



THE OFFICE OF THE INDEPENDENT PERFORMANCE AUDITOR

Fraud, Waste and Abuse Report

Fiscal Year 2023-24 – First Quarter

September 2023

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: October 13, 2023

TO: Chair Zito and Members of the Audit Committee

FROM: Mary Khoshmashrab, Independent Performance Auditor

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

During Fiscal Year 2023-24 – as of September 30, 2023, OIPA received one additional internal Fraud, Waste and Abuse complaint. During the first quarter one case was investigated and found to be unsubstantiated. Additionally, one case that was recaptured in the prior period was fully investigated and also determined to be unsubstantiated. Currently, there are seven external cases that remain open and pending with no open internal case.

Table 1: the following page summarizes the types of allegations 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 2023-24

| 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 | | | | |
| Substantial and Specific Danger to Public Health and Safety | 1 | | | 1 |
| Combination of Allegations | 6 | | | 6 |
| Subtotal External Investigations | 7 | | | 7 |
| Internal Reporting's | | | | |
| Abuse of Authority | 1 | | 1 | |
| Unfair Treatment | | | | |
| Misuse and Abuse | | | | |
| Employee Relations | | | | |
| Overall Risk Lack of Control/Policy | | | | |
| Theft of Time | | | | |
| Combination of Allegations | | 1 | 1 | |
| Subtotal Internal Investigations | 1 | 1 | 1 | |
| Total Reports in Purview of the IPA | 8 | 1 | 2 | 7 |

Table 2: Status of External Fraud, Waste and Abuse Reporting Fiscal Year 2023-24

| No. | Incident Type | Case # | Received | Date Started | Status/Outcome | Date Closed |
|--|---|---|---------------------------|--------------|----------------|-------------|
| 1-4 | Combination of Allegations (GM, Waste, and Abuse) | PPY001-22, PPY003- 22, PPY004-22, PPY006-22 | 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 concerns the fact 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 were followed including proper signage and advanced posting of work tasks.</p> | | | | | | |
| 5 | Combination of Allegations (Waste, GM, Abuse) | PPY007-22 | 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> | | | | | | |
| 6 | Combination of Allegations (GM, Abuse, COI, Quid Pro-Quo) | PPY009-22 | 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> | | | | | | |
| 7 | Public Safety Issue | PY002-23 | 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> | | | | | | |

Table 3: Status of Internal Fraud, Waste and Abuse Reporting Fiscal Year 2023-24

| No. | Incident Type | Case # | Received | Date Started | Status/Outcome | Date Closed |
|---|-----------------------------|----------|----------|--------------|------------------------|-------------|
| 8 | Abuse of Authority | PY004-23 | 12/21/22 | 12/21/22 | Unsubstantiated | 8/23/2023 |
| <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> <p>Results of the investigation: Unsubstantiated. In summary, based on interviews with varying perspectives and a review of emails, and other documents such as text, teams, and other media, the IPA did not identify behavior that rose to a level where abuse of authority or power by the two executive members, occurred. However, the IPA did identify areas that could be approved.</p> <p>Recommendation:</p> <p>The IPA recommends that SANDAG management consider the following steps to prevent similar personnel issues from arising in the future.</p> <ol style="list-style-type: none"> 1. Training for new supervisors, managers and directors that include areas of performance evaluations, documenting poor performance, relationship with staff, staff development and confidentiality around employee matters. 2. Develop a policy on a formal Progressive Discipline Process (Preventative, Corrective, and Adverse Phases). 3. Training on proper and timely documentation over personnel matters at each phase of the Progressive Discipling Process. 4. Timely and detailed Performance Reviews that identify area that require improvement and ongoing follow-up until resolved. 5. Hire a Risk Management position that reports directly to the CEO and can independently review personnel matters when an employee is not satisfied with the SANDAG's HR's direction/decision. | | | | | | |
| 9 | Combination of Misuse/Abuse | CY001-24 | 07/10/23 | 8/28/23 | Unsubstantiated | 9/22/23 |
| <p>The complaint describes an event that resulted in misuse and abuse of public funds and conflict of interest. The complainant described a BBQ event and identified individuals from two major contractors and several SANDAG employees who attended an all-day event that occurred at an employee's home with approx. 30 people. The complaint claims that the SANDAG employee that attended except for two had nothing to do with the two contractors and the project. The complainant described that there was a great deal of time and effort that went into cooking and setting up which included public employees time and resources as well as potential public funds, as no funds were being requested for the food and other items provided by any of the employees. It is unclear who paid for the food and what funds were used. The event was not shared on all the employees' calendars that attended.</p> <p>Results of the investigation: Unsubstantiated</p> <p>Based on the conversation with executive management that attended and participated, additional review of system records, and other inquiries, the matter reported is unfounded. Based on our review, the food was fully funded by a director out of their own personal funds; this was also verified via system records with the contractor supplying drinks (no alcohol was present). Though some staff may have spent more than an hour, the event was not an all-day event and reasonable. The employees that attended appeared to have participated either directly or indirectly on the project that spanned several years.</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.

Respectfully submitted,



Mary Khoshmashrab, MSBA, CFE, CPA
Independent Performance Auditor

cc: SANDAG Board of Directors
Hasan Ikhmeta, Executive Director
Ray Major, Assistant Deputy Executive Director
OIPA Webpage and File