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Report of Investigation

FILE NO: 22-0205-C

SUBJECT MATTER: Allegation that the City is profiting from the relocation of the bus stop at Coronado Park to 1st Street and Indian School.

STATUS: Final

INVESTIGATOR: M. Santistevan

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February 6, 2023

Date of Completion

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ACCOUNTABILITY IN GOVERNMENT
OVERSIGHT COMMITTEE CHAIRPERSON

February 24, 2023

Date of Approval

DISTRIBUTION:

- Honorable Mayor**
- President City Council**
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EXECUTIVE SUMMARY

According to City Ordinance 2-17-2, the Inspector General's goals are to (1) Conduct investigations in an efficient, impartial, equitable, and objective manner; (2) Prevent and detect fraud, waste, and abuse in city activities including all city contracts and partnerships; (3) Deter criminal activity through independence in fact and appearance, investigation and interdiction; and (4) Propose ways to increase the city's legal, fiscal and ethical accountability to insure that tax payers' dollars are spent in a manner consistent with the highest standards of local governments.

On December 2, 2022, the Office of Inspector General (OIG) received a tip hotline complaint alleging that the City is profiting from the relocation of the bus stop at Coronado Park to 1st Street and Indian School. The relocation of the bus stop and closure of Coronado Park has resulted in the unhoused creating an encampment under the interstate overpass and may be resulting in the City profiting from the cleanup. The OIG determined that the allegations contained elements of potential fraud, waste, or abuse and that it was appropriate for the OIG to conduct a fact-finding investigation. The purpose of the investigation was to determine if the relocation of the bus stop resulted in the City profiting from the State of NM Department of Transportation (DOT).

As a result of the investigation, the OIG was not able to substantiate the allegation that the relocation of the bus stop resulted in the City profiting from the State of NM Department of Transportation. The OIG did make one recommendation based on our observations.

ABBREVIATIONS

City: City of Albuquerque
DOT: State of New Mexico Department of Transportation
E1: Solid Waste Employee
OIG: Office of Inspector General
WEHC: Westside Emergency Housing Center

INTRODUCTION

The mission of the Office of Inspector General (OIG) is to provide independent and objective insight, oversight, and foresight in promoting integrity, efficiency, overall effectiveness, accountability, and transparency in government to safeguard and preserve public trust.

Complaint

The City is profiting from the relocation of the bus stop from Coronado Park to 1st Street and Indian School.

Background

The City has a contract with Herrera Bus Company to transport the unhoused between the Westside Emergency Housing Center and the City. The City relocated the bus stop to the interstate overpass. Prior, the stop was near Coronado Park and the City was responsible for bearing the cost of cleaning up the park at approximately \$25,000 per week. The interstate overpass is the responsibility of the DOT. DOT pays the City of Albuquerque to clean this area. The relocation of the bus stop and closure of Coronado Park has resulted in the unhoused setting up encampments under the interstate overpass and the City is profiting from the cleanup.

SCOPE AND METHODOLOGY

Scope: Memorandums of understanding between the City and DOT for FY 2014-FY2022.

The methodology consisted of:

- Research employee information for those identified
- Obtain and review memorandums of understanding
- Obtain and review related financial support
- Develop interview questions
- Conduct interviews
- Contact Legal to see if there is any pending litigation
- Contact Risk Management to see if there is any pending litigation
- Complete report

This report was developed based on information from interviews, inspections, observations, and the OIG's review of selected documentation and records.

This report is confidential and shall not be released until publication by the Office of the Inspector General. Violations are subject to the provisions of Article 17: Inspector General Ordinance.

INVESTIGATION

Allegation: The relocation of the bus stop from Coronado Park to 1st Street and Indian School resulted in the City profiting from the State of NM Department of Transportation (DOT).

Authority: Article 17 provides authority to the Office of Inspector General to investigate potential violations of law or apparent instances of misfeasance or nonfeasance by an official or investigated party.

§2-17-12 (a) states that all city officials, employees, and contractors shall promptly notify the Inspector General of every instance of theft or other disappearance of cash, check, or property, misfeasance or nonfeasance, defalcation, improper governmental actions as defined in the Whistleblower Ordinance and non-compliance with federal and state law, city ordinances and city regulations of which they are aware.

Evidence: Memorandum of Understanding and amendments between DOT and the City for the clean-up along interstate corridors. Although the memorandums of understanding were provided, the Solid Waste Department was not able to provide signed copies of the memorandums of understanding with the DOT for each fiscal year.

Discussion: The OIG met with E1 to review the documentation requested and provided by the Solid Waste Department on January 24, 2023.

E1 stated that the City has had a memorandum of understanding with DOT for many years. E1 indicated that before the fiscal year 2014, the agreement outlined a 50% split of the cost of the cleanup between DOT and the City. Subsequently, an amendment to the memorandum of understanding provided for an annual cost reimbursement to the City of \$300,000 including gross receipts tax. This agreement was in place for the fiscal years 2018, 2019, 2020, and 2021. For the fiscal year 2022, an amendment was signed to increase the annual cost reimbursement from \$300,000 to \$500,000.

E1 indicated that Coronado Park closed and the bus stop was temporarily relocated to 1st Street and Indian School in August 2022. The City cleaned up and maintained Coronado Park exclusive of any reimbursement. The memorandum of understanding with DOT required the City to clean up and maintain the interstate corridors including the 1st Street and Indian School location. The relocation of the bus stop did not impact the terms of the memorandum of understanding and the City continues to clean up and maintain the interstate corridors for the same cost reimbursement plan outlined in the fiscal year 2022 amendment.

E1 stated that the City has been incurring more of the cost of the cleanup of the interstate corridors and that the amendment in the fiscal year 2022 was based on the City's increasing costs. Although This report is confidential and shall not be released until publication by the Office of the Inspector General. Violations are subject to the provisions of Article 17: Inspector General Ordinance.

the City was able to negotiate an increase in the amount of cost reimbursement, the City still covers a much larger portion of the cost of the cleanup and maintenance.

Analysis: The OIG reviewed the Memorandum of Understanding and amendments for fiscal years 2014 through 2022. The OIG also reviewed exhibit A to the memorandum of understanding noting the anticipated cost and the cost reimbursement from DOT was as follows:

Fiscal Year	2014	2015	2016	2017	2018	2019	2020	2021	2022
Cost of Clean Up	662,681.73	662,681.73	657,518.20	688,887.70	674,403.13	691,248.90	685,491.66	823,050.26	865,876.03
City Allocation	362,861.73	362,861.73	357,517.20	388,887.70	374,403.13	391,248.90	385,491.65	523,050.26	365,876.03
DOT Cost Reimbursement	300,000.00	300,000.00	300,000.00	300,000.00	300,000.00	300,000.00	300,000.00	300,000.00	500,000.00
% allocated to City	55%	55%	54%	56%	56%	57%	56%	64%	42%

The OIG reviewed a cost analysis prepared by the Office of Budget and Management related to the Cost of Coronado Park Clean up, noting that the increased cost to the Solid Waste Department was \$6,234.60 per clean-up. The OIG noted that this amount was exclusive of the cost attributable to other departments involved in the clean-up and maintenance of Coronado Park. The OIG discovered that the cost of Coronado Park clean-up was never attributable to the DOT memorandum of understanding and was not to be offset with reimbursable costs. The City incurred the cost of clean-up as an expense.

A review of the DOT memorandum of understanding for fiscal years 2022 and 2023, revealed that the closing of Coronado Park and the relocation of the bus stop in August 2022, did not have an impact on the terms of the memorandum of understanding. The signed memorandum of understanding, negotiated in November 2021, for the fiscal year 2022 was done before the closure of Coronado Park.

The OIG's review of the analysis prepared by the Office of Budget and Management showed the cost of cleanup and maintenance of the interstate corridors allocated to the City increased year over year from the fiscal year 2014 to 2021 with the City bearing more of the cost than DOT. In the fiscal year 2022, an amendment was renegotiated resulting in DOT bearing a larger percentage of the cost of the clean-up and maintenance.

Conclusion: The OIG was not able to substantiate the allegation that the relocation of the bus stop resulted in the City profiting from DOT.

Observation: The OIG noted that the cost of the cleanup for the interstate corridors is not equally shared with the City incurring the larger portion of the cost of cleanup for the interstate corridors from 2014 through 2021.

Recommendation: The City should continue to monitor the actual costs and consider periodic renegotiations of the Memorandum of Understanding with DOT for the cleanup of the Interstate Corridors based on the cost analysis year over year with the desired outcome being a more equitable distribution of the cost between the City and the DOT.

Management's response: The Solid Waste Management Department (SWMD) will continue to monitor the actual cost to clean up the areas along the I-25 and I-40 corridors that run through the City of Albuquerque. The SWMD does meet with the New Mexico Department of Transportation (NMDOT) frequently to discuss issues including our annual agreement. We are currently in the process of meeting to discuss the next one-year agreement. Due to rising costs of materials and an increase in encampment clean-ups and illegal dumping the SWMD will track actual cost for the additional work and materials and will continue to work with the State so that we can continue to partner with them to keep the corridors clean.