



# Richmond City Council

The Voice of the People

Richmond, Virginia

## Office of the Inspector General

June 29, 2022

Mr. Lincoln Saunders  
Chief Administrative Officer  
City of Richmond

The Office of the Inspector General (OIG) has completed an investigation within the Department of Public Utilities. This report presents the results of the investigation.

### **Allegation**

The Office of the Inspector General received an anonymous complaint alleging a former employee from the Department of Public Utilities (DPU) was terminated for violation of the City's Substance Abuse Policy and was brought back to DPU through a temporary agency without waiting the three years no re-hire status listed in the Substance Abuse Policy at the time he/she was terminated. The complaint alleges the General Manager directed the former employee to apply through the temporary agency. It is also alleged the former employee (current temporary employee) attended the CIAA Basketball Tournament (in Baltimore, MD) while claiming hours he/she did not work.

### **Legal and City Policy Requirements**

- 1) In accordance with the Code of Virginia §15.2-2511.2, the Inspector General is required to investigate all allegations of fraud, waste, and abuse.
- 2) City of Richmond Administrative Regulation 1.1 Code of Ethics:  
Section II. Policy – It is the duty of each employee and official to ensure that their conduct and private affairs be above reproach to assure that their City position is not used for private or personal gain.  
Section III. B. Responsibility – 1. All-City employees assume a public trust and should recognize the importance of high ethical standards within the specific department or organization they support. An employee shall avoid action, whether or not specifically prohibited by this administrative regulation, which might result in or create the appearance of the following:
  - a. Using public office for personal or private gain;
  - b. Giving preferential treatment to any person;
  - c. Impeding government efficiency or economy;
  - d. Losing complete independence or impartiality;
- 3) City of Richmond Administrative Regulation 2.2 – Cellular Telecommunication Services and Devices:  
Section II. Procedure - The acceptable and prohibited uses of electronic data services and devices are addressed in the City's Electronic Media Systems

Policy – Administrative Regulation #2.5, Section III, C, and D. This policy is inclusive of all wireless telecommunication services and devices.

- 4) City of Richmond Administrative Regulation 2.5 Electronic Media Systems: Section III. C. Use of Electronic Media Systems - The electronic mail systems (e-mail), Internet, Intranet, hardware, software, tools, and information are provided for the purpose of conducting business for the City of Richmond only.
- 5) City of Richmond Administrative Regulation 2.3 – Telework:  
Eligibility: Employees must have successfully completed at least six months of their probationary period and must receive a satisfactory rating on their interim performance evaluation in order to be eligible to request a telework arrangement. Employees must meet and maintain a rating of 275 or above on the annual employee performance evaluation to maintain a telework arrangement. Exceptions to this eligibility requirement may be granted by the Appointing Authority under special circumstances, including, but not limited to, a situation where an employee is physically incapable of reporting for normal duty at city facilities or to support continuity of operations plans during severe weather, pandemics, natural disasters, or other emergency situations.
- 6) City of Richmond Administrative Regulation 4053 – Substance Abuse Policy:  
Chart A: Positive Alcohol and Drug Testing Results – Probationary – Dismissal – Barred from employment with the City, participation in a personal services agreement, or employment with a direct coverage contractor for a period of one (1) year from the date of the test results.

### **Background**

A former City of Richmond probationary employee (current temporary agency worker) was terminated in April of 2020 for violation of the City's Substance Abuse Policy. The agency worker came back to work in the Department of Public Utilities (DPU) through a contracted staffing agency on January 31, 2022. The staffing agency account manager stated the company did not recruit the agency worker, the agency worker was referred to the agency by the City.

The agency worker was interviewed in regards to the allegation that he/she went to the CIAA Basketball Tournament in Baltimore on February 23-25, 2022 while being paid by the City. He/she said the partial day of February 23 and full days of February 24 and 25 were adjusted and he/she worked the weekend prior, February 19 and 20 to make up this time. The agency worker stated he/she worked from home and the adjustment was granted by the General Manager and his/her immediate supervisor was aware. The agency employee was shown a copy of the time card which had 8 hours each day from February 21-25, 2022, and was signed by the agency worker and the immediate supervisor. The agency worker said the General Manager told him/her to report the time that way. The investigator also asked the agency worker if he/she was issued a City laptop or submitted a telework agreement during this time. The agency worker admitted he/she did not. The investigator reviewed all the timecards for the agency worker and was able to determine that the agency's work week starts on Sunday and ends on

Saturday. During the week of February 13 through February 19, 2022, the agency worker had taken off two days, February 17, 2022, and February 18, 2022. The time card reflected the two days were made up on February 13, 2022, and February 19, 2022.

The immediate supervisor was working from home at the time he/she signed the timecard including the days of February 23-25, 2022. The supervisor was not aware at the time that the agency worker was not at work on February 23-25, 2022, nor was the Operations Manager. When the supervisor discovered that the agency worker was not at work at those times, he/she contacted the General Manager, who was attending a conference, and said he/she would look into the matter upon returning to the office. The General Manager advised the supervisor he/she was aware of the agency worker's location at the time. After this time, the agency worker was again allowed by the General Manager to work on the weekend in lieu of the weekdays. The General Manager instructed the supervisor to record the time worked on the timesheet as Monday through Friday. The time worked on the weekends split the work week for the staffing agency and should have been recorded as overtime in one week and reduced hours the next week if the actual hours worked were recorded.

The Investigator obtained and reviewed City emails from the employees involved to look for leave approval or communications with the staffing agency. During the review of emails, evidence of a personal relationship between the General Manager and the agency worker was discovered which predates his/her employment through the staffing agency. Emails were sent and received between the General Manager's City email account and the agency worker's personal email account. The issue of February 23-25, 2022 was not found in any emails, however other emails were found that indicate the agency worker left work early but recorded a full day on his/her timecard. The General Manager's City phone records were reviewed and numerous phone calls and text messages have been exchanged between the General Manager's City cellphone and the agency worker's personal phone before and during employment by the staffing agency. Between January 31, 2022, and April 20, 2022, 156 phone calls were made between the General Manager's City cellphone and the agency worker's personal cellphone. In the same date range, 947 text messages between the General Manager's City cellphone and the agency worker's personal cellphone were made.

The General Manager was interviewed. Initially, he/she denied any involvement in hiring the agency worker through the staffing agency or any involvement with the approval or decisions regarding leave. He/she had limited contact with the employee other than encounters as he/she moved about the building. The General Manager also initially denied having a personal relationship with the agency worker.

After being advised emails, phone, and text records were reviewed by the Investigator, the General Manager acknowledged a personal relationship with the agency worker that dates back to the agency worker's previous employment with the City of Richmond and showed favoritism to the agency worker. The General Manager admitted to allowing the agency worker to leave early on several occasions, and take time off from February 23-25, 2022. The General Manager stated he/she was unaware of two times the agency worker left while still being paid. He/she did allow the agency worker to adjust his/her schedule to work weekends and work from home and admitted that there was no

telework agreement submitted. The General Manager was aware of the City Telework Policy. The General Manager also admitted to directing the agency worker to the staffing agency.

The General Manager admitted to using his/her City email account and City cellphone for personal communications with the agency worker, however, he/she claimed not to be aware it was a violation of City policy.

The General Manager was asked about the agency worker's rehire status with the City as an employee or contract/agency worker for violation of the City's Substance Abuse policy. He/she said the City's most recent Substance Abuse Policy on December 1, 2021, changed the rehire waiting period from 3 years to 1 year. It is his/her belief that the employee is now eligible with the one-year restriction. The General Manager did not consult Human Resources or the City Attorney for an opinion.

The OIG consulted with the Human Resources Director. The Director's position is that the employee was disciplined under an older version of City policy that prescribed a 3-year waiting period and the newest version does not change previous disciplinary actions. The employee should still have to wait 3 years before being rehired as a City employee or contract/agency employee.

### **Findings**

The allegations the agency worker was contracted to work without waiting the 3-year waiting period and he/she did not work hours that he/she was paid for are substantiated. The agency worker is not a City of Richmond employee, and as such is not bound by City policies or discipline. The only redress for the City of Richmond is no longer using him/her as an agency worker.

While investigating the allegations against the agency worker, it was discovered the General Manager had violated several City policies.

The General Manager violated City of Richmond Administrative Regulation 1.1 Code of Ethics Section II. Policy - It is the duty of each employee and official to ensure that their conduct and private affairs be above reproach to assure that their City position is not used for private or personal gain and Section III. B. Responsibility – 1. All-City employees assume a public trust and should recognize the importance of high ethical standards within the specific department or organization they support. An employee shall avoid action, whether or not specifically prohibited by this administrative regulation, which might result in or create the appearance of the following:

- a. Using public office for personal or private gain;
- b. Giving preferential treatment to any person;
- c. Impeding government efficiency or economy;
- d. Losing complete independence or impartiality;

Personal relationships between employees, whether equals or management/subordinate or clandestine in nature is not a violation of City policies or regulations and



in general are not a concern of the City unless the relationship violates the Code of Ethics or Anti-Harassment policies.

The General Manager violated the Code of Ethics by using public office for personal or private gain when hiring a person with whom the General Manager had a personal relationship and was not eligible for rehire through City as an agency worker. Giving preferential treatment by allowing the agency worker to leave early while still being paid and taking days off without docking the time from the timecards. Impeding government efficiency or economy by paying the agency worker for hours not worked and indirectly by affecting the morale of other employees who see the preferential treatment and have a resulting reduction of productivity. Losing complete independence and partiality by not taking appropriate corrective action when receiving reports of the agency worker's time issues and indirectly by being susceptible to compromise.

The General Manager violated the City of Richmond Administrative Regulations 2.2 Cellular Communication Services and Devices and Administrative Regulation 2.5 Electronic Media Systems Section II. C. Use of Electronic Media Systems states, that the electronic mail systems (e-mail), Internet, Intranet, hardware, software, tools, and information are provided for the purpose of conducting business for the City of Richmond only. Administrative Regulation 2.2 Cellular Telecommunications Services Devices Section II. Procedure incorporates AR 2.5 stating, the acceptable and prohibited uses of electronic data services and devices are addressed in the City's Electronic Media Systems Policy – Administrative Regulation #2.5, Section III, C and D. This policy is inclusive of all wireless telecommunication services and devices. Both regulations were violated by using the City email system and City-issued cellphone for personal communications with the agency worker.

The General Manager violated City of Richmond Administrative Regulation 2.3 – Telework. The Eligibility section states, Employees must have successfully completed at least six months of their probationary period and must receive a satisfactory rating on their interim performance evaluation in order to be eligible to request a telework arrangement. Employees must meet and maintain a rating of 275 or above on the annual employee performance evaluation to maintain a telework arrangement. Exceptions to this eligibility requirement may be granted by the Appointing Authority under special circumstances, including, but not limited to, a situation where an employee is physically incapable of reporting for normal duty at city facilities or to support continuity of operations plans during severe weather, pandemics, natural disasters, or other emergency situations. The agency worker is not a city employee and is not eligible under City policy for a teleworking assignment.

The General Manager violated Administrative Regulation 4053 – Substance Abuse Policy. The agency worker was a probationary employee of the City of Richmond when he/she was terminated in April of 2020. A further condition of the disciplinary action was that he/she was barred from rehiring as a City employee or employment with a direct coverage contractor for 3 years. The Substance Abuse Policy was changed on December 1, 2021. The rehire provision was changed from 3 years to 1 year. The General Manager interpreted the policy himself/herself without consultation of Human Resources or the City Attorney. Nothing in the updated policy on December 1, 2021, addressed prior

disciplinary actions taken. To accept the General Managers' interpretation of the policy, if prior City policy terminated a tenured employee for a first offense, and the new policy mandates a lesser punishment for a tenured employee, would the City not have to rehire all previously tenured employees terminated for a first offense.

**Recommendations**

The agency worker be removed from working for the City of Richmond.

The appropriate disciplinary action taken against the General Manager for violation of City of Richmond policies and regulations.

The point of contact for this report can be reached at extension 1840.

Submitted,



James Osuna  
Inspector General

CC: Honorable Members of City Council  
Robert Steidel, Deputy Chief Administrative Officer  
April Bingham, Director of Public Utilities