



THE OFFICE OF THE INDEPENDENT PERFORMANCE AUDITOR

*Fiscal Year End Fraud, Waste and Abuse Report*

*Fiscal Year 2022-23 – First Quarter*

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September 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.

## **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 [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: September 30, 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 September 30, 2022, OIPA has received **two** Fraud, Waste and Abuse complaints. The **two** cases consist of **one** external related issue and **one** internal related issue. Additionally, **seven** external and **three** internal prior fiscal year cases remain open that are pending review or additional information has been requested. Additionally, there is **one** prior/prior year case pending awaiting additional information.

**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 6 provides detailed reporting and status on Internal Fraud, Waste, and Abuse Reporting's.

**Table 1: Reporting Received in Fiscal Year 2022-23**

<b>Independent Performance Auditor Reporting's</b>	<b>Number of Reporting's (Prior Year)</b>	<b>Number of Reporting's (Current Year)</b>	<b>Closed</b>	<b>Open</b>
<b>External Reporting's</b>				
Fraud				
Gross Mismanagement				
Waste				
Abuse/Misuse	1			1
Substantial and Specific Danger to Public Health and Safety		1		1
Combination of Allegations	7			7
<b>Subtotal External Investigations</b>	<b>8</b>	<b>1</b>		<b>9</b>
<b>Internal Reporting's</b>				
Abuse of Authority				
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
<b>Subtotal Internal Investigations</b>	<b>3</b>	<b>1</b>		<b>4</b>
<b>Total Reports Received in Purview of the IPA</b>	<b>11</b>	<b>2</b>		<b>13</b>

**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	Open/Unresolved	Pending
<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 4/07/22, no additional information has been provided by complainant.</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	Not started	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>						
7-8	Combination of Allegations (GM, Abuse, COI, Quid Pro-Quo)	PY009-22, PY012-22	02/17/22, 08/04/22	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. 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.</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</p>						

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.

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.

**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
10	Combination of Allegations	PY010-22	03/8/22	03/25/22	Open	Pending
An allegation of employee misuse of SANDAG Vehicle.						
11	Combination of Allegations	PY011-22	03/10/22	Not started	Open	Pending
An allegation of employee misuse of SANDAG minor equipment used while working remotely and otherwise. Information and detail regarding the matter was provided.						
12	Theft of Time	PY008-22	03/08/22	Not started	Open	Pending
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.						
13	Misuse and Abuse	001-23	07/22/22	8/9/22	Open	Pending
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.						

## 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