Memorandum

CITY OF DALLAS

DATE: August 26, 2024

TO: Honorable Members of the Government Performance & Financial Management Committee: Chad West (Chair), Paula Blackmon (Vice Chair), Cara Mendelsohn, Jesse Moreno, Jaime Resendez

SUBJECT: Internal Audit Reports Released Between April 13, 2024, and August 16, 2024

Attached for your review are the Office of the City Auditor audit reports released between April 13, 2024, and August 16, 2024. The full reports are included in Attachment 1. Exhibit 1 summarizes the number of report recommendations accepted by city management.

Exhibit 1:

Summary of Audit Reports Recommendations Accepted

Audit Report Title	Report Recommendations		
	Accepted	Total	Percentage
Audit of Emergency Operations Center Activation	3	3	100%
Audit of Dallas Water Utilities Wastewater Operations' Environmental Reporting	Not Applicable	0	Not Applicable
Audit of Personnel-Related Practices in the Department of Sanitation	2	2	100%
Audit of Personnel Complaints Resolution	15	20	75%
Independent Report on Agreed-Upon Procedures for: Attestation Engagement for Elm Fork Water Treatment Plant Water Quality Improvements Program Construction Manager at Risk -- Preconstruction and Construction Phase Services CIZ-DWU-24-049E	Not Applicable	0	Not Applicable

If you have any questions, please contact me at (214) 670-3222 or mark.swann@dallas.gov.

Sincerely,

Mark S. Swann

Mark S. Swann
City Auditor

Attachment 1 – Internal Audit Reports Released Between April 13, 2024, and August 16, 2024

Reports Released:

1. Audit of Emergency Operations Center Activation
   (June 18, 2024)

2. Audit of Dallas Water Utilities Wastewater Operations' Environmental Reporting (July 23, 2024)

3. Audit of Personnel-Related Practices in the Department of Sanitation Services (July 23, 2024)

4. Audit of Personnel Complaints Resolution
   (August 14, 2024)

5. Independent Report on Agreed-Upon Procedures for: Attestation Engagement for Elm Fork Water Treatment Plant Water Quality Improvements Program Construction Manager at Risk -- Preconstruction and Construction Phase Services CIZ-DWU-24-049E
   (August 15, 2024)

Audit of Emergency Operations Center Activation

June 18, 2024

Mark S. Swann, City Auditor

Mayor

Eric L. Johnson

Mayor Pro Tem

Tennell Atkins

Deputy Mayor Pro Tem

Adam Bazaldua

Council Members

Carolyn King Arnold

Paula Blackmon

Zarin D. Gracey

Cara Mendelsohn

Jesse Moreno

Omar Narvaez

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Jaynie Schultz

Kathy Stewart

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Gay Donnell Willis

City of Dallas

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Executive Summary

Objective and Scope

The objectives of this audit are as follows:

- Is the Emergency Operations Center activating timely, at the correct activation levels, and with communication to its partners as outlined in Office of Emergency Management procedures?
- Are procedures for activation current?

The scope of this audit will include all Emergency Operations Center activations from June 1, 2021, to May 31, 2023.

Recommendations

Management should improve its procedures for emergency response and activation and documentation of those efforts.

Background

The City of Dallas Office of Emergency Management's mission is to provide a resilient emergency management structure dedicated to public safety and welfare through the preservation of life, health, property, and the environment. The Emergency Operations Center is required to activate during large, planned events with an estimated attendance of 30,000 or more people. The Emergency Operations Center is activated and helps to monitor and manage resources during unplanned events when an emergency response is needed, such as during severe weather or terrorism activities.

This audit was planned after an Office of Emergency Management after action report identified that the Emergency Operations Center did not activate timely, to determine if activation procedures were current and being followed.

Observed Conditions

Overall, the Emergency Operations Center had 16 events during the audit scope.

The Emergency Operations Center is activating timely in most instances, but lack of clarity about its operating procedures and limited documentation impedes monitoring the timeliness and effectiveness of all activations.

The Office of Emergency Management updated the activation procedures in August 2023, shortly after the audit period ended.

Objectives and Conclusions

1. Is the Emergency Operations Center activating timely, at the correct activation levels, and with communication to partners as outlined in Office of Emergency Management procedures?

   Generally, yes. Most activations were performed timely, at the correct activation levels, and included documented communication to partners. Uncertainty about the procedures and limited documentation contributed to instances where activations were late or not at the correct activation levels. (See Observation A.)

2. Are procedures for activation current?

   Generally, yes. The procedures were updated soon after the audit scope in August 2023 to better reflect operations. The procedures were reviewed biennially but were not updated to reflect recommendations for two 2022 storms until after the audit scope had ended in May 2023. (See Observation A.)

Audit Results

Both *City Council Resolution 88-3428* and Administrative Directive 4-09*, Internal Control* prescribe policy for the City to establish and maintain an internal control system. The audit observations listed are offered to assist management in fulfilling their internal control responsibilities.

Observation A: Emergency Operations Center Activation Guidance, Communication, and Documentation

The Office of Emergency Management procedures for activating the Emergency Operations Center may lead to uncertainty regarding when an activation is required and the labeled level of the activation. Also, there is not consistent and timely documentation of activations. As a result, Emergency Operations Center activations may not be consistent, and it is difficult for the Office of Emergency Management to be able to tell how many activations occurred and whether activations were timely.

An issue with the timeliness of the activation, labeled level of activation, or determination of an activation was identified for three of the nine sampled activations, all for unplanned events.

- One storm activation was labeled a level 2 activation despite Citywide coordination typical of an activation at the highest level – level 1.
- One storm activation was late. (This was known before the audit.)
- A fire/explosion response was not considered an activation despite activity consistent with an activation, including response by the Office of Emergency Management, use of

the Emergency Operations Center, and deployment of a mobile command. Because this event was not initially considered an activation, there was no documentation of when the Emergency Operations Center operations began and ended and who was notified.

In addition, other activations for large events were considered responses instead of activations and no activation levels were listed. This included cases where command posts were used, and the operations center was active.

While Office of Emergency Management prepared summaries for each activation in coordination with the audit, timely documentation of each activation was limited, was not consistent across activations, and no log was maintained of Emergency Operations Center activations.

Comprehensive after-action reports were performed of two Emergency Operations Center activations where the Office of Emergency Management identified areas for improvement, including addressing timely activations.

Criteria

- Office of Emergency Management Activation and Operations protocols
- Administrative Directive 4-09, Internal Control, Section 5.1.1 *Control Environment*
- Standards for Internal Control in the Federal Government:
  - *Principle 10 – Design Control Activities*
  - *Principle 14 – Communicate Internally*

Assessed Risk Rating:

Moderate

We recommend the **Director of Office of Emergency Management:**

A.1: Monitor the Standard Operating Procedures to ensure they are updated to reflect implemented changes in practices within 90 days and that the documents include a dated acknowledgment of management approval.

A.2: Develop consistent documentation requirements for Emergency Operations Center activations and the Office of Emergency Management responses, including an annual log of all activations and responses.

A.3: Develop a definition for Office of Emergency Management responses if those are to be considered differently than Emergency Operation Center activations.

Appendix A: Background and Methodology

Background

One of the Office of Emergency Management's core responsibilities is operating and maintaining the Emergency Operations Center. The Emergency Operations Center is a multi-departmental multi-functional facility used to monitor events and respond to emergencies. Activations can be for large planned and unplanned events and operated virtually during the COVID-19 Pandemic.

Activations can run for a few hours to a week or more, depending on the type of event. In 2021, for example, there were unplanned events for Winter Storm Uri and the Highland Hills Apartment explosion and planned events for Día De Los Muertos, the Dallas Holiday Parade, and large running races.

This audit was added to the Fiscal Year 2023 Audit Plan when reporting by the Office of Emergency Management determined the Emergency Operations Center did not activate timely for the August 2022 flood.

The Emergency Operations Center is a coordinated effort to respond to emergencies. The following individuals have the authority to activate the City of Dallas Emergency Operations Center in accordance with the Department's Master Emergency Operations Plan: Mayor, City Manager, Deputy or Assistant City Manager, Fire Chief, Police Chief, Emergency Management Coordinator and Assistant Emergency Management Coordinator, Office of Emergency Management Duty Officer, and Incident Commander. It is run and managed by the Office of Emergency Management with involvement from other City departments and City leadership.

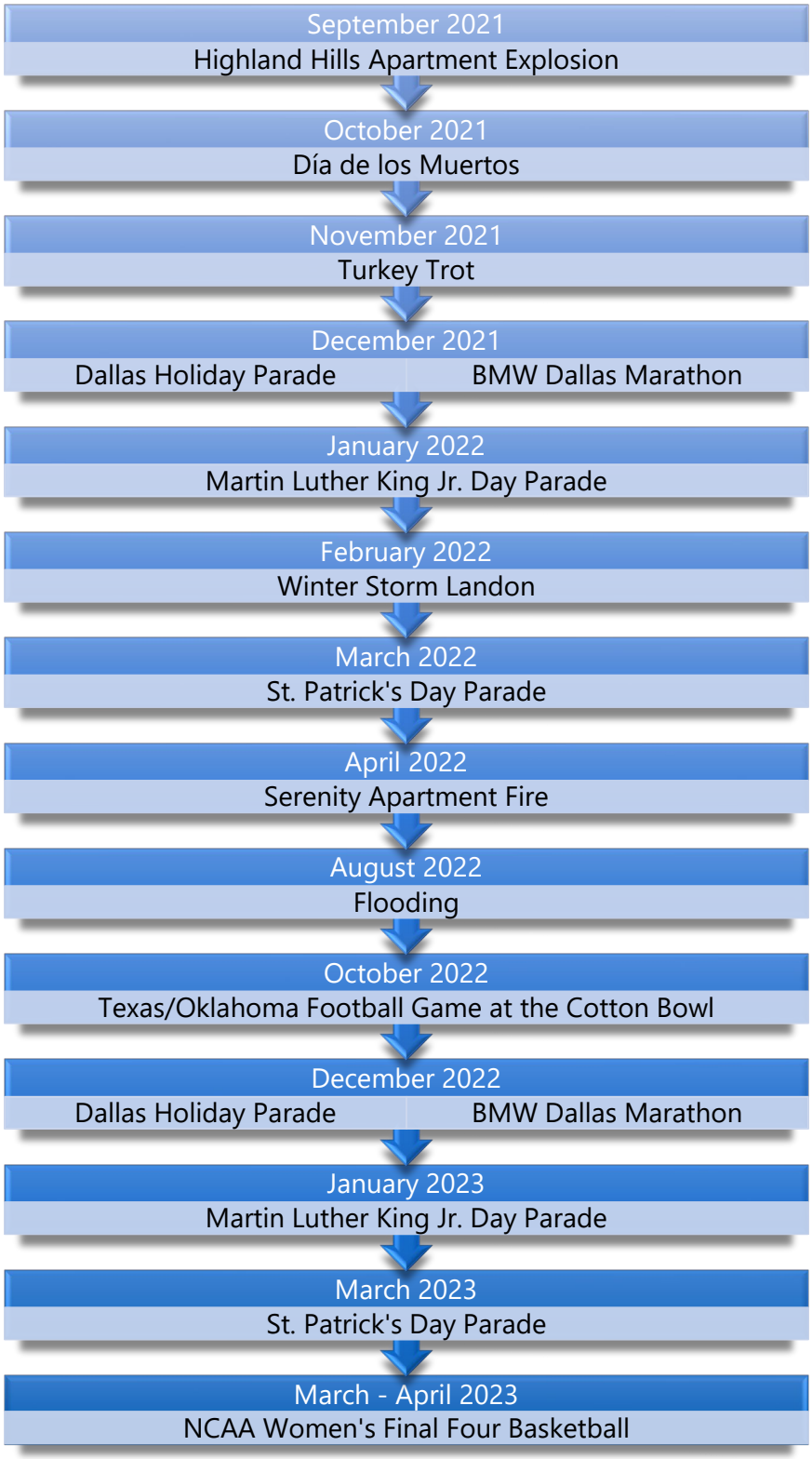
The Office of Emergency Management's mission is to provide a resilient emergency management structure dedicated to public safety and welfare through the preservation of life, health, property, and the environment. Its vision is to establish and grow a community-centric approach to mitigation, preparedness, prevention, response, and recovery activities.

Activations from June 2021 to May 2023

Refer to Exhibit 1 on page 5 for a complete listing of activations from June 2021 to May 2023.

Exhibit 1:

Timeline of Activations September 2021 to May 2023



Methodology

The audit methodology included: (1) interviewing personnel from the Office of Emergency Management and other City departments; (2) reviewing policies and procedures, the *Texas Local Government Code*, applicable Administrative Directives, and best practices; and (3) performing various analyses, including review of the timeliness, communications, and activation level of a sample of activations in the scope period. In addition, all five components of *Standards for Internal Control in the Federal Government* were considered.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Major Contributors to the Report

Denise Bryson, CFE – In-Charge Auditor
Frank Mayhew, CIA, CISA, CFE – Engagement Manager
Dan Genz, CIA, CISA, CFE – Auditor

Appendix B: Management's Response

Memorandum

DATE: June 14, 2024

TO: Mark S. Swann – City Auditor

SUBJECT: Response to Audit of Emergency Operations Center Activation

This letter acknowledges the City Manager's Office received the *Audit of Emergency Operations Center Activation* and submitted responses to the recommendations in consultation with the Office of Emergency Management.

The Office of Emergency Management is committed to its mission of providing a resilient emergency management structure dedicated to public safety and welfare through the preservation of life, health, property, and the environment. The Office of Emergency Management's Emergency Operations Center is a critical tool in achieving the department's mission and is vital to the city's ability to effectively respond to disasters. In the last five years, the Emergency Operations Center served as the central coordinating point for nearly every disaster the city has faced. A few examples include:

- The June 2019 windstorm, which generated over 650,000 cubic yards of debris and caused a crane to collapse, destroying an apartment building;
- The October 2019 EF-3 tornado, which impacted over 900 homes and businesses and caused an estimated $1.5 billion in damage, making it the costliest tornado event in Texas history;
- The COVID-19 pandemic, in which the city coordinated Community Based Testing Sites and vaccination sites for thousands of residents;
- The August 2022 flood, which brought upwards of 15" of rain in some areas and caused widespread flooding; and
- The May 2024 windstorm, which caused extended power outages for over 250,000 residents and required extensive cross-departmental collaboration for debris removal.

In between these events, many smaller activations occurred and the Office of Emergency Management responded directly to the needs of residents for food, water, and shelter.

The Office of Emergency Management recognizes there are opportunities to further improve its processes.

Specifically, the Office of Emergency Management will:

- Ensure departmental Standard Operating procedures are updated to reflect process enhancements within 90 days and include a dated acknowledgment of management approval;
- Develop an annual log and associated guidance to document Office of Emergency Management responses and Emergency Operations Center activations; and
- Define Office of Emergency Management responses and Emergency Operations Center activations.

Sincerely,

Kimberly Bizor-Tolbert (Jun 14, 2024 14:26 CDT)

Kimberly Bizor-Tolbert
City Manager (I)

C: Jack Ireland, Chief Financial Officer
Dominique Artis, Chief of Public Safety (I)
Travis Houston, Director, Office of Emergency Management

Assessed Risk Rating	Recommendations	Concurrence and Action Plans		Implementation Date	Follow-Up/ Maturity Date
Moderate	We recommend the **Director of Office of Emergency Management:**				
	A.1 Monitor the Standard Operating Procedures to ensure they are updated to reflect implemented changes in practices within 90 days and that the documents include a dated acknowledgment of management approval.	**Agree**	The Office of Emergency Management (OEM) will monitor their Standard Operating Procedures and revise as needed, within 90 days. The revision will include a dated acknowledgment of management approval and communication of the revision to applicable staff.	03/31/2025	9/30/2025
	A.2: Develop consistent documentation requirements for Emergency Operations Center activations, including an annual log of all activations and Office of Emergency Management responses.	**Agree**	OEM will develop an annual log and associated guidance to document OEM responses and Emergency Operations Center activations.	3/31/2025	9/30/2025
	A.3: Develop a definition for Office of Emergency Management responses, if responses are to be considered differently than Emergency Operations Center activations.	**Agree**	OEM will revise their Standard Operating Procedures or other department guidance to define OEM responses and Emergency Operations Center activations.	12/31/2025	3/31/2025

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Audit of Dallas Water Utilities Wastewater Operations' Environmental Reporting

July 23, 2024

Mark S. Swann, City Auditor

Mayor

Eric L. Johnson

Mayor Pro Tem

Tennell Atkins

Deputy Mayor Pro Tem

Adam Bazaldua

Council Members

Carolyn King Arnold

Paula Blackmon

Zarin D. Gracey

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Executive Summary

Objectives and Scope

The objectives of this audit were to evaluate whether there are internal controls that ensure that Dallas Water Utilities Wastewater Operations' environmental reports are: (1) accurate; and, (2) submitted by the regulatory deadlines.

The scope of the audit was from January 1, 2021, to December 31, 2022.

Recommendations

No recommendations are associated with this report.

Background

The Dallas Water Utilities Department is permitted to treat and discharge wastewater from two wastewater treatment facilities into the Trinity River. The Texas Commission on Environmental Quality (TCEQ) prescribes the quality of the wastewater discharged and sewage sludge disposed by the Dallas Water Utilities.

The TCEQ requires Dallas Water Utilities to periodically report the levels of certain chemicals in the discharged treated wastewater and disposed sewage sludge.

Observed Conditions

A comparison of a random sample of 479 reported wastewater quality measurements with the initial laboratory test results shows that the Dallas Water Utilities Department's reports to the Texas Commission on Environmental Quality during the audit period were accurate. In addition, the review of laboratory test documentation shows evidence of supervisory review, segregation of duties, proper chain of custody documentation, and correct date recording.

Dallas Water Utilities has internal controls to ensure that environmental reports are accurate and submitted by the regulatory deadlines, such as written procedures and work instructions, training and certification of laboratory technicians, quality assurance review, and laboratory proficiency tests to verify the accuracy of the city's tests.

Objectives and Conclusions

1. Has the Dallas Water Utilities Department submitted wastewater and sewage sludge quality reports to TCEQ by the regulatory deadlines?

   Yes. The Dallas Water Utilities Department submitted all required wastewater and sewage sludge quality reports to TCEQ by the regulatory deadlines during the past 5 years.

2. Do the wastewater and sewage sludge quality reports submitted to TCEQ accurately reflect results of laboratory tests during the audit period?

   Yes. A comparison of a random sample of 479 measurements reported to TCEQ[1] during the audit period to the original laboratory results shows that the measurements reported to TCEQ match the results of laboratory tests.

3. Is there evidence that the Dallas Water Utilities Department's internal controls designed to ensure accurate and timely wastewater and sewage sludge environmental reporting functioned as intended during the audit period?

   Generally, yes. While the Dallas Water Utilities Department's hand-written laboratory worksheets do not aways show evidence of acceptable supervisory review, segregation of duties, chain of custody, and correct date recording, these omissions did not result in inaccurate reporting to TCEQ. The department has written procedures that describe the preparation of reports and the submission deadline for each required report. To ensure that laboratory analysts can generate accurate and precise test results, the Dallas Water Utilities Department requires each analyst to be internally certified for demonstration of capability for each test. Also, a quality assurance group within the Wastewater Operations is required to verify at least ten percent of daily laboratory results each month. Additionally, the Dallas Water Utilities Department's laboratories participate in national proficiency test studies annually to demonstrate laboratory competency.

[1] Auditors reviewed 25 random daily measurements from 48 monthly reports of treated wastewater effluent characteristics and flow volume. Auditors also reviewed four of 24 monthly reports of reclaimed water effluent characteristics, 11 of 23 quarterly and annual reports of biomonitoring toxicity tests, and one of two annual reports of sewage sludge (biosolids) characteristics.

Appendix A: Background and Methodology

Background

Texas Commission on Environmental Quality (TCEQ) has issued permits for two Dallas wastewater treatment facilities to treat and discharge wastewater into the Trinity River and dispose of sludge at the city-owned dedicated disposal site.

The permits include limitations on the discharged volumes, monitoring requirements, and other conditions. The permits require that Dallas Water Utilities Wastewater Operations report the levels of specific chemicals and bacteria present in the discharged treated wastewater and disposed sludge.

The Southside Wastewater Treatment Plant is located at 10011 Log Cabin Road on the east side of the Trinity River. It processes sewage sludge and wastewater. The Central Wastewater Treatment Plant is located at 1020 Sargent Road on the west bank of the Trinity River. It processes wastewater only. Both treatment plants perform daily measurements of the wastewater quality and report monthly averages of the levels of chemicals and bacteria present in the treated wastewater to TCEQ. Additionally, the Dallas Water Department submits the following reports to TCEQ as required by the permits:

- Monthly reports of reclaimed water effluent characteristics.
- Quarterly or annual reports of biomonitoring toxicity test on treated wastewater effluent.
- Annual report of sewage sludge (biosolids) characteristics.

Methodology

The audit methodology included: (1) interviewing personnel from the Dallas Water Utilities; (2) reviewing departmental written procedures, permits issued by the Texas Commission on Environmental Quality, and the Environmental Protection Agency guidelines on reporting; and, (3) performing various analyses, including reviewing environmental reports and laboratory worksheets. In addition, all five components of *Standards for Internal Control in the Federal Government* were considered.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Major Contributors to the Report

Zachary Goebel – Auditor
Shino Knowles, CPA – In-Charge Auditor
Anatoli Douditski, MPA, CIA, CFE, ACDA – Engagement Manager

Appendix B: Management's Response

Memorandum

CITY OF DALLAS

DATE: July 17, 2024

TO: Mark S. Swann – City Auditor

SUBJECT: Response to Audit of Dallas Water Utilities Wastewater Operations' Environmental Reporting

This letter acknowledges the City Manager's Office and Dallas Water Utilities received the *Audit of Dallas Water Utilities Wastewater Operations' Environmental Reporting*.

Dallas Water Utilities proudly serves over 2.6 million people as a local and regional provider of water, wastewater, stormwater, and flood control services. The department recognizes its essential role in providing fundamental water services to area residents and customers.

Dallas Water Utilities is pleased but not surprised that the audit concluded Dallas Water Utilities:

- Timely submits required reports to the Texas Commission on Environmental Quality;
- Accurately submits information to the Texas Commission on Environmental Quality; and
- Designed appropriate internal controls to ensure accurate and timely wastewater and sewage sludge environmental reporting generally functioned as intended.

We appreciate the professionalism and quality of work demonstrated by the City Auditor and his staff throughout this engagement. Dallas Water Utilities will use this experience to continue enhancing department operations.

Sincerely,

Kimberly Bizor-Tolbert (Jul 17, 2024 15:28 CDT)

Kimberly Bizor Tobert
City Manager (I)

C: Jack Ireland, Chief Financial Officer
Dev Rastogi, Assistant City Manager
Sarah Standifer, Director, Dallas Water Utilities

"Service First, Now!"
Connect – Collaborate – Communicate

Audit of Personnel-Related Practices in the Department of Sanitation Services

July 23, 2024

Mark S. Swann, City Auditor

Mayor

Eric L. Johnson

Mayor Pro Tem

Tennell Atkins

Deputy Mayor Pro Tem

Adam Bazaldua

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City of Dallas

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Executive Summary

Objective and Scope

The objective of this audit was to determine if the Department of Sanitation Services has clearly defined administrative and operational procedures relating to its drivers.

The scope of the audit was from July 1, 2021, through June 30, 2023.

Recommendations

Management should:

- Establish Department of Sanitation Services-specific written procedures to address practices for:
  - Disciplinary action
  - Route/Worker observations
  - Suspension of driver privileges
  - Driver assignments
  - Employee training and maintenance of training records
  - Wearing and tracking of uniforms
  - Tracking of *Acknowledgement of Sanitation Vehicle Surveillance Directive* forms
- Establish procedures to ensure compliance with all A & Associates, Inc. contract terms.

Background

The Department of Sanitation Services provides weekly recycling and garbage collection and monthly brush and bulky item collection to over 250,000 single-family homes and duplexes. Commercial and multi-family properties may choose collection services from the Department of Sanitation Services or from a private solid waste hauler that is authorized to conduct business within the City.

Budgeted operating expense and revenue are $153,910,883 and $152,709,535 respectively for FY 2023-24 with 690.12 full-time equivalent employees.

Observed Conditions

There is a general lack of Department of Sanitation Services – specific written administrative and operational procedures relating to drivers. After the conclusion of the audit period, the Department of Sanitation Services issued a *Sanitation Operations Handbook* that generally establishes employee expectations. However, it does not include all the internal controls needed to ensure compliance with the expectations detailed in the Handbook.

There is a lack of monitoring of the temporary staffing contract.

Objectives and Conclusions

1. Does the Department of Sanitation Services have clearly defined administrative and operational procedures relating to its drivers?

   No. The Department of Sanitation Services generally does not have written administrative and operational procedures relating to its drivers, and its recordkeeping with respect to its drivers is incomplete. This condition was observed for the audit period July 1, 2021, through June 30, 2023. After the conclusion of the audit period, the Department of Sanitation Services issued a *Sanitation Operations Handbook* that generally establishes employee expectations. However, it does not include all the internal controls needed to ensure compliance with the expectations detailed in the Handbook. (See Observation A).

Audit Results

Both *City Council Resolution 88-3428* and Administrative Directive 4-09*, Internal Control*, prescribe policy for the City to establish and maintain an internal control system. The audit observations listed are offered to assist management in fulfilling their internal control responsibilities.

Observation A: Lack of Department of Sanitation Services – Specific Written Procedures

The *Department of Sanitation Handbook*, effective October 2, 2023, generally establishes employee expectations. However, it does not include all internal controls needed for management to ensure employees comply with the expectations detailed in the *Department of Sanitation Handbook.* The lack of internal controls in existing written procedures and a complete set of records increases the risk of inconsistency with respect to the following:

- Disciplinary Actions – Documentation provided by the Department of Sanitation Services did not show where seven employees that received disciplinary action (suspension) served the assigned disciplinary action.
- Route/Work Driver Observations (in cab and follow along) – Documentation provided by the Department of Sanitation Services indicated only 349 of the required 482 route/work driver observations were documented (72 percent). Also, of the 38 drivers that had been disciplined and were still employed by the Department of Sanitation Services that were interviewed, 17 indicated not receiving route/work driver observations (44.7 percent).

- Suspension of Driver Privileges – Not all Department of Sanitation Services drivers that should have had their driving privileges suspended, per *Administrative Directive 3-03*, received a suspension of their driving privileges.[1]
- Driver assignments – There is no standardized procedure for the assignment of equipment, trucks, overtime, and other work when there is no truck available to drivers.
- Maintenance of Training Records – There is no standardized process or centralized repository for tracking and maintaining all driver-related training records. The Department of Sanitation Services' local districts did not maintain records recording the training completed by drivers. Training records related to environmental and safety issues were available and documented, but other driving-related training records were not maintained.
- Employee Training after New Employee Training – Drivers in the Department of Sanitation Services are provided with training in their initial six-month probationary period. However, there is no selection process for drivers that have accumulated one or more incident points to attend subsequent driver related training, including the Smith System (driver safety training). Of the 38 drivers interviewed that had been disciplined and were still employed by the Department of Sanitation Services, 26 indicated not receiving additional training beyond their initial probationary period (68.4 percent).
- Wearing of Uniform – Of the 37 drivers eligible for a uniform interviewed that had been disciplined and were still employed by the Department of Sanitation Services, eight were not wearing the required uniform at the time of the interview (21.6 percent).
- Tracking City of Dallas Uniforms – The Department of Sanitation Services does not track the number of uniforms delivered and picked up by the vendor and, instead, they rely on the numbers provided by the vendor.
- Tracking of Acknowledgement of Sanitation Vehicle Surveillance Directive – Only 3 of the 48 requested *Acknowledgement of Sanitation Vehicle Surveillance Directive* forms were provided (6.25 percent).

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[1] On July 28, 2023, the City issued a revised version of *Administrative Directive 3-03.* Although the version of *Administrative Directive 3-03* that was in effect during this audit period required the suspension of employees' driving privileges in certain circumstances, the revised Administrative Directive made the suspension of driving privileges discretionary.

Criteria

- ❖ Standards for Internal Control in the Federal Government:

  Principle 10 – Design Control Activities

Assessed Risk Rating:

High

We recommend the **Director of Sanitation Services:**

A.1: Ensure written procedures include appropriate internal controls needed to address the practices identified in this Observation.

Observation B: Temporary Staffing Contract Monitoring

The A & Associates, Inc. contract is not properly monitored to ensure the following contract terms are met:

- Certification of temporary worker's authorization to work in the United States.
- Certification of temporary worker's negative pre-employment drug test.
- Background checks – Lack of certifications letters at time temporary workers begin performing work for the City of Dallas. Possible lack of complete background checks.
- Onsite supervision – Lack of a supervisor at each location.
- Lack of temporary worker identification card - Interviews indicated that work-related ID cards were not issued.
- Lack of standard uniform.

Criteria

- ❖ Standards for Internal Control in the Federal Government:

  Principle 10 – Design Control Activities

Assessed Risk Rating:

High

We recommend the Director of Sanitation Services:

B.1: Establish procedures to ensure all A & Associates, Inc. contract terms are followed.

Appendix A: Background and Methodology

Background

The Department of Sanitation Services was established as an Enterprise Fund in Fiscal Year 2015-16 to be more consistent with other municipalities and require it to be self-supporting from residential and commercial fees, and cash customers using their collection and disposal services.

The Department of Sanitation Services' mission statement is:

> *Operate a clean, green, and efficient integrated solid waste management system for the residents of Dallas while supporting the City's vision to achieve a sustainable future. Our vision is to be a best-in-class and resilient integrated solid waste management agency, continually advancing progress toward Zero Waste, in alignment with the City's Comprehensive Environmental and Climate Action Plan.*

Department of Sanitation Services' goals related to this audit are as follows:

- Establish and implement innovative operational best practices to provide efficient, cost effective, and environmentally responsible service.
- Implement additional fleet resources and improve equipment availability.

The Department of Sanitation Services operates two divisions with distinct areas of business for the public: Sanitation Collections Operations Division and Sanitation Post-Collection Operations Division. The Collections Operations Division performs the garbage and brush pickups and has face-to-face contact with the public. The Post-Collection Division operates the landfill-side of the business. Operations and procedures for these Divisions differ from one another.

The Department of Sanitation Services has approximately 500 employees and 200 temporary workers. The temporary workers are not a substitute for employees. The Collections Operations Division uses a staffing agency to obtain temporary workers with the specific labor task of riding on the back of the garbage trucks to pick up the garbage. The Department of Sanitation Services utilizes temporary workers due to high turnover in this role.

During the audit scope (December 5, 2022) the Department of Sanitation Services revised the collection routes, which increased the required number of daily collection trucks from 127 to 148. The collection routes were revised to a 5-day from a 4-day work week and collection schedule. The purpose of the revision was to give the employees a better quality of life and to provide the Department of Equipment and Fleet Maintenance more time to repair and perform preventative maintenance on the trucks.

Exhibit 1 gives the revenues and expenses during the audit scope.

Exhibit 1:

Department of Sanitation Services Revenue and Expenses During the Audit Scope

Fiscal Year	Revenues	Expenditures
2021-22 Actual	$144,066,996	$140,667,598
2022-23 Adopted	145,369,518	143,785,140
2022-23 Forecast	147,534,865	143,785,140
2023-24 Budget	152,709,535	153,689,531

Source: City of Dallas Fiscal Year 2023 -24 Adopted Budget Financial Summaries Sanitation Services

Methodology

The audit methodology included:

1. Interviewing personnel from:
    - Department of Sanitation Service
    - Office of Risk Management
    - Equipment and Fleet Management Department
2. Reviewing policies and procedures, the *Texas Local Government Code*, applicable Administrative Directives, and best practices.
3. Performing various analyses.

In addition, all five components of *Standards for Internal Control in the Federal Government* were considered.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Major Contributors to the Report

Keith Maddox, MBA, CIA, CGAP – In-Charge Auditor
Rory Galter, CPA – Engagement Manager
Brandon Boykin, MBA, Auditor

Appendix B: Management's Response

Memorandum

CITY OF DALLAS

DATE: July 17, 2024

TO: Mark S. Swann – City Auditor

SUBJECT: Response to Audit of Personnel-Related Practices in the Department of Sanitation Services

This letter acknowledges the City Manager's Office received the *Audit of Personnel-Related Practices in the Department of Sanitation Services* and submitted responses to the recommendations in consultation with the Department of Sanitation Services.

The Department of Sanitation Services is committed to operating a clean, green, and efficient integrated solid waste management system for the residents of Dallas while supporting the City's vision to achieve a sustainable future. The Department of Sanitation Services recognizes the essential role stakeholders, including residents, employees, temporary staff, and vendors, play in helping to ensure the department realizes its mission and goals.

The Department of Sanitation Services has been actively working to strengthen its written administrative and operational procedures, including creating a *Sanitation Operations Handbook* to guide employees on expectations. The Department of Sanitation Services is committed to continuing to enhance its processes.

Specifically, The Department of Sanitation Services will:

- Further strengthen its existing Sanitation Operations Handbook by developing supplemental procedures that integrate appropriate internal controls for the processes identified by the auditors; and
- Develop a process for ensuring vendors fulfill key contract terms, such as those specifically identified in the recommendation.

Sincerely,

Kimberly Bizor Tolbert (Jul 19, 2024 11:01 CDT)

Kimberly Bizor Tobert
City Manager (I)

C: Jack Ireland, Chief Financial Officer
Alina Ciocan, Assistant City Manager
Clifton Gillespie, Department of Sanitation Services, Director

Assessed Risk Rating	Recommendations	Concurrence and Action Plans		Implementation Date	Follow-Up/ Maturity Date
High	We recommend the **Director of Sanitation Services:**				
	A.1: Establish written procedures to address the practices identified in Observation A.	Agree	The Department of Sanitation Services will further strengthen its existing Sanitation Operations Handbook by developing supplemental procedures that integrate appropriate internal controls for the processes identified by the auditors.	6/30/2025	12/31/2025
	B.1: Establish procedures to ensure all contract terms are followed.	Agree	The Department of Sanitation Services will develop a process for ensuring vendors fulfill key contract terms, such as those specifically identified in the recommendation.	12/31/2024	6/30/2025

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Audit of Personnel Complaints Resolution

August 14, 2024

Mark S. Swann, City Auditor

Mayor

Eric L. Johnson

Mayor Pro Tem

Tennell Atkins

Deputy Mayor Pro Tem

Adam Bazaldua

Council Members

Carolyn King Arnold

Paula Blackmon

Zarin D. Gracey

Cara Mendelsohn

Jesse Moreno

Omar Narvaez

Jaime Resendez

Paul E. Ridley

Jaynie Schultz

Kathy Stewart

Chad West

Gay Donnell Willis

City of Dallas

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Executive Summary

Objectives and Scope

One audit objective is to review the personnel complaints resolutions and appeals process to determine that policies and procedures are effective. This process includes the fair application of Civil Service employee grievances, disposition of grievances, job performance ratings, merit ratings, actions taken within departments, appeals for formal disciplinary actions (reprimand, suspension, demotion, discharge), or Trial Board and Administrative Law Judge appeals.

Another audit objective is to identify and review department procedures for reviewing Non-Civil Service employees' disputed personnel actions.

The scope of this audit will include a review of appeals in the 2019-2021 calendar years.

Recommendations

Management should consider the 20 individual recommendations included in the audit report, which would strengthen and improve the personnel compliant resolution process for Civil Service and Non-Civil Service employees.

Background

In response to City Council's concern with the City's ability to obtain and retain quality employees a series of personnel audits have been included in the Office of the City Auditor fiscal year audit plans. The Fiscal Year 2022 Audit Plan addressed employee talent acquisition and personnel appeals.

The City of Dallas operates with a mix of Civil Service and Non-Civil Service employees. Civil Service employees' personnel appeals are governed by the City Charter, Chapter XVI, *Civil Service and Personnel* and *Personnel Rules.* Individual department's procedures are followed for Non-Civil Service employees' requests to review disputed personnel actions.

To obtain the needed human capital audit expertise, Baker Tilly US, LLP was retained to perform this audit. See Appendix A for their report.

Observed Conditions

For Civil Service employees there is lack of:

- An information tracking system to capture personnel related actions and outcomes.
- Singular authority.
- Clarity in written *Personnel Rules*.

For Non-Civil Service employees most departments lack written procedures, use the Civil Service procedures as a reference guide and reach out to the Human Resources Department for guidance for additional reviews of a disputed personnel action.

Objectives and Conclusions

1. Are policies and procedures for Civil Service employees effective to ensure fair application of internal employee appeals and appeals of terminations and demotions of City employees?

   Generally, yes. The City Charter, *Chapter XVI* and *Personnel Rules* govern the appeals process. However, there are opportunities to strengthen the process (See Appendix A Baker Tilly US, LLP Observations 1,2,4,5, and 9 through 11)

2. Is there a process to request a review of disputed personnel actions for Non-Civil Service employees?

   Generally, yes. Although the Non-Civil Service departments are not required to follow Civil Service procedures, some Non-Civil Service departments follow a process like the Civil Service procedures for departmental resolution of appeals. In most cases the departments do not have separate written procedures; the departments use the Civil Service procedures as a reference guide and reach out to the Human Resources Department for guidance. Opportunities exist to improve the process. (See Appendix A Baker Tilly US, LLP Observations 3 and 10).

Audit Results

See Appendix A for Baker Tilly US, LLP report.

Methodology

Baker Tilly US, LLP was retained to perform this audit. See Appendix A for Baker Tilly US, LLP's methodology. In addition, all five components of *Standards for Internal Control in Federal Government* were considered.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Appendix A: Baker Tilly US, LLP Report

Audit of Personnel Complaints Resolution

Baker Tilly report begins on the following page.

City of Dallas

AUDIT OF PERSONNEL COMPLAINTS RESOLUTION

August 14, 2024

bakertilly

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Executive Summary

The audit objective is to review the personnel complaints resolutions and appeals process to determine that policies and procedures are effective to ensure the fair application of Civil Service employee appeals for formal disciplinary actions (reprimand, suspension, demotion, discharge); grievances; disposition of grievances; job performance ratings; merit ratings; actions taken within departments; or Trial Board and Administrative Law Judge. Also, another audit objective is to identify and review department procedures for reviewing Non-Civil Service employees' disputed personnel actions.

The audit objective was accomplished by surveying/interviewing staff, reviewing written documentation, surveying other Texas cities, analyzing available data, and examining a sample of hearings documents, and examining a sample of hearings.

The City has established personnel appeals policies and procedures for Civil Service employees that provide a framework for the fair application of Civil Service employee appeals. However, clarifying revisions to the policies and procedures are needed to improve the fair application of City Civil Service employees' appeals. Non-Civil Service employees may not be afforded a process to request a review of disputed personnel actions. Also, the lack of Citywide reporting personnel complaints resolutions and appeals limits the ability to conclude whether the policies and procedures are fairly implemented.

Positive attributes and significant recommendations are summarized below. Additional recommendations for improvement are within the Observations and Recommendations section of this report.

<u>Civil Service Personnel Appeals Process Positive Attributes</u>

- Roles are defined for City management and the Civil Service Department.
- Appeals can be made to multiple persons and levels; some appeals are heard by the highest levels of decision-makers, Assistant City Manager, City Manager, Trial Board or Administrative Law Judge.
- Trial Board and Administrative Law Judge assignments cannot be requested and are rotated.
- Trial Board and Administrative Law Judge hearings utilize a quasi-judicial process with evidence, subpoenas, testimony, and representation.
- Trial Board and Administrative Law Judge decisions are made in a two-phased approach. The first is to determine if the employee committed any of the alleged rule violations, and the second is to review evidence of the appropriateness of the discipline.
- In many cases timelines are defined.
- In addition to departmental management, the Human Resources Department and the City Attorney's Office provide subject matter expertise.
- The Charter of the City of Dallas, Texas (City Charter) and City of Dallas Personnel Rules (Personnel Rules) are governing law.

Recommendations

The Observations and Recommendations Section of this report provides recommended actions by subject matter. For ease of review, the below listing provides Recommendations by party taking the action.

Recommendations for the Director, Human Resources Department

The recommendations for the Director, Human Resources Department, can be implemented without Council approval, and can directly address two high risk Observations. First, the City incurs risk due to the lack of a centralized repository of personnel complaints resolutions and appeals related information, including the risk of non-compliance with its existing procedures. The City does not collect documents on the Civil Service appeals processes in a centralized repository; therefore, the City is unable to evaluate the reasonableness of processes performed and is unable to determine if the City complies with its procedures. The City does not know the risks it is incurring. We were unable to complete key tests of Civil Service appeals process compliance due to the lack of documents stored in a centralized repository. Second, the City incurs risk due to operating the Civil Service personnel appeals process without an identified leader/gatekeeper. The risks incurred include non-compliance with existing procedures, disparate practice implementation, inefficiency, and ineffectiveness. Because there is no identified leader/gatekeeper, each party in the process determines their actions independently. The recommendations for the Director, Human Resources Department, are listed below.

- ✓ Collect information for department level grieved and appealed personnel actions for City employees, develop appropriate management reports, and provide insights to decision makers (Recommendation 1.1).
- ✓ Request from the Secretary of the Civil Service Board requests and results of Civil Service employees' appeals to the Civil Service Trial Board or an Administrative Law Judge to be incorporated in the information repository used to collect department level grieved and appealed personnel actions for City employees (Recommendation 1.2).
- ✓ Fulfill the responsibilities as provided in Personnel Rules Sections 34-2 Administration, (b) Director of human resources, and 34-37 Discipline Procedures, (a) Guidelines, by assuming centralized ownership of the Civil Service appeals process and implementing procedures to ensure the Department:
    a. Has access to all files (City and Civil Service departments) while retaining confidentiality.
    b. Monitors for the process for compliance.
    c. Develops Citywide management reports.
    d. Performs analysis.
    e. Spot check files for completeness and compliance.
    f. Develops training, procedures, tools, and checklists.
    g. Provides feedback to City personnel (Recommendation 2.1).

- ✓ Communicate and promote recommended procedures that provide additional management review for Non-Civil Service employees' requests to review disputed personnel actions to City department directors (Recommendation 3.1).
- ✓ Provide training on the recommended procedures for Non-Civil Service employees review of disputed personnel actions upon department directors' request. (Recommendation 3.2).
- ✓ Ensure clear information and training on the Civil Service grievance appeals process is provided to all Civil Service employees including procedures to elevate concerns to the appropriate level when needed (Recommendation 4.2).
- ✓ Identify when hiring a position or in the position description the position has Civil Service personnel appeal rights or does not have Civil Service personnel appeal rights (Recommendation 5.1).
- ✓ Provide regular and formalized training on the Civil Service appeals process to Human Resources Department staff and to operating departmental management (Recommendation 9.3).
- ✓ Communicate to City personnel about the useful resources available on the internal website; continually maintain and update the content on the internal website. Include written personnel grievance and appeals procedures for Civil Service departments and recommended written requests to review disputed personnel actions procedures for Non-Civil Service departments (Recommendation 10.1).

Recommendations Requiring Personnel Rules Change

Implementing recommendations for changes to current policies and procedures would mitigate the risk of inequity, inefficiency, and ineffectiveness within the personnel appeals process. Implementing the changes in the listing below would require amendments to the Personnel Rules. As such, the change would require collaboration between the City Attorney and City Manager to propose an amendment to the City Council. Then, the City Council would need to approve the change for implementation. The recommendations for the collaboration of the City Attorney and the City Manager to propose to City Council are listed below.

- ✓ Amend the Personnel Rules to clearly explain the allowances of levels, hearings, and steps that apply to a personnel appeal (Recommendation 4.1).
- ✓ Amend Personnel Rules, Section 34-38 Grievance and Appeals Procedure, (g) Exceptions to Step 4 procedure, Section 34-38 Grievance and Appeals Procedure, (c) Terms and conditions, (9), and Section 34-38, Grievance and Appeals Procedure, (i) Final decision, (1), to either revise or eliminate the references to offices or departments that are excluded from civil service grievance and appeals procedures (Recommendation 5.2).

Recommendations for the Secretary of the Civil Service Board

The Secretary of the Civil Service Board is responsible for coordinating hearings of the Trial Board through the Civil Service Department. The recommendations listed below would enhance compliance

with City policies and procedures or improve efficiency and effectiveness. The recommendations for the Secretary of the Civil Service Board are listed below.

- Develop a standardized format for submissions to the Civil Service Department when requesting a Civil Service Trial Board or Administrative Law Judge (Recommendation 6.1).
- Utilize a checklist to review hearing requests to confirm and document eligibility or denial. (Recommendation 6.2).
- Implement a formal review and approval process, including documentation, of work performed by Civil Service Department staff (Recommendation 6.3).
- Provide standardized information on the choice between a Civil Service Trial Board and Administrative Law Judge hearing. (Recommendation 8.1).
- Document that training as prescribed by Ordinance 18655 was provided within the required 90-day timeline to new Civil Service Board Members and Adjunct Members. If training was not received, document that required forfeitures were made (Recommendation 9.2).

Recommendation for the City Attorney's Office

The City Attorney's Office is responsible for coordinating the training for a Civil Service Board Member and Adjunct Member being assigned to serve on a Civil Service Trial Board. The recommendations for the City Attorney's Office is listed below.

- Provide refresher training on the trial and quasi-judicial process immediately prior to a Civil Service Board Member and Adjunct Member being assigned to serve on a Civil Service Trial Board (Recommendation 9.1).

Other Recommendations

In addition to the above, there are several other recommendations listed below that would enhance compliance with City policies and procedures and/or improve efficiency and effectiveness.

- City Secretary communicate to City Council the Civil Service Board Adjunct Members vacancies (Recommendation 7.1).
- City Secretary should provide the public with the qualifications for all actively appointed Civil Service Board Adjunct Members by updating the public report, *City of Dallas Board and Commission Members* (Recommendation 7.2).
- City Manager should consistently assign cases to an Assistant City Manager that does not oversee the appellant's department, in accordance with best practice (Recommendation 11.1).

Scope

The audit scope included personnel appeal processes during Fiscal Year 2019 through Fiscal Year 2021.

The following are **included** within the audit scope:

- Appealing formal disciplinary actions: Reprimand, Suspension, Demotion, Discharge, per Personnel Rules, Sections: 34-37 Discipline Procedures and 34-38 Grievance and Appeals Procedures.
- Presenting of a Grievance, per Personnel Rules, Section 34-38 Grievance and Appeals Procedures.
- Appealing the disposition of a Grievance, per Personnel Rules, Section 34-38 Grievance and Appeals Procedures.
- Appealing a job performance rating, per Personnel Rules, Section 34-38 Grievance and Appeals Procedures.
- Appealing a merit rating, per Personnel Rules, Section 34-38 Grievance and Appeals Procedures.
- Actions taken within departments, per Personnel Rules, Section 34-37 Discipline Procedures, (b) Department rules.
- Trial Board and Administrative Law Judge hearings per Personnel Rules, Section 34-40 Appeals to the Trial Board or Administrative Law Judge.

The following are **excluded** from this audit.

- Appeals of the following personnel actions:
  - Non disciplinary actions, per Personnel Rules, Section 34-37 Discipline Procedures, (d) Disciplinary actions; procedures and notices (1):
    - Removal from a position because of a reorganization.
    - Removal from a position because of a reduction in force.
    - Letters of counseling or advice.
  - City vehicle collision appeal process, Personnel Rules, Section 34-38 Grievance and Appeals Procedures, (c) Terms and conditions (19).
  - Performance Improvement Plans.
- Failure of Probation, including failure of police academy, because employees on probation are excluded from the appeals process.
- Other complaint processes within the City.
- Vetting of Administrative Law Judge applicants by the Judiciary Committee.
- Appeals of Grievances which are heard by the Civil Service Board (not Trial Board).

Scope Limitations

During the project, the following scope limitations were incurred.

Some of the results observed may not reflect traditional processing metric due to the impact of COVID-19 within the scope period.

Unavailable Documents

Documentation for personnel appeals is not always readily available and was therefore not available for review for this audit, and, more importantly, is not available to City management. Upon auditor request, one-time ad hoc listings were provided and are described in Appendix F: Review of Appeals Documentation Obtained. The accuracy of the documentation provided by the City could not be determined. Additionally, the City was unable to provide some of the documentation requested, for example:

- Listings of appeals that were resolved at the departmental level for all departments that are in the Civil Service. This was not provided because records are kept in departmental files, with no electronic capture.
- Reports of Performance Appraisal Appeals and the outcome of the appeal were not provided by the City because this information is not tracked in a system.

Because of the above-mentioned limitations, we were unable to audit / validate the documentation provided by the City.

Timeline Evaluation

Because documentation for personnel appeals is not always readily available, we were unable to evaluate timeliness of the appeal process. The timeline commences with the employee's receipt of the personnel action and concludes with resolution of the appeal.

Civil Service Department Appeals Hearings Listing

The listing provided of 15 hearings was unreliable (filename: CVS Hearing Activity 3). We were unable to identify an independent source to validate the listing. In lieu, we compared the listing to hearing notices, both provided by the Civil Service Department. There were exceptions between the two sources. Five hearings were omitted from the listing, and one additional hearing notice was provided only upon request. Issues with documentation is included in the Observations and Recommendations.

City-only Appeals

From listings provided, we selected five appeals that were resolved without appeal to the Civil Service Department, (City-only appeals). Four samples were selected from a Listing from the Human Resources Department of appeals heard by an Assistant City Manager (filename: Audit 2019-2021 Appeals.xlsx), and one sample was selected from a listing from the Human Resources Department of grievances and appeals that are submitted to the Assistant City Manager level (Filename: Copy of Copy of Grievance Appeals Rose). See Appendix F: Review of Appeals Documentation Obtained: for additional information on documentation that was provided.

For four cases, the files provided did not contain adequate information to complete testing. The lack of information is an audit scope limitation.

Civil Service Cases

Selected five appeals for testing of case files (filename: CVS Hearing Activity 3). Testing for compliance with key requirements, application of important internal controls, and reasonableness of case outcome. Several tests were performed; however, several tests were not performed due to scope limitations. The Civil Service Department does not receive information of hearings and appeals occurring within City Departments. As such, we were unable to analyze the below items.

- Appellant request for hearings, City's response and disposition for hearings heard within the City Department.
- Appellant requests for Assistant City Manager, or City Manager hearings.
- Hearing levels.
- Number of hearings.
- Packet of information provided to the City Manager for hearings to be heard by the City Manager.

Appointment and Qualifications of Civil Service Board members and Adjunct Members.

Inadequate information was provided to complete a review of the appointments and qualifications of Civil Service Board members and Adjunct members.

Methodology

To accomplish our audit objectives, we perform the following procedures:

1. Held kickoff meetings with the City Auditor's Office and City Management.
2. Performed an analysis of business risks and internal controls.
3. Reviewed current state of the appeals process, policies, and processes to gain an understanding and develop recommendations for improvement.
4. Reviewed city websites.
5. Reviewed authoritative documents:
    - City Charter, Chapter XVI Civil Service and Personnel.
    - Personnel Rules, Sections: 34-37 Application for Employment; 34-38 Grievance and Appeal Procedures; and 34-40 Appeals to the Trial Board or Administrative Law Judge.
    - Code of Rules and Regulations of the Civil Service Board, updated January 29, 2019, which reference to the Personnel Rules and the City Charter, Chapter XVI Civil Service and Personnel for guidance.

- Ordinance 18655, regarding qualifications, training, and responsibilities of Trial Board members.

6. Reviewed City-generated non-authoritative narratives, flowcharts, and other written summaries.

7. Analyzed available documentation.

8. Conducted interviews with the City Attorney's Office, Civil Service Department, Human Resources Department, City Manager's Office, and Civil Service Board Chair to gain an understanding and clarification of the appeals process.

9. For departments that are excluded from the Civil Service, obtained information from seven of the nine departments, representing 97 percent of full-time equivalents in non-Civil Service Departments. Conducted interviews and/or surveys to gain understanding of the procedures utilized within these departments for employees contesting personnel actions.

10. Conducted surveys and interviews of seven Civil Service departments. See Appendix B: Departmental Survey/Interviews – Civil Service Department for more information.

11. Analyzed and tested Trial Board assignments, rotation and composition by council district.

12. Inquired about appellants that had cases within the audit period, Fiscal Year 2019 through Fiscal Year 2021, that had a case of similar nature within 10 years. None were identified.

13. From listings provided, we selected five appeals that were resolved without appeal to the Civil Service Department, (City-only appeals). Four samples were selected from Listing from the Human Resources Department of appeals heard by an Assistant City Manager (filename: Audit 2019-2021 Appeals.xlsx), and one sample was selected from a listing from the Human Resources Department of grievances and appeals that are submitted to the Assistant City Manager level (Filename: Copy of Copy of Grievance Appeals Rose). See Appendix F: Review of Appeal Documentation Obtained for additional information on documentation that was provided. Testing included levels of hearings, number of hearings, Assistant City Manager assignment, case information packets, and timelines. One of the five files contained information on the appeal and testing was completed.

14. A listing of 15 civil service appeal hearing trials during the audit period, Fiscal Year 2019 through Fiscal Year 2021, was obtained (filename: CVS Hearing Activity 3). Of the 15 trials on the listing, 14 were to be heard by the Trial Board and one by an Administrative Law Judge. We tested the listing of trials by comparing it to public notices. However, testing could not be fully completed as described in the scope limitations section.

15. Selected five civil service appeals for testing of case files (filename: CVS Hearing Activity 3). Testing for compliance with key requirements, application of important internal controls, and reasonableness of case outcome.

16. Utilized flowcharting to map out the grievance and appeals process to identify the specific steps and hearings based on appeal type and job title of the appellants.

17. Through interview, survey, and internet research, we obtained information from three other cities: Fort Worth, Houston, and Austin for benchmarking. See Appendix D: Survey of Other Jurisdictions.

18. Researched industry standards to identify best practices. See Appendix E: Industry Standard Best Practices Research.
19. Held meetings with the Civil Service Department and Human Resources Department to review preliminary issues listing.
20. Performed a quality control review.
21. Provided a draft report and a final report to the Office of the City Auditor.

This performance audit was conducted in accordance with generally accepted government auditing standards. Those standards require we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objective. We believe that the evidence obtained provided a reasonable basis for our findings and conclusions based on our audit objective.

Observations and Recommendations

Observation 1: The City lacks an information tracking system to capture employee complaint resolution.

The City needs an information tracking system that would allow the City to assess personnel, compliant, grievance, and appeals procedures and identify areas of improvement.

Responsibility for collecting and analyzing disciplinary and grievance procedure information is assigned to the Human Resources Department in the Personnel Rules, Section 34-2 Administration, (b) Director of human resources, which states that the Director of Human Resources is to:

- Administer and ensure compliance with disciplinary and grievance procedures.
- Review departmental human resources programs, rules, regulations, procedures, and actions to ensure compliance with City policies.
- Ensure departmental compliance with the rules and regulations of the Civil Service Board.
- Provide regulations, guidelines, procedures and assistance to employees and departments regarding human-resources-related complaints.

Personnel Rules, Section 34-37 Discipline Procedures, also provides that the Director of Human Resources is authorized and directed to promulgate guidelines and procedures, consistent with the City Charter, ordinances, and civil service rules and regulations.

Documents regarding Civil Service employee's grievances or appeals and Non-Civil Service employee's requests to review disputed personnel actions activities is not captured or tracked in a central database / system by the Human Resources Department or the City Manager's Office. Also, City departments do not track information regarding grievances or appeals or requests to review personnel actions activities in a database / system. City personnel involved in Civil Service employee's appeals processing have some hard copy, Excel or Word documents related to the processing performed within the department, which, for the most part, are working documents, not final.

For each Civil Service employee's appeal there is a letter written with the outcome. The official records of these letters are kept in employee personnel files. A decision letter, with the outcome, is placed in the employee's personnel file and a copy is sent to the employee. The employee personnel files are currently in hard copy, although the City is in the process of scanning for electronic storage. The file room does not track appeals activity in a database / system.

Examples of information that could be tracked in a database / system include cases by employee, department, type, description of case, required timelines and documentation complied with/ not complied with, number and level of hearings, outcome by hearing, etc.

Although some departments, such as Dallas Fire-Rescue Department's Internal Affairs Division and Dallas Water Utilities Department have their own tracking, this is not a widespread practice. The Dallas Fire-Rescue Department's Internal Affairs Division can provide information internally when processing

appeals. The Dallas Water Utilities Department has a tool, developed with the Human Resources Department, which tracks timelines when there is more than one appeal occurring for an employee.

The lack of readily available information is complicated by the lack of tenure and experience of the Human Resources Department staff. Many of the Human Resources Department Partners have been at the city less than one year.

Best practices are to review information when making management decisions, for example: reviewing cases by department, type, resolution, etc.[1] For the City's appeals processing, it would seem appropriate for the Human Resources Department to track this information.

The City of Fort Worth recently acquired a software package and is working on configuration and implementation of the package.

The City of Austin produces a report of appeals and how they are handled that is used to review consistency of appeals handling.

The City has acquired the Navex Ethics Point system, which is a case tracking system. While it is being used to track the Human Resources Department-related cases; it is not being used for tracking grievances or appeals.

We recommend the

1.1 Human Resources Department Director collect information for department level complaints, grieved, and appealed personnel actions for City employees, develop appropriate management reports, and provide insights to decision makers.

1.2 Human Resources Department Director request from the Secretary of the Civil Service Board requests and results of Civil Service employees' appeals to the Civil Service Trial Board or an Administrative Law Judge to be incorporated in the information repository used to collect department level grieved and appealed personnel actions for City employees.

Observation 2: Civil Service personnel grievance appeals responsibilities are decentralized without an identified responsible party.

Processing of Civil Service personnel grievance appeals is decentralized with each party performing a role. See below for a listing of the parties and roles. Additional information on the process is in Appendix A: Program Background.

Parties and Roles in Civil Service appeals processing:

1. Human Resources Department. The Human Resources Department is a resource to departments through its centrally located personnel and its personnel assigned to support departments. The Human Resources Department responds to departmental requests for assistance, including consultation with departmental leadership, reviewing draft documents, and providing training. The Human Resources Department communicates with Assistant City Managers related to

[1] Measure Grievances to Minimize Costs, by R. Hastings, SPHR, May 11, 2012, HR Daily Newsletter, Society for Human Resource Management

appeals, including receiving appeals. The Human Resources Department Partners receive appeals when initially submitted by employees.

2. Employee's Manager. Provides personnel action or grievance determinations.

3. Employee. Submits appeal or grievance and is responsible for compliance with requirements.

4. Department Managers. Process appeals and perform hearings. Request assistance from the Human Resources Department, City Attorney's Office, Assistant City Manager or City Manager on an as-needed basis. Mainly use written Personnel Rules as the guideline.

5. Department Director. Performs hearings and renders decisions. Responsible for departmental compliance with requirements.

6. Assistant City Managers. Perform hearings and render decisions when employee wishes to appeal the step 3 outcome and the action is eligible. These are typically suspensions, demotions and non-police discharges that have been heard at the department level. See Personnel Rules, Section 34-38 Grievance and Appeals Procedures, (f) Grievance and appeal procedure step, (3) Step 3 and Section 34-38 Grievance and Appeals Procedures, (f) Grievance and appeal procedure step, (4) (A) Step 4.

7. City Manager. Performs hearings and renders decisions when employee is a sworn member of the Dallas Police Department appealing a discharge that has been heard at the department level. See Personnel Rules, Section 34-38 Grievance and Appeals Procedures, (f) Grievance and appeal procedure step, (4) (A) Step 4.

8. City Attorney's Office. Responds to requests for assistance from departments, Assistant City Managers, City Manager, and the Human Resources Department. It represents the Dallas Police Department and Dallas Fire-Rescue in termination appeal hearings before the City Manager's Office and represents Assistant City Managers or the City Manager at the City Manager's Office appeal hearings.

9. Mayor and City Council Office. No role in processing appeals.

10. Judicial Committee. Review and approve applications for Administrative Law Judge.

11. Civil Service Department. Administratively coordinates hearings to be performed by Civil Service Trial Board or Administrative Law Judge. Administers contracts for Administrative Law Judge.

12. Council Members. Submit nominations for the Civil Service Board to the City Secretary's Office.

13. City Secretary's Office. Administratively coordinates required publications of Trial Board and Administrative Law Judge Hearings. Processes applications for Civil Service Board nominations.

14. Civil Service Trial Board. After completion of City appeals hearings, when appellant chooses to appeal to the Trial Board, the Trial Board hears cases and renders decisions.

15. Administrative Law Judge. After completion of City appeals hearings, when appellant chooses to appeal to an Administrative Law Judge, the Administrative Law Judge hears cases and renders decisions.

16. City File Room Personnel. Maintain official personnel related files.

17. Civil Service Department Files. Maintains official Trial Board or Administrative Law Judge hearings files.

Although each of the above-listed parties works to perform their role, there is no Citywide management, compliance monitoring or analysis. There is no gatekeeper.

Examples of centralized management and analysis that could be performed to benefit the City:

a. Developing procedures, training, and templates for use Citywide to make the Civil Service appeals process more efficient. Providing it to City personnel, including updating and maintaining the information.

b. Performing lookbacks on appeals processed for compliance with key check points such as required timelines, allowable levels, allowable number of hearings, compliance with the steps defined in the Personnel Rules, expected documentation, etc. Such reviews could be performed on sample spot check basis and should be coupled with training and feedback to the involved City personnel.

c. Developing and reviewing appeal reports for trends such as appeals by department, nature of appeals, repeat appellants, etc. Such reviews should be coupled with providing information and feedback to involved City personnel and identifying problematic areas for further study.

d. Evaluating timelines of cases from beginning to final resolution.

From the 20 hearings the Civil Service Department indicated were scheduled during the audit period, a judgmental selection of five appeals were tested. These case files were tested for compliance with key requirements, application of important internal controls, and reasonableness of case outcome. During the normal course of business, the Civil Service Department does not receive information of hearings and appeals occurring within City Departments unless and until the appeal reaches the fourth step in the process which warrants a hearing from the Trial Board or an Administrative Law Judge. Based on our sample, the Civil Service Board appears to be copied on all decision letters. However, for the Civil Service Department case files tested, we were unable to analyze the below items. In turn, the City would experience the same constraints in reviewing and analyzing cases. Missing information at the Civil Service Department level includes:

- Within City operating departments, appellant request for hearings, City departmental response and disposition.
- Appellant requests for Assistant City Manager, or City Manager hearings and results of these hearings.
- Packet of information provided to the City Manager for hearings to be heard by the City Manager.
- Hearing levels.
- Number of hearings.

We recommend the

2.1 Human Resources Department Director fulfill the responsibilities as provided in Personnel Rules Sections 34-2 Administration, (b) Director of human resources and 34-37 Discipline Procedures, (a) Guidelines by assuming centralized ownership of the Civil Service appeals process and implementing procedures to ensure the Department:

a. Has access to all files (City and Civil Service departments) while retaining confidentiality.

b. Monitors the process for compliance.

c. Develops Citywide management reports.

d. Performs analysis.

e. Spot checks files for completeness and compliance.

f. Develops training, procedures, tools, and checklists.

g. Provides feedback to City personnel.

Observation 3: Non-Civil Service employees may not be afforded an additional review of disputed personnel actions.

The City excludes several categories of employees from the Civil Service appeal process. Depending on department procedures, Non-Civil Service employees may or may not be allowed to submit concerns about disputed personnel actions to management within their department.

The City Charter, Chapter XVI Civil Service and Personnel, Section 11 Employee Actions after Probation Period, describes the employees' right to a public hearing before a Civil Service Trial Board for dismissal or reduction in grade. It further defines that this right does not apply to department directors, assistant department directors and other managerial personnel designated by the city council or to employees in Non-Civil Service departments.

The City Charter, Chapter XVI Civil Service and Personnel, Section 9 Departments Exempted from Civil Service, states that the following departments are exempt from the Civil Service:

> *The legal department, the city manager's office, the city auditor's office, the city secretary's office, the library department, the park and recreation department, the radio department, municipal court judges, and the city council office staff.*
>
> (The former Radio Department is now a workgroup within the Office of Arts and Culture.)

Although the Non-Civil Service departments are not required to follow Civil Service procedures, some Non-Civil Service departments follow a process like the Civil Service procedures for departmental resolution of disputed personnel actions. In most cases the departments do not have separate written procedures; the departments use the Civil Service procedures as a reference guide and reach out to the Human Resources Department for guidance. Two examples are:

- Library. The Dallas Public Library Department does not have departmental procedures. Instead, the Dallas Public Library Department utilizes the City Personnel Rules as its written guidance.

The Dallas Public Library Department has very few disputed personnel actions, having just one in the last four to five years. The Dallas Public Library Department disputed personnel actions are addressed by the Assistant Director then the Director.

- Parks. The Park & Recreation Department implemented a disputed personnel actions processing system for its regular employees. Seasonal employees are excluded. The highest levels of review is to the Park & Recreation Department Director and Park and Recreation Board. The Park & Recreation Department has had only one disputed personnel action reviewed by its Park and Recreation Board since July 2020.

The exclusion of these departments from Civil Service is documented in the City Charter.

We recommend

3.1 The Human Resources Department Director communicate and promote recommended procedures that provide additional management review for Non-Civil Service employees' requests to review disputed personnel actions to City department directors.

3.2 The Human Resources Department Director provide training on the recommended procedures for Non-Civil Service employees review of disputed personnel actions upon department directors' request.

Observation 4: Departments and employees may find Personnel Rules related to the Civil Service appeals process confusing and may not consistently apply these rules.

For the Civil Service Appeals process, the Personnel Rules state that an employee is eligible for two appeal levels and four hearings with several required steps. Several interviewed departments indicated that the process can be confusing and can vary in how it is implemented across and within departments. This confusion and variability may lead to non-compliance with the intended rules. Employees are provided with guidance about the appeals process, levels and hearings in the Personnel Rules, Section 34-38 Grievance and Appeals Procedures (c) Terms and conditions, (1), which is within the Terms and Conditions section. This section states an employee may have no more than four hearings but may have two levels of appeal hearings.

Personnel Rules, Section 34-38 Grievance and Appeals Procedures, (c) Terms and conditions (1)

> *An employee who may appeal a grievance or disciplinary action may have two levels of appeal hearings but no more than a total of four hearings. Appeals of demotions or terminations to the civil service trial board or an administrative law judge are counted as one level of appeal hearing.*

The Rules related to the number of "hearings" vs. "appeal hearings" may be confusing. It is not clear based on the current phrasing of the rule, whether an employee with four hearings would have two hearings per level of management appeal or four hearings at four levels of management appeal as the restriction - "no more than a total of" is only applied to hearings but not to the number of appeals levels. In addition, the "two levels" referenced in the Personnel Rules, Section 34-38 Grievance and Appeals Procedures, (c) Terms and conditions, (1) may be confusing as to which two levels it allows. For

example, an objective reading for a demotion or termination would lead to one level being the Civil Service Trial Board/ Administrative Law Judge. The second level would be the preceding level, which is the City Manager or an Assistant City Manager. This interpretation does not provide for levels below the City Manager or Assistant City Manager. However, typically, an appeal would start within the department and not be immediately referred to the City Manager or Assistant City Manager, necessitating more than two levels in order to be brought before the Civil Service Trial Board. Currently the City counts levels from the manager closest to the employee upward. The result is that often the appeals are resolved by mid-level managers and are not heard by the City Manager or Assistant City Manager. This is particularly true in departments that have a deep management structure. This may lead to an inconsistent application of the rules and not afford employees an appropriate level of review for their appeal.

It was reported that in some departments where there are many levels of management, levels can sometimes be skipped in the appeals process. This practice is also supported by the City Charter Chapter XVI Civil Service and Personnel, Section 11 Employee Actions After Probation Period, which states that when the personnel action is a demotion or discharge, the hearing should reach the Civil Service Trial Board or Administrative Law Judge level.

> *The discharged or reduced officer or employee shall have the right to demand a public hearing upon the charges, within a reasonable time after notice of the action, before the trial board as provided by this Chapter.*

While the Personnel Rules may have been designed to allow for flexibility rather than a one-size fits all approach, ensuring employees have a clear understanding of the appeals process and remediations available to them is important.

We recommend

4.1 In collaboration with the City Attorney, the City Manager propose an amendment to City Council to amend the Personnel Rules to clearly explain the allowances of levels, hearings, and steps that apply to a personnel appeal.

4.2 The Human Resources Director ensure clear information and training on the grievance and appeals process is provided to all Civil Service employees including procedures to elevate concerns to the appropriate level when needed.

Observation 5: The Personnel Rules could be clarified.

Several sections within the Personnel Rules are unclear. The lack of clarity could result in confusion and inconsistent implementation of policies and procedures.

1. Personnel Rules, Section 34-38 Grievance and Appeals Procedures, **(a)** Applicability, **(1)** provides for employee categories that are exceptions to the Personnel Rules and therefore are not provided access to the appeals process. There is an exception for "other managerial personnel designated by the City Council in accordance with Section 11 Employee Actions After Probation Period, Chapter XVI Civil Service and Personnel, of the Dallas City Charter." The referenced section of the Dallas City Charter, Chapter XVI Civil Service and Personnel, Section 11 Employee Actions After Probation Period, does not provide further clarification of "*other managerial personnel*." Also, the referenced section of the Dallas City

Charter, Chapter XVI Civil Service and Personnel, Section 11 Employee Actions After Probation Period, does not address rights related to grievances, as the section is about appealing personnel actions. It would be useful to clarify "*other managerial personnel*" and to include clarification related to grievances.

2. Personnel Rules, Section 34-38 Grievance and Appeals Procedures, **(g)** Exception to Step 4 procedure, follows Section (f) that describe Step 1 through Step 4 of the appeal process. Section (g) Exception to Step 4 procedure, states:

> *…Step 4 does not apply to an employee of city auditor's, city secretary's, or civil service office.*

Within Personnel Rules, Section 34-38, Grievance and Appeals Procedure, these offices have not been directly mentioned. Because this is the only call out of these offices within the Personnel Rules Section 34-38, Grievance and Appeals Procedure, it can cause confusion. In fact, the Office of the City Auditor and City Secretary's Office are Non-Civil Service Offices, which means their employees are not eligible for the Civil Service Appeals process.

3. Personnel Rules, Section 34-38 Grievance and Appeals Procedure, (c) Terms and conditions, (9), mentions the park board as an entity not held to the 20-day time limit for hearing a grievance or appeal as follows:

> *The city manager, park board, civil service board, trial board, and administrative law judge hearing processes are excluded from this time limitation.*

Within Personnel Rules, Section 34-38 Grievance and Appeals Procedure, (a) Applicability, (2), states the grievance and appeals procedure does not apply to a non-civil service employee. Because the park board is mentioned in the Personnel Rules Section 34-38 Grievance and Appeals Procedure, (c) Terms and conditions, (9), it can cause confusion. Employees of the Park & Recreation Department are non-civil service, which means their employees are not eligible for the civil service personnel appeals process.

4. Personnel Rules, Section 34-38 Grievance and Appeals Procedure, (i) Final decision, (1), specifically list officers of non-civil service offices as non-appealable, except when the grievance or appeal involved a claim of discrimination, civil service rule challenge, or demotion or discharge, which may be appealed to the trial board or and administrative law judge.

> *The disposition of a grievance of an appeal by the assistant city manager, city manager, employees' retirement fund board, secretary of the civil service board, city auditor, or city secretary is non-appealable, except when the grievance or appeal involve:*

Within Personnel Rules, Section 34-39, Appeals To The Civil Service Board, (a) General provisions, applicability, jurisdictions, quorum, (3), (B), states appeals to the Civil Service Board, does not apply to a non-civil service employee and Personnel Rules, Section 34-38, Grievance and Appeals Procedure, (a) Applicability, (2), states the grievance and appeals procedure, does not apply to a non-civil service employee. This may cause confusion because the Office of the City Auditor and City Secretary's Office are non-civil service offices, which means their employees are not eligible for the civil service personnel appeals process or appeal to the Civil Service Board.

We recommend

5.1 The Human Resources Department Director identify when hiring a position or in the position description whether the position has Civil Service personnel appeal rights or does not have Civil Service personnel appeal rights.

5.2 In collaboration with the City Attorney, the City Manager propose an amendment to City Council to either revise or eliminate the references to offices or departments that are excluded from civil service grievance and appeals procedures for Personnel Rules:

- Section 34-38 Grievance and Appeals Procedure, (g)Exceptions to Step 4 procedure.
- Section 34-38 Grievance and Appeals Procedure, (c) Terms and conditions, (9).
- Section 34-38, Grievance and Appeals Procedure, (i) Final decision, (1).

Observation 6: Internal procedures within the Civil Service Department could be improved.

The Civil Service Department's internal administrative procedures are unclear and could result in inefficient and ineffective operations. In addition, there is no formal oversight of the Civil Service Department work tasks and products to ensure the Department is meeting its stated objectives.

a. When a request for a Civil Service Trial Board or Administrative Law Judge is submitted to the Civil Service Department, there is no standardized format or form utilized.

b. There is no checklist used by the Civil Service Department to review submission requests for adequacy and eligibility.

c. The Secretary of the Civil Service Board has been delegated responsibility for the internal procedures within the Civil Service Department by the Civil Service Board. As such, the Secretary of the Civil Service Board is responsible for establishing the day-to-day policies and procedures for the operation of the Civil Service Department.

d. There is no formalized management review and approval performed by the Secretary of the Civil Service Board of the work tasks performed by Civil Service Department staff, for example accepting hearing requests, scheduling hearings, issuing notices etc.

We recommend

6.1 Secretary of the Civil Service Board develop a standardized format for submissions to the Civil Service Department when requesting a Civil Service Trial Board or Administrative Law Judge.

6.2 Secretary of the Civil Service Board utilize a checklist to review hearing requests to confirm and document eligibility or denial.

6.3 Secretary of the Civil Service Board implement a formal review and approval process, including documentation, of work performed by Civil Service Department staff.

Observation 7: There are gaps in Civil Service Adjunct Board Member appointments and missing qualifications information on the publicly available appointment listing.

There are gaps in appointments of Civil Service Adjunct Board Members. Council Districts 3 and 9 were vacant during Fiscal Years 2017-2019 and Fiscal Years 2019-2021 terms, with Council District 3 continuing to be vacant through the most recent term, Fiscal Years 2021-2023. Council Districts 3, 11, 12, 13, 14, and 15 currently are vacant for the Fiscal Year 2021-2023 term. Some of the vacancies are due to Civil Service Adjunct Board Members being appointed to the Civil Service Board. The lack of assignment rotation results in an increased risk of reduced council district diversity of representation.

There are additional requirements to serve on the Civil Service Adjunct Board. A report on the City's website, *City of Dallas Board and Commission Members,* lists Civil Service Adjunct Board Members and their qualifications. In the report, four of the nine seats with an appointed Civil Service Adjunct Board Member did not list the additional qualifications of the Civil Service Adjunct Board Members.

We recommend

7.1 The City Secretary communicate to City Council the Civil Service Board Adjunct Members vacancies.

7.2 The City Secretary provide the public with the qualifications for all actively appointed Civil Service Board Adjunct Members by updating the public report, *City of Dallas Board and Commission Members*.

Observation 8: Not enough information is provided to Civil Service appellants about the choice between Civil Service Trial Board and Administrative Law Judge.

When an appellant submits their appeal for a hearing to the Civil Service Department, the appellant must choose who will hear the appeal between the Civil Service Trial Board and an Administrative Law Judge. The letter sent by the Assistant City Manager provides information on the choice. An example of the information provided to the employee by the Assistant City Manager:

> *If you wish to appeal my decision, you may request a hearing before the Civil Service Trial Board or an Administrative Law Judge. Your request must be made in writing to the Secretary to the Civil Service Board… If you choose an Administrative Law Judge hearing, you are obligated to pay one-half of the costs attributed to the Administrative Law Judge's fees. Once the option is declared for a Trial Board hearing or an Administrative Law Judge hearing, it is final.*

When the employee submits their appeal for a hearing to the Civil Service Department, the Civil Service Department provides cost information for choosing an Administrative Law Judge hearing and, verbally, information on the choice between the Civil Service Trial Board and the Administrative Law Judge hearing. Neither the Assistant City Manager or the Civil Service Department provides qualitative information. Examples of qualitative information that could be provided are:

- Definition of Civil Service Trial Board and the hearing process.
- Definition of Administrative Law Judge and the hearing process.

Qualitative information would be beneficial to the employee and improve decision-making. The lack of qualitative information increases the risk of uninformed decision making.

We recommend

8.1 The Secretary of the Civil Service Board provides standardized information on the choice between a Civil Service Trial Board and Administrative Law Judge hearing.

Observation 9: Training on the appeals process could be improved.

Although City personnel involved in the appeals process receive some information and training on the appeals process, a formalized training program provided on a regular basis and at key process touch points (for example, upon scheduling a hearing) could increase the efficiency and effectiveness of the appeals process. The lack of training increases the risk of making decisions without available information.

Training provided is as follows:

a. Department Directors consider the Human Resources Department to be a key resource and subject matter expert on appeals processing. Although practices vary by department, all departments meet with their Human Resources Department Partners, either regularly or as needed, to discuss the appeals process, including informal on-the-spot training. None of the training is formalized.

b. Assistant City Managers receive training from the City Attorney's Office and are only assigned to hold hearings after receiving the training. This training is not formalized or documented.

c. The Human Resources Department, including Human Resource Department Partners, do not receive formal training on the appeals process. The Human Resources Department personnel are considered key resources and subject matter experts in the appeals process.

d. Civil Service Trial Board Members receive training when they are appointed to the Civil Service Board. The City Attorney's Office is responsible for coordinating the training for a Civil Service Board Member and Adjunct Member being assigned to serve on a Civil Service Trial Board. The training includes information on the hearing process and the Personnel Rules. The training includes a presentation by the Human Resources Department on progressive discipline, and the Office of Risk Management on the safety-points system. Also, Civil Service Trial Board Members are required to observe one Civil Service Trial Board hearing before serving on a Civil Service Trial Board. During their term, the Civil Service Trial Board Members are assigned to Civil Service Trial Boards on a rotational basis. No additional training is provided upon the Civil Service Trial Board assignment.

   Ordinance 18655, Section 2, specifies training requirements for Civil Service Trial Board Members and Adjunct Members as follows:

   > *(a) All persons when first appointed as members or adjunct members to the civil service board must attend a two-day training course before serving on a trial board. The training course will include, but not be limited to:*

(1) Instruction in the city's personnel rules, civil service process, and civil service procedures;

(2) An orientation session concerning police and fire personnel rules and procedures;

(3) An overview session concerning civilian employees and their responsibilities at the various levels of administration; and

(4) A mock trial board.

(b) If a person in his first appointment as a member or an adjunct member of the civil service board fails to attend the two-day training course within 90-days from the date of appointment, that person forfeits his position on the board, and his place becomes vacant.

On October 12, 2022, two-hours of training was scheduled. This was within 90-days of appointment, which was October 1, 2022. The agenda provided listed topics similar to the requirements of Ordinance 18655 listed above, except for excluding a mock Civil Service Trial Board. There was no documentation that the training occurred, for example, a sign in sheet. The planned training of two-hours is less than the required two-days.

We recommend

9.1 The City Attorney's Office provide refresher training on the trial and quasi-judicial process immediately prior to a Civil Service Board Member and Adjunct Member being assigned to serve on a Civil Service Trial Board.

9.2 The Secretary of the Civil Service Board document that training as prescribed by Ordinance 18655 was provided within the required 90-day timeline to new Civil Service Board Members and Adjunct Members. If training was not received, document that required forfeitures are made.

9.3 The Human Resources Department provide regular and formalized training on the appeals process to Human Resources Department staff and to operating departmental management.

Observation 10: Communicate employee complaint resolution procedures.

Civil Service Departments

Most of the departments involved in the Civil Service Appeals Process agreed that the Personnel Rules are the guidance they use for written procedures. This includes City departments under Civil Service, the Human Resources Department, City Attorney's Office, and the Civil Service Department. Of the seven City departments under Civil Service reviewed:

- One department has a comprehensive internal procedure.
- One department had a documented procedure that refers to the Personnel Rules.
- The remaining five departments do not have documented department-specific written procedures.

Some departments also have templates for notices and letters; other do not.

The Civil Service Department provided a 2017 departmental procedure for hearings, Civil Service Trial Board or Administrative Law Judge Hearings, while also noting the procedure could benefit from an update or revision.

The Human Resources Department provided the following documents covering the Civil Service Appeal process which are in draft state:

- Draft narrative: Grievance and appeals 4.8.21.docx.
- Draft flowchart: Disciplinary appeal 3.23.21.pptx.
- Draft flowchart: Grievance and appeal 3.21.21 5.25.21.pptx.

Non-Civil Service Departments

Recommended procedure for review of disputed personnel actions that covers Non-Civil Service departments is not communicated to all Non-Civil Service departments. A few of the Non-Civil Service departments have drafted internal departmental personnel appeals procedures. Other departments have no procedures or departmental templates for notices and letters.

City Website

We commend the City for its internal website location which provides many templates to City personnel. This is a useful tool. However, the department personnel we interviewed were not aware of this good resource.

The lack of written department procedures increases the risk of making decisions without available information.

We recommend

10.1 The Human Resources Department communicate to City personnel about the useful resources available on the internal website; continually maintain and update the content on the internal website. If not currently available, include written personnel grievance and appeals procedures and templates for Civil Service departments and recommended written requests to review disputed personnel actions procedures for Non-Civil Service departments.

Observation 11: Assistant City Manager assigned to review case of a department it oversees, which may present a conflict of interest.

In one of four Civil Service cases reviewed by an Assistant City Manager, the Assistant City Manager that reviewed the case is also the Assistant City Manager that oversees the department. The expected internal control is that the Assistant City Manager reviewing the case also does not oversee the department. As a result, there is an increased risk of an Assistant City Manager not being objective in the hearing.

We recommend

11.1 The City Manager consistently assigns cases to an Assistant City Manager that does not oversee the appellant's department, in accordance with best practice.

Appendix A: Program Background

The City Charter, Chapter XVI, Civil Service and Personnel, is governing law for the Civil Service and its appeals process.

Section 1, Organization of Civil Service creates the Civil Service Board composed of Civil Service Board Members and Adjunct Members. The seven-members of the Civil Service Board are qualified Dallas taxpayers and shall not hold other positions in city, county, or state government. One member is designated the Chair by the Mayor. The number of Civil Service Board Adjunct Members in equal to the number of city council members. Civil Service Board Adjunct Members are non-voting and must have additional qualifications.

Section 2, Officers of Civil Service Board; Director of Civil Service Department appoints a secretary who is the director of the Civil Service Department, employees' staff and is compensated.

Section 3, Civil Service Divided into Classified and Unclassified Service, defines the City's Civil Service, and Section 9, Departments Exempted from Civil Service, states that the following departments are exempt from the Civil Service:

> *The legal department, the city manager's office, the city auditor's office, the city secretary's office, the library department, the park and recreation department, the radio department, municipal court judges, and the city council office staff.*
>
> (Note: The former Radio Department is now a workgroup within the Office of Arts and Culture.)

Section 10, Probationary Period, describes probationary employees are exempt from the Civil Service. And, Section 11, Employee Actions after Probation Period, describes the employees right to a public hearing before a Civil Service Trial Board for dismissal or reduction in grade. It further defines that this right does not apply to *department directors, assistant department directors and other managerial personnel designated by the city council* or to employees in Non-Civil Service departments. It also defines the City Manager's role to hear disciplinary actions by department heads.

Section 12, Trial Board, provides for the Civil Service Trial Board to hear discharges and demotions which is composed of one Civil Service Board Member, also the chairman, and two Civil Service Board Adjunct Members designated by the Civil Service Board Chair. Civil Service Trial Board decisions are final unless appealed to district court. The Civil Service Trial Board may sustain, reverse, modify or amend the disciplinary action as is determined just and equitable. It may be sustained if a reasonable person could have taken the same disciplinary action against the employee.

Section 12.1, Administrative Law Judge, provides for appealing to an Administrative Law Judge instead of the trial board.

Ordinance 18655, provides that the Civil Service Board Adjunct Members must have special qualifications:

(a) In addition to the qualifications required by the City Charter and Chapter 8 of the Dallas City Code, adjunct members of the civil service board must meet the following qualifications:

(1) A total of at least five years' experience as a volunteer or employee with a business, governmental, or non-profit organization, with work staff of at least 15 persons; or

(2) A total of at least five years' experience as a volunteer or employee in the administration or personnel functions of a business, government, or non-profit organization; or

(3) An accumulation of at least five years' experience under Subsections (1) or (2).

(b) Nothing in this ordinance prohibits the appointment of former city employees as members or adjunct members.

(c) The city council will use its best efforts to appoint adjunct members of the civil service board that are representative of the ethnic and gender characteristics of the population of the City.

Ordinance 18655 provides that the chairman of the Civil Service Board establishes a rotation procedure for selecting Civil Service Trial Board Members, except for conflicts of interest or unexpected circumstances. A Civil Service Board Member shall not request service on a particular Civil Service Trial Board and may not serve on a requested Civil Service Trial Board. Such a request is a violation and is cause for removal of the Civil Service Board Member. If a Civil Service Board Member or Adjunct Member is unable to participate on a Civil Service Trial Board when their name comes up in rotation any three times within a 12-month period, that Civil Service Board Member or Adjunct Member forfeits their position on the Civil Service Board, and their place becomes vacant. The Civil Service Trial Board Secretary shall keep accurate records of all rotation procedures and Civil Service Board Members' and Adjunct Members' service.

The City contracts with up to five Administrative Law Judges to conduct the Civil Service Appeals hearings. The Judicial Nominating Commission appointed by the City Council conducts the selection process and makes recommendations to the City Council. Administrative Law Judges only work when there is a Civil Service Appeals hearing and are currently paid $400 per day. Administrative Law Judge candidates must have at least five years of experience adjudicating personnel issues or have been a licensed practicing attorney in the State of Texas for at least three years.

Personnel Rules define procedures relating to the appeals process, including the following sections:

- Section 34-37, Discipline procedures.
- Section 34-38, Grievances, and appeal procedures.
- Section 34-40, Appeals to the Trial Board or Administrative Law Judge.

The Personnel Rules restate and further defines eligibility for the Civil Service Appeals process. Employees in Non-Civil Service departments and persons no longer employed by the City are not eligible. Employees within Civil Service departments are generally eligible if they have completed probation and are not *department directors, assistant department directors and other managerial personnel designated by the city council* in accordance with the City Charter, Chapter XVI, Section 11.

Grievance determinations and personnel actions can be appealed, subject to eligibility. Ineligible appeals are appealing a letter of counseling or advice and appealing removal from position as a result of a reorganization or reduction in force.

Eligible appeals include grievance determination, job performance/merit rating, reprimand, suspension,

demotion, or discharge. Eligible appeals are limited to two levels and to four hearings. Appeals are first made to the lowest level appropriate manager with additional hearings allowed until the two levels/four hearings maximum is met. Many appeals are resolved within City departments. Some appeals are heard at the City Manager/Assistant City Manager level. Dismissals and demotions are allowed to be heard up to the Civil Service Trial Board or Administrative Law Judge.

Personnel Rules. Specific procedures are outlined in the Personnel Rules. These include the employee providing required documentation, meeting expected timelines, and participation in hearings. If the employee does not comply with the procedures, the appeal process ends. If City management does not comply with its procedures, the employee is allowed to continue the process. The Personnel Rules specify four steps with qualifying events, timelines, and ability to move to the next step. The Steps include:

Step 1. Applies to submitting a grievance and is not applicable for personnel action appeals.

Step 2. Applies to applying the outcome of the grievance or filing an initial appeal of a disciplinary action. It provides timelines, documentation requirements, and other requirements for the employee submission and the management hearing.

Step 3. Provides for appealing the outcome of Step 2. It also provides timelines, documentation and other requirements for the employee submission and the management hearing. Certain actions cannot progress beyond Step 3. See list below and Personnel Rules, Section 34-38, (c):

- If the employee is a sworn member of the police or fire, and a grievance is not related to discrimination or a Civil Service rule.
- If the appeal is of a job performance rating or merit rating and it was not issued by a Department Director.
- If the appeal is of a reprimand and it was not issued by a Department Director.

Step 4. Provides for appealing the outcome of Step 3, generally to an Assistant City Manager or the City Manager. Step 4 provides timelines, documentation and other requirements for the employee submission and the management hearing. Appeals of a suspension are not eligible to be appealed beyond at Step 4.

The final appeal is for demotions and discharges only and is to the Civil Service Trial Board or Administrative Law Judge.

When a Civil Service Trial Board or Administrative Law Judge hears an appeal, it utilizes a quasi-judicial process. Its decisions are made in two phases:

1. The first phase of the hearing is to determine if the employee committed any of the alleged rule violations. If it is determined that none of the alleged rule violations were committed, the hearing ends; otherwise, it goes to the second phase.
2. The second phase of the hearing is for the Civil Service Trial Board or Administrative Law Judge to hear evidenced of the appropriateness of the discipline.

The Civil Service Trial Board or the Administrative Law Judge may either sustain, reverse, modify, or amend the disciplinary action as is determined just and equitable, provided that the disciplinary action must be sustained if a reasonable person could have taken the same disciplinary action against the employee.

Supporting Departments. Several departments support the processing of employee appeals, but do not make final decisions, including the Civil Service Department, Human Resources Department, and City Attorney's Office.

Appendix B: Departmental Survey/Interviews – Civil Service Departments

Using surveys and interviews, we obtained information from a sample of seven departments within the Civil Service. We selected the four departments with highest full time equivalent positions and three departments with 200-500 full time equivalent positions. Departments selected were:

1. Dallas Fire-Rescue Department.
2. Dallas Police Department.
3. Department of Public Works.
4. Dallas Water Utilities Department.
5. Department of Sanitation Services.
6. Department of Development Services.
7. Code Compliance Department.

Each department is unique in its size and depth, so practices vary. They utilize the policies and procedures in the City Charter and Personnel Rules for guidance. One department has a comprehensive internal procedure, one department had a documented procedure that mainly referred to the Personnel Rules, the remaining five departments do not have department-specific written procedures. When clarification is needed, the departments rely upon the Human Resources Department and the City Attorney's Office for expertise. Departments handle appeals on a case-by-case basis without tracking the cases. Some departments have developed templates. Training either does not occur or occurs on an ad-hoc basis.

Appendix C: Departmental Survey/Interviews – Non-Civil Service Departments

We obtained information from seven of nine City departments that are not within the Civil Service, representing 97 percent of Non-Civil Service employees.

Non-Civil Service Departments

Interviewed	***Not Interviewed***
City Attorney's Office	Judiciary
Office of the City Auditor	Municipal Radio (The former Radio Department is now a workgroup within the Office of Arts and Culture.)
City Manager's Office	
City Secretary's Office	
Dallas Public Library Department	
Mayor and City Council Office	
Park & Recreation Department	

These departments are not required to follow Civil Service procedures. We interviewed the Non-Civil Service departments for information on their procedures for handling of employee complaints of personnel actions. In most cases the department does not have separate written procedures; the department uses the Civil Service procedures as a reference guide and reach out to the Human Resources Department for guidance.

Appendix D: Survey of Other Jurisdictions

Through interview, survey, and internet research, we obtained information from three other cities: Fort Worth, Houston, and Austin for benchmarking. Key results are summarized below.

Topic	Fort Worth	Houston	Austin
Does the agency have a process for appealing personnel actions? If yes, what types are appealable?	Yes. - Suspension. - Discharge. - Demotion.	Yes. - Job performance rating. - Reprimand. - Suspension. - Demotion. - Discharge.	Yes - Denial of promotion. - Disciplinary Probation (aka progressive discipline). - Suspension. - Demotion. - Discharge.
Which employees are eligible for appeals?	There are two types: - Civil Service Employees have rights through collective bargaining (fire) or meet/confer (police), as approved by the voters. - General Employees have an internal process.	Civil Service, per City Ordinance and State Law.	There are two types: - Civil Service employees in Police, Fire and Emergency Medical Services (Chapter 143). - Regular employees.
Which employees are not eligible for appeals?	- Mayor, City Council, members of appointed Boards. - Council Aides. - City Manager/Assistant City Managers. - Dept. Directors, Assistant Dept. Directors, Division Heads, Managers, Superintendent. - Municipal Judges. - City Auditor. - City Secretary. - City Attorney/Assistant Attorneys. - Temp/Seasonal staff. - Probationary employees. - Various Other City employees, as applicable.	Employees excepted from Civil Service include: - Appointed officials. - Department heads. - Executive level employees. - Assistant City Attorneys and all professional non-clerical staff of the legal department. - Part-time employees. - Temporary employees. - Emergency employees. - Probationary employees.	From Civil Service, Non-Civil Service are excluded (Chapter 143). From Appeals by Regular employees, excluded are: - Employees covered by state civil service. - Members of council and their staff. - Persons appointed or elected by City Council. - City Manager and Assistant City managers. - Directors and assistant directors. - City attorneys. - Temporary and seasonal employees.

Topic	Fort Worth	Houston	Austin
Does the process involve internal hearings? Are there limits on the number of internal hearings?	Yes, the process includes internal hearings with limits.	Yes, the process includes internal hearings with limits.	Yes, the process includes internal hearings with limits.
Does the process include a Trial Board? Admin Law Judge?	- General employee appeals can be heard by a Hearing Officer. - Civil Service appeals can be heard by a Civil Service Commission or Hearing Examiner.	- Civil Service Commission. - Independent Hearing Examiner.	Municipal Civil Service Commission for regular employees. Personnel Civil Service Commission or an option for a Hearing Examiner for Police, Fire, and Emergency Medical Services.
Does the appealing employee pay for any part of the process?	- General employees pay for a $100 cancellation fee for late reschedules/ cancellations. - Civil Service depends, with most costs split 50/50 between the city and the union.	Yes, if a police or firefighter elects and Independent Hearing Examiner and do not prevail, they incur the Examiners fee.	Yes, cost of the Hearing Examiner is split between city and appellant.
What is the composition of the Civil Service Commission?	- City Manager shall appoint, and the City Council shall confirm the appointment of the three members of the Civil Service Commission.	Three persons appointed by the mayor and confirmed by the City Council.	Five Commissioners appointed by the City Council.
What are the requirements to serve on a commission?	- Must successfully pass a criminal history/background check. - City of Fort Worth resident. - Qualified voter of the city. - Preferred experience or knowledge of the administration of human resources or labor relations. - Preferred experience or knowledge in labor/employment law. - Be of good moral character. - Be a United States citizen. - Be a resident of Fort Worth for at least the last three years.	Good moral character, resident citizens of the city who shall have resided therein for a period of more than three years, shall each be over the age of twenty-five years, and shall not have held any public office within the three years preceding his appointment.	Each commissioner must be a qualified voter of the city who does not, during the commissioner's term, hold or become a candidate for any other public office of the city or of the State of Texas. Also, Austin City Council is looking for the following additional qualities for appointees: · Preferred experience or knowledge of the administration of human resources or labor relations. · Preferred experience or knowledge in labor/employment law.

Topic	Fort Worth	Houston	Austin
	- Be over 25 years of age; and not have held a public office within the preceding three years.		
Is the Agency a Section 143?	Yes, but contracts over-ride Section 143.	Yes, and City Charter.	Yes, and City Charter.

Appendix E: Industry Standard Best Practices Research

Recommendation	Resource
1, 11	*Introduction to Federal Employee Appeals with MSPB*, U.S. Merit Systems Protection Board; U.S. Merit Systems Protection Board | Introduction to Federal Employee Appeals with MSPB
3, 4	*What are the steps typically found in a grievance procedure?,* The Society for Human Resource Management (SHRM); What are the steps typically found in a grievance procedure? (shrm.org)

Appendix F: Review of Appeals Documentation Obtained.

Although appeals documentation is not regularly tracked in the City, during this project we were able to obtain the below listed documentation. These listings were not audited due to the lack of available correlating information or process/controls from which to audit. Limitations to audit scope are discussed in the Scope section of this report.

- Listing from the Human Resources Department of appeals heard by an Assistant City Manager for which the Human Resources Department was provided information (filename: Audit 2019-2021 Appeals.xlsx). The listing is 57 lines that includes Employee ID, Employee Name, "Grievance/Appeal, Level, Date Received, Hearing Date, Response Date, Outcome, and Dept. Not all fields are completed. Of the 57 entries on the listing, Assistant City Manager hearing results were:
    - 44 – overturned.
    - 10 – upheld.
    - 2 – reduced.
    - 1 – blank/no entry.
- A listing from the Human Resources Department of grievances and appeals that are submitted to the Assistant City Manager level and the Human Resources Department was provided information (Filename: Copy of Copy of Grievance Appeals_Rose). The file has 122 lines including employee ID, employee name, Grievance/Appeal, type, hearing date, response date. The results are:
    - 61 Appeals.
    - 15 Disciplinary Appeals.
    - 46 Grievances.
- A listing compiled by the Department of Development Services, includes five records, that include: Employee ID, Employee Name, Grievance/Appeal, Step, Level, Date Received, Hearing Date, Response Date, and Outcome. The five items listed were identified as grievances, not appeals.
- A listing of hearings provided by the Civil Service Department, of which 15 were within the audit scope period (filename: CVS Hearing Activity 3) included Employee ID, Name, Department, Scheduled Date, Ruling, Civil Service Trial Board or Administrative Law Judge, Civil Service Trial Board Members and Discipline. Results of the 15 trials were:
    - Postponed – 1.
    - Reinstated – 2.
    - Settled – 1.
    - Suspended – 1.

  - Sustained – 9.
  - Withdrawn – 1.

- A listing provided by the Dallas Water Utilities Department on a one-time ad hoc basis of 41 hearings. The Dallas Water Utilities Department does not track appeals. The listing included Employee ID, Employee Name, Grievance/Appeal, Level, Date Received, Hearing Date, Response Date, Outcome. Within the 41 hearings listed, 11 are within the audit period, Fiscal Year 2019 through Fiscal Year 2021:
  - Denied – 6.
  - Upheld – 5.
- A listing provided by the Department of Public Works of personnel appeals from Fiscal Year 2019 to Fiscal Year 2021. The listing includes five appeals. An additional listing from the Department of Public Works of Grievance and Personnel Action Appeals for construction and paving. The listing included two appeals within the audit period, Fiscal Year 2019 through Fiscal Year 2021. The listings were prepared on a one-time ad hoc basis and included:
  - 1 grievance.
  - 2 appeals of performance rating.
  - 2 appeals of reprimand.
  - 1 appeal of suspension.
  - 1 appeal of termination.
- Statistics of Dallas Police Department disciplinary actions. This not a count of cases, it is a count of each appeal by person receiving the appeal. This was provided on an ad hoc one-time basis from the IAPro system. The report provides appeals received by personnel during October 1, 2018, to September 30, 2021(audit scope period). It lists 117 appeals, which is not a count of cases, as each case could have one or more appeal. The report indicates the count of personnel in Dallas Police Department, City management, and the Civil Service Trial Board that received the appeal.
- A listing of 5,775 terminations provided on an ad hoc one-time basis from the WorkDay system implemented in 2020. It is unclear which departments and transactions are included in the report. Appeal information is not included.

Appendix G: Analysis of Civil Service Trial Board Appointments, Qualifications and Case Assignments

We analyzed and tested the assignments of Civil Service Board Members and Adjunct Members. Related to assignments to 15 of 20 Civil Service Trial Boards occurring during the audit period, we reviewed assignment of Civil Service Trial Board Members, and rotation of the assignments. Results include:

- Per the City Charter, Chapter XVI, Section 12, Trial Board:

  shall be composed of one member of the civil service board as designated by the chair and two adjunct members of the civil service board as designated by the chair.

  Of the 15 trials occurring during the audit period, the 14 trials heard by a Trial Board appropriately included one Civil Service Board member and two Adjunct members.

- Per the City Charter, Chapter XVI, Sec 12.1, Administrative Law Judge:

  Instead of appealing to a trial board… may appeal to an administrative law judge.

  One of the trials during the audit period was heard by an Administrative Law Judge.

- Of 14 persons that served as one of seven Civil Service Board, five Civil Service Board Members were not assigned to a Civil Service Trial Board.

- Of 28 Civil Service Board Adjunct Members reviewed, we noted:

  - Four Civil Service Board Adjunct Members have not heard a case.

  - The Civil Service Board Adjunct Member representing a council district was assigned to no more than four trials.

Three council districts were not represented on a Civil Service Trial Board, likely due to the council district not filling the Civil Service Board Adjunct Member seat. Observation 9 includes related recommendations.

Appendix B: Management's Responses

City Manager's and City Attorney's Responses – (page 42)

Recommendations to the:			
City Manager (page 46)	Director of Human Resources Department (page 49)	Secretary of the Civil Service Board (page 60)	City Attorney (page 65)

City Secretary's Response – (page 66)

Recommendation to the:
City Secretary (page 67)

City Manager's and City Attorney's Responses

Memorandum

DATE: August 6, 2024

TO: Mark S. Swann – City Auditor

SUBJECT: Response to Audit of Personnel Appeals Audit of Personnel Complaints Resolution

This letter acknowledges the City Manager's Office received the *Audit of Personnel Complaints Resolution* and submitted responses to the recommendations in consultation with the Department of Human Resources, Civil Service, and the Dallas City Attorney's Office.

The City of Dallas is pleased to have been named the 2024 Best Place for Working Parents, marking the third consecutive year the City has received this award. This award reflects the City's commitment to offering diverse benefits to support employees so that they can provide residents and stakeholders with "Service First, Now!" Part of these benefits is the City's comprehensive personnel appeals process, which is defined in the City Charter, City Personnel Rules, and department procedures.

We are pleased that the audit concludes that the City generally met the objectives of the audit, including:

- Policies and procedures for Civil Service employees effectively ensure the fair application of employee appeals; and
- There is a process to request a review of disputed personnel actions for Non-Civil Service employees.

We appreciate the thoughtful recommendations in this audit as we seek to improve our personnel appeals processes further.

The audit report includes twenty low-risk recommendations in total. Seventeen of those recommendations are addressed to departments under the purview of the City Manager, and three recommendations are addressed to departments reporting to other City Council appointed officials (i.e., Dallas City Attorney and City Secretary).

Management agrees to implement twelve of the seventeen recommendations (71%) under the purview of the City Manager. In addition, management will take action to address the auditor's concerns for one recommendation that management accepts the risk for.

Management accepts the risk for five recommendations for the reasons provided below:

- Consistently assigning cases to an Assistant City Manager who does not oversee the appellant's department.

- Our current process assigns cases randomly, ensuring all Assistant City Managers have equal opportunities to handle cases and leverage their diverse expertise and perspectives. In addition, a robust recusal process allows any Assistant City Manager to step aside if there is a perceived or actual conflict of interest, maintaining the integrity and impartiality of our process. Lastly, some Assistant City Managers' portfolios include thousands of employees. If they did not hear any appeals from their departments, the workload would be unequally shared by other Assistant City Managers and could strain resources.

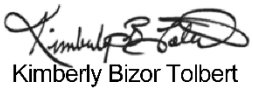
- Human Resources to collect information for department-level complaints, grieved, and appealed personnel actions for City employees, develop appropriate management reports, and provide insights to decision-makers.
  - Human Resources has a robust system for collecting information and reporting complaints referred to Human Resources. However, the cost to expand this to include all department-level complaints, grieved, and appealed personnel actions would exceed the benefit.

- Human Resources to request Civil Service data to be incorporated in the information repository used to collect department-level grieved and appealed personnel actions for City employees.
  - While Human Resources sees benefits in comprehensive, centralized data on employee grievances, there are concerns about Civil Services independence from management if Human Resources were to enter and maintain Civil Service data. Further, Human Resource's information system was not designed for Civil Service's unique role, which is more akin to a legal process.

- Human Resources to monitor compliance; develop reports; perform analysis; spot check files for completeness and compliance; develop training, procedures, tools, and checklists, and provide feedback to City personnel related to requests and results of employees' appeals to the Civil Service Trial Board or an Administrative Law Judge.
  - While Human Resources recognizes the importance of providing decision-makers with timely and actionable information on the Civil Service Appeals process, it would be an overreach for Human Resources to assume the recommended role. The City established Civil Service, in part, to serve as an independent arbitrator and facilitator of grievances and complaints. However, Human Resources will consider revising the Personnel Rules in collaboration with Civil Service and the City Attorney's Office to more explicitly define departmental roles in the appeals and grievances process.

- Civil Service to implement a formal review and approval process of work performed by department staff.
  - Civil Service believes implementation could be cumbersome, and the opportunity cost of implementation would likely exceed the benefit.

Sincerely,



Kimberly Bizor Tolbert
City Manager (I)

C: Jack Ireland, Chief Financial Officer
Elizabeth Saab, Chief of Strategy, Engagement, and Alignment (I)
Donzell Gipson, Assistant City Manager (I)
Nina Arias, Director, Department of Human Resources
Jarred Davis, Director, Civil Service

Memorandum

DATE	August 6, 2024
TO	Mark S. Swann, City Auditor
SUBJECT	Response to Audit of Personnel Complaints Resolution

This letter acknowledges that the City Attorney's Office received the Audit of Personnel Complaints Resolution and submitted responses to the recommendation.

The City Attorney's Office will continue to provide legal advice to city departments regarding procedural aspects of personnel appeals and represent the Dallas Police Department, Dallas Fire-Rescue Department, assistant city managers, and the city manager at appeal hearings in accordance with the city's personnel rules.

Additionally, the City Attorney's Office will provide refresher training to civil service board members and adjunct members before their assignment to serve on a civil service trial board, provided that the City Attorney's Office receives notification of the assignment and is invited to the scheduled training.

Please contact me if you have any questions or need additional information.

Ayeh Powers

for Tammy L. Palomino
CITY ATTORNEY

Recommendations to the City Manager

Assessed Risk Rating	Recommendations	Concurrence and Action Plans		Implementation Date	Follow-Up/ Maturity Date
Low Risk, City Manager					
Low	We recommend the **City Manager:**				
	4.1: In collaboration with the City Attorney, propose an amendment to City Council to amend the Personnel Rules to clearly explain the allowances of levels, hearings and steps that apply to a personnel appeal.	**Agree**	The City Manager's Office in collaboration with the City Attorney's Office, will propose an amendment to City Council to amend the Personnel Rules to clearly explain the allowances of levels, hearings, and steps that apply to a personnel appeal.	6/30/2025	9/30/2025

Assessed Risk Rating	Recommendations	Concurrence and Action Plans		Implementation Date	Follow-Up/ Maturity Date
Low	We recommend the **City Manager:**				
	5.2: In collaboration with the City Attorney, propose an amendment to City Council to either revise or eliminate the references to offices or departments that are excluded from civil service grievance and appeals procedures for Personnel Rules: • 34-38 *Grievance and Appeals Procedure*, (g), Exceptions to Step 4 procedure. • Section 34-38 *Grievance and Appeals Procedure*, (c) Terms and conditions (9). • Section 34-38, *Grievance and Appeals Procedure*, (i) Final decision (1).	**Agree**	The City Manager's Office in collaboration with the City Attorney's Office, will propose an amendment to City Council to either revise or eliminate the references to offices or departments that are excluded from Civil Service grievance and appeals procedures for Personnel Rules: • 34-38 *Grievance and Appeals Procedure*, (g), Exceptions to Step 4 procedure. • Section 34-38 *Grievance and Appeals Procedure*, (c) Terms and conditions (9). • Section 34-38, *Grievance and Appeals Procedure*, (i) Final decision (1).	6/30/2025	9/30/2025

Assessed Risk Rating	Recommendations	Concurrence and Action Plans		Implementation Date	Follow-Up/ Maturity Date
Low	We recommend the **City Manager:**				
	11.1 Consistently assign cases to an Assistant City Manager that does not oversee the appellant's department, in accordance with best practice.	**Accept Risk**	Management does not agree with the auditor's best practice assertion and will accept the risk associated with this recommendation. The City's current process is for cases to be assigned randomly. In addition, there is a process for Assistant City Manager's to recuse themselves if a conflict of interest exists either in fact or in appearance.	N/A	N/A

Recommendations to the Director of the Human Resources Department

Assessed Risk Rating	Recommendations	Concurrence and Action Plans		Implementation Date	Follow-Up/ Maturity Date
Low Risk, Director of the Human Resources Department					
Low	**We recommend the Director of the Human Resources Department:**				
	1.1: Collect information for department level complaints, grieved, and appealed personnel actions for City employees, develop appropriate management reports, and provide insights to decision makers.	**Accept Risk**	Human Resources will accept the risk associated with this recommendation. Human Resources has a robust system for collecting information and reporting complaints referred to Human Resources. However, the cost to expand this to include all department-level complaints, grieved, and appealed personnel actions would exceed the benefit. Human Resources does not have adequate staffing levels to collect all department-level information. Alternatively, it would be costly to obtain licenses for all department managers to directly enter information into the Human Resources' system. Further, there are privacy concerns if departments delegate a person to collect and enter sensitive and personnel information into the Human Resources' system on behalf of coworkers in their department. Lastly, management is confident that the escalation process is a strong	N/A	N/A

Assessed Risk Rating	Recommendations	Concurrence and Action Plans		Implementation Date	Follow-Up/ Maturity Date
			compensating control that ensures employees receive an impartial appeal and grievance process and the Human Resources' system provides meaningful insight to decision-makers on the resolution of significant complaint allegations.		

Assessed Risk Rating	Recommendations	Concurrence and Action Plans		Implementation Date	Follow-Up/ Maturity Date
Low	We recommend the **Director of the Human Resources Department:**				
	1.2 Request from the Secretary of the Civil Service Board requests and results of Civil Service employees' appeals to the Civil Service Trial Board or an Administrative Law Judge to be incorporated in the information repository used to collect department level grieved and appealed personnel actions for City employees.	**Accept Risk**	Human Resources agrees it would be beneficial to report the requests and results of Civil Service employees' appeals to the Civil Service Trial Board or an Administrative Law Judge to management and recognizes there are benefits of comprehensive, centralized data on employee grievances. However, there are concerns with Human Resources assuming reporting responsibility for Civil Service data. A central role of Civil Service is to serve as an independent reviewer of management's and Human Resources' decisions. This is compromised, at least in appearance, if Human Resources is responsible for entering and maintaining Civil Service data. Further, Human Resources' role in complaints and personnel actions is an employee relations function and is structured very differently than an appeal to a Civil Service Trial Board or Administrative Law Judge, which is more akin to a legal proceeding. For these reasons, Human Resources will accept the risk associated with this recommendation.	N/A	N/A

Assessed Risk Rating	Recommendations	Concurrence and Action Plans		Implementation Date	Follow-Up/ Maturity Date
Low	We recommend the **Director of the Human Resources Department:**				
	2.1 Fulfill the responsibilities as provided in Personnel Rules Sections 34-2 *Administration* (b) *Director of human resources* and 34-37 *Discipline Procedures* (a) *Guidelines* by a Request from the Secretary of the Civil Service Board requests and results of Civil Service employees' appeals to the Civil Service Trial Board or an Administrative Law Judge to be incorporated in the information repository used to collect department level grieved and appealed personnel actions for City employees: • Has access to all files (City and Civil Service departments) while retaining confidentiality. • Monitors the process for compliance. • Develops Citywide management reports. • Performing analysis.	**Accept Risk**	While Human Resources recognizes the importance of providing decision-makers with timely and actionable information on the Civil Service Appeals process, it would be an overreach for Human Resources to assume the recommended role. The City established Civil Service, in part, to serve as an independent arbitrator and facilitator of grievances and complaints. When Human Resources assumes responsibility for monitoring, analyzing, spot-checking Civil Service files and functions this independence is, in our opinion, diminished. Further, based on discussions with the City Attorney, monitoring for compliance the hearings under the jurisdiction of the Civil Service Trial Board conflicts with the City's Charter and Personnel Rules. However, Human Resources will consider revising the Personnel Rules in collaboration with Civil Service and the City Attorney's Office to define departmental roles in the appeals and grievances process more explicitly.	N/A	N/A

Assessed Risk Rating	Recommendations	Concurrence and Action Plans		Implementation Date	Follow-Up/ Maturity Date
	• Spot checks files for completeness and compliance. • Develops training, procedures, tools, and checklists. • Provides feedback to City personnel.				

Assessed Risk Rating	Recommendations	Concurrence and Action Plans		Implementation Date	Follow-Up/ Maturity Date
Low	We recommend the **Director of the Human Resources Department:**				
	3.1: Communicate and promote recommended procedures that provide additional management review for Non-Civil Service employees' requests to review disputed personnel actions to City department directors.	**Agree**	Human Resources will enhance its communication of existing procedures that guide management on Non-Civil Service employees' requests to review disputed personnel actions to department directors.	12/31/2024	6/30/2025

Assessed Risk Rating	Recommendations	Concurrence and Action Plans		Implementation Date	Follow-Up/ Maturity Date
Low	We recommend the **Director of the Human Resources Department:**				
	3.2: Provide training on the recommended procedures for Non-Civil Service employees review of disputed personnel actions when department directors' request.	**Agree**	Human Resources will provide training on the procedures referenced in recommendation 3.1., as recommended.	12/31/2024	6/30/2025

Assessed Risk Rating	Recommendations	Concurrence and Action Plans		Implementation Date	Follow-Up/ Maturity Date
Low	We recommend the **Director of the Human Resources Department:**				
	4.2: Ensure clear information and training on the grievance and appeals process is provided to all Civil Service employees including procedures to elevate concerns to the appropriate level when needed.	**Agree**	Clear information on the grievance and appeals process are regularly provided to Civil Service employees. Human Resources will enhance its existing process by developing on-demand training for employees on the grievance and appeals process, including the process for elevating concerns to the appropriate level with the assistance of the City Attorney's Office.	3/31/2025	9/30/2025

Assessed Risk Rating	Recommendations	Concurrence and Action Plans		Implementation Date	Follow-Up/ Maturity Date
Low	We recommend the **Director of the Human Resources Department**				
	5.1: Identify when hiring a position or in the position description the position has Civil Service personnel appeal rights or does not have Civil Service personnel appeal rights.	**Agree**	The City's Workday system currently designates whether a position has Civil Service personnel appeal rights. Individuals involved in the hiring process have access to this information. In addition, Human Resources will provide information to potential applicants regarding Civil Service and non-Civil Service positions on the recruitment page and prominently label whether an employment opportunity is Civil Service or non-Civil Service.	12/31/2024	6/30/2025

Assessed Risk Rating	Recommendations	Concurrence and Action Plans		Implementation Date	Follow-Up/ Maturity Date
Low	We recommend the **Director of the Human Resources Department:**				
	9.3 Provide regular and formalized training on the appeals process to its staff and to operating departmental management.	**Agree**	Senior staff from Human Resources and the City Attorney's Office currently provide formal training to all Human Resources staff with appeal process responsibilities. In addition, training is provided for managers in the Citywide New Manager Training sessions. Human Resources will enhance its existing process by developing on-demand training for Human Resources staff and departmental management on the grievance and appeals process, with the assistance of the City Attorney's Office.	12/31/2024	6/30/2025

Assessed Risk Rating	Recommendations	Concurrence and Action Plans		Implementation Date	Follow-Up/ Maturity Date
Low	We recommend the **Director of the Human Resources Department:**				
	10.1 Communicate to City personnel about the useful resources available on the internal website; continually maintain and update the content on the internal website. Include written personnel appeals procedures for Civil Service departments and recommended written requests to review disputed personnel actions procedures for Non-Civil Service departments.	**Agree**	Human Resources will enhance the promotion of the internal website and continue to ensure the website provides accurate information. In addition, the website will continue to include a link to the Personnel Rules with information on the Civil Service's grievance process and dispute resolution procedures for Non-Civil Service departments.	12/31/2024	6/30/2025

Recommendations to the Secretary of the Civil Service Board

Assessed Risk Rating	Recommendations	Concurrence and Action Plans		Implementation Date	Follow-Up/ Maturity Date
Low Risk, Secretary of the Civil Service Board					
Low	We recommend the **Secretary of the Civil Service Board:**				
	6.1: Develops a standardized format for submissions to the Civil Service Department when requesting a Civil Service Trial Board or Administrative Law Judge.	**Agree**	Civil Service will develop a standardized format for requesting a Civil Service Trail Board or Administrative Law Judge.	6/30/2025	12/31/2025

Assessed Risk Rating	Recommendations	Concurrence and Action Plans		Implementation Date	Follow-Up/ Maturity Date
Low	We recommend the **Secretary of the Civil Service Board:**				
	6.2: Utilize a checklist to review hearing requests to confirm and document eligibility or denial.	**Agree**	Civil Service will develop a checklist for reviewing hearing requests to confirm and document eligibility or denial.	12/31/2025	6/30/2026

Assessed Risk Rating	Recommendations	Concurrence and Action Plans		Implementation Date	Follow-Up/ Maturity Date
Low	We recommend the **Secretary of the Civil Service Board:**				
	6.3: Implement a formal review and approval process, including documentation, of work performed by Civil Service Department staff.	**Accept Risk**	Civil Service will accept the risk associated with this recommendation. The department believes implementation could be cumbersome, and the opportunity cost of implementation would likely exceed the benefit.	N/A	N/A

Assessed Risk Rating	Recommendations	Concurrence and Action Plans		Implementation Date	Follow-Up/ Maturity Date
Low	We recommend the **Secretary of the Civil Service Board:**				
	8.1: Provide standardized information on the choice between a Civil Service Trial Board and Administrative Law Judge hearing.	**Agree**	Civil Service will provide standardized general information on the hearing process. However, the departments general information will not compare and contrast between the options.	12/31/2024	6/30/2025

Assessed Risk Rating	Recommendations	Concurrence and Action Plans		Implementation Date	Follow-Up/ Maturity Date
Low	We recommend the **Secretary of the Civil Service Board:**				
	9.2 Document that training as prescribed by *Ordinance 18655* was provided within the required 90-day timeline to new Civil Service Board Members and Adjunct Members. If training was not received, document that required forfeitures are made.	**Agree**	Civil Service will document whether training prescribed by Ordinance 18655 is completed within the required timeframe. Additionally, Civil Service will work with other departments, as necessary, to vacate a board membership when the training requirements are not completed within the 90-day timeline.	9/30/2025	3/31/2026

Recommendation to the City Attorney

Assessed Risk Rating	Recommendations	Concurrence and Action Plan		Implementation Date	Follow-Up/ Maturity Date
Low Risk, City Attorney					
Low	We recommend the **City Attorney:**				
	9.1: Provide refresher training on the trial and quasi-judicial process immediately prior to a Civil Service Board Member and Adjunct Member being assigned to serve on a Civil Service Trial Board.	**Agree**	The City Attorney's Office will provide refresher training prior to a member being assigned to serve on a Civil Service Trial Board, to the extent the City Attorney's Office is notified of an assignment and invited to the scheduled training.	9/30/2025	3/31/2026

City Secretary's Response

Memorandum

CITY OF DALLAS

DATE: August 9, 2024

TO: Mark S. Swann – City Auditor

SUBJECT: Response to Audit of Personnel Complaints Resolution

This letter acknowledges the City Secretary's Office received the *Audit of Personnel Complaints Resolution* and submitted responses to the recommendations.

We concur with your office's recommendations. The City Secretary's Office intentions now are to focus on those assessed risks and work toward implementation based on the action plan and date provided on the audit report document.

Thank you for assisting the City Secretary's Office with improving its services.

Sincerely,

Bilierae Johnson

Bilierae Johnson
City Secretary

C: Kimberly Bizor Tolbert, Interim City Manager
Miroslava Martinez, Assistant City Secretary
Dawna Brown, Boards and Commissions Manager

Recommendation to the City Secretary

Assessed Risk Rating	Recommendations	Concurrence and Action Plan		Implementation Date	Follow-Up/ Maturity Date
Low Risk, City Secretary					
Low	We recommend the **City Secretary:**				
	7.1: Communicate to City Council the Civil Service Board Adjunct Members vacancies.	**Agree**	The City Secretary's Office currently has a process that communicates any board vacancies to the city council. Unfortunately, due to our server being compromised and moving to a new boards and commissions system, we were not able to provide that standard vacancy notification. However, with the City Secretary's Office will be launching a new Boards and Commissions (B&C) Dashboard that will provide a more update-to-date (accurate) notification of all (including the Civil Service Board Adjunct Members) board vacancies.	Current 9/30/2024 (New Dashboard)	12/31/2024

Assessed Risk Rating	Recommendations	Concurrence and Action Plan		Implementation Date	Follow-Up/ Maturity Date
Low	We recommend the **City Secretary:**				
	7.2: Provide the public with the qualifications for all actively appointed Civil Service Board Adjunct Members by updating the public report, *City of Dallas Board and Commission Members*.	**Agree**	The City Secretary's Office will be launching a new Boards and Commissions (B&C) Dashboard that will provide the public with the qualifications for all boards and commissions actively appointed board members (including the Civil Service Board Adjunct Members).	09/30/2024	12/31/2024

Memorandum

CITY OF DALLAS

DATE: August 15, 2024

TO: Sarah Standifer, Director – Dallas Water Utilities
Danielle Thompson, Director – Office of Procurement Services

SUBJECT: Independent Report on Agreed-Upon Procedures for: Attestation Engagement for Elm Fork Water Treatment Plant Water Quality Improvements Program Construction Manager at Risk -- Preconstruction and Construction Phase Services CIZ-DWU-24-049E

Attached for your review is the *Independent Report on Agreed-Upon Procedures for: Attestation Engagement for Elm Fork Water Treatment Plant Water Quality Improvements Program Construction Manager at Risk -- Preconstruction and Construction Phase Services CIZ-DWU-24-049E*. The Agreed-Upon Procedures are included in Attachment 1. No exceptions were noted.

We have performed these procedures, which were agreed to by the Dallas Water Utilities and the Office of Procurement Services, solely to assist the City of Dallas City Council in evaluating the Dallas Water Utilities' and the Office of Procurement Services' compliance with the requirements of Administrative Directive 4-05, *Contracting Standards and Procedures*, relevant State of Texas statutes, and City of Dallas contracting and delivery procedures. Dallas Water Utilities is responsible for the establishment of policies and procedures to comply with those requirements.

If you have any questions, please contact me at 615-974-8700 or mark.swann@dallas.gov.

Sincerely,

Mark S. Swann

Mark S. Swann
City Auditor

Attachment

C: Honorable Mayor and Members of the City Council
Kimberly Bizor Tolbert, City Manager (I)
Tammy Palomino, City Attorney
Bilierae Johnson, City Secretary
Dev Rastogi, Assistant City Manager
Donzell Gipson, Assistant City Manager (I)
Elizabeth Saab, Chief of Staff Strategy, Engagement, and Alignment
Jack Ireland, Chief Financial Officer
Matthew Penk, P.E. Assistant Director, Dallas Water Utilities
Sheri Kowalski, City Controller
Alpha Jalloh, Assistant Director – Financial Compliance, Auditing & Monitoring
Jeffrey Brill, Manager – Financial Compliance, Auditing, & Monitoring

Independent Report on Agreed-Upon Procedures for: Attestation Engagement for Elm Fork Water Treatment Plant Water Quality Improvements Program Construction Manager at Risk – Preconstruction and Construction Phase Services CIZ-DWU-24-049E

August 15, 2024

Mark S. Swann, City Auditor

Mayor

Eric L. Johnson

Mayor Pro Tem

Tennell Atkins

Deputy Mayor Pro Tem

Adam Bazaldua

Council Members

Carolyn King Arnold

Paula Blackmon

Zarin D. Gracey

Cara Mendelsohn

Jesse Moreno

Omar Narvaez

Jaime Resendez

Paul E. Ridley

Jaynie Schultz

Kathy Stewart

Chad West

Gay Donnell Willis

City of Dallas

Executive Summary

Objective and Scope

The objective of the agreed-upon procedures attestation engagement is solely to assist the City of Dallas City Council in evaluating Dallas Water Utilities' and the Office of Procurement Services' compliance with the requirements of City of Dallas Administrative Directive 4-05, *Contracting Standards and Procedures,* relevant State of Texas statutes, and City of Dallas contracting and delivery procedures.

Dallas Water Utilities requested this attestation in accordance with Administrative Directive 4-05, Section 9.5.5, *Attestation Engagement Requirement for All Construction Projects $50 Million and Greater*.

Background

The Elm Fork Water Treatment Plant water quality improvements program began in 2010 and continues with the filter complex phase 1 currently under construction. The Construction Manager-at-Risk (CMAR) contract will address phase 2 of the filter complex, various basins, and chemical improvements.

Dallas Water Utilities decided to use the CMAR construction delivery method for the following reasons.

- CMAR collaboratively involved in design process.
- Allows for early construction and equipment procurement.
- Updated costs given the construction market.
- Cost certainty when entering the competitive bid.
- Contractor takes responsibility for complex sequencing and delivery to operations.
- Delivery is timely, potentially accelerated.

The total price for construction is currently budgeted at $500 million. Dallas Water Utilities is seeking approval from the City Council to award Archer Western Construction, LLC the pre-construction services contract. Future construction by CMAR will be based on guaranteed maximum price proposals.

Observed Conditions

No exceptions were found for the 17 Agreed-Upon procedures. See Attachment 1 for the full list of procedures.

Results

Independent Agreed-Upon Procedures Report

The Office of the City Auditor conducted the procedures described in Attachment 1, which were agreed to by Dallas Water Utilities and the Office of Procurement Services, solely to assist the City of Dallas City Council in evaluating Dallas Water Utilities' and the Office of Procurement Services' compliance with the requirements of with the requirements of Administrative Directive 4-05, *Contracting Standards and Procedures*, relevant State of Texas statutes, and City of Dallas contracting and delivery procedures.

Dallas Water Utilities' and the Office of Procurement Services' are responsible for the establishment of policies and procedures to comply with those requirements. The sufficiency of these agreed-upon procedures is solely the responsibility of the parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described in Attachment 1, either for the purpose for which this report has been requested or for any other purpose.

No exceptions were noted for the Agreed-Upon Procedures. See Attachment 1 for a list of the procedures performed.

Dallas Water Utilities requested this attestation on January 17, 2024 in compliance with the requirements of Administrative Directive 4-05, *Contracting Standards and Procedures*. The Office of the City Auditor completed the agreed-upon procedures on August 15, 2024. No exceptions were noted.

The purpose of this report on applying agreed-upon procedures is intended solely for the information and use of the Dallas City Council and City management and is not intended to be and should not be used by anyone other than these specified parties. Accordingly, this report is not suitable for any other purpose. The Office of the City Auditor was not engaged to and did not conduct an examination or review, the objective of which would be the expression of an opinion or conclusion, respectively, on compliance. Accordingly, the Office of the City Auditor does not express such an opinion or conclusion. Had additional procedures been performed, other matters might have been identified that would have been reported.

We are required to be independent of Dallas Water Utilities and the Office of Procurement Services and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements related to our agreed-upon procedures engagement. The agreed-upon procedures were conducted in accordance with the United States generally accepted government auditing standards which incorporate attestation standards established by the American Institute of Certified Public Accountants.

Signature:

Mark S. Swann

Mark S. Swann, CPA
City Auditor
City of Dallas, Texas

8/15/2024

Attachment 1: Agreed-Upon Procedures

Independent Report on Agreed-Upon Procedures for: Attestation Engagement for Elm Fork Water Treatment Plant Water Quality Improvements Program Construction Manager at Risk -- Preconstruction and Construction Phase Services CIZ-DWU-24-049E

8/15/2024

Agreed-Upon Procedures

As stated in Administrative Directive 4-05, *Contracting Standards and Procedures*, Section 9.5.5:

(a) Confirm the documentation to support the procurement is provided by Dallas Water Utilities and other applicable City departments.

No exceptions.

(b) Confirm solicitation procedures complied with Administrative Directive 4-05, *Contracting Standards and Procedures*, City Ordinances, application State Laws and departmental policies and procedures.

No exceptions.

(c) Confirm the scope of work/specifications were written in a manner that promotes competition and competitive pricing.

No exceptions.

(d) Confirm the specification identify the criteria for which Dallas Water Utilities could determine that a bid is responsive and responsible.

No exceptions.

(e) Confirm that Dallas Water Utilities performed due diligence when developing the bid specifications by consulting with other departments, such as the City Attorney's Office, and documenting the consultation.

No exceptions.

(f) Confirm the procurement was advertised appropriately in accordance with State law.

No exceptions.

(g) Confirm Dallas Water Utilities used appropriate commodity code(s) to send notifications to the vending community from the City's solicitation system.

No exceptions.

(h) Confirm Dallas Water Utilities sent solicitation notices and addenda (if applicable) to the vending community with sufficient time for response.

No exceptions.

(i) Confirm Dallas Water Utilities held a pre-bid meeting, if applicable.

No exceptions.

(j) Confirm the specifications were posted for a reasonable period of time on the City's solicitation system.

No exceptions.

(k) Confirm Dallas Water Utilities obtained appropriate nondisclosure and conflict of interest forms for any consultants and/or subject matter experts used in the procurement process, if applicable. Additionally, if applicable, confirm Dallas Water Utilities included conflict-of-interest and nondisclosure policy language in the scope of work/specifications.

No exceptions.

(l) Confirm the City received sealed bids/proposals within the due date and time, opened them, and subsequently read them in compliance with State law.

No exceptions.

(m) Confirm the City received and evaluated the bids/proposals and found them to meet the minimum requirements/qualifications for low bid OR that the most advantageous proposer was determined based on the published evaluation criteria.

No exceptions.

(n) Confirm Dallas Water Utilities performed due diligence when a bidder is disqualified or in the event of a bid protest by consulting with the City Attorney's Office and informed the City Council of a bid protest and response in accordance with Administrative Directive 4-05, *Contracting Standards and Procedures*, 9.5.3.

No exceptions.

(o) Obtain a representation from the Small Business Center that the Small Business Center followed the City's Business Inclusion and Development policies outlined by City Council.

No exceptions.

(p) Confirm Dallas Water Utilities review and evaluation process confirmed the lowest bid or highest ranked vendor, and that Dallas Water Utilities appropriately documented the determination.

No exceptions.

(q) Confirm Dallas Water Utilities used the Federal System for Award Management website to confirm that the lowest responsible bidder is not currently excluded.

No exceptions.