

Investigative Report

Development Services Department: Misuse of City Resources for Secondary Employment

April 2019



We found evidence indicating that Mauricio Ramos, Inspector B, Development Services Department, misused City resources for his personal video editing businesses.

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Cover: Aerial view of downtown Austin, iStock.com/RoschetzkyIstockPhoto

Allegation

In September 2018, we received an allegation against Mauricio Ramos, an Inspector B in the Development Services Department. According to the informant, Ramos used his City computer to operate his personal businesses during work hours. The informant also alleged that Ramos consistently stole time by coming in late and leaving early, but claimed to have worked his entire shift. The informant added that Ramos claimed overtime that he was not entitled to.

Background

The Development Services Department (DSD) is responsible for providing “high quality, positive, timely, and facilitative development review and inspection services” for the City of Austin. Mauricio Ramos works as an inspector in DSD’s Site and Subdivision Inspections program. This program “ensures that all public infrastructure such as water, wastewater, drainage facilities, streets, and sidewalks are built according to approved plans, City rules, regulations,” and other health and safety standards.

Ramos has been employed as an inspector since September 28, 2016. His responsibilities include inspecting “construction and building sites for compliance with codes, specifications, and safety ordinances,” as well as coordinating with outside contractors.

Investigation Results Summary

We found evidence indicating that Mauricio Ramos, Inspector B, Development Services Department, misused City resources for his personal video editing businesses.

Due to the on-demand nature of Ramos's work as an inspector in the Site and Subdivision Inspections program, we were unable to substantiate the allegation that Ramos stole time and claimed overtime he was not entitled to.

Finding 1 Misuse of City Equipment

Investigation Criteria:

"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 Investigation Criteria Section for
More Details

Mauricio Ramos admitted to being the owner and founder of two online platforms. One of the platforms provides free stock images and videos to users, while the other hosts a video editing service. Ramos added that the video editing service was revenue-generating, but that he did not take an income.

On his City-issued computer, we found evidence that Ramos accessed websites for both online platforms he operates. We found at least 12,000 hits between November 2017 and August 2018 related to his businesses, as well as to other online resources for video content, creation, editing, and rendering. Additionally, we found over 100 search terms related to editing, videos, and animation. Ramos admitted that he spends anywhere between one and two hours of his City work time per day working on his businesses, but he told us that he does this during his downtime. However, when we spoke with Ramos's supervisor, he said that their work group did not have any downtime due to the demands of the job.

We also found evidence that Ramos communicated with three individuals who worked for his video editing service through his City computer. Ramos admitted that he used an online messaging tool to communicate with his employees. We found over 300 links to the online messaging tool that he used. Ramos also admitted that he sent text messages and made calls to his employees four to five times a day from his personal cellphone.

We found over 100 saved files related to Ramos's personal businesses on his City computer. These files included short video clips and stock images. In one video, which appeared to be promotional material for his video editing service, Ramos used the City's DSD logo and branding. Ramos admitted to downloading videos and images for his personal businesses onto his City computer and to reviewing them at work.

When interviewed, Ramos said that he could not recall whether he had disclosed his secondary employment to his supervisor. Ramos's supervisor stated that Ramos did not complete or sign the secondary employment disclosure form as required by DSD. According to his supervisor, Ramos did not complete the disclosure forms, because he did not consider his businesses to be secondary employment. Ramos's supervisor also stated that DSD requires their employees to sign an ethics expectation

form annually, which outlines the department's expectations on outside employment and the appropriate use of City resources. We found evidence that Ramos has signed this form annually since he started working with the City.

Mauricio Ramos's use of City resources for his video editing businesses appears to constitute a violation of the following criteria, as detailed in the investigation criteria section:

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

Finding 2

Misuse of City Time

Our office investigated the allegation that Ramos was stealing time and claiming overtime that he was not entitled to. We found that Ramos was regularly claiming overtime on his timesheet. Ramos's supervisor stated that his inspectors, including Ramos, have on-demand work that may require them to work evenings and weekends, because their schedules are set by contractors' needs. Ramos's supervisor did not express concerns about how Ramos spent his work time. Additionally, Ramos provided copies of his inspection logs that outline the inspections he was doing each day. However, we were unable to verify the exact amount of time that Ramos spent at each inspection. As a result, we were unable to determine whether Ramos was stealing time or logging overtime that he was not entitled to.

Appendix A - Subject Response

Thank you for giving me the opportunity to respond to this report.

Any errors that are determined as a result of this report are the consequence of inadvertence or incomprehension of personnel policies. Being a construction inspector for the City of Austin is a career I've taken significant pride in. I never have, nor do I ever intend to act against the interests of this great city and its tax payers, jeopardizing my job in the process.

I would like to first begin by expressing my sincerest apologies to everyone who has been inconvenienced by this investigation.

There are some statements on this report that I believe require further clarification on my behalf, beginning with the comment relating to the amount of time I've allocated to my hobbies.

Spending between one and two hours of my work shift on outside work per day is certainly a misunderstanding, and I apologize for not communicating that properly. I do spend a few hours working on what I've always seen as online hobbies, but this is only ever a few hours in aggregate throughout any given week. Between balancing my full-time job, maintaining an active lifestyle, spending time with family and friends, community involvement, personal leisure and getting adequate rest, working even close to 7-14 hours a week on the aforementioned interests of mine as reported is something that just would never even be feasible for me.

Given the busy schedules that we face as construction inspectors, despite it being in one of the fastest growing cities in the country, I've always been able to successfully and efficiently manage my workloads. I've attempted to provide data to further prove so, but I unfortunately don't have such information at my disposal. I welcome and encourage anyone to look into my job performance and further prove the validity of this statement, as I am completely and wholeheartedly convinced that it is true. This is something that wouldn't be possible if I made any outside interests a priority over my work. Likewise, I've not once received any reprimand (whether it be verbal or written) for underperforming in comparison to my co-workers, or for not producing adequate work. This is something I hope would prove that the allegations

Appendix A - Subject Response Continued

brought forth have never impacted my job performance. I've always been able to meet if not exceed job expectations set forth by my department, as would be reflected by my performance review. As would be proven by my SSPR's (Success Strategy Performance Reviews), which are performed twice a year to monitor my performance as an employee, "successful" has been the bare minimum performance rating that I've ever recalled being given, though commendable & outstanding were frequented.

This is not to say that I've never spent time on my personal projects during breaks at work. I do admit that between personal breaks and my allotted lunch time, I would sometimes spend some time talking with others who also partake in projects with me, browse the internet or perform simple tasks relating to those projects.

On the comment relating to my supervisor's statement of not having any downtime. I would add that I think this too is likely a misunderstanding. While we certainly do have substantial workloads as construction inspectors, there are still day-to-day job functions that create inevitable downtime. Whether it's because we have to wait on other parties for meetings/inspections, utility testing (which can happen multiple times on a given day), or anything in between.

In the hundreds of construction projects I've successfully overseen for the City of Austin, I can confidently say there is possibility of downtime in all of them throughout numerous processes in the construction sequence. I don't say this to hyperbolize likely downtime, rather I say it to provide further context.

I do enjoy spending time building projects on the internet. It's something I've always found interesting and fulfilling to say the least, though I'd like to add that I've only ever done these things for fun. I have never taken an income from these projects, and have only ever seen them as a hobby of mine.

One of the projects in question is a self-serve online video maker website, people can sign up and generate videos for their personal use entirely for free, or pay a small fee to remove a

Appendix A - Subject Response Continued

watermark from the video, the revenue generated is only ever used to support the website costs. The goal in this project is to help people from all corners of the globe express themselves online through video creation, primarily those who couldn't otherwise afford to do so. Freedom of expression for all is something that I value strongly, upholding this mission statement could only ever be made possible by keeping any cost possibly associated with this project to a bare minimum, so much so that we've made the core functions of the platform completely free to use, and promised myself to never take an income.

It was mentioned that I used the City's DSD logo and branding for a video. This is in fact true, looking back, it was a mistake and I extend my sincerest apologies for using the DSD logo on a video. This is a matter I take very seriously, I take full responsibility for my mistake and am extremely remorseful for having done so. Although negligence is no excuse, I'd like to add that this is not something that will ever repeat itself. At the very least, I'd like to provide further clarification on the situation, as I feel that this comment from the auditor's office is quite short and unfortunately doesn't provide sufficient context. Unfortunately, I don't recall having been asked about this video, had it been asked I would've gladly given details on the issue.

This video was generated by me when I was told by someone that the aforementioned online video tool was broken. Knowing that troubleshooting the tool to identify the issue only took me a few minutes, I mistakenly took a few minutes of my day to test the tool myself, and generated a very short (few seconds) video clip using the city DSD logo, as it was the first image I found available. I didn't expect the video generation to be successful, and rather expected the tool to give me an "error" when I attempted to download the video, for this reason I made the poor judgement of using the logo (I expected nothing to come out of this troubleshoot to begin with). To my surprise, the video was fine and downloaded properly onto the computer. This is the exact reason for why the video was generated and found on my assigned computer.

The generated video was made using a template that was specifically made and used for testing purposes, I only ever use this template for video testing because it doesn't contain any product promotion, service offering or copyright protected media. That being said, this video was never

Appendix A - Subject Response Continued

used as a marketable item nor was it ever even shared online anywhere, likewise it was never shared with anyone or even served any functional purpose outside of simply giving us testing reports, it was simply an animated video clip displaying the DSD logo for a brief moment, no more than a few seconds. I couldn't use the video for any functional purpose even if I tried. Looking back, this was a mistake, and I should've never used the logo, no matter the purpose, even if I didn't expect the video itself to generate from the beginning. Additionally, the logo in question did not exist within the template, rather I used it just once to replace the existing placeholders on the template. This instance happened only once, and will never again repeat itself.

Per the statement relating to theft of overtime work, I am not sure where to even begin. The nature of our job is sporadic, as stated by my supervisor, our schedules are set by contractors' needs which requires us to be on call during unusual business hours. As an example, within the inspection logs that I provided to the auditor's office, I have overtime work reported on Sundays where overtime likely in question was performed because that particular project is only ever permitted to work on Sundays (this is per their permitted work hours determined by right-of-way management, I have absolutely no say in this). Also, our inspection office never performs any overtime work without prior approval from our supervisor and field engineer, I am no exception to this rule. For lack of a better way of putting it, there are essentially 'checks and balances' within this organization, all put in place to avoid the exact type of theft for which I'm being alleged of committing. That being said, I'd like to add that, given my natural aptitude to always want to go above and beyond that which is required of me at work, I always ensure to go the extra step and brief my supervisor on how I spent the allotted overtime work the following business day. I have never before been accused of stealing time, and have undoubtedly never stolen time. The lack of findings of this investigative report on overtime theft I hope would further prove that.

As a finishing statement, I would like to once again reiterate that I have only ever worked on the aforementioned projects during my allotted break times and have never reported false overtime. Throughout this investigation I've always been forthcoming, honest, and transparent

Appendix A - Subject Response Continued

with the allegations brought to my attention, as has always been the case throughout my employment with this organization. I will always choose to follow my moral and ethical convictions, doing and saying what is right, no matter the circumstance or consequence. I take full responsibility for my actions, and am extremely remorseful for any possible violations that are determined. Once again, my sincerest apologies to everyone who has been inconvenienced by this investigation.

I should have been more cognizant of City of Austin personnel policies. I now have a complete understanding of such policies and have taken every action possible to demonstrate that I have corrected my behavior in numerous ways to rectify any possible future violations.

Once again, thank you for the opportunity to give my response to this report. I trust that management will give this response its proper consideration.

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



Building a Better and Safer Austin Together



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DATE: April 4, 2019

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

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

SUBJECT: Investigation Report (IN19001)

Development Services Department (DSD) HR has reviewed the report, and is currently working with Site and Subdivision Inspections Management and HRD to determine the appropriate Disciplinary Action.

Investigation Criteria

Findings 1 and 2

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.

Finding 1

Administrative Bulletin 98-06: ACCEPTABLE INTERNET USE

The City of Austin computer use, e-mail, and/or Internet access may not be used to... conduct or promote commercial or private/personal business enterprises or products.

Methodology

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

- Reviewed applicable City Code and policy;
- Conducted background research;
- Analyzed subject's computer forensic data;
- Analyzed timesheet data and badge swipe data;
- Reviewed documentary evidence provided by the subject and his supervisor;
- 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 to 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.

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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