



THE OFFICE OF THE INDEPENDENT PERFORMANCE AUDITOR

Fraud, Waste and Abuse Report

Fiscal Year 2022-23 – Second Quarter

December 2022

About the Fraud, Waste and Abuse:

The Office of the Independent Performance Auditor (OIPA) is the official body of the agency to investigate allegations of potential fraud, waste, and abuse identified by agency staff or other stakeholders. Once the investigation into the allegations has been conducted, the OIPA advises the SANDAG Audit Committee and the Office of General Counsel on whether improper activities occurred.

[SANDAG Board Policy No. 41](#) - Internal Control Standards is intended to help prevent and detect potential fraud, waste, and abuse of public funds by guiding and encouraging agency management and staff to consider, implement, and monitor good system controls. Additionally, [SANDAG Board Policy No. 042](#) dictates the policy and procedures for reporting Fraud, Waste and Abuse to the OIPA.

Fraud, Waste, and Abuse of Public Funds or Assets Defined

"Fraud, waste, or abuse" means any activity by a local agency or employee that is undertaken in the performance of the employee's official duties, including activities deemed to be outside the scope of his or her employment, that is in violation of any local, state, or federal law or regulation relating to corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property, or willful omission to perform duty, is economically wasteful, or involves gross misconduct.

Per the Board of Director's approval of [SANDAG Board Policy No. 039](#), the Independent Performance Auditor (IPA) is the official body of SANDAG to investigate allegations of potential fraud, waste, and abuse identified by staff or other stakeholders. Once the investigation into the allegations has been conducted, the IPA advises the Audit Committee, the Office of the General Counsel or outside counsel under contract with SANDAG on whether improper activities occurred.

An employee, contracted parties, member of the public, or other stakeholders of SANDAG can file a complaint with the OIPA alleging improper activities. A member of the public or other stakeholders are encouraged to file as soon as the complainant has knowledge of the alleged improper activity. An employee or applicant for employment that is subject to Government Code Section 53297 shall have the right to file a complaint within 60 days of the date of the act or event which is subject of the complaint. Prior to filing a written complaint, the employee shall first make a good faith effort to exhaust all available administrative remedies.



OFFICE OF THE INDEPENDENT PERFORMANCE AUDITOR

DATE: December 31, 2022

TO: Members of the Audit Committee

FROM: Mary Khoshmashrab, Independent Performance Auditor

SUBJECT: **Independent Performance Auditor First Quarter Fraud, Waste, and Abuse Report**

During Fiscal Year 2022-23 – as of December 31, 2022, OIPA has received no additional Fraud, Waste and Abuse complaints. During the 2nd Quarter OIPA was able to close *five* pending investigations, with *one* matter found to be partially substantiated, *one* matter found to be undeterminable, *one* matter unresolved and *two* to be unsubstantiated. Currently, there are *eight* external and *two* internal (one prior fiscal year) cases that remain open and pending review or additional information has been requested.

Table 1: the following page summarizes the types of reporting's received during Fiscal Year 2022-23 or pending from prior fiscal year.

Table 2: page 5 provides detailed reporting and status on External Fraud, Waste and Abuse Reporting's.

Table 3: page 7 provides detailed reporting and status on Internal Fraud, Waste, and Abuse Reporting's.

Table 1: Reporting Received in Fiscal Year 2022-23

Independent Performance Auditor Reporting's	Number of Reporting's (Prior Year)	Number of Reporting's (Current Year)	Closed	Open
External Reporting's				
Fraud				
Gross Mismanagement				
Waste				
Abuse/Misuse	1	1	1	1
Substantial and Specific Danger to Public Health and Safety		1		1
Combination of Allegations	7		1	6
Subtotal External Investigations	8	2	2	8
Internal Reporting's				
Abuse of Authority		1		1
Unfair Treatment				
Misuse and Abuse		1		1
Employee Relations				
Overall Risk Lack of Control/Policy				
Theft of Time	1		1	
Combination of Allegations	2		2	
Subtotal Internal Investigations	3	2	3	2
Total Reports Received in Purview of the IPA	11	4	5	10

Table 2: Status of External Fraud, Waste and Abuse Reporting Fiscal Year 2022-23

No.	Incident Type	Case #	Received	Date Started	Status/Outcome	Date Closed
1	Abuse	PPY004	1/13/20	1/13/20	Unresolved	11/28/2022
<p>An allegation stating that SANDAG is allowing for unsafe traffic circles, ignoring, and lying to the SANDAG Board of Directors, and evading the Brown Act. The matter is on hold and pending additional information that OIPA has requested from the complainant. As of 12/31/22, no additional information has been provided by complainant. Since this has been pending for 2 years, the matter is closed. The complainant will have to resubmit complaint.</p>						
2-5	Combination of Allegations (GM, Waste, and Abuse)	PY001-22, PY003-22, PY004-22, PY006-22	07/27, 02/02, 02/08,02/14	10/20/22	Open	Pending
<p>An allegation stating that SANDAG, the City of San Diego and Consultants working on the Bike Project are grossly mismanaging, wasting, and abusing public dollars. The claim includes four different complaints filed through the fraud, waste, and abuse hotline. The matter includes concerns that the project has doubled in estimated cost. Additionally, there are allegations that in some areas that have been completed, the contractors failed to ensure that proper safety guidelines be followed including proper signage and advanced posting of work task.</p>						
6	Combination of Allegations (Waste, GM, Abuse)	PY007-22	02/25/22	03/16/22	Open	Pending
<p>An allegation regarding misuse and abuse by a SANDAG consultant/contractor. The claim is regarding abuse of billing, overreaching of authority and failure to adhere to the terms of the contract. The claimant states that these actions by the contractor have been ongoing for many years.</p>						
7	Combination of Allegations (GM, Abuse, COI, Quid Pro-Quo)	PY009-22	02/17/22	Not started	Open	Pending
<p>An allegation regarding misuse and abuse by a SANDAG consultant/contractor and prior SANDAG employee. The claim is regarding abuse of power, conflict of interest (COI), overreaching of authority and financial gain by prior employee and contractor. Claimant provides detail of a “this for a that” agreement.</p>						
8	Combination of Allegations (GM, Abuse, COI)	PY012-22	08/04/22	9/16/2022	Unsubstantiated	10/11/2022
<p>On 8/04/22 a complaint was filed relating to this same contractor. The accusation is related and will be investigated together. PY013-22 claims that the contractor violated SANDAG’s DBE program and that SANDAG DBE was informed, was provided support yet ignored the matter. The complainant who was a subcontractor claims that there were also matters involving conflict of interest. IPA’s conclusion: Unsubstantiated. Complainant was unable to support their accusations with sufficient evidence.</p>						

9	Public Safety Issue	002-23	08/7/22	Not Started	Open	Pending
<p>Complainant alleges that since 2006, for 16 years, she has had ongoing concerns regarding Seismic Safety on SANDAG, Port, Airport, and City of San Diego public funded projects. Specifically, for SANDAG, the concern is Seismic Safety concerns on the Rose Canyon Fault Zone (RCFZ) on SANDAG's Headquarters and SDMTS Bus Maintenance Facility in downtown San Diego, the double tracking over the San Diego River, the Old Town Station, and the limited fault investigations for only 3 bridges along the Mid-Coast Corridor, and the new stations and Transit Oriented Development (TOD) housing projects adjacent new trolley stops. The Complainant alleges that in the past SANDAG stated they were not confirming or denying active faulting along the full Mid-Coast corridor or the bridges over the San Diego River due to budget constraints. The ask is to require all SANDAG, Airport, Port, and City fault investigations to have third-party approvals. With the fault investigation reports and approvals sent to the State Geologist within 30 days of approval.</p> <p>Second, reconvene the Caltrans 2006 Coronado Fault Technical Advisory Panel (TAP) or reconvene or contact Caltrans's Seismic Advisory Board (SAB) for free Seismic guidance and approvals for public funded projects on liquefiable soils. Additional State Seismic guidance and approvals should be required for SANDAG's proposed Airport connectivity project for a new subway/trolley to the airport, Central Mobility Hub (CMH), and new City Hall complex, the Navy Broadway Complex (NBC), Seaport Village, and SANDAG's new Headquarters and SDMTS Bus Maintenance Facility.</p>						
10	Waste and Abuse	003-23	12/14/22	12/14/22	Open	Pending
<p>Complainant alleges that SANDAG provided, at no cost, public resources and supplies to non-government organization that have left leaning political preferences and pose conflict of interest risk.</p>						

Table 3: Status of Internal Fraud, Waste and Abuse Reporting Fiscal Year 2022-23

No.	Incident Type	Case #	Received	Date Started	Status/Outcome	Date Closed
11	Combination of Allegations	PY010-22	03/8/22	03/25/22	Partially Substantiated	10/27/2022
<p>An allegation of employee misuse and abuse of SANDAG Vehicles.</p> <p>IPA's conclusion: Partially substantiated. Due to the lax procedures including no requirements for maintenance of mileage and location logs with start and end mileage, place of travel, and the given that some employees were permitted to travel to and from home with overnight and weekends home storage privileges, created an environment where management was unable to provide assurance that the vehicles were not misused, and that waste or abuse did not occur. Overnight use and home storage are no longer allowed for any employee. GPS monitors have been installed on all vehicles and strong system controls have been implemented.</p>						
12	Combination of Allegations	PY011-22	03/10/22	10/10/2022	Undetermined	11/30/2022
<p>An allegation of employee misuse of SANDAG minor equipment used while working remotely and otherwise. Information and detail regarding the matter was provided.</p> <p>IPA's conclusion: The matter was found to be undeterminable. The OIPA is unable to identify whether the allegations are substantiated due to the inability to identify documents that support that SANDAG consistently tracked, properly inventoried and/or reconciled minor equipment purchased since 2019 to an employee or if previous employees returned assets. Prior to March of 2022 for the period of review management confirmed that that inventory was not performed. Management claimed that prior to Covid, inventory was performed on technology and equipment. However, upon review of the documents provided the auditor identified that relevant information such as a purchase date, disposal date, disposal tracking, which employee held the equipment or when it was return, etc., was missing. As for other minor assets, such as desk chairs, stand-up desk, etc., management informed the IPA that in the past inventory on these items were not performed. The period under review was from January 2019 to current. SANDAG Management cited Covid as the reason for not tracking prior to 2019. Further. Since March of 2022, the Director of Technology and the Assistant CEO, Ray Major has been working with OIPA to implement stronger system controls, including inventorying of minor technology equipment and software, and stronger controls around purchasing. Additionally, Ray Major has been working with the Manager of Business Administration and Operations whose charged with supporting employees needs around other minor equipment which includes developing an inventory processes and procedures. Although the investigation resulted in the auditor's inability to determine if the allegation has merit, control deficiencies were identified and thus OIPA intends to perform a follow-up review of minor equipment during the FY23-24 Annual Audit Cycle.</p>						
13	Theft of Time	PY008-22	03/08/22	Not started	Unsubstantiated	10/09/2022
<p>Allegations of a current SANDAG employee and theft of time. Claimant states and provides examples of the employee and theft of time including coming in late, leaving early, etc. OIPA had planned a time audit, but due to limited resources this has been pending review. However, this matter will be individually reviewed to determine if actions should be taken.</p> <p>IPA's conclusion: The matter was found to be unsubstantiated. During Covid many employees worked remote and with varying hours. There were new staff starting with a blend of schedules that were for some unique to adjust to workload needs which may have contributed to the appearance of an employee was abusing time; however, the allegation was found to be unsupported.</p>						

14	Misuse and Abuse	001-23	07/22/22	8/9/22	Open	Pending
<p>Allegation of misuse and abuse of public funds. Complainant alleged that SANDAG has paid out hundreds of thousands to employees over the past years that were unreasonable material amounts. Complainant provided dollar amounts for various past employees that were released from their duties at SANDAG yet were at will. Complainant demanded that the matter be reviewed as the amounts were material and the employees were at will. The complainant alleged that the polices should be changed and the Board should set more perimeters around how SANDAG management spends public funds.</p>						
15	Abuse of Authority	004-23	12/21/22	12/21/22	Open	Pending
<p>Allegation of abuse of authority. Complainant alleged that some SANDAG Executive Management members abused their power of authority that resulted in negativity impacting the complainant.</p>						

Conclusion

The Office of the Independent Performance Auditor is committed to ensuring that all reported claims of fraud, waste, and abuse related to SANDAG’s operations are sufficiently investigated and successfully resolved.

SANDAG Management works diligently with OIPA to resolve these complaints and bring improvements to help prevent similar events from happening in the future.

Respectfully submitted,



Mary Khoshmashrab, MSBA, CFE, CPA
Independent Performance Auditor

cc: Audit Committee Chair David Zito
 Audit Committee Vice Chair Mayor Racquel Vasquez
 Audit Committee Public Members
 SANDAG Board of Directors
 Hasan Ikhata, Executive Director
 OIPA Webpage and File