

City of Austin



**A Report to the
Austin City Council**

Mayor
Steve Adler

Mayor Pro Tem
Kathie Tovo

Council Members

Ora Houston
Delia Garza
Sabino Renteria
Gregorio Casar
Ann Kitchen
Don Zimmerman
Leslie Pool
Ellen Troxclair
Sheri Gallo

**Office of the
City Auditor**

City Auditor
Corrie E. Stokes
CIA, CGAP, CFE

Deputy City Auditor
Jason Hadavi
CPA, CFE

INVESTIGATION REPORT

**Austin Water: Acceptance of a Favor from a
Direct Report and Misuse of City Resources**

November 2016



REPORT SUMMARY

We found evidence indicating that Kevin Buchman, Utility Marketing Services Manager for Austin Water's Public Information & Marketing Office, accepted a favor from a direct report and misused City resources.

TABLE OF CONTENTS

ALLEGATIONS1

WHAT WE FOUND.....1

BACKGROUND2

INVESTIGATION RESULTS2

METHODOLOGY.....4

Appendices

Appendix A: Investigation Criteria5

Appendix B: Subject Response.....6

Appendix C: Office of the City Auditor Response to Subject Response.....9

Appendix D: Management Response 10

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 quality standards established by the Council of the Inspectors General in Integrity and Efficiency (CIGIE), Quality Standards for Investigations, 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 has 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 these responses in Appendices B and D.

Office of the City Auditor
phone: (512)974-2805
email: oca_auditor@austintexas.gov
website: <http://www.austintexas.gov/auditor>

Copies of our investigative reports are available on request from City Auditor’s Integrity Unit



*Printed on recycled paper
Alternate formats available upon request*

November 2016



Investigation Report Highlights

Why We Did This Investigation

We conducted this investigation consistent with our responsibility under the Austin City Charter and the City Code.

The objective of this investigation was to obtain sufficient evidence to indicate whether the subject may have committed a material violation of the City Code's standards of conduct or other criteria.



For more information on this or any of our reports, email oca_auditor@austintexas.gov

AUSTIN WATER: ACCEPTANCE OF A FAVOR FROM A DIRECT REPORT AND MISUSE OF CITY RESOURCES

ALLEGATION

In March 2016, the CAIU received an allegation that indicated that Kevin Buchman, Utility Marketing Services Manager for Austin Water's Public Information & Marketing Office, solicited and accepted a favor from a direct report, and misused City resources. Specifically, the informant provided documentation indicating the information summarized below.

Favor from a Direct Report:

- Buchman may have accepted a favor from an employee who reports to him in the form of a real estate evaluation of Buchman's property that was not related to the employee's job responsibilities.

Misuse of City Resources:

- Buchman may have misused City resources.

WHAT WE FOUND

We found evidence indicating that Kevin Buchman, Utility Marketing Services Manager for Austin Water's Public Information & Marketing Office, solicited and accepted a favor from a direct report and misused City resources. These acts appear to constitute violations of:

Favor from a Direct Report:

- City Code § 2-7-62 Standards of Conduct - (G)
- Administrative Bulletin 06-03: Fraud, Waste, and Abuse Reporting, Investigation and Prevention
- City Personnel Policy - (I) Solicitation and Acceptance of Gifts

Misuse of City Resources:

- City Code § 2-7-62 Standards of Conduct - (J)
- City Personnel Policy - (G) Use of City Resources
- Fraud, Waste, and Abuse Bulletin 06-03: Fraud
- Administrative Bulletin 98-06: Acceptable Internet Use

BACKGROUND

According to Austin Water, the purpose of their public affairs office “is to provide timely, accurate, and critical information regarding Austin Water to the residents of Austin.”

Utility Marketing Services Manager Kevin Buchman works in the Public Affairs Office and oversees several direct reports, including a direct report who is a licensed real estate salesperson. Buchman began working for the City in October 1997 and started to work under his current job title in May 2014.

INVESTIGATION RESULTS

We found evidence, including his own admission, that Buchman solicited and accepted a favor from a direct report, and that Buchman misused City resources.

Finding 1: Favor from a Direct Report

We found evidence that Buchman solicited and accepted a comprehensive comparative market analysis of his property from a direct report.

In an interview with the CAIU, Buchman confirmed that he asked a direct report who was a licensed real estate salesperson at the time to compile an evaluation of his property. We also found evidence that in December 2015 the direct report sent Buchman an e-mail with a link to “a comprehensive Comparative Market Analysis” on Buchman’s “current home.” Follow-up e-mails discussed a potential asking price for Buchman’s property and the possibility of renting or leasing the property instead. Buchman confirmed that he had follow-up conversations with his direct report about this property after the evaluation was completed. The direct report described his work for Buchman as a professional opinion.

Buchman’s admitted solicitation and acceptance of a favor from a direct report, for whom Buchman has performance review responsibilities as part of his City duties, could reasonably be expected to impair his independence in judgement or performance of his City duties.

This act appears to constitute a violation of the following criteria, as detailed in Appendix A:

- City Code § 2-7-62 Standards of Conduct - (G)
- Administrative Bulletin 06-03: Fraud, Waste, and Abuse Reporting, Investigation and Prevention
- City Personnel Policy - (I) Solicitation and Acceptance of Gifts

Investigation Criteria

The City Code on Standards of Conduct states that no City official or employee shall accept or solicit any gift or favor, that might reasonably tend to influence that individual in the discharge of official duties or that the official or employee knows or should know has been offered with the intent to influence or reward official conduct.
City Code: Standards of Conduct §2-7-62 (G)

See Appendix A for more details

Finding 2: Misuse of City Resources

We found evidence that Buchman misused City resources for non-City activities related to managing a ranch that is used for hunting, fishing, and recreation.

In an interview with the CAIU, Buchman confirmed that he is the lease foreman for a ranch. Buchman said that he assumed the role around October or November 2015 and referred to his role as a “liaison between the owner of the ranch and the other hunters.” During this interview, Buchman said that he has attended annual Citywide ethics trainings and stated that he is aware of the City’s policies regarding the appropriate use of City resources. Buchman also admitted to spending “some time” researching, writing, and editing the ranch’s lease while at work. City training records show that Buchman completed annual ethics trainings for at least each of the past five years.

Examples of Buchman’s misuse of his City e-mail account include:

- 20 e-mails from December 2015 to February 2016 related to ranch leases and rules,
- 17 e-mail attachments of versions of the lease for the ranch where Buchman is the lease foreman,
- 6 e-mail attachments of versions of the rules for the ranch where Buchman is the lease foreman, and
- 4 e-mails in which Buchman sent a version of the ranch lease from what appears to be his personal e-mail account to his City e-mail account.

Investigation Criteria

The City Code on Standards of Conducts states that 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. City Code: Standards of Conduct §2-7-62 (J)

See Appendix A for more details

Examples of Buchman’s misuse of his City internet access include:

- web browser searches and website hits for a range of hunting-related items including “deer lease agreement,” “game management policy example document,” and “texas wildlife plan sample,” and
- a significant number of hits to Facebook and auto-related websites.

Examples of files found on Buchman’s City computer include:

- a 2016 Game Management Plan for the ranch where Buchman is a lease foreman,
- one template for a hunting lease and four copies of the lease for the ranch where Buchman is the lease foreman,
- a preliminary plat map for a hunting ranch that Buchman considered purchasing, and
- the deed for Buchman’s personal property that his direct report evaluated.

These acts appear to constitute violations of the following criteria, as detailed in Appendix A:

- City Code § 2-7-62 Standards of Conduct - (J)
- City Personnel Policy - I. Conditions of Work: (G) Use of City Resources
- Administrative Bulletin 98-06: Acceptable Internet Use

METHODOLOGY

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

- reviewed applicable City Code;
- conducted interviews with Austin Water employees;
- analyzed City e-mail account;
- collected and analyzed computer forensics data;
- conducted background research; and
- interviewed the subject.

APPENDIX A

INVESTIGATION CRITERIA

Finding 1

Solicitation or Acceptance of a Favor

*City Code on Standards of Conduct states that no City official or employee shall accept or solicit any gift or favor, that might reasonably tend to influence that individual in the discharge of official duties or that the official or employee knows or should know has been offered with the intent to influence or reward official conduct. **City Code: Standards of Conduct §2-7-62 (G)***

*Administrative Bulletin 06-03 states that “abuse” means the misuse of a City office, employment, contract, or other position with the City to obtain personal gain or favor from another City employee, vendor, or citizen. **Administrative Bulletin 06-03: Fraud, Waste, and Abuse Reporting, Investigation and Prevention***

*City Personnel Policy states that no City employee shall accept or solicit any gift or favor that might reasonably tend to influence that individual in the performance of official duties or that the official or employee knows or should know has been offered with the intent to influence or reward official conduct. **City Personnel Policy - (I) Solicitation and Acceptance of Gifts***

Finding 2

Misuse of City Resources

*City Code on Standards of Conduct states that 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. **City Code: Standards of Conduct §2-7-62 (J)***

*City Administrative Bulletin 06-03 states that “Fraud” includes the misappropriation of funds, supplies, or another City resource. **Administrative Bulletin 06-03: Fraud, Waste, and Abuse Reporting, Investigation and Prevention***

*City Personnel Policy states that 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, and that these resources are dedicated to City business. It further states that employees have no legitimate expectation of privacy when using these resources. **City Personnel Policy - I. Conditions of Work - (G) Use of City Resources***

*City Administrative Bulletin 98-06 states that the use of City-provided internet, email and/or computer use must be related to, and for the benefit of, City Government. **Administrative Bulletin 98-06: Acceptable Internet Use***

APPENDIX B

SUBJECT RESPONSE



MEMORANDUM

To: Nathan Wiebe, Chief Of Investigations, Office of the City Auditor
From: Kevin Buchman, Utility Marketing Services Manager
Date: November 15, 2016
Subject: Response to Investigation

I respect the work of the Integrity Office and I take full responsibility for my actions. However I would like to clarify my responsibilities and work environment that I hope will put the findings of this report in a more realistic perspective.

Finding 1 - Favor from a direct report

Personal conversations and interactions occur throughout the workforce. We celebrate birthdays, talk about movies, about purchasing a vehicle and even make recommendations about investments. These personal conversations and interactions allow us to foster interpersonal relationships, strengthen our teams and improve our workgroups. The personal conversations and resulting real estate evaluation that I had with a direct report, although perceived, had no impact on either my direct report or myself. The activity conducted, and the majority of the conversations, occurred outside of business hours. I acknowledge that I should not have used a city resource to print the real estate evaluation that was sent to my city email account or had email exchanges regarding the evaluation.

Finding 2 - Misuse of city resources

I have been with the city for nearly 20 years. I have spent my entire career with the City of Austin working in an "on-call" position. Nine of these years were as the as the main spokesperson for the Austin Police Department (APD). My role at APD was very clear in keeping pace with the enormous demand for sharing information from the department to the residents of Austin in a demanding 24/7 media/news gathering environment.

My responsibilities at Austin Water are much more diverse and require an enormous amount of time both inside and outside the office. As was the case at APD, the Austin Water Public Information Office operates around the clock, 7 days a week. Our office however is responsible for everything from crisis communication, media relations, monitoring industry issues, monitoring local, state and national social media to planning and conducting public involvement and community engagement meetings as well ensuring Austin Water is responding to all Public Information Requests with in the state required time limits.



*The City of Austin is committed to compliance with the Americans with Disabilities Act (ADA).
Reasonable modifications and equal access to communications will be provided upon request.*

Because of the demands and my role with the City I am in the office often times outside of normal business hours be it early morning or late at night. I spend a good amount of time on the computer news gathering, monitoring social media, communicating with staff both internally and externally as well as with customers and stakeholders.

As I acknowledged during this seven month investigation, I have taken breaks, lunches and dinners at the office computer where I address some personal interests. However I also conduct City business during times away from the office, while “off duty” at night, on weekends, and also while on vacation and most recently when my wife was hospitalized. In this digital day and age with smart phones, tablets and multiple email accounts it's a challenge to keep our work and personal lives completely separate.

I have addressed the findings of this report to correct my use of city resources. I do however disagree with the statement that the misuse of city resources were excessive and that I have been jeopardizing my work responsibilities. I have an excellent work history with the City during my tenure and will continue to serve the community as I have done for the past 19 years.

APPENDIX C

OFFICE OF THE CITY AUDITOR RESPONSE TO SUBJECT RESPONSE

We have reviewed the Subject Response. We believe our findings stand.

APPENDIX D

MANAGEMENT RESPONSE



MEMORANDUM

To: Nathan Wiebe, Chief of Investigations, Office of the Auditor

From: Greg Meszaros, Director, Austin Water 

Date: November 8, 2016

Subject: Draft Investigation Report (IN16022) re: Kevin Buchman

Austin Water (AW) is in receipt of the draft investigation report regarding allegations against AW employee, Kevin Buchman. Our department of Human Capital and Risk Management (HCRM) Office will collaborate with AW management to review the report, any preliminary findings, and then determine the appropriate next steps in this matter.

Thank you, and please contact me if you need additional information or updates.

cc: Sherri Hampton, HR Manager of HCRM, Austin Water



*The City of Austin is committed to compliance with the Americans with Disabilities Act (ADA).
Reasonable modifications and equal access to communications will be provided upon request.*