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Report of Investigation

FILE NO: 18-0007-I

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SUBJECT: Transit: Alleged Misuse of City Time

STATUS: Final

INVESTIGATOR: Peter Pacheco

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Executive Summary

The Office of Inspector General (OIG) for the City of Albuquerque (City), NM conducted an investigation based on information received regarding a number of Transit employees traveling to the BYD plant in Lancaster, California to conduct bus assemble inspections for the City's Albuquerque Rapid Transit (ART) project. According to the complainant, a number of Transit employees may not have been going to the BYD plant and instead were using work time as a vacation.

The OIG opened the investigation to determine if City employees were abusing their time while in Lancaster, California and also expanded the investigation to include reviewing travel documents and expenditures.

The OIG's position is that most of the Transit inspectors that went to the BYD plant in Lancaster, California did their work and inspected the buses the best they could and the majority followed the City' Travel regulations.

Below are possible violations regarding Transit Inspectors traveling to the BYD plant in Lancaster, California.

Vehicle Rental and Fuel Reimbursement:

City of Albuquerque, Travel Regulations
Chapter Four: Transportation

I. GENERAL TRANSPORTATION POLICIES

- a. Policy. It is the general policy of the City that travelers will obtain the mode of transportation that results in the *most economical benefit to the City*, given the purpose of the official travel.

V. RENTAL AUTOMOBILES

- b. *The use of a commercially rented vehicle for any other purpose is considered personal use and employees must bear the cost. When preparing the travel reimbursement, employees shall provide receipts for the total amount paid for gasoline during the rental period, but may request reimbursement only for the amount applicable to official use of the vehicle.*

The investigation revealed the following regarding fuel and rental reimbursement:

- Transit Employee 1's (T1) wife went with him to Lancaster and used the rental vehicle (\$571.30 rental cost) to visit family. The City paid \$215.03 for fuel and the OIG estimated that 1,559 miles were not work related.
- Transit Employee 2 (T2) submitted two pre-pay receipts and two actual receipts for the same purchase and was reimbursed for both.
- T2 rented a Dodge Challenger RT, premium sports car stating that it was the only car available. T2 was allocated \$883.14 for the car and ended paying \$1314.85.
- A Transit inspector, no longer with the City, had 3,938 miles during his tour.

Possible Time Fraud:

- T1 stated that on three occasions he probably came in late and left early to travel with his wife to visit her family. The OIG was unable to determine the number of hours that T1 was not at work.
- Transit Employee 3 (T3) posted social media pictures during two workdays. One was a picture of T3 by the water holding a fishing pole and the other was a picture of T3 and his significant other at the beach. T3 stated that the pictures were taken during the weekend and were posted during the work week at the BYD plant. Several employees stated they had heard about T3 going to the beach when he should have been at work.

Due to the statements being hearsay and the inconsistencies of the Transit inspectors clocking in and out at the BYD plant, the OIG was not able to determine if T3 took personal time during his work day.

BYD had tablets at the front desk where Transit inspectors could clock in and clock out. The majority of time, Transit inspectors at the BYD plant did not clock out during their work day. Most said they were not told to clock out. For the most part, Transit inspectors did clock in, but there were times when the Transit inspectors did not clock in or out. When interviewing the Transit inspectors, several stated there were multiple issues related to the tablets. They stated the tablet would not work sometimes, the tablets were not out or they didn't realize they had to use the tablet.

Acceptance of Gratuities:

Personal Rules and Regulations:
301.10 Bribery, Gift and Donations

No reward, favor, gift, or other form of payment in addition to regular compensation and employee benefits shall be received by any employee for the performance or nonperformance of their duties from any vendor, contractor, individual or firm doing business with the City or who can reasonably anticipate doing business with the City in the future, or from any other source having or proposing to have any relationship with the City of Albuquerque.

Two employees stated that BYD officials bought them lunch on more than one occasion and one employee stated he received a ticket and went to the Hot Rod Nationals with one of the BYD employees.

City employees should not have accepted BYD employees buying lunch and should not have accepted the ticket for the Hot Rod Nationals.

Going Forward:

If the City decides to use City employees for future bus inspections the following should be considered:

- Train the inspectors on the product they are going to be inspecting and make sure that they are inspecting what is stated in the contract, such as the Buy American Act.
- Insure that City employees are working their hours.

- Insure that travel coordinators, approvers and persons traveling know the City's Travel Regulations.
- Insure the persons traveling are aware of the City's Personnel Rules and Regulations § 301.10; Bribery, Gifts and Donations.

Introduction:

The mission of the Office of Inspector General (OIG) is to promote a culture of integrity, accountability, and transparency throughout the City of Albuquerque (City) in order to safeguard and preserve the public trust. Employees for the City's Transit Department (Transit) were traveling to the Lancaster, California to inspect the bus production at the BYD manufacturing plant for the City's Albuquerque Rapid Transit (ART). The OIG received a complaint that a number of Transit employees traveling to Lancaster may not have been going to the BYD plant and instead were using work time as a vacation.

The OIG opened the investigation to determine if City employees were abusing their time while in Lancaster, California and also expanded the investigation to include reviewing travel documents and expenditures.

Scope:

Transit employees were being sent in approximately two-week intervals to inspect the buses being assembled for the ART project. From June 2017 through March 2018, a total of 17 trips were made by Transit employees for the bus inspection process at the BYD plant. The cost to the City was approximately \$79,600 (not including wages) over a nine-month period. The costs included, airfare, hotel, car rental and per diem expenses.

According to Transit Director, Bernie Toon (Former Director), the following information was related to Transit employees traveling to the BYD plant in Lancaster, California.

- Transit employees were to communicate with the management team in Albuquerque daily.
- Each Transit employee was instructed to work an 8-hour day with a one-hour lunch.
- Transit employees' time worked varied based on assembly-line status at the BYD Plant.
- Transit employees were advised that they would be reimbursed for an economy class vehicle. Any upgrades were paid solely by the employee and were not part of reimbursement from the City. The vehicle grouping allowed was "economy class."
- Regarding rental vehicle usage, travel for food and/or shopping needs, as required, were considered allowable.
- ABQ Ride only reimbursed rental/fuel charges in accordance with City rules regarding travel and rental vehicles.

The scope of this investigation focused on the allegations asserted by the complainant and the review of travel expenditures. The Methodology consisted of reviewing relevant documents and interviewing City personnel who could provide information regarding the allegation.

The following activities were conducted as part of the investigative process:

- Interviews of Transit personnel
- Review of pertinent documents
- Review of relevant City ordinances, rules and regulations and administrative instructions relevant to the allegations in the complaint
- Communication with pertinent City departments

Investigation and Interviews:

The OIG interviewed Transit employees who traveled to the BYD plant in Lancaster, California to inspect the buses.

Analysis of Transit employees traveling to the BYD plant was performed and several concerns were identified for several individuals. The following concerns were identified during research and analysis and include:

- BYD timesheet clock in/out times
- Possible time fraud
- Inspection reporting
- Car rental upgrades
- Car rental fuel reimbursement for personal use
- Car rental double receipt reimbursement
- City Transit travel approvers not properly verifying receipts

Interviews were conducted to determine which concerns were valid.

Transit Employee T1:

T1 was sworn on his testimony and provided the following information:

T1 stated the he has been employed with the City approximately 10 years. His work location is at Transits Yale facility.

T1 stated that he did two tours to the BYD plant in Lancaster, California to conduct bus inspections. He stated that his work schedule was supposed to be 8:00 am to 4:30 pm, but it always varied because the BYD employees worked so many hours. He stated that some mornings he would be there at 5:30 am and stay until 7:00 pm. Other times he would get to BYD between 8:00 am – 8:30 am.

T1 stated that he was told by Transit management to watch the buses getting built, take pictures of wires routed, fire suppression, axles, etc. He was to make sure there were no defects that had to be addressed. If there were any changes, he would relay the message to Transit management to make sure that is what they wanted. Transit management wanted daily pictures and communication on what was done to each bus. T1 stated that he reported back daily to Transit via email, sending updates and pictures. Occasionally, he would get calls from his Transit supervisor. T1 stated he did not have a City cell phone.

When asked if anyone went with him to Lancaster, California, he replied that during the first tour his wife went with him, but that she was more visiting her family. Her family lived in Hesperia, California (65 miles from Lancaster). She did not go the second time.

BYD Time Reporting:

T1 was asked if BYD had a process to report work time while at the plant. T1 stated that there were two tablets up front where he was supposed to sign in. He said that the tablets worked about 70 percent of the time and when he would go early they were not out. When he went in

early it was usually for a road test and when he would get back, around 9:00 am or 10:00 am, that is when he would clock in or print out a name tag. Regarding clocking out at the end of the day, he said that he was not told that he had to clock out.

The question was asked on several occasions during the interview regarding T1 clocking in after 10:00 am and never clocking out. T1 stated that pretty much during both tours he was at the BYD plant around 5:30 am and the tablets were not out. The question was asked if he left early during the days he came in early. T1 stated no, he would stay to make sure everything was going well. He was working a lot of hours.

T1 stated that every day he would go to work; his wife would drop him off and go to Hesperia to visit her family. She would come back and pick him up and they would drive back to Hesperia to eat dinner with her family and then they would get back usually past midnight. He stated that the first couple of days there his wife didn't go to Hesperia, so she would pick him up for lunch.

The OIG again asked T1 if he would leave early or not go to work to be with his wife. T1 stated he doesn't think he went anywhere, he was there every day. What was worrying him, during the interview, was if he was there every day for 8 hours. Some days he was there longer, so he thought it washed out. The OIG asked if he wasn't at work where would he be. He stated back at the hotel, Hesperia was too far for him to go during the day. T1 stated he knew he went to beaches on the weekend.

The OIG let T1 review his BYD timesheet which showed times during his first tour of clocking in between 9:00 am and 11:00 am and during his second tour he clocked in between 7:00 and 8:00 am. The OIG asked T1 if his times of going in late during his first tour were due to staying up late past midnight due to traveling from Hesperia. T1 said, yes, had to be. Except for Friday, when the tablet had to have failed (Friday's clock in time was 11:34 am).

The OIG asked during the beginning of the interview "you stated you were going in early, why didn't you tell us you were going in late because you were tired." T1 stated he wanted to say he went in and did his 8 hours whether he was late or not. The OIG gave an example of T1 going to work at 10:00 am and working to 6:00 or 7:00 pm. Your wife would pick you up and then you and your wife would be on your way to Hesperia around 8:00 pm. The OIG asked T1 if he would be leaving early to get to Hesperia. T1 stated maybe he would, maybe he did. The OIG stated "can you see how your story doesn't make sense." T1 stated he can see that. He stated that he was pretty sure that maybe he left early, maybe he didn't do his 8 hours. He stated that he was there every day and the OIG stated that being there every day is different than doing his 8 hours. He agreed. T1 stated very possible, he would have no way to go back to hotel, it would have to be. The OIG asked "so your saying you had to have left early." He stated, "right." They would drive to Hesperia. He never went anywhere else. Towards the end of the interview, T1 stated that for three days he went in late and also left early to go to Hesperia. The OIG asked T1 if he stayed at Hesperia during the work week. He stated no.

Vehicle Rental and Usage:

In reviewing travel requests, attached would be three rental quotes. The least expensive, economical car was chosen and that dollar amount would be allocated for the rental.

According to T1, his supervisor submitted his travel request. Regarding vehicle rental, he stated that his travel request defined the vehicle rental class. T1 stated that during his first tour, he was upgraded to a Chrysler 300. It was an upgrade because no other cars were available. The second time it was Hyundai, Sonata. When travel was set up, he was given an amount allowed and he would stay within that amount.

T1 was told that during his first trip his vehicle mileage was 2,351 miles and during his second tour it was 696 miles. He was asked to explain the higher mileage during first trip. He stated that it was due to his wife driving the car. She would drop him off at the BYD plant and then go see her family in Hesperia. The car was rented under his name. OIG stated that was an excessive amount of mileage. He stated he did not know what his wife did with the car when she had it and that he only went to work and that was it.

The OIG asked “who paid for the rental car?” T1 stated the City. When asked if he thought if his wife driving was a problem, T1 stated no, he asked the rental agency. The OIG explained that if there was an accident, the City would be liable and the City is not paying for her to drive around in the rental vehicle. The City paid and rented that car for one purpose, T1 was asked what was that purpose? He stated to work and back. He stated that he asked his supervisor and his supervisor said the weekends were the weekends. He asked the rental agency when he rented the car if it mattered who drove the car and the car rental agency replied that both were covered.

T1 was asked if he filed for reimbursement of gas and how much. He stated about \$150 (Actual amount \$215) and that he did not turn in one receipt for a full tank of gas because of personal use, he kept one receipt. The OIG stated that it was 65 miles to travel to Hesperia and driving there and back would be more than just one tank of gas. T1’s wife would drive to Hesperia and drive back to pick him up, drive back to Hesperia and then drive back to hotel. That would be approximately 260 miles in one day.

Email Photo Correspondence:

T1 was asked about three photos he sent to his supervisors via email. The OIG explained to T1 that he had sent correspondence containing 3 photos of bus inspections he had done and that one photo was his and the other two were from two different Transit employees who had gone to do inspections at the BYD plant prior to him. T1 was shown the email and pictures and was asked why he was sending photos of another inspector’s work. He stated he didn’t and that he took his own pictures. He stated that the pictures shown must be his pictures. He didn’t use anyone else’s pictures. It was shown to T1 that looking at the properties of the pictures showed the exact dates the pictures were taken and also the cell phone models. T1 stated that he did not know, maybe he put them in, maybe it was an accident. T1 reviewed the emails he sent on his cell phone and verified that the email he was shown by the OIG was the same. He stated he didn’t have the two pictures and he didn’t know how they got in the email.

When asked if he had a City cell phone at the BYD plant, T1 stated, no.

T1 was asked if he had heard of any City employee abusing their time while they were doing the bus inspections at the BYD plant in Lancaster, California. T1 stated yes, he had heard T3 was fishing and at the beach. He heard it from another Transit employee who had gone to the BYD plant and also remembers hearing BYD employees complain that some of the inspectors were

not there the whole time. T1 was asked if anyone reported it to upper management and he replied, no. He also stated that pictures were posted on social media.

Transit Employee T2:

T2 was sworn on his testimony and provided the following information:

T2 stated the he has been employed with the City approximately 5 years. His work location is at Transit's Daytona facility.

T2 stated that he did two tours to the BYD plant to conduct bus inspections. While he was there, his understanding was that he would work 8:00 am to 4:30 pm. T2 stated that he was used to working the night shift and sometimes had a hard time waking up in the morning. If he was late, he would make up the time. Regarding lunch break, T2 stated there was no punch in or punch out.

Prior to leaving, T2 had a meeting with his supervisors where he was told that while he was at the BYD plant he was going to be the City's eyes and ears. He was told to send pictures, emails and to look over everything and if something didn't look right to call them.

T2 stated that Transit wanted status on every bus. He corresponded through phone calls and emails. The Transit inspector that was there before him gave him a list of everyone in the City that should be receiving the emails. He used his personal cell phone and did not have a City cell phone.

The question was asked if BYD officials had him sign in and out. T2 stated that he checked in a couple of times because he saw other people checking in and the lady up front would tell him to check in on the tablet. Regarding his work hours, T2 stated that the first time he focused on getting his 8 hours and the second time the buses were getting the testing done, so he would work longer. He would call his supervisor at transit when he was working late. He didn't worry about keeping track, because he was letting his supervisor know. Regarding clocking out, he stated that he may have, but he didn't worry about it because that side of the building would be shut down. The OIG asked if ever left early, T2 stated, no.

When asked if he had any qualifications for inspecting the buses. T2 stated no, but he thought when he went the first time he knew what he was doing. But after speaking to the prior Inspector General for the City, he understood how far out of his league he was. He didn't know he was supposed to be looking at parts or where they were made. He didn't realize how much of the inspection had to be done besides the visual part.

T2 stated that during his second tour, he flew his wife and sister out. He stated that they were there for the day. He picked them up on Saturday at Los Angeles Airport (LAX), that is when he fueled up two days in a row. They went to the beach, stores and Universal Studios that Saturday, went back to hotel, and the next morning they went back. His wife didn't stay because she had work. When asked if he got reimbursed for both days, he stated he shouldn't have.

Vehicle Rental and Usage:

In reviewing travel requests, attached would be three rental quotes. The least expensive, economical car was chosen and that dollar amount would be allocated for the rental.

According to T2, his supervisor sent in his travel request and a female City employee was in charge of getting his flight and hotel. He stated that he had to reserve his own car. Three rental quotes were done and he was told he had to get the most economical car available and not to get any of the extra insurance. When asked if he rented a car that was in the class and price range, he stated that he called 3 different car rentals and went with the cheapest one he could find. The first time it worked out and the second time the car rental agency had given out the car reserved, so he was given another car for the same price. He called the female City employee in charge of travel and told her it was either going to be a car or SUV. The car was going to be cheaper. Instead of going to another rental company, the female City employee told him to get the car. When asked if he had a reservation, T2 stated he had a reservation for an economy car. The first time they had economy car and the second time they didn't have one, but the rental agency told him he could get the car for the same price. T2 stated that instead of getting a compact car, he was able to get medium sized car. (T2 never stated that the car he rented was a Challenger RT, a premium rental). He stated he was concerned about getting in trouble and so he called the female City employee. According to T2, the female City employee said it would be fine as long as he checked with the other rental companies there to see if they had a cheaper car. Before he left he called three different car rentals and Avis was the cheapest. T2 was told that according to City travel documents, Budget was the cheaper car rental on the travel request. He didn't know how he could have missed it. The OIG told T2 that he had said he rented a midsize vehicle, but that actually, he rented a Premium, Challenger RT sports car. He stated "I got you", that is what they called it, a midsize car. The OIG said the receipt called it a Premium car, one of the more expensive cars to rent. The OIG told T2 that earlier in the interview he had said it would be the same price and asked which was it, the same or more? He stated that he was trying to remember. The OIG asked, were you lying then, or are you lying now? T2 stated he was lying then. He stated that's the way he was remembering it. T2 was told that just to be truthful. OIG asked, out of all the car rentals, the only vehicles available were sports cars and SUV's? T2 stated there were SUV's and trucks and a whole bunch of others.

Vehicle Fuel Reimbursement:

When asked what form of payment was used to fuel the vehicle. T2 stated that he used his debit and credit card. The OIG asked why he prepaid for fuel. He stated he would always go inside to pay and get a snack and prepay a certain amount of fuel and fill the car with the prepaid amount. His thoughts were that it was safer to pay inside and whatever you don't use when prepaying would go back to his account, but that he always used the total prepaid amount.

The OIG told T2 that receipts for fuel were reviewed and it appeared that he would prepay for fuel and put in a lower dollar amount and then submitting both prepay and actual receipts for reimbursement from the City. T2 stated that if he prepaid \$30 of fuel, he put in \$30 of fuel. The OIG showed a receipt dated August 30, 2017 where he prepaid for \$30 and actually put in \$17.30 and then both receipts were submitted for reimbursement. The OIG asked why he turned in both receipts. He stated he didn't know how that worked. The OIG showed another receipt from September 2, 2017 with a prepay amount of \$40 and actually put in \$ 32.50 and he was reimbursed for both. According to T2, he didn't get reimbursed for both. When he turned in his

receipts, he turned them all in. They told him to turn in everything with fuel. The OIG stated that a few minutes ago he said that he would prepay and put in the full amount. He said that is not true. T2 stated that is honestly what he remembers, he doesn't remember getting second receipts, then a few moments later T2 remembered getting second receipts. The second receipt is what went in to the car. The OIG showed T2 his expense report on what was paid. The report showed payments for both. The dates for this repayment were for his first tour. He stated the first time he turned in everything and that it shouldn't have happen like that. He stated getting paid for both is an issue and he shouldn't have got paid for both. If this didn't get caught by anybody, then he is guilty too. They should have caught that.

T2 was asked if he had heard of any City employee abusing their time while at the BYD plant. He stated that some of the BYD employees would tell him, your still here, and say well, at least some of you guys stay here. They never gave any names of anyone. When T2 got back to transit he heard rumors through the shop that some of the guys were leaving early or not showing up sometimes. He just heard it. That's all he knew. He didn't know of any specific names.

T2 stated during his first tour he met a group of people from BYD and that during his second tour one of the BYD employees texted him and said he had tickets to the Hot Rod Nationals at the Dragway in Pomona. T2 stated he told the person he would repay him, but the person would not take his money. T2 stated he thought it was hospitality, "lets hang out."

Transit Employee T3:

T3 was sworn on his testimony and provided the following information:

T3 stated the he has been employed with the City 5 years. His work location is at Transits' Daytona facility. When asked if anyone joined him in Lancaster, T3 stated no.

T3 stated his instructions were to do step by step pre-delivery inspections (PDI) which is like an intake inspection. During his first tour, he couldn't do it because the frames weren't even in California, there was nothing to inspect. The second time the frames were there. The OIG asked if he had enough work during his first tour to the BYD plant? He stated that BYD gave him a room with a computer to stay out of the way.

T3's schedule was to work 8-hour days. He couldn't recall what time he started in the morning. Sometimes he was there early, 6:00 am and he did his 8 hours. He wasn't allowed overtime. He stated a lot of work was done after business hours and weekends, but Transit didn't allow him to work those times.

T3 would report back to transit daily, at least two to three times a day. He was given specific items to oversee. Most of his reporting back was done on his private cell phone. A small percentage was email so he could include several people in the conversation. He was given a list of about 10 supervisors and other City administrators to include in the emails. He was in about 2 to 3 group phone calls. On the phone, he would talk to his supervisors. When asked if he shared pictures taken, he stated photos were sent through email. They were only specific areas where he could take pictures. He said that he did not remember sending pictures to any specific employee who went to BYD plant to do inspections.

The OIG asked what were T3's qualifications? He answered it was because he had gone to Elkhart in Indiana before that for inspections. Transit told him he knew how to communicate. When asked what type of buses he worked on, he stated diesel. When asked what were his qualification for the electric buses at the BYD plant, T3 stated none of them were qualified for the BYD inspection process. They gave him a 10 page inspection list with items to check off. The problem was that the check list was from several years ago and not even a third of it applied.

When asked if he submitted his own travel request, he stated no. The first time he went to Lancaster he had reservation issues with his hotel and car rental. Regarding vehicle rental class, he believed they were limited to a budget. The OIG told T3 the first time he rented a Dodge Journey. He stated that was the only vehicle they had. He said if he could have paid the least amount, he would have. He was the only one who drove the rental car.

Reporting of Hours:

The OIG asked if the BYD officials had him sign in. T3 stated no, there wasn't a specific set up to clock in like back at Transit. He stated there was a tablet that you would sign in on as a visitor and he would get a sticker with your name. But that was when it worked. If it didn't work, he wore his City ID. The OIG asked if he used the tablet to clock in and out every day. He said if it worked. He stated that the parking in front of the main building was usually full and he would have to park elsewhere and so he used a different entrance.

The OIG stated that during his first tour there were four consecutive days that he did not clock in or out according to BYD timesheets. T3 stated that if the tablet was working he would clock in. A couple of times, BYD employees noticed he didn't have the name tag sticker on and they would print one out for him. When asked if he was there on those days, T3 stated that if he remembers right, he was there Monday through Friday, but that it was two years ago. Regarding working his full shifts, T3 stated that if he didn't, he would make them up on Saturday's. On Saturday's the front office was locked up.

Social Media Postings:

The OIG told T3 that on Tuesday, July 18, 2017 there was a posting of him on social media showing him by the water with a fishing poll. The OIG was concerned because when the picture was posted, he should have been working at the BYD plant. T3 stated the picture couldn't have been from Tuesday. The social media page was only showing when it was uploaded, it did not mean the picture was taken that day according the T3. He stated it must have been a Saturday morning. When asked if he had the picture on his phone, he stated no, he had just gotten a brand-new phone. T3 stated that the pictures were from the weekend before, there is no other explanation. The photos were then uploaded three days later. The OIG reminded T3 that he was under oath asked if the picture was taken on that Tuesday. He stated no, the only times he had time to do something like that was the weekends.

T3 was also shown a picture from social media showing him and his significant other at the beach. The posting was dated July 25, 2017. The OIG asked when the picture was taken, and he responded that it might have been that week or weekend. The OIG reminded T3 that he had stated no one went with him to Lancaster. He stated no one with him to Lancaster, she went to Los Angeles. When asked how long she was there, he stated he believed she was there Saturday and left on Sunday morning. He stated they stayed at the water that night and in the morning,

she went back. When asked if he could supply documentation, he said he probably could supply a copy of an airplane ticket. The OIG again asked what days she was there, T3 replied either late Friday night or late Saturday night, but she was only there one night.

T3 was asked to transcribe comments that were in Spanish from him that were on his social media posting of him and his significant other. He stated it said, “she left that night (night the picture was taken) but it’s ok, I leave on Friday”. Regarding when the picture was taken, he stated the she was only there one night. T3 stated that if he would have been told he couldn’t have anyone there he wouldn’t have. He stated that he was not a tech wizard, but as a man when he takes a picture it stays on his phone for a while before he decides to do something with it. The OIG commented that there is nothing wrong with having social media and nothing wrong with his significant other going out and going to the beach on the weekend. The issue is that it appears from the dates the pictures were posted, that you should have been working. T3 stated that what it appears like, is more that he had time when he was sitting at the computer at BYD in a small room for the majority on his first tour. You do get stir crazy and have access to email, so he makes sense that the social media dates reflect the times he was sitting at the room at the BYD plant.

T3 stated that he would like to say he had a normal day of work while at the BYD plant, but no buses were even there when he got there. He was used to a routine where you clock in, get your job, finish it and go onto the next one. At the BYD plant, they specifically told him not to worry about that. Wait until you get a call or are told to do something, then take a picture or talk to someone. He stated that he was told that the bus contract needed to have someone there from beginning to end. When the City inspectors were there in the beginning, there was nothing, but we were there. He tried to keep busy and do the best he could. (The OIG reviewed email communications between T3 and City supervisors during his first tour. T3 was sending back pictures showing a bus going through the assembly process. This contradicted what T3 stated during the interview.)

T3 was again asked about his significant others trip. He stated if he remembers right, her flight was delayed until early morning, it was either Friday or Saturday. She wasn’t there for 24 hours. They didn’t have a hotel, they hung out as much as they could before she had to go back. He stated that it had been a long time since the trip.

The OIG asked if T3 went fishing, he stated he tried to, but you have to get a license. He did a trip where you pay them and go out into the water. He saw a lot of people fishing. He went out there, but didn’t catch a fish. He didn’t remember when he went fishing, it was a Groupon deal. He then replied that it was his first weekend there. His significant other had gotten him the trip as a surprise. He stated that he also went to the beach at least two times. T3 also stated that his significant other has family, so they had been to California before.

The OIG asked T3 if he could get us as much information to verify the travel dates. He asked for a pen to write down the dates and asked where to send it. T3 stated that he was pretty sure he could provide a receipt, voucher or itinerary. The OIG supplied an email address. The OIG did not receive any information.

T3 was asked if his phone records were subpoenaed, would it show him working or at the beach during the work? He stated that it would show he was in Lancaster. He stated if he was making

up times it was either on the weekends or early in the morning. T3 was asked why he was late? He stated he had eaten something that got him sick, so he called his supervisor and he was told not to worry about it. He couldn't remember the specific date.

When asked if T3 got along with his co-workers, he stated yes, but there are a couple of co-workers that just don't get along. He would not name them. T3 was told that several of his co-workers had told the OIG that he was at the beach when he was supposed to be working. He stated that he was not surprised to hear that, he had heard several other things about everyone else. He had heard that people that went to Lancaster never went to work. It was not for him to say, he was not there. When asked why would they say something like that about him? T3 stated that in the beginning he had a bad run with a lot of the guys and that it took a long time to make it a habitable place to work. In the beginning he bumped heads with a lot of people.

When asked if he heard about any other City employees abusing their time and not showing up to work, T3 stated he couldn't speak about abusing specific time, but he knew either it was because of a sickness or someone who had a relative they were visiting. It had been a while so he couldn't recall a name. He said he wasn't willing to get someone in trouble. The OIG restated that the Ordinance requirement to report information of any violation. T3 stated if he did have information he would provide it. It was a long time ago, something he heard, he couldn't place a name or face. He has been on the pointing finger side before and it didn't do anything but get him in trouble. He stated he didn't have anything else to add.

Transit Employee T4:

T4 was interviewed and provided the following information:

T4 stated he has been with the City for 5 years. His work location is at Transits' Daytona facility.

When he first arrived at the BYD plant he received resident inspector guidelines. The rules for BYD. The guidelines stated to check in with the receptionist every time you come in and leave. There was a tablet to sign in and then he would get a visitor sticker to put on, but at times it didn't work. If the tablet was not working, he would let the person at the front desk know he was there and would get a visitor sticker. T4 stated that he did clock in and out every day, except when the tablet was not working. (T4 did not clock out on his first tour but he did on his second.)

His work schedule while at the BYD plant he believed was 7:00 am to 3:00 pm with a lunch break, 30 – 45 minutes. A BYD employee did take him out to lunch a few times. When the BYD employee took him out to lunch, the BYD employee bought lunch except for one occasion when he forgot his wallet and T4 paid for him. They went out to lunch about three times.

Regarding car rental, T4 was given a certain dollar amount from the City. When he got to the rental agency he had a hard time because he didn't have a credit card, only debit card. The original rental agency wanted him to sign a form on liability. He did contact his supervisor to let him know about the rental problem and ended up going with Budget rental because they took debit cards. The price was a little more. The second time he went Avis and had no problems. He just needed basic transportation.

Regarding instructions of what to do at the BYD plant, T4 stated that his supervisor told him to get in contact with the Transit inspector that was there before him. The previous Transit

inspector updated him on the process at the plant. He was given a City email account to report back to Transit and also used his personal cell phone to report back.

T4 stated that he reported back to Transit every day when there was something to report. On slower days he would give Transit a call to report. The internet service at the plant was weak and he had trouble reporting back. He would send back correspondence email back from the hotel. T4 would report back to his supervisor most of the time. There were times when he reported by email and he would attach pictures.

The OIG asked T4 why he only clocked out once during his first time and during his second tour he clocked out most of the time? He stated, the first time he didn't know. One day a BYD employee asked him if he was using the tablet to clock in/out. T4 stated after that he started to clock out. There was also one occasion when T4 clocked in at 1:23 pm. The OIG asked if he worked the full day. He stated he could not remember.

T4 was asked if he heard about any City employee abusing their time at the BYD plant. T4 stated that if there were any guys it would probably have been T3. The OIG asked why would it have been T3. He stated that T3 is kind of a "not give a shit guy." T4 said he wasn't accusing him, but maybe he would be the one to do that. T4 stated that if it would be somebody, it would be him.

T4 was asked if he had shared his pictures with T1. He stated that he did not remember. He stated that on his first time everything was new and on his second tour he knew what to do.

Transit Employee T5:

T5 was interviewed and provided the following information:

T5 stated she has been with the City for 8 years. T5 did two tours to the BYD plant in Lancaster, California. Her work location is at Transits' Daytona facility.

Regarding reporting her time while at Lancaster, T5 reported that BYD officials had her clock in on a tablet and type her name in. She was given written guidelines by BYD that she had to sign that stated she wouldn't take any pictures of non-city buses, properties, safety requirements. Regarding the tablet, the initial process was to sign up on it, but about 4 of the 10 times the tablet wasn't charged or connected to their server, so you couldn't clock in. T5 only clocked in, she does not remember clocking out. If the tablet wasn't working, she would come back later to clock in. T5 didn't remember if she was told to clock out. The person there before her had said that if the tablet didn't work not to worry about it, but she thought her time was important, so she always came back to log in.

T5 was asked what her work schedule was while at the BYD plant. She was told to do 8 hours a day, preferably the first shift 7:30 am to 3:00 pm. She was asked if she did other hours and she stated that yes on the second shift/overtime shift they did more work, so she tried to stay for that time as well and would come in at 9:00 am.

T5 was asked about four different occasions when she clocked in after 9 am and one time after 10 am. She replied that probably to follow the bus progress on the second shift or she couldn't initially clock in, but she would if the tablet came back up.

T5 stated she was told to inspect buses similar to the New Flyer plant. She had gone to the New Flyer plant to also do bus inspections. She was not given any other training. She reported back daily and took pictures of the production line. T4 reported back to several people at the City via email and would occasionally call a Transit supervisor on her personal cell phone. She would send photos via email.

Regarding travel, she did not submit her own travel request. It was one of the supervisors. When asked if she was told what vehicle class the City would pay for, she stated yes. She was informed by someone downtown that she could go to the car rental websites to find a vehicle that fits within the budget. She was given a vehicle budget and went with the lowest vehicle price. She rented exactly what the travel person quoted.

When asked if she had enough work to do while she was at the BYD plant, T5 stated yes, the buses were spread out from the framing to the test line. The facility was huge. The OIG asked T5 to walk through a typical work day. She replied that she would get there, log in, if not come back later to log in. She would go upstairs and set up City laptop and look for any emails from her supervisors. She would then go on the floor and see where the buses were down the line, take notes, take pictures, go back up and uploading photos and send emails. She would then go back down to talk to the guys working on the buses to see what is going on. If a bus was going to be road tested she would talk to the person and give her cell number so she could go out with the person that was going to do the road testing. She would go back up and finish emails and send it and that would be the end of the day.

T5 was asked if she ever left the plant during her work day. She replied only for lunch. She stated that sometimes there was a food truck at the plant, so she wouldn't leave the plant. She said that the first trip, a BYD employee did buy her lunch.

T5 was asked if she heard of any City employees abusing their time while at Lancaster. T5 stated, no.

Transit Employee T6:

T6 was interviewed and provided the following information:

T6 stated he has been with the City for 5 years. He did one tour to the BYD plant in Lancaster, California. His work location is at Transits' Daytona facility. He stated that he went by himself to Lancaster.

He was given instructions to go to the plant in the morning, inspect the buses and send a report at the end of each day. T6 stated he was there Monday through Friday and usually was at the plant between 6:00 am and 7:00 am. He would leave anywhere between 4:00 pm and 6:00 pm.

At the BYD plant he had to sign in on a tablet and sign out when he left. The tablet was always available and he never had any issues with it. The initial setup was his name and email address and then he was able to sign in. The BYD employees definitely told him he had to sign in and out every day.

T6 stated that he reported back every day and that he was given instructions to email status of each bus, any issues, anything outstanding. He emailed and sent pictures every day. He did not

have a City cell phone. Emails were sent to about 10 people with the City and he also spoke with two supervisors on his cell phone.

Regarding his travel, he received a print out what the City was going to pay. The car rented was cheaper than the one he was allotted for.

T6 went back to the question if he took anyone with him, he said he did not, but his wife did meet him for a weekend.

T6 was asked if he heard of any City Employees abusing their time while they were in Lancaster. He replied that some of the BYD employees told him that he was there more than the rest of the people from the City. He did hear rumors, but couldn't remember a name. He had asked the BYD employees who they thought did not show up and they could not think of a name.

The rumor was that a third-party vendor was selected to complete the inspections because people were not doing their job while at Lancaster.

T6 did clock in and out.

Transit Employee T7:

T7 was interviewed and provided the following information:

T7 stated he has been with the City for 14 years. He did one tour to the BYD plant in Lancaster, California. He stated that he went by himself to Lancaster.

He worked Monday through Friday and his work schedule varied. On some days he was there early for a road test. He either got there at 7:00 am or 8:00 am and did his eight hours with a lunch break.

T7 was asked if the BYD officials had him clock in. He stated that he would have to log into a tablet they had at the desk. He would look up his name and click on it. His first day he had to set up his name. The tablet was located at the lobby. When asked if he clocked in every day, he stated he believed so, but did not remember if he signed out. He didn't know if he was required to do so. When asked if the tablet was available any time of day, he stated yes, it was just on the desk. T7 did clock in and out daily.

T7 was asked what instructions he was given by Transit? He stated he was given a sheet of paper of everything he was supposed to inspect or look at. There were many processes he would inspect. He inspected wiring, air conditioning, seats, etc. He would walk from one bus to the other. There was a problem with hubs leaking. He would also check vin numbers on axles to make sure they were on the right bus. There were probably about 12 buses in the building process.

Regarding reporting back to Transit, T7 would report back via email with problems he saw and how the bus process was coming along. In the beginning he would report back on his personal cell phone. The Transit inspector prior to him taught him how to upload photos. Emails were sent to several people at Transit.

Regarding Travel, he stated the City booked his flight. The rental car was a compact. He stated that he reserved the car and was reimbursed. The car he reserved was the most economical.

When asked if he heard of any City employees abusing their time while in Lancaster, T7 stated no. No one ever discussed with him if they were doing other things while they were in Lancaster.

The OIG interviewed the majority of the Transit inspectors that went to the BYD plant in Lancaster. Those that were not interviewed are no longer with the City.

Conclusion:

The OIG's position is that most of the Transit Inspectors that went to the BYD plant in Lancaster did their work and inspected the buses the best they could. There are a few that are noted in the report that caused some areas of concern that are listed below. In interviewing the Transit inspectors, it appears that they did not have the proper training or expertise needed to conduct inspections on a new type of battery powered buses being introduced to the City.

During some of the interviews, there were attempts at deception and contradiction that are noted in the interview section.

Below are the possible violations regarding the Transit Inspectors traveling to the BYD plant in Lancaster, California.

Vehicle Rental and Fuel Reimbursement:

City of Albuquerque, Travel Regulations
Chapter Four: Transportation

II. GENERAL TRANSPORTATION POLICIES

- a. Policy. It is the general policy of the City that travelers will obtain the mode of transportation that results in the *most economical benefit to the City*, given the purpose of the official travel.

V. RENTAL AUTOMOBILES

- b. If the travel request authorization has been fully approved and includes a rental vehicle, the City will include the estimated cost of the rental vehicle in the advance to the employee. The City will also reimburse any costs related to the rental vehicle used for official business such as gas cost. *The use of a commercially rented vehicle for any other purpose is considered personal use and employees must bear the cost.* Employees who take leave, arrive early, or delay their departure for personal reasons and use the commercially rented vehicle on those days for personal use, must pay a proportionate share of the related charges for those days. Any free mileage allowance must first be applied to official use of the vehicle and, if any part of the allowance remains, it may be applied to the personal use. *When preparing the travel reimbursement, employees shall provide receipts for the total amount paid for gasoline during the rental period, but may request reimbursement only for the amount applicable to official use of the vehicle.*

T1: During his first tour, T1 stated that his wife used the rental vehicle paid for by the City to drive back and forth from Lancaster to Hesperia to visit with her family and to then come back and pick T1 up and go back to Hesperia (65 miles each way). The City paid \$215.03 for fuel and the OIG

estimated that 1,559 miles were not related to work activities. The car was paid for by the City for official business and should not have been used and driven by T1's wife for personal use and T1 should have been reimbursed less for fuel.

T1 stated that he did not turn in one gas receipt, but he should also have turned in all his receipts and requested reimbursement for the amount applicable to official use of vehicle. The City paid \$571.30 for the rental vehicle, T1 and his wife used the vehicle for personal use and should have paid a portion of the rental cost.

T2: During his first tour to Lancaster, T2 submitted two pre-pay receipts and two actual receipts for the same fuel purchase. T2 received an extra \$70 from the City. T2 had two more pre-pay receipts during his first tour and five during his second tour. T2 did not turn in any actual receipts for those seven pre-payments fuel purchases. The actual amount of fuel paid for cannot be verified due to not having the actual receipts.

T2						
Rental August 28, 2017 through September 8, 2017						
2017 Chevy Malibu: MPG 27/36						
<u>Location</u>	<u>Day</u>	<u>Date</u>	<u>Time</u>	<u>Pre-Pay</u>	<u>Actual</u>	
Kwik Service Gas and Mart - 1951 N Hollywood Way, Burbank	Wednesday	30-Aug-17	6:06:45 PM	\$ 30.00		
Kwik Service Gas and Mart - 1951 N Hollywood Way, Burbank	Wednesday	30-Aug-17	6:10:09 PM			\$ 17.30
Daisy Shell - 400 North Alvarado, Los Angeles	Saturday	2-Sep-17	1:07:08 AM	\$ 40.00		
Daisy Shell - 400 North Alvarado, Los Angeles	Saturday	2-Sep-17	1:12:09 AM			\$ 32.50
Shell - 1127 Rancho Vista BLVD, Palmdale	Monday	4-Sep-17	1:08:11 AM	\$ 30.00		
Shell - 400 W Palmdale BLVD, Palmdale	Thursday	7-Sep-17	6:35:39 AM	\$ 30.00		
				\$ 130.00		\$ 49.80
			Total	\$ 179.80		

Pre-payment receipts should never have been accepted by the travel coordinator and approvers. The travel coordinator and approvers should have noticed the double receipts for the two-fuel purchases. The OIG spoke with Transits' Fiscal Manager and he stated that receipts should have been caught during the approval process.

T2 stated during the interview, the premium rental, Dodge Challenger RT was the only car available during his second tour from the numerous car rental agencies at the Burbank Airport. T2 received email confirmation on his travel. The email had attached three different vendor rental quotes and the most economical price from the vendor list. He was given a cash advance of \$883.14 for the most economical rental. T2 ended up paying \$1314.85 for the premium rental.



The travel person who dealt with T2 is no longer employed by the City. The OIG contacted the travel person and asked her if she remembered dealing with T2 and his rental issues. She stated that she did not, but that she would keep good records on the City's system regarding issues that came up. The OIG reviewed the City's travel system and could not find any records inputted by the travel person regarding T2 issues with the rental vehicle.

Other information: In reviewing all the Transit inspector's rental documentation, that OIG also found one employee who is no longer employed with the City had 3,938 miles during his tour to Lancaster. OIG estimated that approximately 3,146 miles were for personal use. The OIG could not determine the mileage of three of the Transit inspectors trips due to ending mileage errors, two rental invoices stated 100 miles were put on the vehicles and the other invoice had one mile put on the vehicle. The OIG estimated that eight of the other Transit inspectors had personal use mileage ranging from 70 to 595 miles.

Former Director, Bernie Toon stated, "ABQ ride only reimbursed rental/fuel charges in accordance with the City rules regarding travel and rental vehicles." The OIG's investigation found that the statement was not true. The City should consider getting reimbursed for the double receipts and personal rental/fuel charges. Going forward, the City should not accept pre-paid receipts for reimbursement.

Possible Time Fraud:

T1: During the sworn interview with T1, he stated the he probably came in late on three occasions and also left early on three occasions due to traveling with his wife to Hesperia, 65 miles from Lancaster, to visit her family. The OIG was unable to determine the number of hours that T1 was not at work.

T3: During the sworn interview with T3, he was shown several postings from two different work days on his social media account that were uploaded during his work week in Lancaster. T3 stated that the pictures were taken during the weekend and that his significant other was there for only one day on the weekend. He stated that that the pictures were likely posted at the BYD plant when he sat at the computer in a small room during his first tour.

Several of the Transit employees interviewed stated that they had heard T3 was at the beach when he should have been at work. Some had seen the postings on T3's social media account. Due to the statements being hearsay and the inconsistencies of the Transit inspectors clocking in and out at the BYD plant, the OIG was not able to determine if T3 took personal time during his work day.

T3 stated during the interview that he would supply documentation regarding his significant others airfare. The OIG never received any documentation.

Transit Inspectors: The Majority of time, Transit inspectors at the BYD plant did not clock out during their work day, which brings up the question, what time did the Transit inspectors leave and did they work their 8-hour work days? For the most part, Transit inspectors did clock in, but there were times when the Transit inspectors did not clock in or out. During the interviews, the Transit inspectors stated multiple issues related to the tablets. They stated the tablet would not work sometimes, the tablets were not out, or they didn't realize they had to use the tablet.

The Resident Inspector Guidelines provided by BYD to the Transit inspectors states, “Please check in with our receptionist every time you come in and leave.” There was nothing regarding use of tablet to clock in and out.

Acceptance of Gratuities:

Personal Rules and Regulations:

301.10 Bribery, Gift and Donations

No reward, favor, gift, or other form of payment in addition to regular compensation and employee benefits shall be received by any employee for the performance or nonperformance of their duties from any vendor, contractor, individual or firm doing business with the City or who can reasonably anticipate doing business with the City in the future, or from any other source having or proposing to have any relationship with the City of Albuquerque.

Two employees stated that BYD officials bought them lunch on more than one occasion and one employee stated he received a ticket and went to the Hot Rod Nationals with one of the BYD employees.

City employees should not have accepted BYD employees buying lunch and should not have accepted the ticket for the Hot Rod Nationals.

Going Forward:

If the City decides to use City employees for future bus inspections, the following should be considered:

- Train the inspectors on the product they are going to be inspecting and make sure that they are inspecting what is stated in the contract, such as the Buy American Act.
- Insure that City employees are working their hours.
- Insure that travel coordinators, approvers and persons traveling know the City’s Travel Regulations.
- Insure the persons traveling are aware of the City’s Personnel Rules and Regulations §301.10; Bribery, Gifts and Donations.