

Investigative Report

Development Services Department Employee Misused City Resources for Secondary Employment

January 2020



Richard Anderson, former Division Manager in the Development Services Department, misused his City computer and email for his secondary employment as an educational instructor for a professional organization.

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Allegation

In January 2019, our office received an allegation that Richard Anderson, a Division Manager for the Development Services Department, misused his City computer to teach continuing education classes for a professional organization.

Background

The Development Services Department (DSD) is responsible for assisting homeowners, businesses, and contractors when they perform any type of construction. DSD also ensures builders follow all relevant City and building codes. As a Division Manager over commercial building inspections, Anderson’s responsibilities included managing the division’s projects, activities, and staff. In addition, Anderson was responsible for reviewing technical codes with boards and stakeholders and advising clients on complex building requirements, among other duties. Anderson left the City of Austin in July 2019.

Investigation Results Summary

We found evidence that Richard Anderson, former Division Manager in the Development Services Department, misused his City computer and email for his secondary employment as an educational instructor for a professional organization. Specifically, we found evidence that Anderson sent and received 59 emails related to his secondary employment from his City email account. Additionally, Anderson had 44 documents related to his secondary employment on his City computer. When we spoke with Anderson, he admitted to using his City computer and email for his secondary employment.

Finding 1 Misuse of City Resources

Richard Anderson's secondary employment involved teaching adult continuing education classes for a professional organization. Anderson's secondary employment began before his employment with the City of Austin. Anderson began working at the City in 2017 and provided secondary employment disclosure in writing to management and DSD Human Resources in 2017 and 2018. However, in 2019, he did not submit written disclosure for secondary employment.

We looked at how Anderson used his City computer between January 1, 2018, and February 8, 2019, and found the following misuse:

- Anderson's City email account contained 59 emails to and from staff at the professional organization he taught for. Topics included discussion of class schedules, book orders, and compensation requests for classes taught by Anderson.
- Anderson's City computer had 44 documents, including class rosters and requests for payment, for his secondary employment.

When we spoke with Anderson, he admitted to using his City computer and email for secondary employment out of "ease." He acknowledged that he knew that using his City computer for secondary employment was not something he should be doing. Anderson also admitted to taking his City computer to use at classes he taught in person "once or twice."

Anderson's misuse of City resources for his secondary employment appears to constitute violations of the following criteria:

- City Code §2-7-62 – Standards of Conduct
- City Personnel Policy – Use of Resources
- City of Austin Administrative Bulletin – Limited or De Minimis Use of City Resources

Appendix A - Subject Response

Investigator [REDACTED]

From: Rich Anderson [REDACTED] Personal Email Address
Sent: Monday, December 30, 2019 10:40 AM
To: [REDACTED] Investigator
Subject: Re: Office of the City Auditor Investigation Report Draft

*** External Email - Exercise Caution ***

Investigator [REDACTED]

Thank you for providing this draft. I have no objections to what is in the report.

Thank You
Rich Anderson

Appendix B - Office of City Auditor's Response to Subject Response

We have reviewed the subject's response. We believe our findings stand.

Appendix C - Management Response



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DATE: January 2, 2020

TO: Brian Molloy, Chief of Investigations
Office of the City Auditor

FROM: Clifton Franklin, HR Advisor – Employee Relations
Development Services Department

SUBJECT: Investigation Report (IN19012)

Development Services Department (DSD) HR has reviewed the report. The subject of the investigative report is no longer an employee of DSD or the City of Austin. DSD has no objection to the findings.

Investigation Criteria

Finding 1

City Code §2-7-62 – STANDARDS OF CONDUCT

(J) No City official or employee shall use City facilities, personnel, equipment or supplies for private purposes, except to the extent such are lawfully available to the public, or to the extent that facilities, equipment or supplies are allowed to be used in a limited or de minimis manner in accordance with City policy

City Personnel Policy – USE OF RESOURCES

(G) Employees are prohibited from using City facilities, equipment, supplies, employee time, or any other City resource for personal use, except to the extent that such resources are available to the public. City resources which may not be used by employees for personal use include, but are not limited to, the following: computers, internet accounts, e-mail and voice mail systems, telephones, facsimile machines, copiers, postage machines, vehicles, office space, desks, and filing cabinets. These resources are dedicated to City business, and City Management shall have full access to both the resources and any contents thereof at all times. Employees have no legitimate expectation of privacy when using these resources. Department Directors may allow employees limited use of telephones for local calls while ensuring that the operational needs of the department are being met.

§ 2-3-5 - POWERS AND DUTIES

(A)(4) Personal Benefit means anything reasonably regarded as economic gain or advantage, including benefit to another person in whose welfare the beneficiary is interested.

City of Austin Administrative Bulletin – LIMITED OR DE MINIMIS USE OF CITY RESOURCES 98-01

Employees may use City resources to the same extent the public is allowed. Employees may use certain City facilities, equipment, and supplies in a limited or de minimis manner for personal reasons and convenience. It is only permissible to use to facilities, equipment, or supplies identified in City policies as available for personal use by employees. Limited or de minimis use means use of City facilities, time, equipment, or supplies that:

- Does not interfere with or impede the job performance or productivity of the City official or employee;
- Does not interfere with or impede the City's conduct of official business;
- Is not used for a personal benefit, as defined by City Code § 2-3-5;
- Is too small, minor or insignificant to have an economic impact; and
- Is used in accordance with the law, including the City Charter's prohibition on use of City resources for election campaigning.

Methodology

To accomplish our investigative objectives, we performed the following steps:

- reviewed applicable City code and policy;
- conducted background research;
- analyzed the subject's computer forensic data;
- interviewed City staff; and
- interviewed the subject.

CAIU Investigative Standards

Investigations by the Office of the City Auditor are considered non-audit projects under the Government Auditing Standards and are conducted in accordance with the ethics and general standards (Chapters 1-3), procedures recommended by the Association of Certified Fraud Examiners (ACFE), and the ACFE Fraud Examiner's Manual. Investigations conducted also adhere to the quality standards for investigations established by the Council of the Inspectors General on Integrity and Efficiency (CIGIE) and City Code.

The Office of the City Auditor, per City Code, may conduct investigations into fraud, abuse, or illegality that may be occurring. If the City Auditor, through the Integrity Unit, finds that there is sufficient evidence to indicate that a material violation of a matter within the office's jurisdiction may have occurred, the City Auditor will issue an investigative report and provide a copy to the appropriate authority.

In order to ensure our report is fair, complete, and objective, we requested responses from both the subject and the Department Director on the results of this investigation. Please find attached these responses in Appendix A and C.

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The Office of the City Auditor was created by the Austin City Charter as an independent office reporting to City Council to help establish accountability and improve city services. We conduct investigations of allegations of fraud, waste, or abuse by City employees or contractors.

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