasonable suspicion is established using the same criteria established in Atlanta Code.[8] The VUP requires that "all supervisors or safety officers . . . ensure that an alcohol/drug analysis examination is performed as soon as possible following the actual occurrence of an accident or collision." Finally, SOP Rule 5.2.7 states that "if it is determined by the Safety Representative that the accident was preventable," the supervisor and/or designee will immediately escort the employee to a medical facility to take a drug and alcohol analysis.

DHR implemented a citywide "Workplace Alcohol/Drug Abuse Policy" in HR Form 7.25. (While the provisions of HR 7.25 do not appear to have been in effect in October 2021, OIG references this policy for a more comprehensive review of current COA drug and alcohol policies.) HR 7.25 divides employee drug and alcohol testing into two types: "routine" and "reasonable suspicion." Routine employee drug tests are detailed in Subsections 7.0 through 7.6. Subsections 7.0 through 7.6 establish provisions for random drug and alcohol testing, and testing for employees in certain safety and security sensitive positions. However, Section 7.3 states:

> The City will require all employees (including those not in safety/security sensitive positions) to submit to reasonable suspicion and/or post-collision or incident drug testing.

In addition, Section 7.6 states:

> In the event that an employee is involved in a collision or incident while driving a City owned/leased vehicle (including any machinery), the City will require the employee to submit to a drug and alcohol test.

[4] Sec. 114-571 and 114-572 of the Atlanta Code.
[5] *Id.*
[6] *Id.*
[7] *Id.*
[8] Section 25 of the Vehicle Use Policy.

Reasonable suspicion is described in HR 7.25 Subsection 3.6 as "a belief based on observation, specific, articulable, objective facts where the rational inference to be drawn under the circumstances is that the person is under the influence of drugs or alcohol." This description of reasonable suspicion differs from the standard described by Atlanta Code and the VUP in that it additionally requires that the suspicion be articulable, and the fact finder must also draw a "rational inference" (as opposed to actions which may cause "a reasonable person to suspect") that the employee is under the influence of drugs, alcohol, and/or controlled substances. HR 7.25 Subsection 8.1 states that "if the evidence indicates that there is a reasonable suspicion that the employee is under the influence of alcohol, drugs or a Controlled Substance, they may be requested to undergo an immediate medical evaluation."

III. *Employee Discipline under the VUP*

The VUP outlines two disciplinary guidelines for employees involved in misconduct while operating a City vehicle. The first guideline is a "point system" framework in which City employees accrue points for vehicle infractions. Point values are determined by a scoring system contained in the VUP with more serious infractions accruing more points.[9] For example, running a red light is worth five points, speeding is worth five points, a rolling stop is worth three points, and not using a mirror is worth three points.[10]

As an employee accrues points, s/he is subject to increasingly severe discipline. If the employee accrues points at or exceeding, predetermined standards within a given time frame, certain disciplinary measures are triggered.[11] Although the policy also allows for "other concerns" and "other violations," the list of infractions and point assignments is exhaustive. After determining what infractions were violated and tallying the corresponding points, a second chart is used to determine the appropriate corrective action:

POINTS ASSESSED	CORRECTIVE ACTION(S)
Driver assessed 10 or more points in 1 month	Additional coaching + Oral Admonishment + Defensive Driving Course training req.
Driver assessed 20 or more points in a 3-month period	Written Reprimand
Driver assessed 30 or more points in a 6-month period	5-days suspension without pay + Driving privileges suspended until Defensive Driving course completed *impacts performance evaluation rating
Driver assessed 40 or more points in a 9-month period	10-days suspension without pay + Driving privileges suspended until Defensive Driving course completed
Driver assessed 50 or more points in a 12-month	Separation

[9] See Section 14 and Appendix C of the Vehicle Use Policy.

[10] *Id.* Note: the chart itself has inconsistencies and ambiguities worth noting, as well as other point assignments of concern. For example, a "driver unbelted" is worth either five (5) points or one (1) point. A possible collision is worth zero (0) points, a near collision is worth five (5) points, and an actual collision is worth zero (points). Ambiguities include identifying blank stares (4 points), level 1 and level 2 aggressiveness (5 and 10 points, respectively), positive recognition of a potential collision (0 points), too fast for conditions (5 points), etc.

[11] See Section 14 of the Vehicle Use Policy.

In addition to the point system framework, Section 28 of the VUP establishes an additional disciplinary guideline. This guideline delineates two criteria for imposing discipline on City employees involved in collisions, based on: (1) whether the employee operated a City vehicle carelessly or negligently or (2) whether the employee was involved in a preventable accident.[12] If the employee is found to have operated a City vehicle carelessly or negligently, the employee will be subject to the progressive discipline scheme per Atlanta Code.[13] However, if an employee is involved in a preventable accident, the VUP states that the involved employee(s) shall be disciplined under a set of guidelines detailed in the VUP, with consideration given to the progressive discipline imposed by Atlanta Code.

The VUP identifies five types of preventable accidents: No Damage, Minor, Moderate, Major, and Severe.[14] The categorization is determined based on property damage and the existence and severity of bodily harm to those involved in the accident. Then, depending on the frequency of the accident(s), the VUP outlines the corresponding disciplinary action to be imposed.[15] The penalties increase in severity and range from oral admonishment for a first-time "No Damage" accident to dismissal or suspension without pay up to thirty days for the first "Severe" accident. The VUP also imposes additional consequences on employees who are involved in preventable accidents, such as placement of the employee on twelve-month "probationary periods" and a requirement that the employee completes a defensive driving course.[16] The VUP states that any exceptions to its disciplinary guidelines must be approved in writing by the City Chief Operating Officer.

Finally, Section 27 of the VUP states that "an employee involved in a motor vehicle accident or collision, resulting in damage to City property" who "operated the vehicle in a negligent or reckless manner…shall be required to reimburse the City for the damages to the City's property, pursuant to 2-1718(g) of the City of Atlanta Code of Ordinances."

IV. *Employee Discipline under Atlanta Code*

Sections 114-526 through 114-555 of the Atlanta Code regulate employee discipline. The Atlanta Code requires the City to "impose, where reasonable, progressive discipline according to procedures that are fair, prompt and appropriate to the situation."[17] When a City employee violates a rule or standard, the employee's manager or supervisor has the responsibility to promptly

[12] See Section 29 (A) and (B) of the Vehicle Use Policy.
[13] See Section 29 (A) of the Vehicle Use Policy.
[14] The VUP classifies the type of accidents as follows:

- Minor Accident: Total damage cost for City vehicles, equipment and property is less than $2,500 with NO injuries to involved parties.
- Moderate Accident: Total damage cost for City vehicles, equipment and property is greater than $2,500 and less than $8,000, and/or there is any injury requiring outpatient only medical treatment.
- Major Accident: Total damage cost for City vehicles, equipment and property is greater than $8,000 and less than $18,000, and/or there is any injury requiring inpatient medical treatment.
- Severe Accident: Total damage cost for City vehicles, equipment and property is greater than $18,000, and/or any accident.

[15] See Section 29 (B) of the Vehicle Use Policy ("Discipline for Preventable Accidents").
[16] The VUP does not define what is meant by 'probationary period' nor what is required for satisfactory completion of this period.
[17] Sec. 114-526 (a) of the Atlanta Code.

investigate the facts and circumstances of the incident."[18] After investigating the matter, Atlanta Code requires that the employee's manager or supervisor determine "reasonable" disciplinary action.[19] Reasonableness is determined by considering several factors including but not limited to "the seriousness of the offense, whether the offense was willful and deliberate, unintentional or the result of gross negligence and the employee's record of performance and conduct."[20]

The five stages of the progressive discipline procedural framework, and the corresponding disciplinary action that can be taken at each stage, in order of severity, are as follows:

A. Oral Admonishment
B. Reprimand
C. Adverse Action - Suspension without pay
D. Adverse Action - Demotion
E. Adverse Action - Dismissal[21]

The preferred process is that disciplinary action is applied in stages of increasing severity, with each stage permitting more severe disciplinary action than its preceding stage.[22] The purpose of the implementation of progressive discipline is to allow an offending employee the opportunity to correct his/her behavior before more severe disciplinary action is taken.[23]

The three latter stages─suspension without pay, demotion, and dismissal─are all disciplinary actions classified as "adverse" actions.[24] "Cause" is a prerequisite for the imposition of adverse employment actions.[25] Atlanta Code provides a non-exhaustive list of acts that constitute cause including, but not limited to, negligence, incompetence, failure to perform assigned duties, consumption of alcohol and controlled substances while on duty, and failing a drug or alcohol test.[26]

If the employee's manager or supervisor "determines that the infraction is such as to impair or destroy the future effective performance of the employee or...[if] the employee's presence impairs the effectiveness of others or presents a danger to the employee, others, or city property," immediate removal of that employee is required.[27] Atlanta Code Section 2-1719 (c) also states that any employee "found to be responsible for causing a vehicular accident while using a cell phone or texting in violation of this section, shall be subject to dismissal."

Regarding vehicular accidents, in addition to the provisions described in Sections 114-526 through 114-555, Section 2-1718(g) of the Atlanta Code states: "If any employee is found by the chief operating officer or designee through administrative hearing to have been responsible,

[18] Sec. 114-527 (2) (a) of the Atlanta Code.
[19] Sec. 114-527 (2) (b) of the Atlanta Code.
[20] *Id.*
[21] Sec. 114-529 of the Atlanta Code.
[22] Sec. 114-526 (a) of the Atlanta Code.
[23] *Id.*
[24] Sec. 114-530 of the Atlanta Code.
[25] Sec. 114-528 (a) of the Atlanta Code.
[26] Sec. 114-528 (b) of the Atlanta Code.
[27] Sec. 114-526 (a) of the Atlanta Code.

through negligence or abuse, for any accident or damage, such employee shall be required to reimburse the city for the damages to the city property." The employee has the right to appeal the reimbursement requirement.

FINDINGS

The October 7, 2021 Collision

On October 7, 2021, Employee, while driving a City vehicle, collided with a vehicle at McDonald Boulevard, SE, Atlanta, Georgia. Employee did not take a drug test until October 12, 2021. The Safety officer who investigated Employee's collision informed OIG that the five-day gap in Employee's testing was due, in part, to Employee's lack of honesty regarding his/her role in causing the collision. According to the Safety officer, an Atlanta Police Department (APD) officer was the first to respond to Employee's accident and left the incident before Safety's arrival without issuing a citation. With no other evidence available on scene, the Safety officer relied on Employee's account of the accident to make a preventability determination. According to the Safety officer, Employee's account indicated that the other driver was responsible for the collision.

Safety's original preliminary report indicated that Employee's collision was categorized as not preventable. Dashcam footage showed that the immediate cause of the accident was Employee driving the vehicle through a red light. The footage indicates that Employee did not notice the light change because he was distracted looking at a cell phone while operating the vehicle. In Employee's description of events to Safety, Employee omitted his cell phone use and that he had passed through a red light.

In APD's official report completed on October 10, 2021, three days after the accident, the responding officer indicated that, although no party was cited, Employee was found at fault for the collision. The preliminary vehicle damage estimate listed damage to the vehicle's front bumper, grille, front lamp, hood, and fender. The estimated cost for the vehicle repair was $2,937.85.

On October 11, 2021, Safety notified DPW that Employee was responsible for the collision. Employee was scheduled for a drug and alcohol test on the next day he reported to work, October 12, 2021. On October 12, 2021, Employee was given a blood alcohol test, urinalysis, and breathalyzer test. Employee was issued two forms to process his/her drugs and alcohol tests, an "Official Notice for Drug and/or Alcohol Analysis" (ONDAA) form; and a United States Department of Transportation (US DOT) Alcohol Testing Form (ATF).

The ONDAA form stated that Employee had been directed, under Atlanta Code Sec. 114-571, to submit to a drug and alcohol test on October 12, 2021, to "rebut the reasonable suspicion of the use of substances." The factual basis that formed the reasonable suspicion is checked off as "Involvement in an accident involving City property in conjunction with additional behavior as outlined in Atlanta Code Sec. 114-571." The ATF form included a "reason for test" section. In that section, it was marked that the reason for the test was "post-accident." Employee tested negative for drugs and alcohol and was cleared to work on October 14, 2021.

On October 15, 2021, Safety released its final report regarding the accident, stating that Employee "was looking at [his] phone and ran the red light." The final report summary states that the accident was preventable and that Employee was "in violation of the City of Atlanta vehicle use policy." The final report package included a revised copy of the preliminary report that indicated that Employee was issued a drug and alcohol examination. The accident was also changed from not preventable to preventable in the revised preliminary report.

After receiving the dashcam footage, a DPW deputy commissioner emailed Employee's manager an instruction to decide on Employee's discipline. On October 18, 2021, Employee's manager forwarded a draft version Notice of Proposed Adverse Action (NPAA) to DHR. In the NPAA, it was proposed that Employee be dismissed from City employment. Although Employee's NPAA was submitted for review several times between October 2021 and December 2021, it appears no further action was taken by DPW or DHR regarding Employee.

In February 2022, OIG interviewed Employee and Employee's manager about the accident. Employee informed OIG that he was not suspended for the incident. Employee also told OIG that he was not required to reimburse the City for any damages caused by the incident. Employee's manager stated that DHR still possessed the NPAA and, to her knowledge, the determination on the NPAA was still pending. OIG obtained Employee's personnel file in July 2022 and reviewed Employee's employment history in Oracle. As of the date of this report, OIG discovered no records of any termination, verbal warning, or any other adverse action, pending or otherwise, for any incident(s) found in Employee's personnel file.

Accident Data

As Employee's incident raised concerns regarding how post-accident drug tests are administered, OIG reviewed a larger sample of accident reports to see if the delayed testing was part of a larger pattern or an isolated incident. OIG collected from Caduceus Medical, the laboratory that conducts COA post-accident drug tests, the recorded date of all post-accident drug tests conducted from June 29, 2020, through January 2021.[28] OIG then compared the results to a sample of preliminary investigation reports obtained from DPW Safety over the same period.

In total, OIG reviewed 65 DPW preliminary reports, including Employee's incident. Of the 65 preliminary reports, 48 were classified as accidents. Of the 48 preliminary reports that were classified as accidents, eleven were listed as not preventable, and no drug test was administered. There were an additional three accidents that were marked preventable; however, the drug test did not take place until one to three days later. Finally, there were three cases (including Employee's) in which the accident was listed as not preventable, and the preliminary report indicates no drug test was administered, however, Caduceus shows that the employee in that matter appeared for a drug test on a later date.

[28] OIG requested all records from January 2020 through January 2022 but was informed by Caduceus that there are no records in its system prior to June 29, 2020.

ACCIDENT TYPE	QUANTITY
Preventable Drug Test Issued Same Day As Accident	31
Not Preventable Accidents – No Drug Test Given	11
Preventable Accidents – Drug Test Not Issued the Day of Accident	3
Accidents Marked "Not Preventable / No Drug Test Administered" but a Drug Test Issued 1 to 5 Days After Incident	3
Total Accidents	48

The data indicates that out of the 37 instances in which an employee was sent for a drug test, 31 times, or approximately 84% of post-accident drug tests were issued the same day as the collision. OIG discovered six instances, including Employee's, in which the post-accident alcohol/drug test was not administered on the same day as the collision. The review confirmed that Employee's five-day drug testing delay represents an outlier. Excluding the incident with Employee, OIG discovered only one other instance in which an employee was instructed to take a drug test multiple days after an accident. In that instance, the employee was drug tested two days after the accident.

As noted, Employee informed OIG that he was not required to reimburse the City for the damage caused by his accident. On July 15, 2022, OIG contacted Safety to determine which unit of DPW has responsibility for ensuring that employees reimburse the City for damages. The Safety and Training Supervisor informed OIG that, to her knowledge, DPW does not seek reimbursement from employees, even in situations where the employee has been found responsible for the damage. The Safety and Training Supervisor informed OIG that she is aware that the VUP contains a provision requiring the employee to pay the City a "deductible," but to her knowledge, it was not enforced.

Based on these statements, OIG expanded its inquiry to determine whether DPW sought reimbursement from Employees for damage to city property pursuant to Section 27 of the VUP and/or Section 2-1718(g) of the Atlanta Code. After unsuccessful attempts to verify this information through Risk and DPW Fleet, on October 19, 2022, OIG requested that DPW produce the following documents:

A. A list of each preventable accident (as that term is defined by the City of Atlanta Vehicle Use Policy) involving a DPW employee from July 1, 2021, through June 30, 2022.
B. The preliminary damage estimate for each preventable accident involving a DPW employee from July 1, 2021, through June 30, 2022.
C. The final damage invoice for each preventable accident involving a DPW employee from July 1, 2021, through June 30, 2022.
D. Any documents (receipt, invoice, expense report, insurance claim form, etc.) that detail how each damage invoice was paid.
E. Please provide a list of all preventable accidents (as defined by the City of Atlanta Vehicle Use Policy) occurring between July 1, 2021 through June 30, 2022, for which DPW sought or received reimbursement for damages to City property.

F. Please provide proof of reimbursement (payment ledger information, promissory agreements, invoices, etc.) or the status for all responsive entries to the above request.[29]

In addition, to gather information about department reimbursement process(es) in general, OIG forwarded this inquiry to three other City departments: APD, the Department of Watershed Management (DWM), and the Department of Aviation (DOA). OIG selected departments based on drug and alcohol testing data.

On December 7, 2022, DOA responded that it believed that the reimbursement OIG referenced referred to an "old policy which held the employee responsible for some financial compensation following a preventable vehicle accident." DOA informed OIG that "the new VUP does not indicate amounts employees are responsible for." OIG contacted DOA and discovered that the "old policy" DOA referenced was from a prior iteration of the VUP that imposed monetary fines on vehicle accidents.[30] OIG identified VUP Section 27 to DOA, and DOA informed OIG that it had not implemented that policy. On December 14, 2022, DWM informed OIG that "while disciplinary action may be taken against an employee there is no precedence of any DWM employee being required to reimburse the City for damages because of negligence or abuse." On January 5, 2023, APD emailed OIG that "after consultation with Command Staff and to the best of [APD's] available knowledge, [APD] has not had a situation where an employee has been required to reimburse the city for damages to the City's property (i.e., vehicle)." Finally, on January 9, 2023, DPW informed OIG that "DPW has not received any reimbursements for damages for City property for preventable accidents between July 1, 2021 – June 30, 2022."

Documents obtained by the departments indicated that vehicle damage invoices were entered into two separate centralized online databases: Origami and Assetworks Fleet Management (Assetworks). Origami is a database for vehicle accidents citywide, whereas Assetworks is a database to track vehicle service and repair. VUP Section 24 requires that supervisors enter vehicle accidents into Origami. Separate from the review of employee reimbursements, OIG tracked department compliance with VUP Section 24's requirement that vehicle accidents are entered into Origami and assessed whether vehicle damage was consistently entered into Assetworks.

Between the four departments, from July 1, 2021, through June 30, 2022 (FY 22) there were a reported combined 181 preventable accidents: DPW-82; APD-79;[31] DOA-11; and DWM-9. From documents submitted to OIG as well as independent Assetworks queries, OIG calculated $322,667.19 in vehicle damage attributed to preventable accidents for FY 22:

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[29] Inquiries E and F were added as follow-up requests on December 7, 2022, after OIG received no documents from the departments that involved employee reimbursement.

[30] The prior VUP DOA referred to was VUP 08-CWP-DPW-01. Revision 7.0 (effective date was August 1, 2015). Section 27 of that VUP was titled "Employee Fines" and provided fines with set dollar amounts for vehicle accidents caused by "employee negligence or abuse" (recklessness is not included). The fines were as follows:

Minor Accident - $75 per occurrence
Moderate Accident - $125 per occurrence
Major Accident - $250 per occurrence
Severe Accident - $500 per occurrence

[31] From the data submitted by APD, APD uses different nomenclature for preventable accidents referring to preventable accidents as "at fault" accidents.

DEPARTMENT	TOTAL
APD	$84,884.20
DPW	$149,926.72
DOA	$24,717.84
DWM	$63,138.43
Total Across All Departments	$322,667.19

Cross-referencing the list of preventable accidents (including the Assetworks invoices submitted) by each department in Assetworks, OIG found 52 of the 181 (29%) preventable accidents submitted to OIG in Assetworks:

DEPARTMENT	% OF ACCIDENTS REPORTED IN ASSETWORKS
APD	8%
DPW	43%
DOA	55%
DWM	56%
Total % Accidents Reported Across All Departments	29%

OIG also searched recorded accidents by vehicle number in Origami to determine the percentage of preventable accidents entered in Origami. From the sample submitted, 10% of all preventable accidents were entered in Origami:[32]

DEPARTMENT	% OF ACCIDENTS REPORTED IN ORIGAMI
APD	0%
DPW	12%
DOA	36%
DWM	44%
Total % Accidents Reported Across All Departments	10%

[32] APD informed OIG that accident data is recorded internally via Office of Professional Standards reports as opposed to Origami. APD informed OIG that APD moved away from Origami in 2016. According to APD, Origami was previously used by APD to process worker's compensation claims.

ANALYSIS

Concerns Arising from the October 7, 2021 Accident

I. *The October 12, 2021 Drug Test*

As noted above, although Employee's collision took place on October 7, 2021, Employee was not drug tested until October 12, 2021. The five-day delay poses several problems. As a threshold matter, it is unclear what purpose was served by administering a drug and alcohol test to Employee five days after the collision. If Employee had failed the drug and alcohol test, it is unlikely that the City would have been able to link the results of the drug and alcohol test to the October 7, 2021, collision.

While the VUP does not specify an exact timeframe that an Employee must have a drug and alcohol test after a motor vehicle accident, it states that "all supervisors or Safety officers shall ensure that an alcohol/drug analysis examination is performed as soon as possible following the actual occurrence of an accident or collision." Although no further guidance is included in the VUP, a drug test issued five days after a collision is unlikely to be considered "as soon as possible." Employee was administered a drug and alcohol test on the basis of the amended determination that his accident was preventable under the VUP. The VUP is silent on how long after a collision a preventability determination must be made; however, as the preventability determination is a criterion used to decide whether to issue a drug and alcohol test, it follows that the "preventability" determination must also occur as soon as possible after the collision. Also, as the SOP requires that the Safety officer complete the preliminary report within 24 hours after a collision and the preventability determination is part of the preliminary report, it is likely expected that (subject to change) the preventability determination is made within 24 hours.

Although the SOP provides that Safety may reverse the initial preventability determination, this provision seems intended to allow the fact finder, after a more thorough review of facts and evidence, to correct the record and to determine the need for, or degree of, appropriate employee discipline. It is unlikely that revising a preventability determination, by itself, was meant to serve as justification for performing an employee drug and alcohol screening. If revising the preventability determination is sufficient grounds to warrant a post-accident drug and alcohol test, then, as observed in this instance, employees may be issued drug tests days, or possibly, weeks after a collision, long after any reviewing party could recover evidence that the use of drugs or alcohol contributed to the accident. Such a result appears at odds with the 'as soon as possible' guidance described in the VUP.

In addition, a delayed post-accident drug and alcohol test may violate Atlanta Code. Under Atlanta Code 114-571, an employee can only be issued post-accident drug and alcohol tests upon a finding of reasonable suspicion or the issuance of a citation for traffic code violations. Since a finding of reasonable suspicion is dependent on the presence of factors that suggest drug or alcohol use (e.g., slurred speech, inability to walk a straight line), the longer that an employee waits to take a drug and alcohol test, the more likely the presence of factors suggesting drug and alcohol use diminish. If an employee is required to take a post-accident drug test, absent exhibiting any factors suggesting drug and alcohol use, such a requirement may conflict with Atlanta Code 114-571.

For example, in the present instance, Employee was not issued a citation, and it is unlikely that on the date of Employee's exam, there were any factors present that could form the basis for reasonable suspicion. Nevertheless, Employee's ONDAA form stated that the drug test was issued to "rebut the reasonable suspicion of the use of substances" and that the circumstances that formed that reasonable suspicion were Employee's "involvement in an accident involving City property in conjunction with additional behavior as outlined in Atlanta Code Sec. 114-571." Neither the responding Safety officer nor Employee's supervisor noted at the time of the accident that Employee's speech was slurred, or that he was unable to walk a straight line, or any of the other observations described in Sec. 114-571.[33] It was Safety's subsequent preventability determination that formed the basis for Employee's drug test, not reasonable suspicion. As there were no factors that could form the basis for reasonable suspicion five days after the accident, the delayed drug test appears to have violated Atlanta Code Sec. 114-571.

OIG also notes that Employee was also issued an alcohol test pursuant to a US DOT ATF. On the ATF, "post-accident" is checked off as the reason the test was performed. OIG reviewed the US DOT Regulations for Workplace Drug and Alcohol Testing Program, which instructs employers to "cease attempts to administer an alcohol test" if the test is not administered within eight hours, and to cease attempts to administer a controlled substances test if not administered within 32 hours, following an accident."[34] If a drug or alcohol test is not performed within the timeframes listed, rather than perform the test at a later time, US DOT instructs employers to document why the drug test was not performed within a timeframe mandated by US DOT. Employee's alcohol screening took place more than 100 hours after the accident, well beyond the timeframe for administering a drug and alcohol screening outlined by US DOT. As such, Employee's alcohol test, as performed under the ATF, appears to have violated US DOT regulations.

To avoid situations in which employee drug tests are delayed or employees are subjected to drug tests that do not comport with Atlanta Code or US DOT requirements, the City might establish a fixed window of time post-accident that an employee must be given a drug and alcohol test.

II. *Inconsistent Compliance with Post-accident Procedures*

As the evidence established that Employee's collision was caused by his failure to stop at a red light and that such failure was likely the result of Employee's cell phone use while operating a City vehicle, Employee's transfer among worksites and suspension of driving privileges does not comport with the requirements outlined in the VUP or Atlanta Code. Atlanta Code Sec. 2-1719 (c) states that any employee "found to be responsible for causing a vehicular accident while using a cell phone or texting in violation of this section, shall be subject to dismissal." As the dashcam footage indicates that Employee's use of a cell phone was the precipitating factor in him running through a red light and colliding with a vehicle, Atlanta Code required Employee to be dismissed.

[33] Moreover, while the footage established that the accident was caused by Employee's actions, nothing in the footage suggested drugs or alcohol played a role in the accident. Rather, the footage indicated that Employee used a cell phone while operating a vehicle and that the accident was caused by Employee's driving through a red light.
[34] Title 49 Subtitle B Chapter III Subchapter B Part 382 Subpart C § 382.303 (d) (1)-(2).

Also, the dashcam footage indicated that Employee was negligent in his operation of a City vehicle. Both VUP Section 27 and Atlanta Code Section 2-1718(g) require that City employees reimburse the City for accidents and damages caused by negligence and/or abuse or recklessness.[35] The preliminary damage estimate from Employee's accident assessed that there was approximately $2,900 in damage, damage for which the City could have sought reimbursement from Employee. However, Employee was not required to reimburse the City for the damage caused by his accident, as DPW informed OIG that it does not seek reimbursement from employees.

The failure to seek reimbursement from Employee was not an isolated oversight by one department. In FY 22, APD, DPW, DOA, and DWM employees accumulated at least a combined $322,667.19 in damages to City property attributable to preventable accidents. OIG could not determine the percentage of preventable accidents that were attributable to employee negligence, abuse, or recklessness; however, since a preventable accident determination requires a finding that the employee-driver failed to exercise due care, a significant portion (if not all) of preventable accident damage was likely reimbursable under VUP Section 27 and Atlanta Code 2-1718(g).

However, all four departments informed OIG that they do not require that their employees reimburse the City for property damage; accordingly, none of these damages were reimbursed to the City. The City failed to mitigate its losses by shifting the costs for vehicle repair to the parties responsible for the vehicle's damage.

Reimbursement is part of a broader issue of inconsistent post-accident processing. As noted above, of the 181 preventable accidents submitted to OIG, 29% were discovered in Assetworks and 10% were discovered in Origami. Due to the inconsistency in recording vehicle damage data,[36] the actual vehicle damage costs are unknown. Based on the discrepancy between the total number of preventable accidents and the percent of accidents recorded in Assetworks and/or Origami, the combined $322,667.19 identified could be significantly less than the actual total for vehicle damage for the four City departments.

In sum, Atlanta Code required that Employee be dismissed. A review of Employee's personnel records revealed no discipline. Also, Employee was not required to reimburse COA for damage, nor was Employee suspended, or placed on probation. Employees are not being made to reimburse the City for damage as required by the VUP and Atlanta Code, and departments are not ensuring that vehicle accidents are properly recorded in City databases. Taken together, the City does not ensure that employees who negligently operate vehicles and/or cause accidents are properly disciplined, that costs are mitigated, and that accidents are recorded appropriately. Failure to follow established post-accident procedures communicates to staff that

[35] As addressed in a later section, although both Atlanta Code Section 2-1718(g) and VUP Section 27 have similar reimbursement provisions, there are differences between the two rules regarding which factors trigger the automatic reimbursement provisions, as well as the procedures required before an employee must reimburse the City.

[36] DWM attributed missing Assetworks entries to "(1) the repairs were done under the wrong repair code, (2) the damage was not great enough to forward for a repair, or (3) the vehicle has not been taken to a repair facility for an estimate." In addition, APD informed OIG that it did not have the invoice information for the accidents and that OIG would need to contact DPW to obtain the invoices.

the City will not enforce its accident policies, which in turn, could have a deleterious effect on employees' adherence to vehicle safety regulations.

III. *Vulnerabilities in the VUP*

Employee's incident also exposed problems posed by using "preventability" as a standard for issuing drug and alcohol tests. The VUP does not detail the process for determining the preventability of an accident/collision. OIG requested documents from Safety that would detail the criteria for Safety officers to evaluate preventability but was informed that the SOP is the guiding document for Safety officers. The SOP is silent regarding the level of evidence required, how issues of credibility and reliability are resolved, and how evidence is tested.

OIG notes that the preventability test described in the VUP, and Safety's SOP, is not found in Atlanta Code. As detailed in the previous section, Atlanta Code Section 114-571 requires that employee post-accident drug and alcohol tests are performed upon a finding of reasonable suspicion or the issuance of a citation for traffic code violations. Preventability is not mentioned in Atlanta Code. The VUP did not always use preventability as a basis for post-accident employee drug and alcohol testing: in 2008, the VUP criteria for issuing a post-accident drug and alcohol test mirrored the standard described in Atlanta Code 114-571. It is unclear when the VUP was changed to use preventability as a basis for issuing a drug and alcohol test, however, the change was included in the VUP by 2015.

Safety's SOP provides a different definition of preventability than the VUP. Safety's SOP requires Safety officers to evaluate whether the accident "may have been prevented" with due care. The VUP requires a determination that the accident "would not have happened" if the driver exercised due care. Preventability under the VUP is a limited inquiry, requiring driver negligence to be a 'but for' cause of the accident or collision. In contrast, the SOP inquiry is broad, requiring Safety officers to consider accidents that could have happened even if the driver exercised due care (or accidents in which the driver's negligence was not a contributing factor) so long as there is a possibility that the accident *may* have been prevented with due care. Using the standard articulated in the SOP may require that a Safety officer evaluate all evidence including, but not limited to, statements from all involved parties, witness accounts, law enforcement statements, best practices, road conditions, visibility, vehicle function, and more. Such a complex evaluation cannot be reliably executed at the scene of the accident or collision.

While preventability may be useful to determine employee liability and whether employee discipline is required, the broad evidentiary demands of a preventability determination are incongruent with the need to conduct a drug and alcohol test as soon as possible. After an accident or collision, some evidence required to make a preventability determination (e.g., dash cam footage) can be secured and analyzed later. Drugs and alcohol, however, stay within the human body for a limited number of hours, and once too much time has passed, it is impossible to prove with any certainty whether an employee consumed drugs and/or alcohol before the collision. Also, requiring a preventability determination *before* reviewing all evidence increases the likelihood that the Safety officer may, in error, determine a preventable accident as non-preventable, and thus allow culpable parties to evade drug and alcohol detection.

Finally, to the extent the use of a preventability determination as a criterion for issuing a drug and alcohol test diverges from the instructions provided in Atlanta Code, this policy should be removed from the VUP or amended to be made compliant with Atlanta Code.

Conflicts Between Atlanta Code and COA Policies

During its initial investigation, OIG discovered that several provisions contained in the VUP, and the Drug and Alcohol Policy are inconsistent and/or in conflict with Atlanta Code. OIG found that these conflicts impact not only drug and alcohol testing procedures but also procedures for imposing employee discipline.

I. *The COA Drug and Alcohol Policy Conflicts with the Drug and Alcohol Testing Procedural Requirements of Atlanta Code*

Atlanta Code states that "when a supervisor has reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol, the supervisor must immediately notify the appointing authority or designee." That appointing authority or designee "may require the employee to submit to a drug and/or alcohol analysis." But to form a factual basis to establish reasonable suspicion, certain observations about an individual must lead the reasonable person to suspect drugs or alcohol are involved. These observable circumstances and behaviors include actual possession of drugs or alcohol, slurred speech, alcohol on breath, inability to walk in a straight line, and behavior "so unusual and inappropriate in its nature as to create an unsafe work environment or disrupt the normal working condition." Atlanta Code also permits a finding of reasonable suspicion regarding (1) accidents in which city employees are cited for traffic violations; or (2) any other accident involving city property in conjunction with the observable circumstances and behavior outlined above.

By contrast, Section 7.6 of the COA Drug and Alcohol Policy states that when "the employee is involved in a collision or incident while driving a City owned/leased vehicle (including any machinery), the City will require the employee to submit to a drug and alcohol test." No reasonable suspicion or any additional factors or observations are required. This provision establishes a mandatory drug and alcohol test that contradicts the discretionary drug and alcohol test, as well as the reasonable suspicion requirement, of Atlanta Code.

II. *The VUP Conflicts with the Drug and Alcohol Testing Procedural Requirements of Atlanta Code*

As discussed, Atlanta Code limits post-accident drug and alcohol tests to situations in which the employee-driver exhibits behaviors that could form the basis for reasonable suspicion of drug and alcohol misuse, or the employee was cited for traffic code violations. However, the VUP states that when a City "vehicle operator is involved in a motor vehicle accident or collision, all supervisors or safety officers notified…shall ensure that an alcohol/drug analysis is conducted if (1) the accident was classified as preventable; or (2) reasonable suspicion exists." Here, although the second prong is consistent with Atlanta Code, it is unclear how the first prong, the preventability of an accident, fits with the requirements established by Atlanta Code. The VUP describes a preventable accident as an "accident that would not have occurred if the employee had

exercised due care and attention, regardless of whether a citation was issued by the police." The VUP in this regard is inconsistent with Atlanta Code because the policy indicates that a preventable accident alone is sufficient to require a drug test. Moreover, the definition of a preventable accident is inconsistent with the requirements of Atlanta Code.

III. *The VUP Conflicts with Atlanta Code on Employee Discipline*

The VUP points system and preventable accident procedures conflict with the reasonable disciplinary action and progressive discipline procedural guidelines articulated in Atlanta Code. Atlanta Code requires that employees be disciplined reasonably and that the employee's supervisor or manager (reviewer) determine a reasonable punishment. To determine reasonableness, the reviewer must conduct an analysis that considers matters such as the seriousness of the offense, intent, gross negligence, and the employee's record of performance and conduct. The VUP supplants this evaluation process, replacing it with an escalating series of mandatory penalty provisions that trigger based on the existence of predetermined factors.

For example, the points system charts a categorical evaluation for discipline, with certain disciplinary measures based upon an employee's accumulation of an established point value. Under the points system framework, the reviewer does not have the option of considering factors beyond the list of factors outlined. By using the points system, the reviewer is denied discretion to determine the relative weight of any individual act. All actions that may be considered misconduct are codified and assigned a numeric point value. Likewise, the point system does not permit a reviewer to consider mitigating factors, as the point system does not include "negative" points that would reduce the total points accrued. Although the point system allows for "other concerns or "other violations," the value for those considerations is pre-established (with three points for "other concerns" and five points for "other violations") regardless of what those other concerns or violations may be. Thus, the multi-factored evaluation process detailed in Atlanta Code is replaced by a formula, with accrued points serving as the standard for determining the appropriate punishment.

Similar concerns exist with the VUP preventable accident disciplinary analysis. The preventable accident disciplinary analysis limits the factors to be considered to vehicle damage, bodily injury, and the frequency of accidents. While vehicle damage, bodily injury, and frequency of infractions would certainly qualify as factors to be considered under Atlanta Code, they are not the only factors to be considered. For example, Atlanta Code specifically includes employee past performance and employee intent as factors to be considered when imposing discipline. OIG found no authority in Atlanta Code that allows City departments to restrict the universe of factors a reviewer may consider in imposing discipline. Moreover, even if a decisionmaker, of his/her own volition, limited the factors considered to just frequency of accidents, bodily damage, and/or property damage, Atlanta Code still requires that the decisionmaker evaluate these factors to determine a reasonable punishment.

In contrast, the VUP preventable accident disciplinary framework establishes mandatory disciplinary measures under its own formula. Thus, concerns like those highlighted in the points system framework arise. Under the preventable accident disciplinary framework, it is not the reviewer who assesses and evaluates the relative values of such factors as vehicle damage, bodily

injury, and frequency of infractions; rather a pre-established evaluation for discipline supplants the reviewer. The reviewer cannot exercise his/her option to deem certain acts as non-factors, nor determine the weight of any act in determining reasonableness. The VUP prevents the appointing agency, or the employee's supervisors or managers, to exercise discretion by requiring that any exception to the discipline guidelines contained in the VUP be approved by the COO.

OIG also notes that the VUP permits employees to be disciplined under the progressive discipline scheme of Atlanta Code *and* the VUP preventable accident disciplinary framework. OIG found no law permitting the establishment and adoption of any disciplinary policy other than the progressive discipline articulated in Atlanta Code. Additionally, although the VUP states that the preventable accident disciplinary guidelines are to be implemented in "consideration" of Atlanta Code, the VUP does not provide instruction or guidance on how these two schemes interact. It is unclear if the preventable accident disciplinary measures in the VUP operate as ancillary punishment to, or as a substitute for, progressive discipline.

Adding to the potential confusion, the VUP introduces disciplinary measures unconsidered in Atlanta Code. As detailed above, the only disciplinary measures identified under the Atlanta Code progressive discipline scheme are (in order): oral admonishment, reprimand, suspension without pay, demotion, and dismissal. The VUP imposes additional disciplinary measures such as mandated defensive driving courses and probationary periods. The result is that, for similar accidents, an employee might receive punishments ranging from oral admonishments to dismissal as described in Atlanta Code, or probation and defensive driving courses as indicated under the VUP, or some combination thereof. Without clear guidance, employees may be disciplined based upon a combination of factors from both Atlanta Code and the VUP but inconsistent with the requirements of either, and the employee may be subject to discipline Atlanta Code does not anticipate or allow.

IV. *The VUP is Inconsistent with Atlanta Code for Purposes of Reimbursement Procedures*

Under Section 27 of the VUP, when "an employee involved in a motor vehicle accident or collision, resulting in damage to City property, operated the vehicle in a negligent or reckless manner, the employee shall be required to reimburse the City for the damages to the City's property." Although the VUP states that provision is in accordance with Atlanta Code Section 2-1718(g), Section 2-1718(g) first requires that the COO (or designee) determine liability for reimbursement "through [an] administrative hearing" based on findings of "negligence or abuse." The VUP omits one required finding (abuse) under Atlanta Code, as well as adds a required finding (reckless manner) not listed in Atlanta Code. The VUP also omits the COO's role in the reimbursement liability process, as well as the administrative hearing requirements. OIG observed that Section 27 is placed in the preventable accident framework of the VUP, as discussed above. Thus, the placement of Section 27 combined with the omission described above implies that reimbursement determinations are part of the preventable accident procedure rather than the COO determination, administrative hearing, and appeals rights framework established by Atlanta Code.

CONCLUSION AND RECOMMENDATIONS

OIG received an allegation that a DPW employee was involved in an accident and issued a delayed drug test as part of a "cover-up" orchestrated by management. Evidence collected indicates that the delay was primarily the result of incomplete information being provided to the responding Safety officer. While no evidence was found to substantiate the claim that the delay was the result of a "cover-up" or any other intentional misconduct, OIG found that Employee was not issued a drug test in a reasonable timeframe after the collision. OIG identified several vulnerabilities in the drug and alcohol testing procedures of the VUP.

OIG further found that City departments, generally, do not comply with established post-accident procedures required by the VUP and Atlanta Code and do not record accidents in Risk's information system, Origami, as required by the VUP. Vehicle damage and costs are not consistently recorded in Assetworks, DPW Fleet's vehicle service database. Also, City departments have failed to take actions to mitigate the City's vehicle repair costs, by neglecting to seek reimbursement from employees for accidents caused by negligence and recklessness as required by the VUP and Atlanta Code.

In FY 2022, four City departments accumulated at least $322,667.19 in City vehicle damage attributable to preventable accidents. The City could have offset these repair costs by requiring the responsible parties to reimburse the City. Transferring damage costs to City employees, however unpalatable, is a requirement appearing in both the VUP and Atlanta Code; these provisions suggest an intention to limit the public's liability for negligently or recklessly caused property damage.

OIG also discovered several provisions of the VUP and Drug and Alcohol policy that do not conform with Atlanta Code. Upon review, these provisions reflect a standardization of difficult managerial decisions. OIG recognizes the benefits of creating uniform and predictable disciplinary guidelines that any reasonable decision-maker can execute, especially in charged situations involving employee misconduct or potential drug and alcohol misuse. However, preferred policies cannot supersede Atlanta Code.

Between Atlanta Code, the VUP, and the Drug and Alcohol policy, COA has developed varying rules and procedures to address similar subject matter. The existence of multiple authorities imposing different procedures for similar circumstances may create confusion for City employees and policy administrators which may lead to unfair and inconsistent enforcement of law and policy.

For these reasons, OIG recommends that:

1. DPW remove or revise the use of preventability as a criterion for issuing drug and alcohol tests, as per Section 25 of the VUP so that it complies with Atlanta Code.

2. DPW remove or revise the preventability framework from Section 29 of the VUP so that it complies with the progressive discipline requirements of Atlanta Code.

3. DPW remove or revise the point system framework described in Section 14 and Appendix C of the VUP so that it complies with Atlanta Code.

4. DPW revise the reimbursement language from Section 27 of the VUP to comply with Atlanta Code.

5. DPW revise its Safety SOP so that it complies with the VUP and Atlanta Code.

6. DPW include in the VUP a set timeframe that a drug or alcohol test must be performed after an accident.

7. DPW follow United States DOT regulations regarding the administration of drug and alcohol tests.

8. DHR take measures to ensure that City departments comply with the discipline policies established by Atlanta Code.

9. DHR remove or revise Section 7.6 of the City of Atlanta Drug and Alcohol Policy so that it complies with Atlanta Code.

10. Risk communicate with all City departments the VUP guidelines regarding entering accident information into Origami.

11. The COO direct City departments to comply with the property damage reimbursement requirements set forth in Atlanta Code.

12. DPW, DHR and Risk, in conjunction with Law, ensure all additional sections of the VUP, Drug and Alcohol Policy, and any other relevant policies currently implemented pertaining to post-accident discipline and procedures comply with Atlanta Code.

CITY OF ATLANTA

OFFICE OF THE INSPECTOR GENERAL

OIG INVESTIGATION INTO COMMUNICATIONS BETWEEN A CITY EMPLOYEE AND A SENIOR EXECUTIVE OF A CITY VENDOR RELATED TO CITY SOLICITATIONS AND CONTRACTS

Shannon K. Manigault
Inspector General

April 2024

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EXECUTIVE SUMMARY

In March 2023, the City of Atlanta Office of the Inspector General initiated an investigation into the connection between a City employee and a senior executive of a City vendor after discovering email communications where the City employee shared confidential information pertaining to City solicitations and contracts. OIG also found an email communication where the City employee forwarded a City anti-corruption/anti-bribery policy to the senior executive, suggestive of a potential financial relationship between the parties. While OIG ultimately found no financial relationship between the City employee and the senior executive, the conduct of the City employee and the senior executive raised concerns regarding the inflation of task order quotes and the integrity of the solicitation process for an active City contract.

OIG found several instances where the City employee shared project budget information with the senior executive in connection with task orders. The senior executive's company, in consultation with its prime contractor, would initially provide proposed costs for task order services; however, once the City employee provided budget details, the company and its prime contractor increased proposed costs to meet the budget allocations. On the identified task orders, quotes increased at least $850,000 following the disclosure of budget information.

OIG found the City employee attempted to influence the outcome of solicitations in favor of the senior executive's company. The senior executive drafted the scope of work that would form the basis for two separate City solicitations. The City employee and the senior executive used their personal email accounts to relay this draft scope of work. In addition, for one proposed City project, the senior executive edited and revised, as well as provided feedback on, the scope of work and a cost sheet submitted by the City employee. The City employee, in turn, listed the senior executive's company as a potential bidder on the (subsequently canceled) proposed solicitation.

The senior executive's company participated as a subcontractor for a joint venture on a later solicitation that incorporated the same draft scope of work. The City employee served as an evaluator on the project. While the solicitation was pending, in breach of solicitation rules, the City employee provided information to the senior executive regarding the solicitation. The joint venture with which the subcontractor was associated won the award.

In light of the communications between the City employee and the senior executive during the active solicitation, by rule, the joint venture for which the senior executive's company served as a subcontractor should have been disqualified. The joint venture was positioned to receive an unfair advantage in the City solicitation. OIG did not make a recommendation regarding the joint venture because the extent to which the joint venture realized this potential advantage cannot be determined. However, given the benefit to the senior executive's company, OIG recommended the City suspend the senior executive's company from further work on the contract.

BACKGROUND

The Compliance Division of the City of Atlanta Office of the Inspector General (OIG) conducted an investigation into communications between former Senior Public Works Manager Carla Lipscomb (currently a Department of Aviation employee) and former Senior Vice President for Oasis Construction Services (Oasis) J. R. "Robbie" Blanton. In March 2023, OIG found communications between Blanton and Lipscomb suggestive of collusion on Oasis transactions with the City. These emails were discovered as part of a separate investigation into alleged misconduct at a DPW facility.

OIG initiated an investigation and took several investigative actions, including, but not limited to, reviewing City contracts and records, employee personnel files, employee financial records, and internal communications; and conducting interviews with City staff and vendor staff.

FINDINGS

DISCOVERED COMMUNICATIONS

Lipscomb

According to records obtained from the City's cloud-based human resources database, Oracle, Lipscomb was employed with DPW from July 2013 to July 2022. Lipscomb is currently employed with DOA as an airport assistant director. From July 2019 through July 2022, Lipscomb held the position of senior public works manager with DPW. In interviews and communications with Lipscomb, Lipscomb informed OIG that her duties as senior public works manager were to manage the City's four landfills and the Hartsfield Yard Trimming Facility, review DPW contracts, complete "trigger packages" for new DPW contracts, and evaluate whether existing contracts needed to be renewed or extended, or whether additional funds need to be added.

Arcadis, Oasis, and Blanton

In 2009, the Atlanta City Council passed Resolution 09-R-1633, approving an architectural, engineering, and design services (A-E) agreement with Arcadis Joint Venture, a joint venture of Arcadis G&M, Inc. and Brindley Pieters and Associates, Inc. (Arcadis) for DPW, as well as other city departments. The initial term of the agreement was for two years, with three one-year renewal options. In September 2015, the City passed Resolution 15-R-4032, authorizing the City to enter into contract FC-7383A (the "Citywide Agreement"), a subsequent A-E agreement with Arcadis. The Citywide Agreement was to be completed on a task order basis. The City renewed the Citywide Agreement in 2018 and 2019. The contract was then extended multiple times until 2022.[1]

City records and communications indicate that Oasis has been a subcontractor for Arcadis for several years. Blanton informed OIG that Oasis performed a variety of tasks at City landfills

[1] Arcadis has two separate outstanding agreements with the City to provide A-E and construction services for the Department of Watershed Management and Department of Transportation expiring in July 2024 and November 2025 respectively.

related to post-closure landfill care. These tasks included but were not limited to, managing design and permitting contracts to be approved by the Environmental Protection Division of the Georgia Department of Natural Resources (Georgia EPD), performing remedial projects, performing construction for groundwater protection, monitoring methane gas, and collecting gas.

Blanton explained that Oasis had two main divisions, Environmental Solutions and a subsidiary company called Hybrid Consulting Services. Blanton informed OIG that as senior vice president for Oasis, he oversaw the Environmental Solutions side of the company. Blanton told OIG that he managed contracts that had designs and permitting requirements. Blanton informed OIG that Oasis worked extensively with DPW.[2] Blanton identified Lipscomb as his contact with DPW and Lipscomb identified Blanton as her contact with Oasis. Although Arcadis was the named contracted party, according to Blanton, Oasis had assumed most of the responsibilities regarding post-closure care. This arrangement was echoed in a January 14, 2022, email from Arcadis Vice President John Dean to Lipscomb in which Dean wrote:

> I am glad that the City has seen fit to extend the time frame for the Arcadis-BPA contract (FC-7383A) such that Oasis can complete the Post Closure Care Services for FY22…. As always, our sub consultant Oasis Construction Services will be performing the bulk of the work under the direction of Robbie Blanton.

Communications between Blanton and Lipscomb

As part of this (and the prior) investigation, OIG found several emails between Blanton and Lipscomb in which Blanton communicates with Lipscomb regarding DPW contract execution, task order funding, solicitations, as well as City contract proposals. OIG found emails where it appeared that Lipscomb provided potentially confidential information to Oasis and/or Arcadis on anticipated contract negotiations. Summaries of some of these communications are below.

I. *Communications in June 2017*

On June 12, 2017, Lipscomb inquired with a DPW financial manager about the funding amount DPW had allocated for an upcoming task order, stating that she wanted to prepare legislative documents. On June 18, 2017, after being informed by DPW officials that two million dollars had been allocated, Lipscomb forwarded the internal DPW communications to Blanton with the instruction "See below. We need the task order for FY '18." Blanton responded by asking if Lipscomb knew "yet if there is 2MM or 3MM?" Lipscomb informed Blanton that it was $2,068,325.39. On June 18, 2017, Blanton then informed Lipscomb that he could "work up something for you to review."

On June 22, 2017, Blanton emailed Dean (with Lipscomb carbon-copied) a cost scope summary for fiscal year 2018 and an Excel file titled "Landfill 5 Year Post-Closure Care Plan rev with FY17 actual (2) updated 3'13'2017." In the email, Blanton told Dean that "Carla has confirmed the $2MM dollar amount for FY18. She asked me to start the legislation package…She is reviewing the attached currently. Once the summary is approved, I will work up the Task Order

[2] Oasis, along with Terracon Consultants, Inc., is part of a joint venture contract (expiring September 2025) with the City to provide inspections, subsurface investigations, and testing during the construction of various airport projects for the Department of Aviation on a task order basis.

buildup for you." Blanton stated that he created the summary by "using the routine items plus some of the FY18 items from [Lipscomb's] 5-yr estimates."

On June 22, 2017, Blanton emailed Lipscomb a draft of the scope. Blanton told Lipscomb that he could "start working up the legislation for ARCADIS" and added that he "owe[d] them stuff for billing the balance of FY17" and that he had "the numbers from them to build it up."

II. *Request to "Sell" a Task Order*

On May 26, 2020, Lipscomb emailed Blanton instructing him to revise a task order. In the email, Lipscomb wrote:

> I can only request funding for ~6 months since the contract expires in in (sic) Dec. Please revise the scope and dollar amount to reflect work for 6 months (gown sampling, sewer line project, etc.). Lets (sic) discuss prior to asking Arcadis to revise T.O.

After receiving a revised task order, Lipscomb inquired if $202,000 was enough money to complete a sewer project, to which Blanton replied that he did not know. Blanton and Lipscomb continued to discuss adjustments that could be made to the task order. Eventually, Lipscomb told Blanton to make sure the sewer project was fully funded in the task order, "because if something happens and Arcadis does not get the contract, [she] needs for the sewer project to be completed by the same company that starts it." In response, Blanton wrote Lipscomb:

> Ok I understand and makes sense. So I talked with Hybrid today and am trying to get a quick turnaround at least a high-side number. Then we can look at what we have and if we need more than 50% of the FY21 to get through CY20 to include the full sewer project and need to be at let's say $900K or $1MM *can you sell that*? (emphasis added)

III. *Communications regarding Unidentified 2020 Engineering RFP*

On March 12, 2020, there were internal communications with Oasis staff about an engineering contract proposal the City had posted. An Oasis employee stated that they had left a voicemail with the City Department of Procurement (DOP) about the contract. On March 16, 2020, Blanton forwarded this discussion to Lipscomb and asked, "Is this totally separate from what DPW will use for consulting?" Lipscomb replied that she "guess[ed] so" as the solicitation "did not mention streets, sidewalks, landfills, etc." Lipscomb stated that she did not know "they were issuing a separate A&E solicitation." Blanton informed Lipscomb he would "[ask] John Dean what he knows." Later, Blanton wrote Lipscomb:

> This is what I got from John Dean:
>
> Our understanding is that it will cover only DWM work. Public Works Renew ATLANTA ate (sic) developing a similar RFP we are told. The FC-7383 contract expires on 11/09/2020, so FY2021 post closure work would either be awarded prior to expiration or under a new contract.

IV. *Communications about an RFP from the Department of Enterprise Asset Management (DEAM)*

On January 7, 2021, in an email titled "A-E RFP," Blanton emailed Lipscomb:

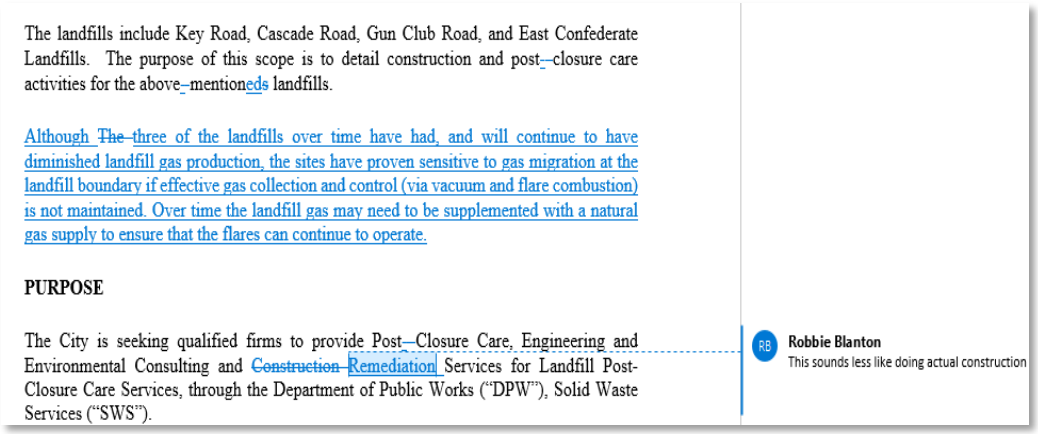
> This is what Arcadis told us:
>
> "Our focus is Watershed and Atlanta DOT. We have been burned several times by the Department of Enterprise and Asset Management who will be the primary user of this contract."
>
> So I am very confused about the new RFP and how it is similar/different than A-E contract we are currently in.

Lipscomb replied to Blanton "it should be similar o (sic) to current contract. I provided my scope to DEAM. Will Oasis be able to submit alone?" Blanton replied that he was "not sure."

V. *Communications about a DPW RFP*

In December 2020, Lipscomb emailed a document titled "LF Scope Draft 2020" (2020 Scope) to Blanton. The document outlined the scope of services to be requested in, what seemed to be, an upcoming RFP to continue post-closure care for City landfills.

From December 2020 through January 2021, Blanton submitted to Lipscomb several revisions to the 2020 Scope accompanied by instructions and guidance on which items Lipscomb should include in the finalized scope of work. For example, on December 15, 2020, Blanton emailed Lipscomb a revision to the 2020 Scope. The revision included comments and edits from Blanton.



The landfills include Key Road, Cascade Road, Gun Club Road, and East Confederate Landfills. The purpose of this scope is to detail construction and post-closure care activities for the above-mentioneds landfills.

Although ~~The~~ three of the landfills over time have had, and will continue to have diminished landfill gas production, the sites have proven sensitive to gas migration at the landfill boundary if effective gas collection and control (via vacuum and flare combustion) is not maintained. Over time the landfill gas may need to be supplemented with a natural gas supply to ensure that the flares can continue to operate.

PURPOSE

The City is seeking qualified firms to provide Post-Closure Care, Engineering and Environmental Consulting and ~~Construction~~ Remediation Services for Landfill Post-Closure Care Services, through the Department of Public Works ("DPW"), Solid Waste Services ("SWS").

RB **Robbie Blanton**
This sounds less like doing actual construction

(Excerpt of the revised 2020 Scope with comments from Blanton)

On December 21, 2020, Blanton advised Lipscomb that "the best way to handle the unknown line items is to just put in a number." Lipscomb replied informing Blanton that she did not think "[they] will allow me to tell them my budget." Blanton told Lipscomb that "each line item must be defined" and asked Lipscomb to put herself "in the bidder's shoes."

On December 23, 2020, Blanton sent Lipscomb an email with the subject "revised post-closure scope docs." Attached to the email was a Word document titled "LF Scope Draft 2020 incl 1.4 r2." This document, like the "r1" document submitted eight days earlier, was a revised version of the 2020 Scope with comments and edits from Blanton. Also included in the email was an Excel spreadsheet titled "Landfill Post Closure Care RFP 12.2020 r3." This document provided the estimated activity costs for all four City landfills. In the email, Blanton wrote:

> This required more work than I anticipated. I incorporated everything I already sent you so the Word doc has everything. I intended to send you a tracked-changes version and a clean version but I accidentally saved the clean version only. I made sure the scope tasks match the cost sheet.

VI. *Sharing Anti-Corruption and Anti-Bribery Policy (Hobbs Act Policy)*

On June 10, 2020, Lipscomb sent Blanton an email titled "HOBBS." Attached to the email was the City of Atlanta Department of Human Resources "(HOBBS ACT) Anti-Corruption and Anti-Bribery Policy" which had been enacted on June 1, 2020. The policy was signed by Lipscomb and dated June 8, 2020. The email contained no message in its body.

INVESTIGATION

Blanton and Lipscomb

Having discovered the above communications, OIG initiated an investigation into the relationship between Blanton and Lipscomb. OIG reviewed Lipscomb's financial records to determine whether Blanton and/or Oasis had provided any financial compensation to Lipscomb. After reviewing Lipscomb's financial records, OIG did not discover any evidence that Blanton and/or Oasis had paid, or otherwise compensated Lipscomb.

During interviews, Blanton and Lipscomb were asked to describe their relationship to one another. Lipscomb described Blanton as a professional acquaintance, whom she does not engage with socially. Blanton, conversely, indicated that he and Lipscomb are friends and that they have interacted socially. Blanton told OIG that Lipscomb attended annual client parties hosted by Oasis President Majid Zibanejadrad and shared personal details about herself and her family; and that he and Lipscomb had engaged in social activities together during professional conferences they had both attended and had family members who attended the same charter school.

Task Orders Communications

Blanton explained to OIG that the task order email communications, in which he appears to give instructions to Lipscomb on how to fund task orders, were part of the process to ensure that DPW projects were adequately funded. Blanton informed OIG that task orders have a fixed budget, so Oasis would "shift money around" by pulling from separate line items in a project budget to cover unexpected or emergency costs. Blanton said that, due to delays in City Council approval, Oasis always worked behind on task orders (i.e., by the time one task order was approved, another would be needed). However, Blanton said that one of the benefits of a smaller company like Oasis is that it had the flexibility to continue the work while payments were processed.

According to Blanton, Lipscomb was responsible for getting task orders through the legislation process. Blanton told OIG that Lipscomb did not have input on Oasis' projected costs, adding that Lipscomb "didn't really have a way to" negotiate with Oasis and that Lipscomb "had to rely on [Oasis] to put together what the estimated costs were." Blanton said that he did not recall Lipscomb ever referring Oasis' estimates for an internal review process. OIG asked Blanton what Blanton meant by his comments in the June 22, 2017, email that he owed Arcadis "stuff for billing the balance of FY17" and that he had "the numbers from them to build it up." Blanton informed OIG that the comment meant that he was "just filling out whatever's left in the fiscal year 17 task order."[3]

Lipscomb informed OIG that there were no internal sources that could validate Oasis' projected costs. Although Lipscomb opined that she may have been able to discuss quote costs with the Department of Watershed Management (DWM), Lipscomb dismissed the feasibility of such an option stating that DWM would also have to rely on a vendor for information. In addition, Lipscomb informed OIG that she could not go around Oasis because Oasis would have to sign off on any work performed as the certified engineer for all projects related to the Citywide Agreement.

OIG also asked Blanton and Lipscomb about the May 2020 emails (regarding funding for a sewer project that was to be part of a task order request). Blanton and Lipscomb informed OIG that they were discussing items that needed to be funded for a six-month extension to a task order. Lipscomb stated that she went to Oasis for an evaluation of potential costs to fund the project. When asked to explain the "sell" language used by Blanton in the emails, Lipscomb stated that the "sell" language was Blanton asking Lipscomb to "pitch" to DPW management so that they could obtain enough money to get the project finished. Blanton told OIG that the "sell language" meant that he was seeking confirmation as to whether Lipscomb could get the legislation passed for the task order.[4]

Regarding Lipscomb's direction that Blanton fully funds the sewer project for a 2020 task order in case Arcadis "does not get the contract," Lipscomb told OIG that she wanted to make sure the sewer work was done by Oasis. Lipscomb told OIG that she trusted Oasis from its previous work. Lipscomb explained that she had bad experiences with other vendors. Lipscomb stated that she would not do an RFP for the sewer project because she would have to justify the work, and it is a longer process with plans that would need to be approved by Oasis and Georgia EPD.

In its review, OIG found several emails between Blanton and Lipscomb discussing funding for various task orders. In addition to the previously referenced communications from 2017 and 2020, OIG found several other communications in which Lipscomb appeared to give Blanton notice of funds the City had made available for a task order before a service quote was requested by DPW from Arcadis. For example, in the communication below, Lipscomb alerted Blanton and Arcadis of funds that DPW had allotted for a task order, before the formulation of said task order.

---

[3] On September 5, 2017, approximately 80 days after Lipscomb informed Blanton that the City had allotted $2,068,325.39 in funding for the fiscal year 2018 task order, the Atlanta City Council adopted Resolution 17-R-4090 issuing Task Order 60 to Arcadis "for architectural, engineering and design services, for post-closure care, maintenance, and upgrades of city-owned landfills in an amount not to exceed $2,068,325.39."

[4] On August 17, 2020, approximately 80 days after Lipscomb and Blanton's discussion regarding "selling" a task order for $900,000 to $1,000,000, the Atlanta City Council adopted Resolution 20-R-4186 issuing Task Order 138 to Arcadis on behalf of DPW for post-closure and landfill maintenance in an amount not to exceed $917,500.

From: Robbie Blanton <[redacted]@oasis-cs.com>
Sent: Thursday, September 2, 2021 11:00 PM
To: Lipscomb, Carla; John Dean; Debbie Barry; Majid Zibanejadrad
Subject: [EXTERNAL] RE: Arcadis Amendment #2 to Task Order 143

Thanks, I will have something to Arcadis mid-morning on Friday.

From: Lipscomb, Carla <CLipscomb@AtlantaGa.Gov>
Sent: Thursday, September 2, 2021 1:56 PM
To: John Dean <[redacted]@arcadis-us.com>; [redacted] <[redacted]@arcadis-us.com>; Robbie Blanton <[redacted]@oasis-cs.com>; Majid Zibanejadrad <[redacted]@oasis-cs.com>
Subject: Arcadis Amendment #2 to Task Order 143

I need a task order for 6 months asap.

We are amending Task Order #143 adding $400k to existing contract which extended the contract 6 months from 8/9/2021.

Carla Lipscomb PMP, MBA, CPWM
Public Works Manager Sr.
Department of Public Works

OIG found other communications where it appeared that task orders were updated to meet the maximum amount of funding that DPW had budgeted, rather than for the costs of any proposed services requested by DPW. A sample of these communications can be found below.

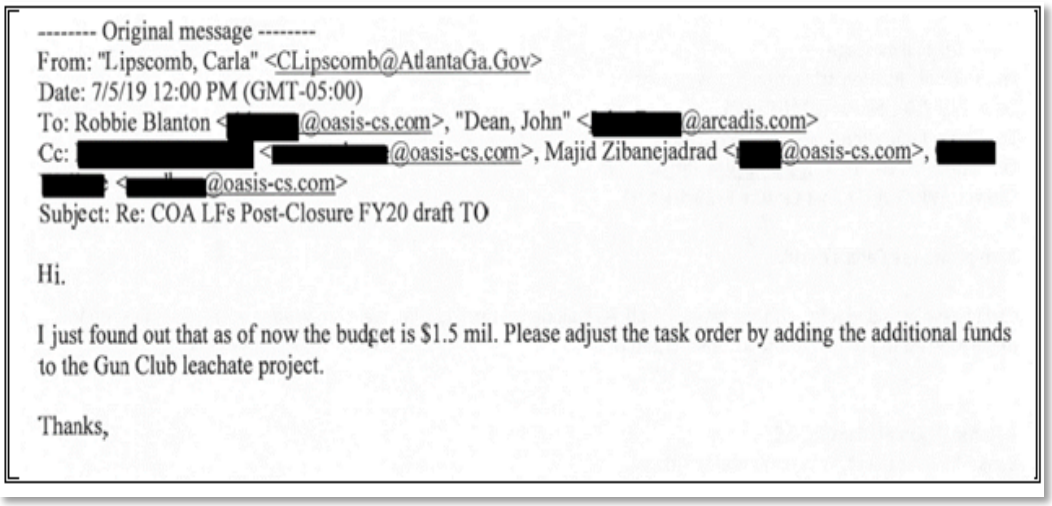
-----Original Message-----
From: Robbie Blanton
Sent: Thursday, July 07, 2016 4:26 PM
To: 'Dean, John ([redacted]@arcadis-us.com)' <[redacted]@arcadis-us.com>
Cc: '[redacted]@oasis-cs.com' <[redacted]@oasis-cs.com>
Subject: Scope of Services FY17, FY17_Landfill TO DRAFT

John,

Carla finally learned that her FY17 budget was approved for $1.25MM. I had started working up the TO based upon what we thought was going to be $1MM but have updated to the budget amount. Please see attached draft docs for your use. Carla has requested the signed final TO back by next Wednesday to get into the next legislative cycle.

Thanks and let me know if you have any questions.

J. Robin (Robbie) Blanton, PE
Vice President
Solid Waste Division Manager

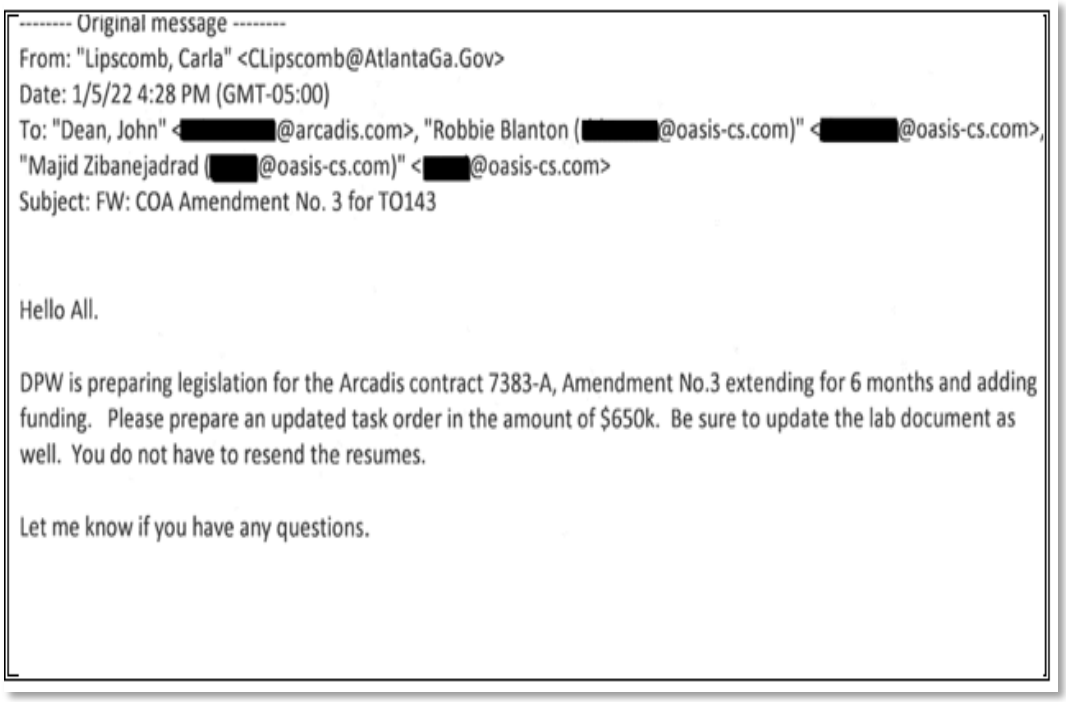


-------- Original message --------
From: "Lipscomb, Carla" <CLipscomb@AtlantaGa.Gov>
Date: 7/5/19 12:00 PM (GMT-05:00)
To: Robbie Blanton <[redacted]@oasis-cs.com>, "Dean, John" <[redacted]@arcadis.com>
Cc: [redacted] <[redacted]@oasis-cs.com>, Majid Zibanejadrad <[redacted]@oasis-cs.com>, [redacted] <[redacted]@oasis-cs.com>
Subject: Re: COA LFs Post-Closure FY20 draft TO

Hi.

I just found out that as of now the budget is $1.5 mil. Please adjust the task order by adding the additional funds to the Gun Club leachate project.

Thanks,



-------- Original message --------
From: "Lipscomb, Carla" <CLipscomb@AtlantaGa.Gov>
Date: 1/5/22 4:28 PM (GMT-05:00)
To: "Dean, John" <[redacted]@arcadis.com>, "Robbie Blanton ([redacted]@oasis-cs.com)" <[redacted]@oasis-cs.com>,
"Majid Zibanejadrad ([redacted]@oasis-cs.com)" <[redacted]@oasis-cs.com>
Subject: FW: COA Amendment No. 3 for TO143

Hello All.

DPW is preparing legislation for the Arcadis contract 7383-A, Amendment No.3 extending for 6 months and adding funding. Please prepare an updated task order in the amount of $650k. Be sure to update the lab document as well. You do not have to resend the resumes.

Let me know if you have any questions.

RFP Communications

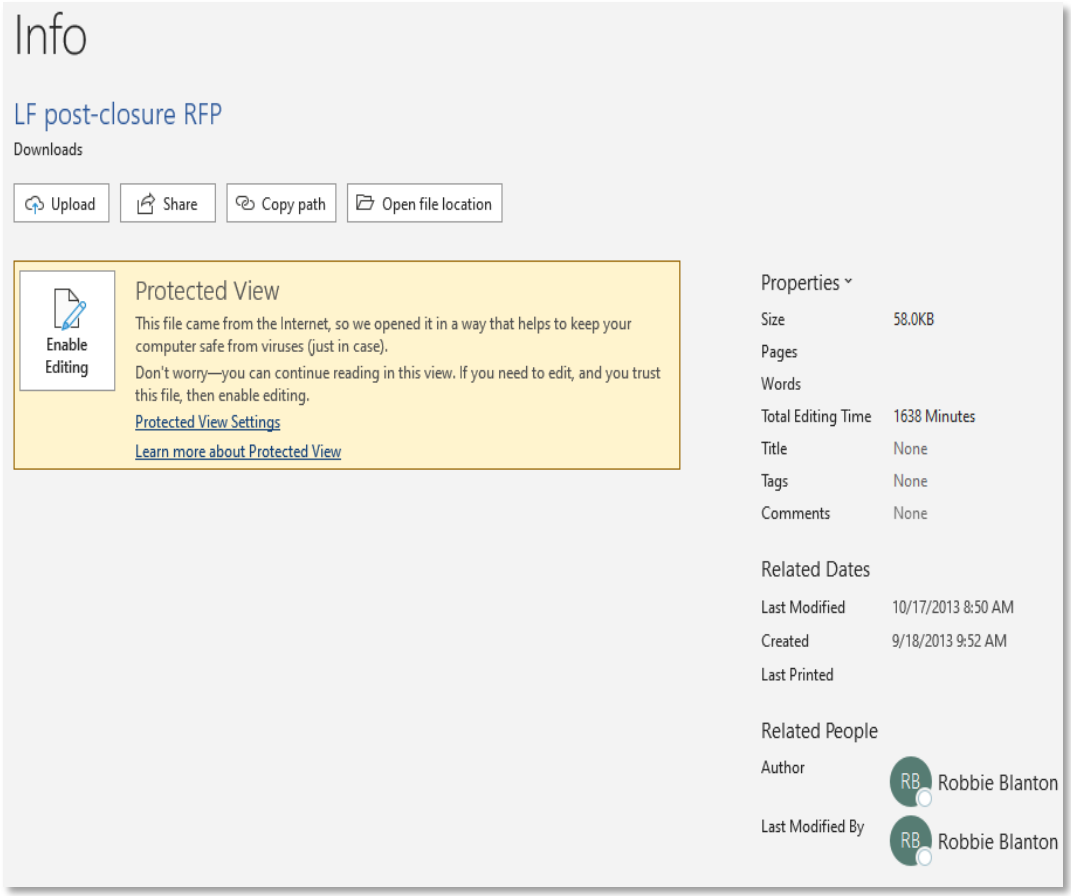
I. *The March 2020 Unidentified RFP*

As noted, in March 2020, Blanton sought verification from Lipscomb on whether a published City A-E solicitation was separate from the DPW consulting contract. Although Lipscomb could not provide any information about that solicitation, OIG asked Blanton what information he expected to acquire from Lipscomb that was not already listed in the RFP. Blanton told OIG that "if the City [was] going to be going through another contract mechanism that was

now a public offering….it would be good to just know [if the] solid waste work was moving too" so Oasis would "get on a team that's going to go after [the RFP] because maybe the way that [the City] is doing it now is going away." OIG asked if Blanton was looking for advanced information, or a "heads up," on the RFP; Blanton refuted this characterization and stated that the questions to Lipscomb were just for "informational" purposes.

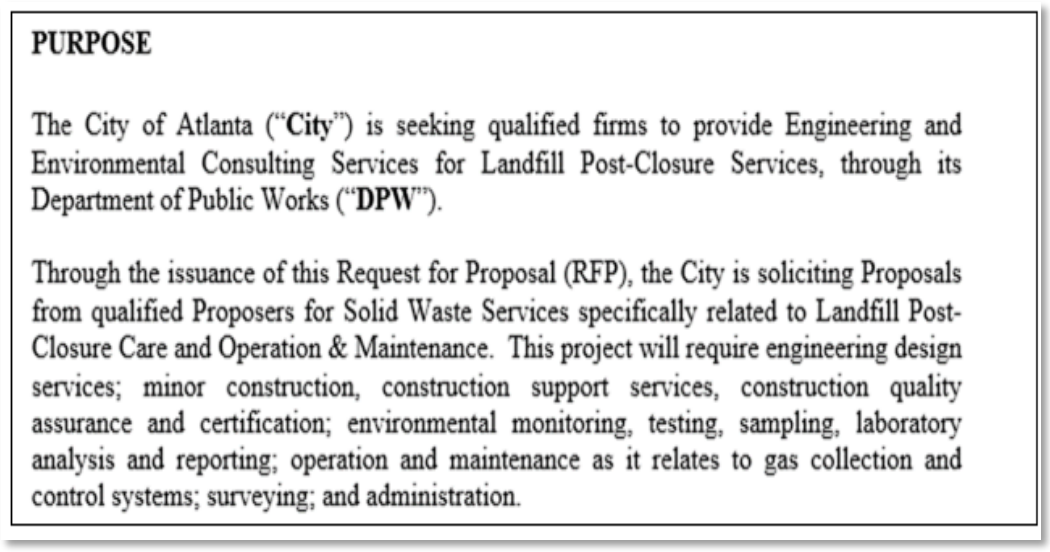
II. *The DEAM RFP*

On September 4, 2014, Blanton forwarded a document called "LF post-closure RFP" (the 2014 RFP) from his Oasis email address to his personal Gmail address. From his Gmail address, Blanton forwarded the document to Lipscomb's Hotmail account. Five years later, on May 29, 2019 (in the same email chain), Lipscomb forwarded the 2014 RFP from her Hotmail account to her City email address. According to its file information, the 2014 RFP was created by Blanton on October 17, 2013.



(File information for the 2014 RFP forwarded by Blanton to Lipscomb)

The 2014 RFP described an unknown City solicitation for post-closure care services for city landfills. In the purpose section of the 2014 RFP, the following was written:



PURPOSE

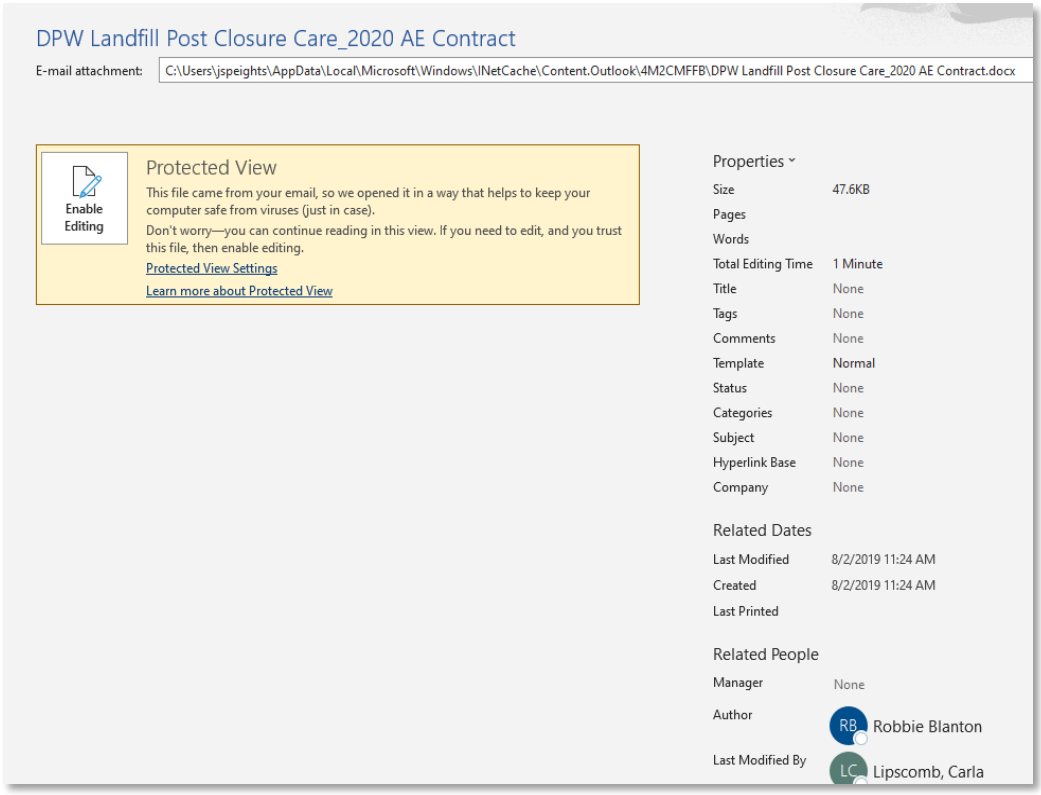
The City of Atlanta ("**City**") is seeking qualified firms to provide Engineering and Environmental Consulting Services for Landfill Post-Closure Services, through its Department of Public Works ("**DPW**").

Through the issuance of this Request for Proposal (RFP), the City is soliciting Proposals from qualified Proposers for Solid Waste Services specifically related to Landfill Post-Closure Care and Operation & Maintenance. This project will require engineering design services; minor construction, construction support services, construction quality assurance and certification; environmental monitoring, testing, sampling, laboratory analysis and reporting; operation and maintenance as it relates to gas collection and control systems; surveying; and administration.

(Excerpt of the 2014 RFP)

In June 2019, a project manager for the Office of the Mayor (OOM) contacted then DPW Commissioner James Jackson to alert DPW that there would be an A&E "refresh" coming in 2020 and to ask if there was a staff member in the Solid Waste division that could be part of the planning team. Jackson informed OOM that he would assign Lipscomb to the planning team. On August 2, 2019, Lipscomb emailed OOM the "landfill post-closure scope." Attached to the email was a document titled "DPW Landfill Post Closure Care_2020 AE Contract" (the 2019 Scope).

The 2019 Scope mirrored the language found in the 2014 RFP that Blanton had emailed Lipscomb. According to its file information, the 2019 Scope was authored by Blanton on August 2, 2019.



(File information for the 2019 Scope)

In March 2020, Lipscomb contacted DOP to ask about the status of the Citywide Agreement. In the communication, Lipscomb also informed DOP that she had submitted a scope of work to OOM for an upcoming A-E solicitation but never heard back. In response to the inquiry about the status of the Citywide Agreement, DOP informed Lipscomb that the City is no longer doing a "Citywide A/E." Lipscomb was also informed that DOP had not received a trigger package for the upcoming A-E solicitation and that she should work with DEAM to ensure that DPW's needs were captured in the trigger package that was being prepared. Lipscomb was given the contact information for the OOM procurement manager who had been assigned to manage the solicitation for DPW.

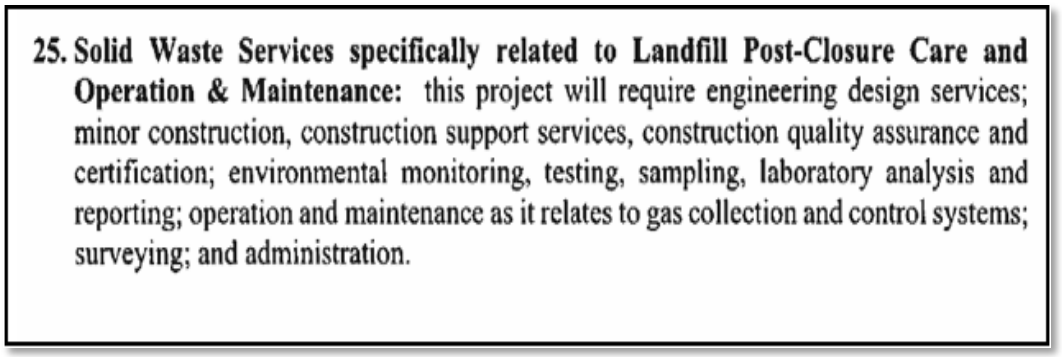
In March 2020, DEAM informed DPW that it had received the scope of work that DPW had requested to be put into the upcoming A-E RFP. The scope of work DEAM attached in the email was the 2019 Scope.

In April 2020, Lipscomb emailed the OOM procurement manager requesting an update on the new A-E solicitation. Lipscomb also asked the OOM procurement manager whether the City had done any advertising for the A-E solicitation, and if an evaluation team had been selected. Lipscomb inquired as to whether the new A-E solicitation would be executed before November 2020 and informed the OOM procurement manager that she needed to know because she was "trying to decide funding for the remainder of the current contract."

In April 2020, the OOM procurement manager informed Lipscomb that, as DEAM had not submitted its trigger package, they could not speak to any evaluators. Lipscomb was instructed to reach out to DEAM if she wanted input on evaluators. Lipscomb would later email the OOM Procurement Manager in July 2020 and again in August 2020 seeking updates on the A-E solicitation. During these same months, Lipscomb also emailed DOP and DEAM for updates on the A-E solicitation and to inquire as to whether the A-E solicitation would be executed prior to the Citywide Agreement expiration. In August 2020, DEAM informed Lipscomb that the new A-E solicitation would not be executed before the expiration of the Citywide Agreement.

On December 15, 2020, the City of Atlanta published advertisements for RFP-S-1210025 and RFP-S-1210026 (referred to collectively as RFP-S-1210025/26). These RFPs were published on behalf of DEAM and sought "qualified contractors to provide as-needed citywide architectural, planning, design, engineering, and construction phase services for City facilities." Both RFPs required interested parties to submit proposals to the DOP between December 15, 2020, and February 18, 2021.

Included in RFP-S-1210026 was a Scope of Services containing paragraph-long descriptions of services to be provided to the City. Item 25 of the Scope of Services described the solid waste services solicited by the City. The description used nearly identical language to that found in the Purpose sections in the 2014 RFP, the 2019 Scope, and the 2020 Scope. OIG also notes that, although the published Scope of Services only featured a single paragraph, a draft version of the Scope of Services that had been submitted by DEAM included more detailed descriptions of the services to be provided and borrowed significant language from the 2014 RFP.



25. **Solid Waste Services specifically related to Landfill Post-Closure Care and Operation & Maintenance:** this project will require engineering design services; minor construction, construction support services, construction quality assurance and certification; environmental monitoring, testing, sampling, laboratory analysis and reporting; operation and maintenance as it relates to gas collection and control systems; surveying; and administration.

(Section 25 Scope of Services summary for RFP-S-1210025/26)

In December 2020, Lipscomb was selected as one of six evaluators for RFP-S-1210025 and RFP-S-1210026. As a potential evaluator, Lipscomb was required to complete and sign a form titled "Agreement of Procurement Evaluators To Abide by the City's Standards of Ethical Conduct" (Ethics form). The Ethics form required evaluators to agree that they "understand that each bid or proposal may contain sensitive or proprietary information concerning the bidders or proponents and that the City's and [their] evaluation of the bids or proposals are confidential information until the contract is executed."

Evaluators were also required to agree that they would:

1. Not disclose any confidential information that [they] learn as a city employee while evaluating the bids or proposals
2. Refer to the Chief Procurement Officer any request under the Open Records Act for information about the bids or proposals, the bidders or proponents, or the evaluation process, and
3. Not use any confidential information for [their] own personal gain.

For RFP-S-1210025 Lipscomb submitted a completed Ethics form, signed and dated on January 6, 2021.[5]

On January 6, 2021 (the same day Lipscomb signed the Ethics form), Blanton wrote Lipscomb to ask her how DEAM's A-E RFP differed from the (original) agreement. On January 7, 2021, Lipscomb emailed Blanton to inform him that DEAM's agreement should be similar to the (original) agreement. Lipscomb also informed Blanton that she had provided her scope to DEAM, and asked Blanton if Oasis would be able to submit a bid alone.

In January 2022, DOP informed four vendors that they were recommended for the award of RFP-1210026. Each of the awardees was issued a review score based on selected criteria during the evaluation process. One of the four awardees was 'Design Renovation Engineering Architectural Management (DREAM) ATL Joint Venture' (DREAM ATL), a joint venture of Engineering Design Technologies, Inc., KHAFRA Engineering Consultants, and H.J. Russell & Company. DREAM ATL had the third-highest score among the four awardees (finishing one point ahead of the fourth-place awardee). According to the scoring matrix for RFP-S-1210026, DREAM ATL received its highest[6] evaluation points for "experience and past performance on similar projects."

[5] OIG could not locate Lipscomb's completed Ethics form for RFP-S-1210026. In its Independent Procurement Review report for RFP-S-1210026, OIG noted that Lipscomb's completed Ethics form was not on file.

[6] Technically, DREAM ATL received its highest evaluation points for OCC requirements; however, OCC evaluation points are issued under a responsive/non-responsive criterion.

RFP-S 1210026 CW ARCHITECTURAL, PLANNING, DESIGN, ENGINEERING & CONSTRUCTION PHASE ENGINEERING SERVICES (Group B-Large)		PROPONENTS							
Proposals are evaluated based on the criteria set forth in the RFP by a team of evaluators selected from various divisions within the City's Office of Enterprise Assets Management and possibly other City Departments.			DREAM ATL JV		[redacted]		[redacted]		[redacted]
	Scaling Factor	Score	Totals	Score	Totals	Score	Totals	Score	Totals
A		SC	B	AxSCxB	B	AxSCxB	B	AxSCxB	B	AxSCxB
20	Prime Proposer Qualifications	1	7	140	8	160	7	140	7	140
15	Management Plan (Experience/Qualifications of Key Staff)	1	7	105	8	120	7	105	7	105
10	Team Organization	1	7	70	8	80	8	80	7	70
20	Experience & Past Performance on Similar Projects	1	8	160	8	160	8	160	7	140
10	Cost	1	3	30	3	30	4	40	4	40
A			B	AxSCxB	B	AxSCxB	B	AxSCxB	B	AxSCxB
10	Financial Capability	1	8.6	86	8.2	82	8.7	87	9.5	95
A			B	AxSCxB	B	AxSCxB	B	AxSCxB	B	AxSCxB
15	OCC Requirements	1	15	225	15	225	15	225	15	225
100	TOTALS			816		857		837		815

(A) represents the weights of each category represented in the RFP documents.
ki
(B) represents the scores from the evaluators.

(SC) represents the the scaling factor to evenly scale all scores to a 10 point scale.

(A x SC x B) represents the properly weighted and scaled score for each factor.

(N/R) Non-responsive or Non-responsible

(Scoring Matrix for RFP-S-1210026)

As part of the solicitation process, DREAM ATL was required to submit a 'Contractor Disclosure and Declaration' form. On that form, there is a section titled "Representations" in which DREAM ATL agreed to the following:

> All Offerors, including agents, employees, officers, representatives, lobbyists, attorneys and proposed partner(s), subcontractor(s) or joint venturer(s), will refrain, under penalty of the Offeror's disqualification, from direct or indirect

> contact, for the purpose of influencing the selection or creating bias in the selection process, with any elected or appointed City officials, City agencies, employees, representatives or agents, evaluation committee members, or any person who may play a part in the selection process.

AND

> The blackout period begins with the advertisement of the synopsis and shall remain in effect until execution of the contract or the solicitation is canceled and will not be resolicited, whichever comes first. During the blackout period, all questions pertaining to this solicitation must be directed to the Department of Procurement's assigned Procurement Professional or the appropriate Supervisor. Offeror or any representative, agent or other person acting on behalf of Offeror is prohibited from contacting any other City agency, employee, representative, or elected or appointed official regarding questions about this solicitation. Violations of this section will result in Offeror's disqualification.

In its submission to the City, DREAM ATL identified Oasis as one of the subcontractors/suppliers on the joint venture for RFP-S-1210026. According to the Subcontractor Contact form submitted by DEAM, Oasis would manage solid waste services for DREAM ATL. Oasis was responsible for two percent of DREAM ATL's total bid evaluation and was to be responsible for two percent of the contract's work.

DREAM ATL submitted to the City a prospectus titled Informational Proposal Volume 1 (the Informational). In the Informational, DREAM ATL wrote that "DREAM Team member" Oasis has "performed post-closure maintenance and monitoring services for four closed City of Atlanta landfills" since 2011. DREAM ATL also provided the City a synopsis of Oasis' history, and prior experience and identified Oasis as an award-winning "small women's business enterprise." DREAM ATL listed three Oasis employees as part of the joint venture's "key personnel" and included those employees' resumes in its submission to the City.

On January 29, 2021, the City sent a letter to Oasis informing it that it had been certified as a Female Business Enterprise (FBE) with the City of Atlanta's Equal Business Opportunity Program (EBO). Oasis CEO C. Lynn Zibanejadrad filled out a letter of intent for RFP-1210026 on February 4, 2021.

On June 21, 2022, the Atlanta City Council passed Resolution 22-R-3847, authorizing the City to execute RFP-S-1210026(A) (the DEAM agreement) with DREAM ATL for architectural, planning, design, engineering, and construction phase services. The DEAM agreement was for three years, with two one-year renewal options, and for an amount not to exceed $25,000,000. The DEAM agreement specifies that services are issued on a task order basis. Approximately 20 City departments and agencies, including DPW, were authorized to issue task orders under the DEAM agreement.

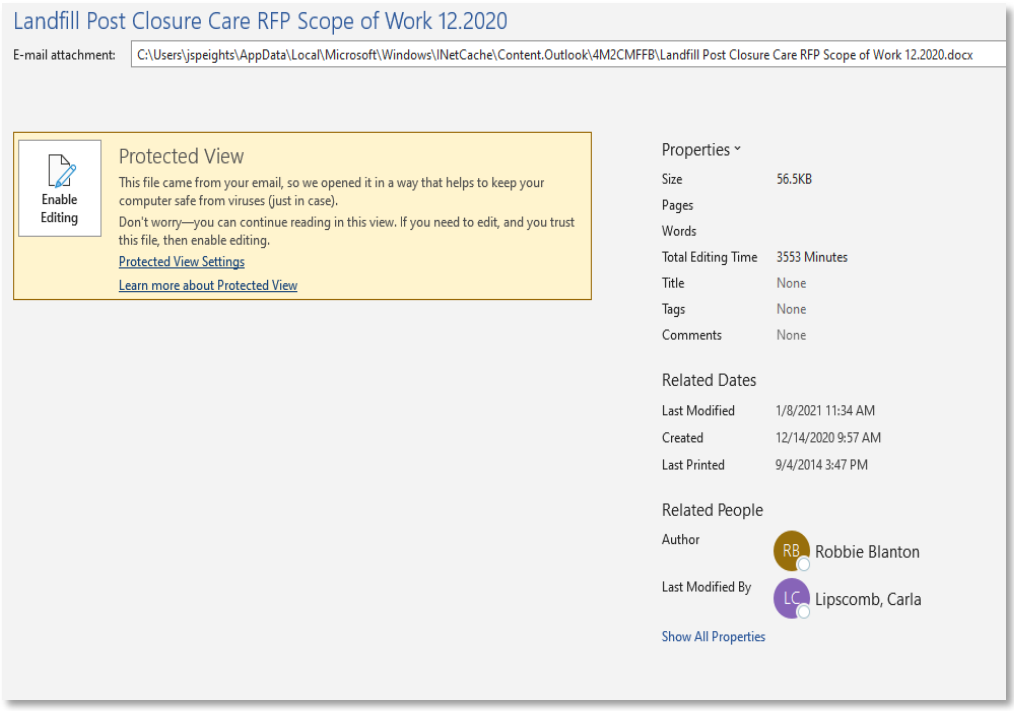
III. *The DPW RFP*

As discussed, from December 2020 through January 2021, Blanton advised Lipscomb on drafting the 2020 Scope. Although Blanton and Lipscomb made minor adjustments to the 2020 Scope—such as including an overview section, revising word choice, and updating sections—the format, content, and language used in the 2020 Scope, like the 2019 Scope, largely mirrored the 2014 RFP.

On January 8, 2021, Lipscomb sent DOP an email titled "DPW Landfill Post Closure Care Solicitation Trigger Packet." The email had the following documents attached:

- Landfill PCC Exhibit 3_Procurement Request Form_2021.rtf
- Landfill Post Closure Care RFP Scope of Work 12.2020.docx
- Landfill Post Closure Care RFP Minimum Requirements 12.2020.docx
- Landfill Post Closure Care RFP Cost Sheet 12.2020.pdf
- Landfill Post Closure Care Exhibit 4_TRANSMITTAL FORM-OCC-Risk-Dec 2020.docx

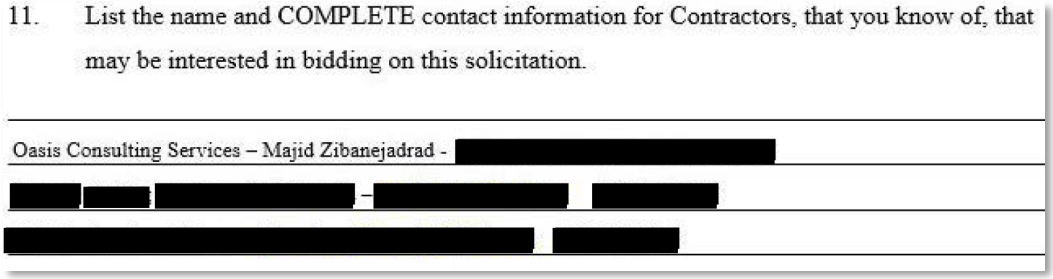
In the email, Lipscomb informed DOP that the attached documents were DPW's landfill post-closure care trigger package. The document titled "Landfill Post Closure Care RFP Scope of Work 12.2020" was the same as the revised 2020 Scope. According to file information, the scope of work that Lipscomb had submitted to DOP, as part of DPW's trigger package, was created by Blanton on December 14, 2020. Additionally, the document titled "RFP Cost Sheet 12.2020" mirrored the cost sheet forwarded by Blanton to Lipscomb



(File information for "Landfill Post Closure Care RFP Scope of Work 12.2020" document submitted by Lipscomb)

The document titled "Landfill PCC Exhibit 3_Procurement Request Form_2021.rtf" contained a City "Procurement Request Form." Lipscomb filled out the form, identifying herself as the project manager. Lipscomb also identified herself as one of the proposed solicitation's evaluation team members.

In the Procurement Request Form, the filer is asked to list the name and complete contact information for contractors, that the filer is aware of, that may be interested in bidding on the solicitation. On the Procurement Request Form completed by Lipscomb, Lipscomb identified Oasis, along with two other vendors, as a vendor that may be interested in bidding on the solicitation and provided the contact information for Majid Zibanejadrad.


11. List the name and COMPLETE contact information for Contractors, that you know of, that may be interested in bidding on this solicitation.

Oasis Consulting Services – Majid Zibanejadrad - [redacted]

(Excerpt of Procurement Request Form submitted by Lipscomb to DOP)

When interviewed, Lipscomb explained that the 2020 Scope circulated by Blanton and Lipscomb was part of a potential DPW contract for landfill post-closure care services. Lipscomb explained that DPW had decided to do a department-only contract for these services as opposed to a citywide agreement. Lipscomb stated that DPW transitioning to a direct contract for post-closure care services would save costs.

Lipscomb informed OIG that Oasis had assisted her in the past with developing procurements. Lipscomb stated that Oasis would not be able to participate in procurements it helped her on. OIG pointed out to Lipscomb that she identified Oasis as a possible vendor for the post-closure care contract on the Procurement Request Form even though Oasis had assisted with drafting the scope of work. Lipscomb stated that she understood that putting Oasis as a potential bidder on the form "looked like a conflict" and stated that she "shouldn't have done that."

Blanton initially told OIG that Oasis had not aided Lipscomb or DPW in drafting RFPs. However, after being shown the communications between him and Lipscomb regarding the 2020 Scope, Blanton explained that Lipscomb had reached out to him for assistance on an RFP and that he had provided her a "boilerplate" form he had on hand. Blanton told OIG that Lipscomb did not have the background or expertise required to draft an RFP. Blanton stated that he assisted with Lipscomb's revisions to be helpful and that Oasis had no interest in placing a bid on the RFP.

Blanton also told OIG that, although the scope of work requested in the RFP did not detail services Oasis provided, he attended a pre-proposal conference for the RFP [7] to see which vendors were participating in the RFP. Blanton stated that he did not know that Lipscomb would list Oasis as a potential vendor for the RFP and offered that she listed Oasis just to fill in the blank on the Procurement Request Form.

[7] OIG discovered no evidence that a pre-proposal conference for this RFP ever took place.

From communications between DPW and DOP, OIG discovered that the trigger package Lipscomb submitted to DOP would later become City solicitation RFP-S-1210244.

According to the projected schedule sent by DOP to Lipscomb, the City intended to publicly advertise RFP-S-1210244 from March 15, 2021, through April 9, 2021. However, the City Department of Law (DOL) did not approve the RFP until June 2021. After DOL approved RFP-S-1210244, in June, July, September, and October 2021, DOP reached out to Lipscomb about setting up a pre-proposal conference meeting for the agreement. On October 4, 2021, Lipscomb emailed DOP that the City could cancel the solicitation. Lipscomb explained to DOP that DPW added funds to the existing contract[8] and, also, that "the new AE solicitation" should be able to cover the landfill post-closure needs.

The Anti-Corruption and Anti-Bribery Policy (Hobbs Act Policy)

As previously mentioned, in June 2020, Lipscomb forwarded her completed Hobbs Act Policy paperwork to Blanton. The Hobbs Act Policy's stated purpose was to:

1. Set out the ethical guidelines for observing and upholding the City's position on corruption or extortion and bribery; and

2. Provide guidance to elected officials, members of management and appointed officials working for the City on how to recognize and manage potential corruption and bribery issues.

The Hobbs Act Policy stated that it was only applicable to the City of Atlanta elected officials, members of management, and appointed officials. Nothing in the document suggested that the document was to be distributed to third parties or City vendors. OIG asked both Blanton and Lipscomb if they could explain why Lipscomb sent the policy to Blanton. Neither Blanton nor Lipscomb could explain why Lipscomb had forwarded the policy.

The Citywide Agreement

In the Citywide Agreement, it is stated that "cost estimating will be a means of ensuring budgetary discipline throughout the project development process." Under the Citywide Agreement, the Commissioner of the user departments was assigned the responsibility for soliciting, authorizing, and implementing services. Arcadis was to furnish services for assigned work items or tasks based upon the written authorization to proceed from the user department commissioner or his/her designees. In the event the City required the performance of any services, the City was to request from Arcadis a proposal detailing the scope of services, the schedule for completion of such services, and the fee budget based upon the hourly rates established in the Citywide Agreement.

Upon the mutual acceptance of a proposal, the City (represented by the commissioner of the user department using the services) and Arcadis were to develop and execute a task order specifying the scope, schedule, and compensation for the services. All task orders were to be

[8] On October 18, 2021, the Atlanta City Council approved Resolution 21-R-4065 which added $400,000 to the Citywide Agreement for landfill post-closure care and operations.

covered by the terms and conditions of the Citywide Agreement. Task Orders were to be reviewed and approved by "the Engineer" (unidentified).

As far as implementation, for all services requested under the Citywide Agreement, the City was required to give Arcadis 15 days prior written notice setting forth the City's proposed scope of services. Arcadis was required to respond to the City, in writing, within 15 days after receipt of the City's proposal for services, including submittal of the estimate of the costs associated with the services, and other details necessary for the proper performance of the proposed services. The City or an authorized representative was required to examine documents submitted by Arcadis and render decisions within a reasonable time.

After the development of a cost estimate, the City could enter negotiations with Arcadis regarding those services and the compensation that would be paid for the services. The Citywide Agreement stated that negotiations would be based on the data submitted by Arcadis and an evaluation of the specific work hours required for each service.

The City reserved the right to validate Arcadis' cost estimates before acceptance. The City also could conduct an independent cost analysis to determine any differences in the work-hour estimates provided by Arcadis. The City maintained the option to reject any cost proposals submitted by Arcadis or request modifications to any cost estimates provided by Arcadis. The City and Arcadis were required to reach a mutual agreement concerning the scope and costs of the services before a work authorization for services was issued.

Under the terms of the Citywide Agreement, Arcadis was intended to be the sole point of contact for the City regarding services. Section 6.5 of the Citywide Agreement states that if Arcadis subcontracted any of its services, it shall:

(i.) Be responsible for the performance of services by the subcontractors;
(ii.) Remain the City's sole point of contact for the services; and
(iii.) Be responsible for the payment of any subcontractors.

In addition, the Citywide Agreement stated that any sub-consultants[9] performing services under a task order issued under the Citywide Agreement "shall not be permitted to participate in or provide services or work, as a proponent, bidder, joint venture partner, contractor or subcontractor, for any procurements or contracts involving construction, design-build, construction management at risk or similar construction project work for any project for which Services were performed under this Agreement, which shall be considered a conflict of interest for purposes of this Agreement."

[9] The Citywide Agreement refers to sub-contractors and sub-consultants interchangeably.

ANALYSIS

Blanton and Lipscomb

The course of conduct between Blanton and Lipscomb, along with their communications and actions on task orders and solicitations raises several concerns.

OIG found some indication that Blanton and Lipscomb were friends. Although Lipscomb described Blanton as merely a professional acquaintance with whom she had no social interaction, Blanton described a more personal relationship with Lipscomb. Blanton knew details about Lipscomb's personal life and recalled social interactions with Lipscomb. Blanton also told OIG that Lipscomb attended annual holiday parties thrown by Oasis. Friendly communication, and/or friendship, between a vendor and program manager is not, by itself, improper. However, it is concerning if friendly relations extend into matters where there is, or may be, conflict with the City's interests.

At times, Blanton and Lipscomb's working relationship seemed more akin to a partnership than the arm's length business arrangement one would expect between a vendor and program manager. For example, when Blanton and Lipscomb collaborated on drafting the scope of work for a City RFP, Blanton suggested assigning a dollar amount to undefined line items in the solicitation. However, Lipscomb informed Blanton that the City did not allow her to share budget information in a solicitation. After being told this, Blanton instructed Lipscomb to "put [herself] in the bidder's shoes." Disregarding the conflicts that arise from Blanton and Lipscomb co-authoring a City RFP (which will be discussed later), it is informative that Blanton asked Lipscomb, the City's representative, to consider the bidder's needs despite the apparent conflict between Blanton's desire to include dollar amounts in the solicitation and the City's position that budget information not be shared.

There is also the May 2020 email where Blanton asked Lipscomb to "sell" the City on a task order quoted price. Neither Lipscomb's description that the "sell" language was meant as a substitute for "pitch," nor Blanton's explanation that he was asking about Lipscomb's likelihood of getting task order legislation approved, completely explains why the two were having such discussions. It was not Lipscomb's role to "sell" or "pitch" the City on anything on behalf of a vendor. Rather, Lipscomb's role was to identify which services the City needed, solicit a task order quote from the vendor for such services, and then present the quoted costs to the City for approval. Moreover, as the City's representative, Lipscomb should have been negotiating costs in favor of the City. Lipscomb should have been "selling" or "pitching" the City's position to Blanton, not the reverse.

In addition to collaboration, OIG observed communications in which Lipscomb, Blanton, and/or Arcadis, shared private or confidential information. At times, it seemed as though Lipscomb was treated as a quasi-Oasis employee, as Lipscomb's email address was included on addressee lists that were otherwise exclusive to Arcadis and Oasis employees. In some of these communications, Arcadis and Oasis would provide Lipscomb updates on items such as due dates and meeting topics. On others, however, matters such as pricing and proposed activities on City contracts are discussed; matters one would expect that Oasis and Arcadis would want to keep confidential from the City.

Lipscomb, likewise, shared with Oasis and/or Arcadis internal City conversations that should have remained confidential. OIG observed a repeated pattern where Lipscomb would email other City employees to ask, what would seem to the City employee to be, innocuous questions about DPW projects (e.g., the status of a pending task order or procurement, or the available funding for a project) only to then forward these internal communications to Oasis and/or Arcadis.

An example of the above-described pattern can be seen in the June 2017 communications between Lipscomb and a DPW financial manager. In those communications, Lipscomb asked the DPW financial manager the funding amount DPW had allocated for an upcoming task order so that she could "prepare legislative documents." After being informed that DPW had allocated approximately two million dollars, Lipscomb forwarded her communications with the DPW financial manager to Blanton with the instruction "See below. We need the task order for FY '18."

Sharing the City's confidential information to assist Oasis and/or Arcadis would violate Section 2-1487 of the City of Atlanta Code of Ordinances (Atlanta Code) which states that it is "unethical for any employee…to willfully use confidential information for actual or anticipated personal gain or for the actual or anticipated personal gain of any other person" as well as Section 2-819 of the Atlanta Code which states:

> No official or employee shall disclose confidential information concerning the property, governing operations, policies or affairs of the city, except when required by state or federal law or by a court order or lawful subpoena, nor shall such official or employee use such confidential information acquired in an official capacity to advance the financial interest or personal interest of the official, employee or others in any instance where such would conflict with the best interest of the city.

Even if Lipscomb did not intend to provide any financial or other benefit, or actual or anticipated gain to Oasis and/or Arcadis, forwarding internal City communications regarding City business to a non-city actor defies general expectations for City employees. Sharing confidential communications undermines the City's interests. By forwarding internal conversations to Oasis and Arcadis, Lipscomb abused her colleagues' trust and disregarded their legitimate expectation that their communications with each other would be kept confidential.

Task Orders

The communications between Blanton and Lipscomb on task orders raised concerns regarding a lack of oversight and improper process.

As a threshold matter, according to the Citywide Agreement, Arcadis was to serve as the City's point of contact. However, it appears that Arcadis had delegated that role to Oasis, as Lipscomb solicited task orders directly from Oasis, which in turn would relay its proposals to Arcadis so that they could be formally submitted to DPW.

Under the Citywide Agreement, task orders were to be issued after the user agency requested a quote for specific services from Arcadis. After receiving a quote, the City then had the option to either reject the proposal, accept the proposal, and/or negotiate different terms. The Citywide Agreement also permitted the City to independently validate proposed task order costs and to negotiate with Arcadis about task order costs. These provisions suggest that the City contemplated a need to verify, adjust, and/or decline Arcadis' proposed task order costs. These

provisions accord with the Citywide Agreement's stated intention that cost estimating be used to ensure budgetary discipline throughout the project development process.

However, the evidence suggests that the cost control provisions contained in the Citywide Agreement were to an extent disregarded. In several communications, Lipscomb disclosed to Oasis and Arcadis the funds that the City had budgeted before the request for a task order quote. There is evidence that Oasis and Arcadis would draft task order quotes to match the funds the City had made available, as they became available. In the discussions observed, Oasis quoted approximately $850,000 in services to match increases made to DPW's budget.

Based on OIG's review of email correspondence, Lipscomb requested task order updates with minimal, if any, direction as to what content would be included in the task order quote. It is not clear whether the increased quoted costs were for services Lipscomb had determined the City needed. However, the need for the services included in the updated task order quotes could not have previously been determined, as they were not included in the original task order quotes submitted by Oasis. It is curious then that Lipscomb would allow the vendor such autonomy in apportioning the increased funds and/or adding services to the task order.

It appears the changes to task order quotes were made to reflect the maximum City funds available, and not to specific services Lipscomb wanted added. For example, in the July 2019 email where Lipscomb informed Blanton that the budget had been increased to $1.5 million, Lipscomb instructed Blanton to add the "additional funds" to a project, without referencing a particular item or service she wanted added to the project.

It is reasonable for a project manager to adjust a task order quote to match increases in funds. There may have been, for example, items and services excluded from the original task order quote due to budgetary limitations. However, upon being notified of any increases to DPW's budget, Lipscomb could have requested that Oasis provide a quote for specific services she wished added to the task order quote without discussing the funds the City had made available.

Both Blanton and Lipscomb stated that there was no validation or negotiation process for task order quotes and, according to Blanton, Lipscomb was "reliant" on Oasis for estimates. Lipscomb informed OIG that there were no other parties who could assist her in reviewing Oasis' quotes.

Failure to exercise oversight on task orders exposes the City to an increased risk of waste, as the City may allot more money than was required for solid waste projects and/or acquire unnecessary services. Oasis and Arcadis, as vendors, have an incentive to quote at higher rates and/or to provide extra billable services. Lipscomb, as DPW's representative and the subject matter expert, had a responsibility to make sure that task orders were crafted to acquire necessary services at a fair and reasonable cost. The need for such oversight is clear in situations such as this, where the vendor requests that City employees "sell" task order quotes or states that they "owed" the primary contractor for billing the balance of a fiscal year budget and would give the primary contractor "the numbers…to build it up."

Solicitations

In March 2020, when Blanton reached out to Lipscomb for information on a DWM solicitation, Blanton told OIG that he had contacted Lipscomb to find out whether Oasis needed to "get on a team that is going to go after the RFP." Although Lipscomb could not provide any

substantive information, the fact that Blanton reached out to Lipscomb, rather than DOP, for information on a public solicitation for a different City department, illustrates the pattern of exchanging confidential information about City solicitations between Blanton and Lipscomb. In that instance, a prospective bidder on a City solicitation reached out, in private, to a City employee for information about a public solicitation. Actions like this lead to unfair solicitation awards and demonstrate conduct the City's Procurement Code prohibits.

The exchange of information between Blanton and Lipscomb was not limited to simply information gathering. The evidence suggests that Blanton and Lipscomb coordinated with one another to secure solid waste work for Oasis on at least two occasions. The 2014 RFP, which Blanton drafted and shared with Lipscomb, would become the basis for three City solicitations in which Lipscomb participated. The manner in which Lipscomb came to possess the 2014 RFP is itself indicative of collusive activity between Blanton and Lipscomb, as Blanton first emailed the 2014 RFP from his Oasis email address to his personal email address and then from his personal email address to Lipscomb's personal email address, and Lipscomb then emailed the 2014 RFP to her City email address.

Lipscomb used the 2014 RFP as the basis to form the scope of work for RFP-S-1210025/26 as well as (the later canceled) RFP-S-1210244. For RFP-S-1210244, the use of a scope of work drafted by Blanton, alone, gave Oasis an unfair advantage in securing the solicitation. However, Lipscomb also shared revisions made to the 2014 RFP with Blanton, consulted Blanton on the language and provisions that should be included in the scope of work, and also provided the estimated costs for RFP-S-1210244. Despite Blanton's participation in drafting the scope of work for RFP-S-1210244, Lipscomb included Oasis on the Procurement Request Form as a vendor that might be interested in participating in the solicitation.

Had RFP-S-1210244 not been canceled, Oasis would have had an unfair advantage over other potential bidders. Oasis would have had early knowledge of the City's proposal which would provide additional time to prepare its response and knowledge of the substance of the work that had been requested. Oasis also would have had the opportunity to propose modifications to the scope of work that better fit Oasis' specifications.

Lipscomb acknowledged that Oasis should not have been permitted to participate in the solicitation and that her inclusion of Oasis as a potential vendor created a conflict. However, Blanton told OIG that he was merely helping Lipscomb because she did not have the requisite experience or background to compose solicitations. Blanton described the scope of work he had provided to Lipscomb as a "boilerplate" form. Blanton also stated that Oasis had no interest in the solicitation, as the work requested in the solicitation were not services Oasis provided, stated that he did not know Lipscomb included Oasis on the list of potential vendors, and suggested that Lipscomb did so to fill in a blank question.

For several reasons, OIG questions the veracity of Blanton's statements. First, Oasis' participation in RFP-S-1210026 (which had the same scope of work as RFP-S-1210244) indicates that Oasis did indeed perform the services identified in RFP-S-1210244. Also, contrary to Blanton's statements, the scope of work Blanton provided Lipscomb was not a "boilerplate" form; it was crafted specifically for post-closure operations managed by DPW.

OIG also questions Blanton's assertion that he only assisted Lipscomb with drafting the solicitation to be helpful. Blanton submitted multiple edits to and revisions of the 2020 Scope

which, in his own words to Lipscomb, consisted of "more work" than he had anticipated. Blanton also advised Lipscomb throughout the revision process and created a cost sheet with individualized line items and cost projections. It is implausible that Blanton would commit as much time and effort assisting Lipscomb on the solicitation if there was no potential benefit to Oasis.

Lipscomb sought consultation in drafting a City solicitation from a vendor who, she would later acknowledge, might have been interested in bidding. At best, this demonstrated a serious lapse in judgment; at worst, Lipscomb knew it was improper to have Blanton consult on the solicitation and intended to influence RFP-S-1210244 for Oasis' benefit. The fact that DPW canceled RFP-S-1210244 does not mitigate the impropriety of Lipscomb's conduct.

Lipscomb's actions suggest a pattern of behavior to ensure that Oasis would be awarded solid waste work for DPW. This pattern is consistent with other measures Lipscomb has taken regarding Oasis, such as fully funding a sewer project on a task order to ensure that Oasis would complete the assignment. Lipscomb informed OIG that she did this because she "trusted" Oasis.

For RFP-S-1210025/26, as in RFP-S-1210244, Lipscomb used the 2014 RFP to form the basis for the solicitations' solid waste scope of work. Lipscomb secured a spot as an evaluator on RFP-S-1210025/26, as she had done for RFP-S-1210244 before the cancellation of that solicitation. In both solicitations, Lipscomb had improper communications with Blanton about the solicitations: for RFP-S-1210244, the improper communications occurred before the solicitation had been made public; for RFP-S-1210025/26, the improper communications occurred after the solicitation had been announced but before the contract had been executed, a time known as the blackout period. According to the City's blackout period policy, during the blackout period, solicitation respondents and their representatives are prohibited, under penalty of disqualification, from communicating with any City employees or officials except the assigned DOP employee(s).

While serving as an evaluator for RFP-S-1210025/26, Lipscomb contacted Blanton to inform him that the solicitation should be similar to Oasis' current contract. Lipscomb also informed Blanton that she had sent her scope of work to DEAM. Finally, Lipscomb inquired whether Oasis would be able to submit a bid by itself, to which Blanton stated that he was uncertain.

Considering that Blanton had, only a day prior, reached out to Lipscomb to inform her that Oasis' (soon-to-be former) primary contractor, Arcadis, would not enter a bid for RFP-S-1210025/26 and that Oasis was uncertain how it could participate in the solicitation, the information Lipscomb provided could have been used to help Oasis secure a new primary contractor. Having detailed knowledge about the DPW scope of services, as well as direct communication with someone on the evaluation team for RFP-S-1210025/26, would make Oasis an advantageous partner for a potential bidder.

Ultimately, Oasis was able to participate in the solicitation of RFP-S-1210026 by joining DREAM ATL. Records published on the City's financial transparency website, checkbook.atlantaga.gov (Checkbook), indicate that between July 2023 and January 2024, the City has paid DREAM ATL $1.38 million dollars for services. All services billed were for DPW landfill closure and post-closure care. OIG found no other invoices for DREAM ATL. This suggests that, as of the date of this report, Oasis has been responsible for all paid services rendered by DREAM ATL.

In light of Blanton's and Lipscomb's communications on RFP-S-1210025/26, and other conduct between Blanton and Lipscomb, Oasis, and by extension, DREAM ATL, should have been disqualified from the solicitation. DREAM ATL affirmed, under penalty of disqualification, that it would not contact any City employees to discuss the solicitation during the blackout period. DREAM ATL also affirmed, again under penalty of disqualification, that all its subcontractors would refrain from direct or indirect contact with any evaluation committee members to influence or create bias in the selection process.

Although OIG does not have any information that DREAM ATL received, or otherwise acted upon any information Lipscomb provided Blanton, the potential for DREAM ATL to have used such information to help shape its proposal and the potential for Lipscomb to have exerted influence on the evaluation of the proposal tainted the solicitation process.

Omitting Oasis from DREAM ATL's bid, by itself, would not remedy the potential advantages DREAM ATL obtained. In addition, there are practical considerations that prevent Oasis' omission from DREAM ATL's bid evaluation. As discussed previously, much of DREAM ATL's evaluation score was attributed to its prior experience and past performance on similar projects. In its submission for RFP-S-1210026, DREAM ATL cited, on multiple occasions, the experience and expertise Oasis added to its team, listed Oasis employees as key personnel, and identified City projects that Oasis had worked on previously.

CONCLUSION AND RECOMMENDATION

OIG's review confirmed that Blanton and Lipscomb collaborated on the scope of work and cost sheet for an RFP submitted (and later rescinded) by DPW before DPW had released the RFP to the public. OIG's review also confirmed that Lipscomb, while serving as an evaluator on a DEAM RFP, provided information about the solicitation to Blanton. Communications between Blanton and Lipscomb revealed inappropriate coordination and collaboration on matters concerning project billing and suggested, generally, that Lipscomb abdicated her oversight function regarding reviewing task orders. Although, OIG found no evidence of a financial relationship between Blanton and Lipscomb, the communications between Blanton and Lipscomb violated several Atlanta codes, policies, and professional standards.

The repeated instances of Oasis improperly soliciting and/or receiving information from City employees about City contracts raises questions about whether the City should continue to do business with this vendor. The potential unfair advantage Lipscomb provided to Oasis on the DREAM ATL bid for RFP-S-1210026 merits, at minimum, excluding Oasis from performing any further work under the contract. It is unclear how the City might excise Oasis from its evaluation of DREAM ATL's bid or otherwise remedy any unfair advantage DREAM ATL may have directly or indirectly obtained from Blanton/Oasis. OIG notes that Section 22.1 (d) of the DEAM agreement permits the City to terminate the agreement immediately if it is determined that DREAM ATL engaged in any behavior that is dishonest, fraudulent, or that violates any City Ethics ordinance.[10]

[10] If RFP-S-1210026(A) was terminated by the City for cause, Section 22.2 of the DEAM agreement states that DREAM ATL would be liable for all costs in excess of the charges for all terminated services reasonably and

OIG referred this matter to DPW and DOP so that these departments may take any remedial actions deemed appropriate. OIG also recommended the following:

1. DOP suspend Oasis from further work on RFP-S-1210026.

necessarily incurred by the City in completion of the lost services, including the cost of administration of any agreement awarded to other persons for completion.

CITY OF ATLANTA

OFFICE OF THE INSPECTOR GENERAL

OIG INVESTIGATION INTO BRIBERY WITHIN THE LIGHT COMMERCIAL DIVISION OF THE DEPARTMENT OF CITY PLANNING OFFICE OF BUILDINGS

Shannon K. Manigault
Inspector General

October 2024

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EXECUTIVE SUMMARY

In March 2023, the Compliance Division of the City of Atlanta Office of the Inspector General initiated an investigation into a complaint that a (now-former) City of Atlanta Department of City Planning Office of Buildings permit technician, Sheaner Magee, had solicited a payment from an OOB customer to have a permit application reviewed by OOB. Upon investigation, OIG discovered evidence that Magee and another former OOB permit technician who worked in Magee's unit, Shaniecia Tucker, received payments from OOB customers whose permit applications were under review. In addition, OIG found evidence that the two employees' supervisor, Angela Epps, also accepted payments from an OOB customer.

This case stems from an encounter reported to OIG in which Magee contacted an OOB customer and told the customer that if the customer gave Magee $500, the customer's permit application would be reviewed. Magee also reportedly told the OOB customer that for $1,500, the employee could receive an expedited review. Unbeknownst to Magee, the OOB customer had a personal acquaintance who was employed at OOB. The customer informed the OOB employee what had transpired and the OOB employee reported the customer's concerns to OOB management, which alerted OIG.

Through the course of its investigation, OIG confirmed that Magee contacted the OOB customer via her personal email account and personal cellular phone, actions that deviated from OOB permit technician protocols. OIG also found that Magee contacted other OOB customers via her personal email address to accept building plans and other documents from OOB customers. An OIG review of Magee's financial records revealed that Magee accepted at least five Zelle payments from OOB customers, ranging from $75 to $450, from January 2022 through February 2023. All of these customers had active OOB permit applications on which Magee was assisting at the time of payment. For one of these payments, the OOB customer left a comment that the payment was for "plans."

During the investigation, OIG received an alert from OOB that another OOB permit technician, Tucker, had been terminated due to her departure from OOB protocols on a permit application that she had processed. OIG reviewed this matter and, as a result, discovered that Tucker accepted at least four payments from OOB customers, ranging from $200 to $1200, from November 2022 through April 2023. As was the case with Magee, all of these customers had active OOB permit applications on which Tucker was assisting near the time of payment. For one of these payments, the OOB customer wrote in the comments "expeditor."

Having found two permit technicians within the same unit accepting payments from OOB customers, OIG expanded its review to include other employees within Magee's unit. As a result, OIG discovered that Magee and Tucker's former supervisor, Epps, received five payments from an electrician, ranging from $50 to $200, from July 2021 through August 2022, whose company had multiple permit applications with OOB over several years. All of these payments were accompanied by the comment "permit" or "permits." OIG cross-referenced the payments with permit applications filed by the electrician and discovered that three out of five of the payments occurred within the same month that Epps assisted with a permit application.

OIG issued recommendations to OOB to address vulnerabilities OIG identified in the processing of permit applications and the reporting of potential criminal misconduct.

BACKGROUND

In March 2023, the Department of City Planning (DCP) Office of Buildings (OOB) contacted the Compliance Division of the City of Atlanta Office of the Inspector General (OIG) and told OIG that OOB had received notice from an OOB employee (the Complainant) that Sheaner Magee had solicited a payment from an associate of the Complainant (Customer 1).[1] The Complainant informed OIG that Customer 1, who the Complainant identified as a personal acquaintance, operates a business that advises food and beverage businesses on the licenses and permits required to operate. The Complainant told OIG that Customer 1 submitted a project application to OOB on behalf of one of Customer 1's clients. The Complainant informed OIG that Customer 1 contacted OOB for an update on the application, and reportedly spoke with Magee. According to the Complainant, Customer 1 said that after Customer 1 contacted OOB, Customer 1 received a call from a different telephone number from a person who identified herself as "Sheena."

The Complainant told OIG that Customer 1 said that Magee said that for Customer 1's project to be reviewed, Customer 1 could pay her $500.00 or $1,500.00 for an "express review." The complainant told OIG that Magee instructed Customer 1 to make the payment via the electronic payment processing application Zelle. According to the Complainant, Customer 1 expressed reservations about this arrangement, after which Magee terminated the call.

After being contacted by Magee, Customer 1 reportedly contacted the Complainant to discuss what had occurred. The Complainant told OIG that the Complainant reported the conversation to OOB management and was instructed by OOB management to tell Customer 1 to submit the application request again to OOB.

During OIG's conversation with the Complainant, the Complainant recalled Magee approaching the Complainant several times within a four-to-six-month period stating that certain project reviews were overdue and needed to be reviewed immediately. The Complainant told OIG that, upon reflection, the Complainant believed that Magee's instructions could have been for projects Magee had expedited in exchange for payments.[2]

OIG initiated an investigation and took a number of investigative actions, including, but not limited to, reviewing City records and databases, employee personnel files, emails and internal communications, and financial records; and interviewing City employees.

FINDINGS

While the investigation was ongoing, in July 2023, OOB informed OIG that OOB had fired Shaniecia Tucker, a permit technician, who worked in the same unit as Magee, for issuing a permit based on false/unsatisfactory contractor license credentials. According to OOB, Tucker issued a permit to a residential contractor for a commercial project on behalf of a customer. The contractor

[1] The Charter of the City of Atlanta prohibits retaliation against an employee who has provided information to OIG in connection with an OIG investigation. §§ 3-508(d) and 8-101(k)

[2] The Complainant provided OIG with Customer 1's contact information. OIG attempted to contact Customer 1 several times with no success. In April 2023, OIG contacted the Complainant and was informed that Customer 1 did not want to be involved in OIG's (or any governmental entities') investigation.

provided no identification, and Tucker relied only on a screenshot of an affidavit from the contractor that stated that the contractor was the customer's contractor. The customer later alerted OOB that the affidavit was false and that the contractor did not represent the customer.

OOB told OIG that when OOB conducted a review, they discovered the faulty/missing documents in the customer's application. When Tucker was asked to explain why she deviated from OOB policies, Tucker reportedly told OOB that OOB sometimes issues permits without identification (which OOB said was false) and that she wanted to help the customer out. Due to Tucker's extensive experience and training as a permit technician, as well as Tucker's supervisors verifying that Tucker knew OOB's correct permit processing procedures, OOB felt that "something was not right" about the situation. OOB felt that Tucker's behavior was "very questionable" and told OIG that it "was enough evidence for [OOB] to go to HR." OOB told OIG that Tucker's employment was terminated shortly thereafter.

During the July 2023 interview, OOB also informed OIG that Magee, who had transferred from OOB to the City of Atlanta Department of Finance (Finance), had contacted OOB to ask to continue to work for OOB in a part-time capacity while employed with Finance because she needed compensatory hours. OOB said that it declined her request. According to OOB, Magee mentioned during the meeting that she had noticed that OOB was behind on some projects. This led OOB to wonder how Magee could know that, as she would need to have access to OOB's electronic database and case management system, Accela, to know this information. OOB said that it asked its system administrator to run an Accela report, and discovered that, after Magee had transferred to Finance, Magee had accessed Accela to issue a permit to one OOB customer and to accept plans on another OOB project.

OOB told OIG that Magee's Accela rights had been deactivated upon Magee's transfer to Finance, so it should not have been possible for her to work on these projects through Accela. OOB said the system administrator informed OOB that Magee had contacted the system administrator to request that her access to Accela be restored. The system administrator reportedly told OOB that the system administrator was unaware that Magee was no longer an OOB employee, so the system administrator restored her access to Accela. As a result of this, OOB instituted a policy that when a City employee's Accela rights have been terminated, to restore the employee's Accela rights, the employee must submit a written request to the system administrator with their supervisor's permission.

<u>OOB</u>

According to OOB's website OOB:

> …is responsible for overseeing and regulating construction activities within the City of Atlanta. Its primary functions include issuing building permits, conducting inspections and code enforcement to ensure compliance with building codes and safety standards, and enforcing regulations related to construction and development. The Office of Buildings plays a critical role in promoting public safety, maintaining quality standards in construction, and ensuring that buildings meet relevant

> zoning and land use requirements. Additionally, it may provide guidance and assistance to developers, contractors, and property owners regarding building codes, permit applications, and regulatory compliance.

OIG spoke with OOB staff and was informed that OOB permit technicians are OOB's customer-facing staff. OIG was informed that permit technicians do not review OOB customer project plans directly. Rather, they act as intermediaries between OOB's plans review specialist and the customer. OIG was also told that permit technicians handle the initial intake for the customer; review submissions to ensure that customers have included all the necessary documents, forms, and plans in their submissions; and forward the customers' plans to the plans review specialists for review. After the plans review specialist approves the customer's plans, the OOB permit technician then further reviews the customer's application to ensure that all documents are included (including any changes requested by the plans review specialist) and all associated fees are paid. Once this task is completed, the permit technician generates the customer's permit and issues it to the customer.

In interviews with OOB staff, OIG was informed that OOB is divided into separate disciplines (e.g., arborist, light commercial, and others) to handle different assignments. OOB staff informed OIG that OOB permit technicians are required to acquire and maintain permit technician certification as a condition of employment. According to the City's online financial transparency website, Checkbook, in January 2020 the City reimbursed Magee $1,620 for expenses associated with her permit technician certification. In January 2023, the City reimbursed Tucker $1,452 for expenses associated with her permit technician certification.

OOB informed OIG that it had implemented changes to OOB permit processing units in 2023. OOB informed OIG that before its changes, a single manager was responsible for a large group of plans review specialists and permit technicians.[3] OOB stated that there were "maybe five to seven permit technicians and five to seven plans review specialists all reporting to the same manager." OOB said such an arrangement did not allow for quality assurance or control over operations. OOB told OIG that now each team is capped out at eight permit technicians to one manager, and there is a lead between each of those managers. OOB explained that OOB is now divided into teams of permit technicians and teams of building and development coordinators, who each have defined roles.

OOB stated that it shifted responsibilities previously assigned to permit technicians to building and development coordinators (whom it described as essentially a promoted permit technician). Building and development coordinators handle the intake and issuance of building permits only. All other permits (trade, business, and arborist) are handled by permit technicians. OOB told OIG that not all OOB staff responded well to these changes. OOB specifically identified Tucker and Magee as employees who were resistant to these changes. OOB told OIG that Magee cited the changes as a reason for her departure from OOB. According to OOB, some OOB staff did not like that OOB had implemented changes because they increased employee visibility and made it easier to hold employees accountable for errors and deviations from protocol.

[3] According to personnel records submitted by OOB there were approximately 25 permit technicians around the time of the change.

OOB customers and contractors are required to submit identification and credentials to OOB for review. OOB informed OIG that, before the 2020 Coronavirus Pandemic, OOB only accepted hardcopies of plans, and all documents needed to be submitted in person. However, during the 2020 Coronavirus Pandemic, OOB employees were required to telework and, as a result, OOB only accepted documents electronically. OOB staff returned to their office in 2023, however, OOB still only accepts documents electronically. In communications with OOB staff, OIG was told that there were positives and negatives to OOB's switch from hardcopy to electronic document submissions. On the positive side, electronic submissions have increased efficiency as physical copies of building plans were often cumbersome to handle. However, one OOB employee informed OIG that the drawback to this efficiency is that customers have begun to inundate OOB with submissions.

OIG asked OOB whether the switch to electronic document submission raised concerns about security (e.g., forged documents, false credentials). Most staff interviewed did not express any security concerns related to the transition from hardcopy to electronic documents. OIG was informed that security risks such as forged documents and misused credentials were an issue even when hardcopy documents were required. For example, one OOB employee told OIG that OOB would sometimes receive plans with falsified approval stamps. Although most employees expressed no reservations about the change, one OOB employee interviewed told OIG:

> [T]he type of business that we're in and there's so much fraud in this industry and the only way to be able to mitigate it is to have it in a space where you can control it, and you can control it when it's in your face. I can't control you giving me somebody else's signature through the internet, but you can't sign for somebody else if you're standing in front of me…

OIG was informed that, once, OOB customers had the option to pay the City extra for expedited service. However, the practice was discontinued years ago. OIG was informed by several OOB employees that certain projects, such as those from the mayor's office, or other notable persons, could be prioritized by OOB management and staff for review.

OIG was told that there was no queue or ticketing system for customers. In addition, OIG was informed that there was no requirement that permit technicians address customer submissions in the chronological order received. Rather, permit technicians have some discretion in managing their workload and may address submissions out of order for reasons such as the complexity of the project, the amount of customer tasks outstanding for completion, and other efficiency-based notions. Permit technicians are not assigned to customers. It was explained to OIG that permit technician assignments are based on who is available to assist the customer. OIG was informed by parties interviewed that some customers only dealt with their preferred permit technicians.

All OOB staff interviewed (including Magee) informed OIG that there were no means for a permit technician to expedite permit processing for OOB customers. Some explained that permit technicians could not expedite plans because all plans require a separate review and approval by a plans review specialist. Despite this, one OOB employee told OIG that they had been approached by a customer offering money to expedite their plans.[4] Another OOB employee told OIG that they

[4] The employee told OIG that they reported the attempt to OOB management.

had heard office talk where it was alleged that a customer offered money to an OOB employee. Another employee informed OIG that "years ago," OOB was put "under the microscope" due to an allegation that a permit technician received a bribe,[5] but, to their knowledge, nothing came of it.[6]

OIG was told that OOB takes no corrective action against OOB customers who attempt and/or commit fraud. For example, one employee described to OIG the following situation where OOB received a fraudulent contractor's license from an OOB customer. The employee said:

> [I]t turned out that the contractor was deceased. Yeah, and it was discovered… He's been dead for six months and someone has given us his contractor's license today. So, we had to go through the system and put a hard hold on his license. I went to our commissioner and explained to her what was happening and…we have proof of who is giving these documents after [the contractor] has died. So that's clear fraud. What can we do? Can we stop this person from submitting applications...No. We are public facing. Our office drives the money for the City…we have no recourse. We have no recourse other than I; I mean I don't know. I don't know, but at our level, there's nothing we can do. This is what I'm told.

The Light Commercial Division

Tucker and Magee worked as permit technicians within OOB's Light Commercial Division (the LC division). Angela Epps was the LC division's project manager in 2022 and 2023. OOB told OIG that Magee and Tucker "were very close."

In interviews with several current and former LC division employees, OIG was told that there is an assigned email inbox for customers to contact the LC division. OIG was also told that the LC division mailbox is monitored on a rotating basis by LC division staff. Despite the existence of a shared mailbox, OIG was informed that permit technicians also will contact customers via their city-issued email addresses as well as their city-issued cellular phones.

It was explained to OIG that the process for a permit issuance typically began when a customer contacted the LC division, either in person or via the LC division's inbox, and then a

[5] The employee told OIG that they believed that the City of Atlanta Ethics Office (Ethics) had investigated the allegation.

[6] OIG found a June 2016 settlement agreement, City of Atlanta Board of Ethics Case No. CO-16-007, between Ethics and a former OOB permit technician. The agreement stemmed from a complaint filed by Ethics against the permit technician after an investigation conducted by the Compliance Division of the City of Atlanta Law Department (Law). In that investigation, Law found that the permit technician had accepted three cash loans from an expeditor whose permit applications were processed by the permit technician. According to the terms of the settlement agreement, the permit technician told Ethics that she "never solicited funds or gratuities of any form from [the expeditor] and that the permit technician and expeditor "were close friends and had a personal relationship outside the office." The expeditor reportedly loaned the money to help the permit technician address financial hardship. Although the permit technician was found to have "frequently" processed the expeditor's permit applications, Ethics concluded that there was no evidence that any special favors or privileges were granted in exchange for the loans. The permit technician was issued a $150 fine. Oracle records show that the permit technician's employment with the City was terminated March 4, 2016.

permit technician would reach out directly to the customer with an introduction email. From the introduction email, communications tended to be directly between the permit technician processing the customer's submissions and the customer. OOB staff told OIG that there was no reason for a permit technician to contact OOB customers using their personal email address or personal cell phone.

During its review, OIG found standardized "introduction" letters Magee and Tucker emailed to customers. In these emails, they identified themselves to the customer, provided a list of documents that the customer would need to provide, and provided links to Accela's (OOB's online database and case management system) customer portal.

Magee

Records from the City's online database, Oracle, show that Magee was employed with the City as a permit technician from July 2019 to May 2023. In May 2023, Magee transferred from OOB to Finance, where she worked as an accounting technical specialist. Magee resigned from City employment in April 2024.

In an April 2024 interview with OIG, Magee informed OIG that she transferred from OOB to Finance because she did not like the changes that an OOB manager (the Manager) had introduced to the office. Magee told OIG that she and other OOB employees resented the Manager's promotion to a leadership role. Magee also expressed discontentment with the fact that the Manager earned more money than other OOB employees who, according to Magee, had more operational experience than the Manager. Magee told OIG that several OOB employees felt the Manager's promotion was a "slap in the face" and "disrespectful" and said that there were whispers among OOB staff that the Manager's promotion "clearly [had] to be nepotism or something." Magee also expressed reservations about the Manager's management style and interpersonal skills and accused her of being biased against certain employees.

In addition, Magee expressed frustration with OOB. Magee told OIG that OOB was "bragging" about how much revenue the City had generated due to permits, but when OOB staff asked for pay raises, they were told by OOB management that there was no money in the budget and, also, were accused by OOB management of creating a hostile work environment by asking.

As part of the investigation, OIG reviewed Magee's communications, City and personal cell phone records, and banking records. OIG reviewed messages from Magee's City email address, smagee@atlantaga.gov, and found that Magee forwarded OOB information to and from her City email address to her personal email address, sheaner1113@gmail.com (Magee's Gmail account). From these communications, OIG also found that Magee contacted OOB clients, and accepted plans from OOB customers, via her Gmail address. OIG reviewed Magee's Zelle account records and found payments from OOB customers to Magee. Specifically, OIG uncovered the following:

- On January 31, 2022, an organizer for an Atlanta-based showroom (Company A) emailed Magee an OOB Affidavit Concerning Exception to Contractor Licensing Requirements form. On February 1, 2022, Magee emailed a building

permit for Company A.[7] On February 4, 2022, Company A's organizer deposited $150 into Magee's Zelle account.

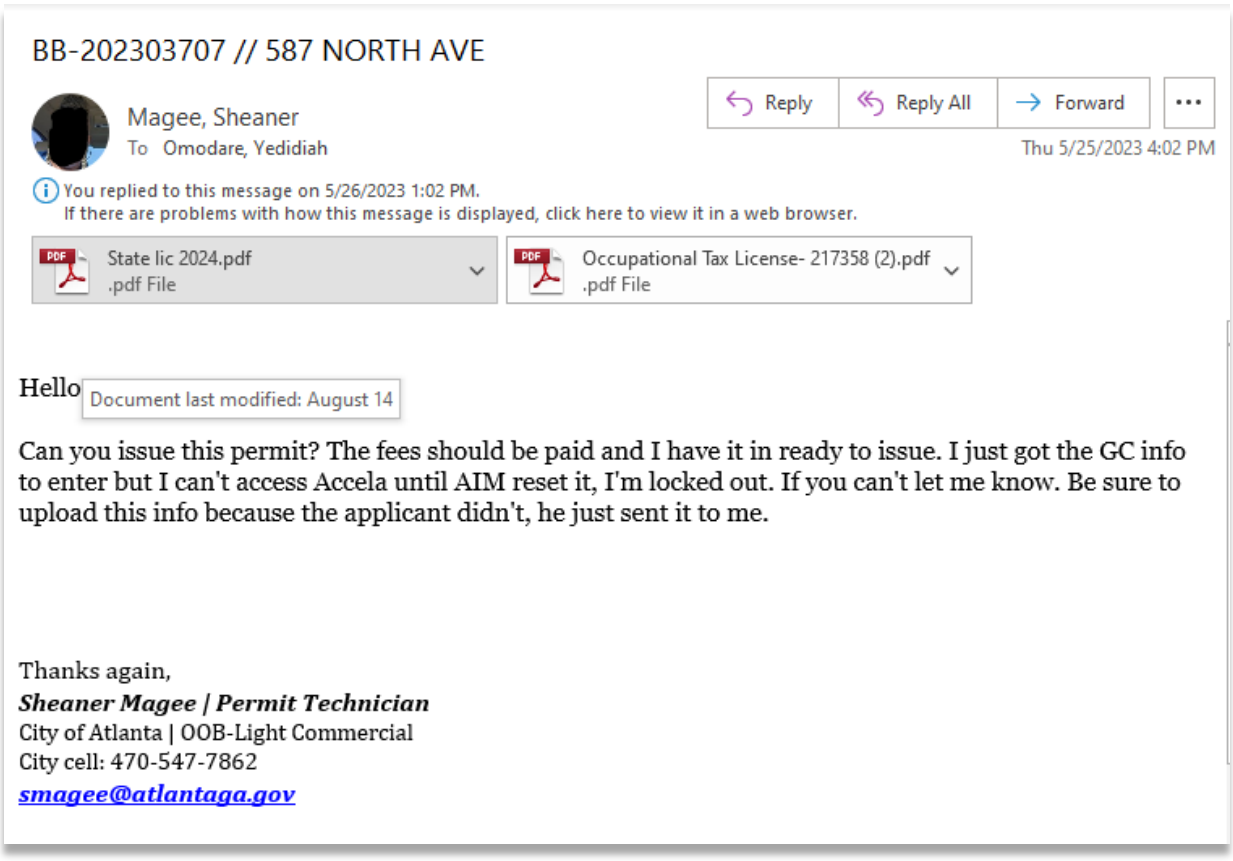
- From January 2022 through September 2022, Magee communicated with the registered agent for a development limited liability corporation (Company B) at least eight times via City email. In those emails, Magee sent the registered agent items such as building permits or OOB documents for the registered agent to complete. Magee's Zelle account showed three payments in June, August, and October 2022 (for $75, $100, and $450 respectively) from the registered agent.

- On February 21, 2023, the registered agent for a limited liability corporation (Company C), emailed Magee's Gmail account a message titled: "Fwd: Bb-202300047 – 338 West Peachtree St – Mechanical Plans Are On Hold, Need Gas Line Plans Uploaded And Opened In Workflow." Attached to the email was a set of building plans. On that same day, Company C deposited $200 into Magee's Zelle account with the comment "plans."

In addition, using the contact information provided by the Complainant, OIG was able to confirm that Magee contacted Customer 1 via her personal cell phone. OIG found that from January 2023 through May 2023, Magee sent Customer 1 multiple text messages from her personal cell phone. On February 24, 2023, Customer 1 emailed building plans to Magee's Gmail address; that same day Magee forwarded the plans from her Gmail account to her City email address.

On May 25, 2023, Magee's first day with Finance, Magee contacted a former OOB coworker and asked the coworker to issue a permit for BB-202303707 in her stead. Magee told the employee that she "can't access Accela until AIM reset [sic] it, I'm locked out." OIG reviewed Accela records and found that on May 26, 2023, Magee issued a permit for BB-202303707. The contractor for the project was Company B's registered agent. On May 26, 2023, Magee emailed plan revisions to a contractor from an architectural company (Company D). These plans concerned OOB project BB-202205585. On May 30, 2023, Magee accessed Accela to upload structural drawings into the case file. According to records obtained from AIM, Magee's last reported Accela login occurred on June 7, 2023.

[7] OOB Case BB-202107543.


BB-202303707 // 587 NORTH AVE

Magee, Sheaner
To Omodare, Yedidiah

Reply | Reply All | Forward | ...

Thu 5/25/2023 4:02 PM

You replied to this message on 5/26/2023 1:02 PM.
If there are problems with how this message is displayed, click here to view it in a web browser.

State lic 2024.pdf
.pdf File

Occupational Tax License- 217358 (2).pdf
.pdf File

Hello Document last modified: August 14

Can you issue this permit? The fees should be paid and I have it in ready to issue. I just got the GC info to enter but I can't access Accela until AIM reset it, I'm locked out. If you can't let me know. Be sure to upload this info because the applicant didn't, he just sent it to me.

Thanks again,
Sheaner Magee | Permit Technician
City of Atlanta | OOB-Light Commercial
City cell: 470-547-7862
smagee@atlantaga.gov

(Magee email to an OOB employee while employed by Finance)

In an April 2024 interview with OIG, OIG asked if Magee ever contacted OOB customers using her personal email or personal cell phone. Magee responded, "No, No, No." OIG repeated that question, and Magee again indicated that she did not contact customers on her personal email or personal cell phone. Magee also told OIG that it was impossible for a permit technician to expedite a customer's permit application "and the reason why is that they don't hold the stamp to get those plans approved to get out the door."

OIG asked if Magee maintained contact with OOB customers after leaving OOB. Magee confirmed that she had and told OIG that she receives emails from OOB customers "to this day." Magee said that initially she was forwarding these communications to the light commercial inbox, "but of course, they weren't doing nothing in there," so she would further implore the LC division to contact the customer. Magee was asked if she ever processed any customer's applications while at Finance. Magee answered "No." OIG showed Magee screenshots of her accessing Accela on May 26 and May 30, 2023, as well as her communication to the OOB employee when she mentioned the City of Atlanta Information Management (AIM) resetting her Accela access. When asked to explain this conflicting information, Magee told OIG that she "can't explain that."

Magee informed OIG that, while at Finance, she worked 20 hours a week as a paid consultant where she advised OOB permit applicants on the status of properties and to provide parties information on matters such as zoning. One of the parties Magee identified as a client was the registered agent for Company B. OIG asked Magee if she did this consulting work at OOB.

Magee responded "No." OIG also asked if an OOB customer ever paid her to do any work while she was employed at buildings. Again, Magee answered "No."

OIG showed Magee the payments made by OOB applicants to her Zelle account and told Magee that they had received a complaint alleging that she had taken payments to expedite the process. OIG also showed Magee communications from her personal cell phone and Gmail account where she contacted OOB applicants about their permit applications. Magee denied taking payments to expedite the process, but when asked to explain the nature of the payments, Magee claimed that the payments, as well as the communications from her personal cell phone and Gmail account, were for "personal business" unrelated to her duties at OOB. Magee refused to describe this "personal business" further and told OIG to contact the customers if OIG wanted to know more.

The Referred Contractor Incident

As discussed, on May 30, 2023, Magee accepted documents from Company D. Company D's contractor would later separately be accused of extorting a bribe from an OOB customer. According to a complaint OOB received on July 12, 2023, an OOB customer (Customer 2), on an unknown date, contacted OOB to obtain a building permit. Customer 2 alleged that Customer 2 was told by an OOB employee that Customer 2 would need measurements done by the architect to obtain a building permit and was referred to Company D's contractor by the OOB employee. Customer 2 alleged that Company D's contractor provided the measurements to the customer on February 27, 2023, and Customer 2 was able to obtain a building permit based on Company D's contractor's measurements.

However, reportedly, when another contractor reviewed the measurements, it was discovered that Company D's contractor's plans contained numerous errors and were not ADA-compliant. Customer 2 alleged that Customer 2 was initially unsuccessful in trying to contact Company D's contractor to fix the problems. However, with the assistance of an OOB plans review specialist, Customer 2 was able to arrange a meeting with Company D's contractor. At this meeting, Company D's contractor allegedly told Customer 2 that "he did the measurements incorrectly to get the permit. He also said he was also a third-party inspector for the City of Atlanta and, if [Customer 2] paid him $350.00 he would pass the inspection for [Customer 2]." When the customer declined to pay Company D's contractor, according to the customer, Company D's contractor "refused to do a revision to get the proper permit and would not release the CAD drawings for [Customer 2] to get a plumbing engineer. He also refused to reimburse [Customer 2] any of the money [Customer 2] paid him for drawings and permit [Customer 2] cannot use."

On July 13, 2023, OOB forwarded the complaint to staff with the message:

> Good morning team,
>
> This is just a friendly reminder to pass along to your staff. We do not recommend contractors, architects or engineers. This can come back to bite us in the long run. After speaking with the customer, she also told me that she had never heard of this engineer prior to trying to get a permit.

It also concerns me, that he first submitted the wrong size, admitted that after she got the permit in order to get more money out of the citizen and they stated he would just sign off on it as a third-party inspector.

Please remind your staff that we do not want to get caught up in this type of issues.

Thanks.

OIG discovered this incident by reviewing OOB communications. On August 8, 2023, OIG contacted OOB to ask if it knew who the employee was that referred Company D's contractor. OOB told OIG that it believed it was Magee. However, on August 10, 2023, OOB informed OIG that it did not know who recommended Company D's contractor. OIG was also told that OOB could not find any information about Company D's contractor in OOB's database.

On August 10, 2023, OIG contacted the customer. The customer informed OIG that the customer did not remember the name of the OOB employee who referred her to Company D's contractor. The customer said that it was "whoever worked at the front desk." The customer told OIG that she was trying to figure out how to get her building permit done and that she had explained to the OOB employee that she was having money problems and difficulty obtaining a loan. The OOB employee reportedly said she could recommend someone and gave the customer Company D's contractor's telephone number. The customer told OIG that she could "tell it was a little bit weird in the moment" and said that the OOB employee was "kind of whispering." The customer told OIG that the OOB employee did not call, text, or email her.

Tucker

Oracle records show that Tucker was employed with the City as a permit technician from December 2019 to July 2023. From December 2019 to March 2023, Epps was Tucker's supervisor.

OIG reviewed Tucker's City email, shtucker@atlantaga.gov, and discovered that on March 16, 2023, Tucker sent an email from her Gmail account to her city email address with a Wells Fargo bank account statement attached. OIG reviewed the statement and discovered a February 9, 2023, $1,200.00 Zelle payment from a restaurant company (Company E). Company E's name matched the customer name for an OOB application for which Tucker provided assistance. Based on this discovery, OIG reviewed Tucker's financial information. In its review, OIG found the following:

- On November 3, 2022, Tucker emailed the organizer for Company E to inform Company E that she would be assisting on its building permit application, BB-202205341. According to records from Accela, Company E had an active permit application under BB-202205341 with OOB from July 28, 2022, to February 22, 2023. Tucker was assigned to plan coordination on November 3, 2022. On November 4, 2022, according to Accela, Tucker issued a permit to Company E. On February 22, 2023, Company E was issued a Certificate of Occupancy (not by Tucker), that same day BB-202205341 was

marked closed in Accela. On February 9, 2023, 14 days before BB-202205341 was marked closed, Tucker received a $1,200.00 Zelle payment from Company E.

- On March 27, 2023, Tucker emailed the organizer and registered agent from a Georgia business (Company F). Tucker informed Company F's registered agent (RA1) that RA1's building permit application, BB-202302100, had been placed on hold for additional corrections. Six days earlier, on March 21, 2023, Tucker received a $200 Zelle payment from Company F.

- On April 25, 2023, Tucker emailed the organizer and registered agent for a real estate company (Company G). In the email, Tucker provided instructions to Company G's registered agent (RA2) on how to submit a permit to OOB. Accela records report that Company G had a permit application request with OOB in April 2023 under BB-202303162. On April 26, 2023, Tucker received a $600 Zelle payment from Company G. In the "Payment Memo" section for the payment, Company G wrote "expeditor." That same day, Tucker emailed RA2 advising that Company G's project had been accepted. According to Accela records, on May 15, 2023, Tucker issued a permit to Company G.

- On April 28, 2023, Company G applied for a removal permit with OOB. Company G was assigned project number BB-202303294. On May 11, 2023, Tucker was assigned as the plan coordinator for the project. On May 12, 2023, Tucker received a $600 Zelle payment from Company G. That same day Tucker issued the removal permit to Company G.

In addition, a review of City emails revealed several communications with RA1 between March 2023 and July 2023. On April 18, 2023, RA1 emailed Tucker the name and number of the general contractor for an Atlanta-based retailer (GC1). On April 19, 2023, Tucker emailed RA1 to let RA1 know that she would be assisting RA1 in issuing a building permit. On May 5, 2023, RA1 emailed a screenshot of a City Contractor License Affidavit and a Contractor Agent Affidavit, both purportedly filled out by GC1. RA1 also emailed a screenshot of GC1's Contractor License status from the Georgia Secretary of State's website. Tucker responded by telling RA1 to "submit a copy of the business license."

In June 2023, a customer emailed OOB advising that a permit had been issued under GC1's license that GC1 did not authorize. The customer's email regarded BB-202301439. On June 30, 2023, RA1 contacted Tucker to inform her that a law enforcement officer had come to the Atlanta-based retailer and revoked its permit. On July 5, 2023, Tucker contacted RA1 to inform RA1 that the permit was revoked because OOB had been notified that the wrong contractor had been assigned to the customer's case. Tucker informed RA1 to tell the owner that a change of contractor would need to be submitted to OOB. Oracle records report that Tucker's employment with the City was terminated that day.

In interviews with Epps, she could not explain why Tucker had processed a permit application without the correct documentation. Epps informed OIG that when OOB investigated

the matter she was asked about Tucker's behavior, but all she could say was that she had trained Tucker on the proper procedures.

OOB told OIG that Tucker issued a permit without any documentation. OOB explained that on commercial projects, OOB cannot release a permit to anyone but a contractor or an agent for the contractor because it is the contractor's license that allows the work to be permitted. OOB said:

> [I]n this particular instance, we received an email from someone that works with our office rather frequently, saying that one of the contractors that he works with got notification that a permit was issued using his license and he was not aware of it. So, we located the project and figured out who issued the permit. We had to put a hard hold on the project, and it turned out that there were no documents on file. Immediately an investigation was opened up and was sent to HR shortly thereafter…when we were notified that there were no documents Shaniecia uploaded documents after the fact to the record. The documents she uploaded were a screenshot of like a picture of someone's phone showing the Secretary of State's website.

OOB said that it does not accept screenshots for permit issuance. The only document OOB accepts is the actual license that the state issues to that license holder. OOB said that Tucker knew that. OOB, in describing the situation said, "Probably every rule for issuance of a permit was violated in this particular instance, not to mention the contractor saying that his information was being used fraudulently." OOB told OIG that it investigated the matter further and in the investigation another instance of Tucker issuing a permit without proper credentials was discovered. At that point, according to OOB, the Department of Human Resources determined that no further investigation was needed and that OOB needed to terminate Tucker's employment.

OIG asked OOB what Tucker's explanation was for her deviation from OOB protocols. OOB told OIG that Tucker first said that she forgot, and then, when pressed further, provided varying explanations. OOB told OIG that it could not recall exactly what Tucker said and described Tucker's explanations as "a little bit of everything."

OIG interviewed Tucker on March 27, 2024. In the interview, Tucker informed OIG that the Manager had implemented changes to OOB's procedures and that because of these changes, she improperly processed someone's permit application. Tucker said, "we were just transitioning, but we had not trained on anything new that [the Manager] wanted." Tucker told OIG that she collected the applicant's identification the way that she always had but was told that she did not "save a copy of the general contractor's driver's license." Tucker said that she guessed that it was "a new step that [she] missed." Tucker told OIG that RA1 sent her RA1's general contractor information to be processed, which she processed the way she normally did, "and then what happened was the general contractor from another job who was trying to fight [RA1] for a job" sent an email saying that RA1 "didn't verify something or that [RA1] didn't want to be on the job."

Tucker told OIG that shortly after the incident, she was asked to leave. Tucker explained to OIG that she believed that the Manager was going to figure out a way to have her employment

terminated because there had been problems (over unrelated issues, e.g., tardiness) between her and the Manager in the past.

OIG asked Tucker about her relationship with RA1. Tucker described RA1 as a "new expeditor" and said that "RA1 really didn't know much." Expeditors are private parties who assist OOB customers in processing their permit applications. Tucker said that RA1 would ask different OOB staff for information. OIG asked if Tucker was friends with RA1. Tucker said, "No, I met [RA1] there at the City Hall, just like with any other expeditor." OIG asked if she was familiar with RA1's company, Company F. Tucker answered that she did not know Company F.

OIG twice asked Tucker if she knew why Company F had sent her $200 in March 2023. Tucker twice answered "No." When asked about the $1,200 payment Tucker had received from Company E, Tucker answered, "No, I don't remember receiving $1,200." After being shown the payment in her Zelle account, Tucker said the payment probably was "because I got overcharged. I know I went [to Company E] one time and bought some stuff, ate there, and was overcharged. So, this may be a refund of my money back that I was overcharged, $1200, yeah." Tucker could not explain why she had received two $600 payments in April and May 2023 from Company G.

After OIG explained to Tucker that it had matched these payments to Tucker's assignment to these customers' permit applications and noted that this was an opportunity for her to tell OIG what was happening in the LC division, Tucker told OIG that she would need a lawyer present to discuss anything. OIG terminated the interview and invited Tucker to contact OIG when she had an attorney.

In April 2024, OIG discovered evidence that, after her employment with the City was terminated, Tucker acted as an expeditor for OOB customers. Specifically, OIG found several cases[8] between August 2023 and April 2024 where a "Shani Tucker" was listed as the applicant for several different OOB customers, including the organizer for Company E. OIG spoke with OOB and confirmed that Tucker had been doing work for OOB customers since leaving the City. As these activities appeared to have fallen within the City's one-year "cooling off" period for former employees, OIG forwarded OOB a link to the City of Atlanta Ethics Department's website.

Epps

After discovering two LC division permit technicians receiving payments from OOB permit customers, OIG expanded its review of employees who worked within the LC division. Epps was Magee and Tucker's direct supervisor from 2019 to 2023. OIG reviewed Epps' financial records and discovered five separate Zelle payments (July 2021, August 2021, August 2022, September 2022, and November 2022) ranging from $50 to $200, for a combined total of $450, made by an electrician (the Electrician). Each of these payments included the note "permits" or "permit."

OIG interviewed Epps on April 2, 2024. During the interview, OIG asked Epps about these payments. Epps informed OIG that the Electrician is "someone that used to try to date [Epps]" and

[8] BB-202306728, PLN-ONLINE-23-002249, V-23-200, and BS-202400325.

that, as part of the Electrician's romantic pursuit, the Electrician would try to gift her money. Epps told OIG that the Electrician does electrical work for an electrical company (Company H.) Epps told OIG that she does not know why the Electrician used the word "permit" in payments to her.

Epps told OIG she was "annoyed" with the Electrician's use of the word "permit." Epps said that she had spoken to the Electrician about this and asked that the Electrician not use that word because it could make her appear improper and have consequences on her employment. Epps informed OIG that she returned the Electrician's money each time and had the Electrician blocked from depositing money into her Zelle account. In the interview, Epps also remarked that "[the Electrician] couldn't get a permit for $75.00 in the City of Atlanta."

OIG reviewed Accela's records and found Company H's Accela profile page. The primary contact's name for Company H matched the Electrician's name. OIG found in Accela several projects associated with Company H from 2010 through 2024. OIG cross-referenced these projects with the five Zelle payments made by the Electrician and discovered that three of the five payments occurred within the same month that Epps had issued a permit to the Electrician.[9, 10]

CONCLUSION AND RECOMMENDATIONS

In March 2023, OIG received a complaint alleging that permit technician Magee solicited a payment from an OOB customer to process the customer's permit application. The allegation is substantiated. As a result of the investigation, OIG also found evidence that Magee's former colleague, Tucker, and former supervisor, Epps, also received payments from OOB customers. In light of the evidence of bribery and possible extortion, OIG referred these findings to the Fulton County District Attorney's Office for potential criminal charges.

OIG was able to confirm that Magee contacted Customer 1 using her personal cell phone and Gmail account. In addition, OIG found that Magee contacted several OOB customers via her Gmail account to accept building plans and other permit application paperwork. OIG was informed by OOB management and staff that there was no legitimate reason for a permit technician to contact OOB customers using their personal cell phone or personal email address.

OIG reviewed Magee's financial records and discovered several payments from OOB customers into her Zelle account. Magee told OIG that the payments she had received were for "personal business," unrelated to her OOB responsibilities. However, these customers all had active permit applications with OOB on which Magee was assisting around the time she received these payments. For example, on February 21, 2023, Company C emailed Magee's Gmail account a message with the subject "Fwd: Bb-202300047 – 338 West Peachtree St – Mechanical Plans Are On Hold, Need Gas Line Plans Uploaded And Opened In Workflow." That same day Company C deposited $200 into Magee's Zelle account with the message "plans."

[9] BE-202208516, BE-202211875, and BE-202209390.

[10] OIG found permits/payments for August, September, and November 2022. OIG found permit applications from the Electrician submitted to OOB in July 2021 and August 2021, however, Accela does not show any involvement from Epps on those applications.

Tucker told OIG that she did not know what the payments were for and that she did not remember receiving the payments. Tucker also suggested that one of the payments may have been a refund from dining at the OOB customer's establishment. However, as was the case with Magee, the customers who were discovered to have given Tucker money all had active permit applications that Tucker was assisting with at the time of the payment. For example, on April 25, 2023, Tucker emailed Company G instructions on completing its permit application with OOB; the next day, Company G deposited $600 into Tucker's Zelle account with the message "expeditor."

OIG discovered that Epps received at least five payments from an electrician who had recurring OOB permit applications. Each of the Electrician's payments referenced "permits." OIG discovered that, for three of the five payments, Epps had issued a permit to the Electrician within the same month that the Electrician deposited money into Epps' Zelle account. Epps denied that the payments were for permits and told OIG that the Electrician gave her the money as (unaccepted) gifts to establish a romantic relationship with Epps. However, Epps could not explain why the Electrician referenced "permits" with each of the payments. Epps issued permits to the Electrician the same month as several of the Electrician's Zelle payments—this suggests that the payments were for processing permits.

OOB has made changes in its organization to improve quality assurance including, but not limited to, reducing the amount of direct reports upon which a supervisor has to focus oversight; requiring routine quality assurance and quality control audits; and adding more accountability for mistakes and errors in the permitting process. These changes may mitigate future employee misconduct like what has occurred in this instance. Further changes may be needed. As OIG was told that OOB customers are not assigned to specific OOB staff,[11] and with the existence of a shared division-wide email inbox, staff may effectively communicate directly with customers without the use of their individual city-issued email addresses or city-issued cell phones. Communications on the city-issued email and cell phone allow for covert communications between OOB customers and OOB staff and for OOB customers to target a specific OOB employee to process their permit applications. To improve transparency in communications, and accordingly, mitigate these vulnerabilities, OIG recommends that OOB require that all email communications between OOB customer facing staff and OOB customers go through its shared email inbox and in-office telephone system.

Although OIG was told that a customer could not pay for an expedited review, given the lack of a queue or ticketing system, and the fact that OOB staff exercise some discretion in the order in which tasks are completed, an OOB employee could shift focus to certain projects for completion without raising an alarm. The complainant informed OIG that in retrospect, they had noticed that Magee had flagged certain projects to the plans review specialists as "overdue" and in need of immediate review. OIG was also told that OOB receives special projects that are prioritized by staff for completion.

OIG acknowledges that the variability in project complexity, and the lack of uniformity in how quickly customers submit documents and other items, may prevent a rigid sequential system of dealing with projects. However, to detect potential misconduct, OIG recommends that OOB

[11] OIG was told that this was to avoid instances where OOB customers' applications are delayed due to the unavailability of a specific OOB permit technician.

devise a system to identify cases that move unusually quickly through the permitting process or otherwise raise concerns regarding deviation from OOB protocol.

Proposed changes to the order in which plans review specialists complete tasks should be made through supervisory staff. Plans review specialists, who are removed from the customers, may not have reason to question a permit technician's assertion that a project is overdue or otherwise in need of urgent review. If adjustments to the plans review specialist's workflow are made by supervisors only, this would help ensure that applications are prioritized based solely on operational concerns and not because the plans review specialist was supplied false information, or because of a relationship between OOB staff and the customer, or other improper concerns.

OIG received reports that DCP management received notice of misconduct committed by OOB customers, including identity theft and fraud, and did not refer the matter to law enforcement or an investigative body. In July 2023, OOB received a complaint from a customer regarding a reported third-party inspector for the City of Atlanta who solicited a bribe to pass the customer's building inspection. OIG only discovered this incident by reviewing files related to this case. OIG reviewed Accela records and confirmed that Company D's contractor continues to provide third-party inspections for OOB customers, despite the allegation that Company D's contractor solicited a bribe to pass an OOB customer inspection. This raises concerns about the validity of other inspections this contractor has provided to OOB customers.

OOB has switched policy from accepting only hardcopy documents to only electronic documents, despite the increased risks of receiving forged, false, or misused documentation that comes with electronic submissions. This policy shift may have contributed to the incident involving Tucker and RA1, where Tucker issued a permit based on, what was later determined to be, misappropriated documentation. RA1 continues to file permit applications on behalf of OOB customers, despite being identified by OOB as a person who submitted misappropriated documents, an offense serious enough that OOB revoked the permit that was issued as a result of RA1's documents, and also fired the employee who handled RA1 permit application.

Failing to respond to misconduct (whether it is internal or external) exposes the City to risk and invites bribery, extortion, and corruption into the City's permitting process. It is critical to the operations of OOB, and to the safety and health of Atlanta citizens, that the permit and licensing process be free of misconduct and corruption. OOB employees and customers should forward any complaints of potential criminal misconduct, regardless of origin, to OIG or the Atlanta Police Department so that these issues may be further addressed.

Accordingly, OIG recommends that OOB:

1. Require, as practicable, that communications between customer-facing staff and OOB customers take place over more transparent mediums such as the shared office inbox, and/or via office/desk telephones.

2. Ensure that the prioritization of and/or any adjustments to the plans review specialist workload are determined and communicated by supervisory staff only.

3. Develop a process to detect and review irregularly processed permit applications.

4. Train employees to report allegations of potential criminal misconduct to OIG and/or the Atlanta Police Department.

5. Inform customers how to report allegations of potential criminal misconduct to OIG and/or the Atlanta Police Department.