

# ACTIVITIES REPORT

## October 2021 – December 2021

### Office of the Inspector General

#### Fraud, Waste, and Abuse Investigations

The OIG investigates indications of fraud, waste, or abuse regarding BART’s programs, operations, and suppliers. Employees, contractors, and citizens are encouraged to report their observations.

Every individual, regardless of religion, race, immigration or documentation status, or national origin, is safe to obtain assistance from the OIG.

#### Audits

The OIG conducts performance audits that contribute to public accountability and transparency by providing independent and objective analysis of the efficiency and effectiveness of BART programs, operations, and activities.



#### Message from the Inspector General

It was another incredible year for my office. I am pleased to look back on calendar year 2021 and see that we issued 11 investigation reports, moved more than two dozen other investigations forward, completed our districtwide risk assessment, and issued our audit plan. It is amazing what we accomplished.

Although impressive, it is a struggle to maintain our level of productivity with such limited resources. I am fortunate to have a hardworking and dedicated staff of two who rise to the challenge, but I think often of the commitment I made to the public. I would like to provide them more information by shortening the turn-around time on our investigations and by completing our more complex investigations and audits. Without more resources, work moves forward slowly. There are risks associated with that lag, including the ability to stop fraud in its tracks and provide timely information to the BART Board, management, and employees, and to the public and other stakeholders.

To address resource needs, I took steps this last quarter to obtain additional funding. On [December 14, 2021](#), I presented to the Audit Committee my office’s budget needs to meet legislative mandates for conducting audits and investigations. I also sent a letter to the Bay Area Toll Authority requesting additional funding. For both, I demonstrated that, at a minimum, my office requires \$1.7M to \$1.8M in additional funding to better meet its expectations.

As this new year moves forward, I will share with you my progress in receiving additional support. I am hopeful that we will receive assistance. I wish you all a very Happy New Year. May it bring you good health and good fortune.

*Harriet Richardson*

## Accomplishments & Efforts



We continued with our commitment to do the work expected of an Office of Inspector General (OIG) and accomplish the goals we set for our office. This last quarter, we:



- Issued two investigation reports. The [first](#) addressed gaps in transparency and procedures regarding backend computer programming changes, and the [second](#) addressed the need to strengthen the social media use policy for elected officials.



- Continued work on 15 investigations and began work on 10 new allegations. Many of our new investigations this last quarter are based on allegations presented to us as we delved into our more complicated fraud or abuse investigations.



- Developed multiple different budget outlooks that would allow us to better address the expectations of our office. In our final estimation, we determined that our office needs at least an additional \$1.7 to \$1.8 million in funding to be able to meet legislative mandates for conducting audits and investigations. This would increase our budget from \$1 million to \$2.7 million in fiscal year 2023 and to \$2.8 million in fiscal year 2024.



- Presented to the [Audit Committee](#) on November 16, 2021, and December 14, 2021. At the November meeting, we discussed our two issued investigation reports, audit plan, and last activities report. At the December meeting, we provided information on our funding needs.



- Submitted a letter to the Bay Area Toll Authority (BATA) requesting additional funding. We provided detailed information on how our current budget of \$1 million restricts our progress and how an additional \$1.7 to \$1.8 million would benefit our office.



- Conducted follow up on our completed investigations to determine what action management has taken to address our recommendations.



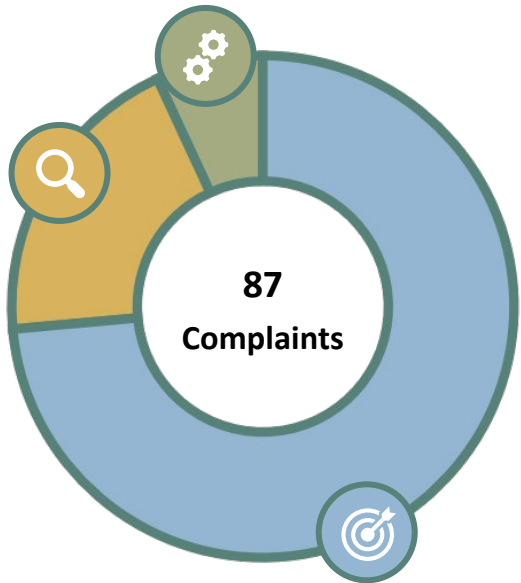
- Completed a mid-year review of our strategic plan. We are on target with our objectives for completing investigations and initiating two audits. However, we are lagging behind in our objective to update procedures due to a lack of sufficient resources. In looking forward, we determined that our audit and investigation goals are at risk because our limited resources are restricting our ability to complete our more complex audits and investigations.



- Celebrated staff accomplishments: our Inspector General was appointed to the [Governmental Accounting Standards Advisory Council](#), and our Assistant Inspector General was appointed to the [Association of Inspectors General](#) Western States Chapter Board and earned a [Leadership Professional in Ethics and Compliance](#) certification.

- Received and evaluated 13 new allegations of fraud, waste, or abuse:
  - Ten allegations accepted as investigations: All under various stages of active investigation
  - Three allegations forwarded: One to the Office of the Chief Information Officer, one to Human Resources, and one to the California Department of Health

## Investigations at a Glance



### 87 Complaints Received Since OIG Inception



17

Under active investigation



6

Pending Resolution



64

Resolved

### 64 Cases Resolved Since OIG Inception



19

Investigated



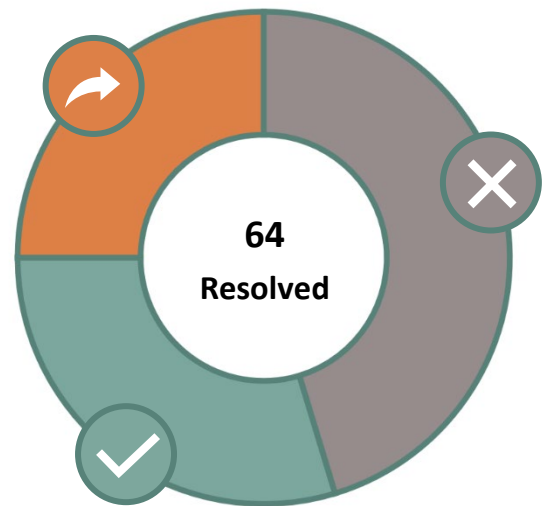
29

Declined for insufficient information or out of scope



16

Forwarded to another investigation unit



#### Fraud

We received **19** complaints alleging fraud or misappropriation. Timesheet and contracting fraud are the most common suballegations.

#### Unprofessional Conduct

We received **17** complaints alleging unprofessional conduct. Conflict of interest and harassment are the most common suballegations.

#### Compliance

We received **19** complaints alleging noncompliance. Unfair competition and policy and procedural noncompliance are the most common suballegations.

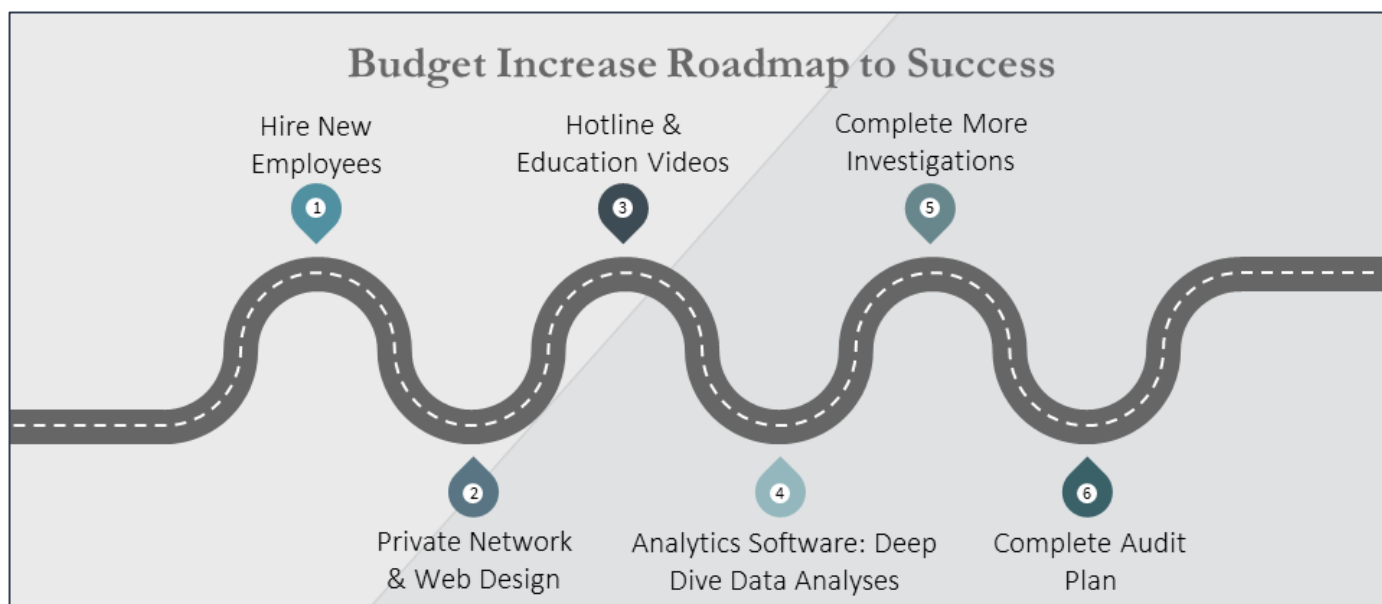
## Major Activities

### Seeking Additional Funding

We continued with our commitment to seek additional funding for our office. On [December 14, 2021](#), we presented to the Audit Committee an evaluation of our budget needs to meet legislative mandates set forth in [California Public Utilities Code \(PUC\) §28841](#) to conduct audits and investigations and identify opportunities for and making recommendations to improve the efficiency of programs, operations, and data quality, including implementation of best practices.

On December 22, 2021, we sent a letter describing our current funding restrictions and budget needs to the [Bay Area Toll Authority \(BATA\)](#). We expressed to BATA our concerns with meeting our mandates and how the minimum annual allocation of \$1 million means that we lose purchasing power year after year, which could prevent us from being able to function at our current capacity in the future. To address those concerns, we requested that BATA increase our annual funding from \$1 million to \$2.7 million and \$2.8 million in fiscal years 2023 and 2024, respectively. [California PUC §28841](#) gives BATA the authority to increase our funding allocation to the extent that the OIG requests and justifies the need for such an increase.

Because of the increasing volume of fraud and waste complaints we receive and the amount of work involved to investigate the more complex cases, our staff of three has not been able to meet our legislative mandates to complete audits, identify opportunities to improve data, or identify and recommend best practices in the delivery of capital projects. Further, our team of audit/investigative staff share administrative responsibilities, which detracts from our ability to focus on audits and investigations. A budget increase of \$1.7 to \$1.8 million would allow us to add four new positions to our team, including one administrative support member. It would also allow us to develop a private network to better ensure confidentiality over our investigation files; develop our own website; create interactive training videos for employees; and purchase data analytics software. This would give us the ability to complete more investigations and conduct the audits on our audit plan, including the more complex audits, and start public outreach to market our fraud, waste, and abuse hotline.



## Major Activities



### Recommendation Follow Up

In keeping with the Audit Committee's request for quarterly reports on the status of our recommendations, we obtained updates from BART management on their progress toward implementing them. We are pleased to report that they continued to take action. They implemented six recommendations since our [September 2021](#) activities report, including the two recommendations from our investigation into an allegation of inappropriate backend computer programming changes that we issued on [November 12, 2021](#). BART management also implemented our recommendation to set a firm date to correct their CalPERS underreporting error. The recommendation came from our investigation into allegations that BART was unresponsive in correcting retired police officer pay and benefit errors. It was one of our more significant open recommendations, as BART police retirees have been seeking resolution for three years. [Appendix I](#) provides detail on the progress management made toward implementing open recommendations since September 31, 2021.

Since we last conducted follow up on the status of our recommendations, we issued two investigation reports, which added four recommendations to our total, bringing it to 31. As mentioned, BART management has already implemented two of the new recommendations. The other two new recommendations were from our investigation report, [Elected Official Social Media Use Does Not Follow Best Practices](#). The BART Board President opted to not accept those recommendations. In all, management has accepted 25 recommendations, implemented 21 of them, and is actively working to address the four open recommendations. Of our 31 total recommendations, six have not been accepted. [Appendix II](#) provides information on those recommendations.

In addition to management's actions, we conducted further follow up into the return of BART property from the District Retiree Incentive Program (DRIP) retirees. Management implemented our recommendation on July 31, 2021. However, we had information suggesting that managers and supervisors had not collected the property. Based on our subsequent follow up, we have now satisfied ourselves that they collected the BART property.

## Major Activities & Achievements

### Investigations & Audits Underway

We continued work on 15 fraud, waste, or abuse investigations, including six that are near completion and two that we completed. We also started work on 10 new investigations. As of December 31, 2021, we were actively addressing 23 allegations of fraud, waste, or abuse. Several of our new investigations came from allegations reported to us as we were conducting our more complex investigations. The more we delved, the more that came to the surface. Rather than set the issues aside, we determined it best to address the allegations concurrently because they interrelate. The process is complex, but we are making strides. Administrative tasks have detracted investigators' attention from our six investigations that are near completion. We also had trouble tracking down some information. However, we expect to release our reports on those investigations before the end of fiscal year 2022. Because these cases are ongoing, we cannot provide details on the allegations or specifics on the work we have done to date.

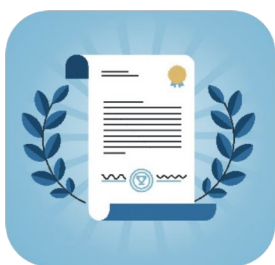


We also have two audits underway: our span of control audit and our organizational assessment of BART's financial structure audit. We identified both in our [FY22-24 Audit Plan](#). Our span of control audit is taking some time as our auditor working on it has had to devote more time to administrative work than expected. Although our progress on the audit is slowed, we hope to be able to issue our report by the end of calendar year 2022. The financial structure audit is moving forward as expected. We contracted with [Sjoberg Evashenk Consulting \(SEC\)](#) to conduct the audit. SEC has informally given us preliminary findings and is set to provide their final product in

March 2022. It is too soon to discuss those findings, but we believe that SEC's recommendations will provide a great opportunity for BART to rethink its financial structure and make changes to align with financial management best practices.

### OIG Employee Achievements

We are excited to share our team members' recent achievements, which add value to our office by expanding our collective knowledge and experience, as well as providing opportunities to connect with our peers. In all, these achievements allow us to better deliver upon our mission. The board of the [Financial Accounting Foundation](#) voted to appoint Inspector General Harriet Richardson to the [Governmental Accounting Standards Advisory Council \(GASAC\)](#). The primary function of the GASAC is to advise the [Governmental Accounting Standards Board \(GASB\)](#). Only persons shown to be knowledgeable about the issues involving, and the impact of, accounting and financial reporting by state and local governmental entities, or to possess an expertise of



value to the GASB, may be members of GASAC. Assistant Inspector General Claudette Biemeret was appointed to the Western States Chapter Board of the [Association of Inspectors General](#). The board provides local professional educational and networking opportunities to the federal, state, and local OIGs in the Western States. Ms. Biemeret also earned a [Leadership Professional in Ethics & Compliance Certification \(LPEC\)](#), demonstrating her ongoing commitment to supporting effective ethics and compliance programs, which is essential to conducting audits and investigations.



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## Looking Ahead

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### Board & BATA Presentations

On [January 13, 2022](#), we will be presenting our [FY22-24 Audit Plan](#) to the Board of Directors. We hope to actively engage with the Board and answer their questions about our audit plan. We look forward to having an open conversation about our audit selections and the benefits they will have for the District. With nearly a half century of performance auditing expertise in our office, we are confident that our [FY22-24 Audit Plan](#) provides the best opportunity for us to support BART in its efforts to enhance the quality of life in the Bay Area by providing rapid and reliable transportation. One of the things that we enjoy most about performance audits is that they do not just focus on fixing what is not working – they identify ways to be even better. Our conversation with the Board will allow us to share our experiences in doing just that.



We plan to have a discussion with the BART Board about our funding needs. This will be an extension of our conversation with the Audit Committee so that the full Board has the opportunity to discuss our needs with us. Timing on our presentation is tentatively scheduled for February 2022.

We are hopeful to hear back from BATA soon and that they will invite us to do a presentation on our funding needs. Like with the BART Board, we would like to have a discussion with BATA on what we need to be more successful and achieve our state mandates. At a minimum, we hope to have a conversation with BATA that will allow us to learn what the future holds for our office by understanding whether we will be able to receive additional funding support or not.

### Animated Educational Videos

Over the next six months, we will devote some time to determining if we can develop educational videos using online animation software. If we find software that meets our needs, we will start work on creating a variety of short videos that cover topics such as the purpose of an OIG; how to report a fraud, waste, or abuse concern; and what to report, or not, to us versus one of BART's other compliance or oversight departments. These will be engaging videos for BART employees that will use active storytelling and visual communication so employees know more about who we are and what we do.

### Association of Inspectors General Institute

Assistant Inspector General Claudette Biemeret and Principal Investigative Auditor Jeffrey Dubsick have been accepted into the March 2022 Association of Inspectors General Institute. This is an excellent training opportunity. The institute covers a range of topics for investigators and auditors. Ms. Biemeret will attend courses that focus on leading an Office of the Inspector General. Mr. Dubsick will attend courses that focus on conducting fraud, waste, and abuse investigations. Investigators and auditors from around the nation are expected to be in attendance, making it an excellent opportunity to learn from and network with our peers.



**Office of the  
Inspector General**



**Harriet Richardson  
Inspector General**



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**Providing Independent  
Oversight of the District's  
Use of Revenue**

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**Stop Fraud, Waste, and Abuse  
Report What You See to the OIG**



**24/7 Fraud, Waste, & Abuse  
Whistleblower Hotline**



**[www.bart.gov/OIGHotline](http://www.bart.gov/OIGHotline)**



**510-464-6100**





## Appendix I: Recommendation Follow Up

### Purchase Order Change Acceptable but Backend Programming Changes are an Internal Control Weakness (11/12/21)

Recommendations	Original Management Response	Status	Implementation Date	Management Updates
Require Buyers to verify remittance information with the selected vendor when creating a purchase order to avoid a need to make corrections	The Buyer will request remittance information from the vendor on our Request for Quotation Form, which will ensure not having the need to make any Supplier ID corrections.	Implemented	10/4/2021	None - Management implemented this recommendation before the OIG issued the investigation report.
Complete Peoplesoft programming updates so that vendor corrections made on a purchase order are automatically transmitted to Maximo.	<p>The Maximo system, as designed and delivered by IBM, locks down the Vendor ID when a PO is already dispatched to the vendor. Instead of making programming updates to automatically transmit vendor correction from PeopleSoft to Maximo PO, OCIO will create necessary documentation and get authorization from stakeholders before making any backend changes to the Maximo system.</p> <p>OCIO will follow its change process with internal IT approvals and separation of duties between the Application Support Group and Database Administrators. This process change will create an auditable log which can be referenced in the future to verify any vendors modified in the Maximo system as a result of changes to the Peoplesoft system.</p> <p>OCIO will further work with the Procurement Department to minimize the use of backend process by identifying vendor id changes early on.</p>	Implemented	10/29/2021	<p><b><u>12/29/21</u></b>                      OCIO has the change process and approvals in place for updating Maximo to sync PSFT and Maximo POs. This process was activated and being followed since 10/29/2021.</p> <p>This recommendation has been implemented.</p>

**No Evidence of Fraud but Employees Would Benefit from Training on Their Fiduciary Responsibilities (8/13/21)**

Recommendations	Original Management Response	Status	Implementation Dates	Management Updates
<p>Obtain the \$3,204 from HNTB Corporation for the invoice error.</p>	<p>AP will coordinate with Design and Construction Department for the collection of the overpayment.</p>	<p>Implemented</p>	<p>10/28/2021</p>	<p><u>9/27/21</u> Design and Construction has reached out to HNTB on August 6, 2021 about the overpayment. HNTB has acknowledged the overpayment and they've informed the District that a check will be issued for the refund.</p> <p><u>12/29/21</u> Check for \$3,204.00 dated October 28, 2021 received from HNTB.</p> <p>This recommendation has been implemented.</p>
<p>Develop training and guidance to assist BART employees in fulfilling their fiduciary responsibility in reviewing and approving invoices. Include examples that demonstrate common invoice errors and methods by which vendors might attempt to or could submit false information. Require personnel to complete the training before they are inserted into the PeopleSoft invoice approval workflow. Training need not be in person and can be achieved through online tutorials and videos.</p>	<p>Management concurs with the recommendation. AP will coordinate with HR, OCIO, and IA to develop a training plan that will provide guidance and assistance to BART employees on how to conduct and perform a proper review of invoices. Currently OCIO conducts 'Purchase Requisitions and Receiving' and 'Creating and Approving Expense Reports' training on a quarterly and 'as needed/requested' basis, both including approval processes. Due to shelter-in-place, the frequency of training has diminished. OCIO will return to scheduled training as soon as possible. All the current training materials are also posted and available in Employee Connect.</p> <p>Performance &amp; Innovation (P&amp;I) performed an Accounts Payable Improvement Initiative in FY21 that resulted in the development of invoice process desk guides for AP staff. Both the online and P&amp;I training materials focus on the PeopleSoft process and not necessarily on fraud detection. IA will work with AP to conduct fraud awareness training, and training materials will be enhanced to include fraud awareness and prevention techniques to detect fraud and fraud red flags.</p>	<p>Partially Implemented</p>	<p>NA</p>	<p><u>9/27/21</u> (V. Thomas) HR spoke with AP and advised they will need to work with M&amp;E, who is responsible for managing the Pathlore Training system to coordinate district wide training - CLOSED</p> <p>(D. Markham) Operations Training &amp; Development, AP, OCIO, and Performance &amp; Audit (Internal Audit) are working together to:</p> <ol style="list-style-type: none"> <li>1) review AP desk guides to determine where specific fraud detection tips should be added;</li> <li>2) develop and configure fraud awareness and prevention training material;</li> <li>3) determine if and how security roles in PeopleSoft and other enterprise software can be updated to ensure that contract staff cannot be final approvers of certain workflows.</li> </ol> <p>Item #3 is the most difficult and will take the most time to implement once an approach is determined. Current timing is TBD. Item #2 is in progress and projected deployment is no earlier</p>

**No Evidence of Fraud but Employees Would Benefit from Training on Their Fiduciary Responsibilities (8/13/21)**

Recommendations	Original Management Response	Status	Implementation Dates	Management Updates
	<p>To prevent instances of inappropriate segregation of duties, the OCIO will check the system configuration in PeopleSoft to determine if there is a way to prevent or not allow subcontractors and contractors from being inserted as a fiscal approver of invoices. In cases where it is necessary to obtain concurrence from the contractor or subcontractor due to the nature of the work they were engaged to perform, the system will be configured to allow them to be inserted only as 'reviewer'. IA will also add a review of invoice approval policies and procedures to its master audit plan.</p> <p>Approval by District staff knowledgeable about the charges being billed will always be required. It should be noted that BART AP staff would be required to adhere to existing procedures for fiscal approval, regardless of 3rd party reviewers.</p>		<p>Spring 2022</p> <p>1) December 2021</p> <p>2) Late-January 2022</p> <p>3) 10/13/2021</p> <p>Early 2022</p>	<p>than early in calendar 2022. Item #1 is in development and planned to be deployed in October 2021.</p> <p><u>12/29/21</u> AP, Performance &amp; Audit, and OCIO are working to determine the extent of the training, which will drive the training materials. Current desk guides apply only to Accounts Payable staff for processing invoices. Staff will need to develop training material for an online course.</p> <p>1) Desk guides were updated by AP staff to reflect updates requested by staff. The revised desk guides were received in December 2021. Fraud detection tips will be added to the desk guides by the end of January 2021.</p> <p>2) Draft has been prepared and will soon go out for review.</p> <p>3) OCIO modified the PeopleSoft workflow to only allow a BART employee to be inserted as an approver into workflow. Sub-contractors may be added as a reviewer only. This change was completed on 10/13/2021.</p> <p>Internal Audit, Finance, and OCIO are evaluating the PeopleSoft workflow to ensure that a BART employee is the final invoice approver. Next steps will be based on the evaluation that will take place early in 2022.</p>

**BART Has Been Unresponsive to Police Retirees in Correcting Pay and Benefit Reporting Errors (8/13/21)**

Recommendations	Management Response	Status	Implementation Date	Management Updates
<p>Set a firm date by which to have the CalPERS underreporting error corrected and communicate with the affected retirees and the BART Police Officers’ Association’s law firm that BART is working on the problem, when BART expects to have it corrected, and then when the error is corrected.</p>	<p>The record for each pay period for each retiree impacted must be manually corrected. This is thousands of lines of data corrections. Due to recent retirements and staff changes, the Payroll Department is currently severely understaffed, however, their target is to make all the corrections by August 31, 2021. The District will be securing temporary help to process the corrections. Once the corrections are made, we will notify CalPERS and CalPERS will do the recalculations. The District is not involved in recalculation process. Tentatively, the retirees will see the adjustment in their monthly retirement check in October or November 2021.</p> <p>Communications will be sent out to the BPOA, the BPOA’s law firm, and the impacted retirees regarding the status of the corrections with periodic updates until the correction are completed. Any pension recalculations will be processed by CalPERS. CalPERS will notify the retirees directly.</p>	<p>Implemented</p>	<p>12/17/2021</p>	<p><u>9/27/21</u> In Progress. HR Benefits has completed all of the corrections in the PeopleSoft system as of May 17, 2021 and subsequently provided Payroll with the list of impacted retirees. Payroll is still understaffed and is working with HR to get temporary help to manage the completion of the CalPERS payroll corrections, which is the final steps.</p> <p><u>12/29/221</u> All impacted retirees have been receiving updates every two weeks. As of 12/14/21 all base schedule corrections have been entered by Payroll and transmitted to CalPERS. On 12/17/2021, confirmation of completion has been sent to the retirees, BPOA and BPMA. In the communications with BPOA and BPMA, staff request they pass the message along to their respective law firms.</p> <p>This recommendation has been implemented.</p>

**Circumvention of Procurement Rules Risks Disruption to Payroll (8/13/21)**

Recommendations	Original Management Response	Status	Implementation Date	Management Updates
Plan for long-term contractual needs for maintaining and updating PeopleSoft beyond one fiscal year.	Identify contractual needs for the next three years.	Open	January 2022	<u>9/17/21 &amp; 12/29/21</u> In progress. Scheduled to be completed by Jan 2022.

**Use of Existing Contract Acceptable but BART Double Paid for Some Delivery Services and Incurred Avoidable Customs Storage Fees (8/13/21)**

Recommendations	Management Response	Status	Implementation Date	Management Updates
<p>Amend the contract with Transpak to ensure it covers customs brokerage services and the potential use of a third party to handle those services.</p>	<p>Amend the contract with Trans Pak to ensure it covers customs brokerage services and the potential use of a third party to handle those services.</p>	<p>Implemented</p>	<p>Vendor signed contract, Agreement executed, December 2021</p>	<p><b>9/17/21</b>                      Agreement is with the vendor, waiting on signature. Negotiations are in progress. Transpak has concerns regarding the unlimited limits of liability on the BART side, which is standard language. Currently working with Risk, Legal and the Vendor.</p> <p><b><u>12/29/21</u></b>                      New Agreement has been executed with Transpak to cover customs brokerage services.</p> <p>This recommendation has been implemented.</p>



**BART Required DRIP Retirees to Return Property but Individual Noncompliance Occurred (8/13/21)**

Recommendation	Management Response	Status	Implementation Dates	Management Updates
<p>Contact the remaining 157 DRIP retirees whose offboarding checklists were not returned to ensure BART property is returned.</p>	<p>In regards to the outstanding offboarding checklists for the remaining 157 DRIP retirees, follow-up emails have been sent out to the respective departments of the former employees. All offboarding checklists are required to be submitted to Human Resources by August 13, 2021. Additional follow up will continue for non-responsive departments.</p>	<p>Implemented</p>	<p>7/30/2021</p>	<p><u>9/27/21</u> Complete. All departments have been contacted and all DRIP checklists have been collected 9/28/21.</p> <p><u>12/29/21</u> No management update required. See note below.</p>

**OIG Note:** In September 2021, we confirmed that Human Resources collected the checklists. However, we learned that the complainant had not yet returned their property and, therefore, kept this recommendation in the open status to conduct further follow up. We have since confirmed that BART management has requested that the complainant return their BART property and actively worked with the retiree to obtain it. We also satisfied ourselves that managers and supervisors collected BART property from other DRIP retirees. We, therefore, have now marked this recommendation as implemented.

**Misunderstanding of the NASPO Program Led to BART Making Purchases Without Proper Contracts in Place (8/13/21)**

Recommendations	Management Response	Status	Implementation Dates	Management Updates
<p>Provide training and education on the rules concerning the NASPO ValuePoint cooperative purchasing program to staff with a role in making, reviewing, and approving purchases.</p>	<p>Issue an internal memo on the revised rules and provide training to the Procurement Department as required to ensure compliance.</p>	<p>Implemented</p>	<p>1) September 2021 2) October 2021 3) October 2021</p>	<p><u>9/17/21</u> In progress</p> <p><u>12/29/21</u> 1) Developed formal NASPO procedure. 2) Provided training to Procurement staff. 3) Communicate new NASPO procedure to stakeholders.</p> <p>All items have been implemented.</p>
<p>Institute procedures whereby Procurement verifies that proposed purchases are covered by NASPO agreements prior to submitting the EDD to the Board. Require the department requesting the purchase provide Procurement with a copy of the Master Agreement, California Participating Addendum, or Letter of Authorization.</p>	<p>Review all current and ongoing EDD's for adherence to this recommendation to ensure the Purchase/Scope of Work is in line with the NASPO Agreement and CA PA requirements and require Staff to provide documentation as stated. Develop and document formal NASPO Procurement procedures and update the Procurement Manual.</p>	<p>Partially implemented</p>	<p>1) September 2021 2) October 2021 3) October 2021 4) In progress, early 2022</p>	<p><u>9/17/21</u> In progress</p> <p><u>12/29/21</u> 1) Review current EDD's to ensure compliance with the NASPO procedure. 2) Developed formal NASPO procedure. 3) Communicated to staff when processing a NASPO purchase use the newly documented NASPO procedure and ensure all documents are provided prior to concurrence to the EDD. 4) Updated Procurement Manual with Cooperative Agreements Section in review.</p> <p>Recommendations 1-3 have been implemented.</p>

**Misunderstanding of the NASPO Program Led to BART Making Purchases Without Proper Contracts in Place (8/13/21)**

Recommendations	Management Response	Status	Implementation Dates	Management Updates
<p>Institute procedures whereby staff are required to cite the specific NASPO Master Agreement or California Participating Addendum on EDDs submitted to the Board, or state that BART received a Letter of Authorization from DGS.</p>	<p>Review all current and ongoing procurements for adherence to this recommendation prior to processing. Develop and document formal NASPO Procurement procedures and update the Procurement Manual.</p>	<p>Partially implemented</p>	<p>1) September 21 2) October 2021 3) October 2021 4) In progress, early 2022</p>	<p><u>9/17/21</u> In progress</p> <p><u>12/29/21</u> 1) Review current EDD's to ensure compliance with the NASPO procedure. 2) Developed formal NASPO procedure. 3) Communicate to staff to ensure NASPO procedure is used on all NASPO purchases and all documents are provided prior to concurrence on the EDD. 4) Updated Procurement Manual with Cooperative Agreement Section in review.</p> <p>Recommendations 1-3 have been implemented.</p>

## Appendix II: List of Not Accepted Recommendations

### BART Approved a Fixture for the M-Line Tunnel Lighting Upgrade That Did Not Meet Key Contract Specifications (10/25/19)

#### Recommendations – Not Accepted by BART Management

1	Rescind approval of the Xeleum fixture
2	Request ABM to provide new fixture submittals, based on the contract specifications
3	Provide modifications, if any, to the specifications prior to requesting the new submittals
4	Provide appropriate extensions of time to ABM, without penalty to ABM, to complete the contract work based on the need for BART to review and approve a new light fixture and to provide sufficient lead time to manufacture and ship the approved fixtures

**OIG Note:** BART management initially accepted our recommendations but did not provide a specific plan for how they would address them. They later changed course and canceled the contract with ABM, the prime contractor. We are conducting a follow-up investigation that will address the root cause of what led to BART approving light fixtures that did not meet the contract specifications and to better understand management's decision and determine its impact on installing new lights in the M-Line Tunnel.

### Elected Official Social Media Use Does Not Follow Best Practices (11/12/21)

#### Recommendations – Not Accepted by BART’s Board President

1	Revise the Board of Directors Code of Conduct to include language regarding the use of social media that: <ul style="list-style-type: none"> <li>- Requires directors and committee members who have social media accounts to use separate accounts for their personal use and for their BART business use.</li> <li>- Requires directors and committee members who have social media accounts to add a disclaimer to their personal social media profiles that their opinions are their own and do not reflect that of the District and to then refer followers to their official account for BART related news and updates.</li> </ul>
2	Work with the District Secretary’s Office to formally approve the revisions and update the BART Code of Conduct in a manner consistent with District procedures.