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Report of Investigation

FILE NO: 20-0010-I

DATE: March 11, 2021

SUBJECT: Potential threats, discrimination and harassment at the Office of Senior Affairs;
Procurement Violations

STATUS: Final

INVESTIGATOR: J. S.

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Executive Summary

The Office of the Inspector General (OIG) was provided with information regarding allegations of threats of physical harm, harassment, retaliation and discrimination made by a Supervisor at the Office of Senior Affairs (SA). In addition, the initial complainants stated that there was a conflict of interest by a manager within SA involving the use of this manager's (SUP-1) brother's business without going through the proper process for contacts. Lastly, the initial complaints allege that SUP-1 at SA department improperly utilizes the Procurement Card (P-Card) and violates the procurement process for the City of Albuquerque (COA).

The OIG investigation focused on the allegations specifically related to SUP-1 and comments that have been made that were harassing, threatening and discriminatory in nature. These comments have been alleged to create a culture of fear and intimidation. In addition, a review was conducted of the P-Cards of the involved persons, the procurement policy, and the use of contracts of an alleged family member of this supervisor. The methodology consisted of reviewing relevant documents and interviewing witnesses that could provide information regarding the allegations. The following activities were conducted as part of the investigative process:

- Review of pertinent documents as they relate to job assignments and staffing at the Office of Senior Affairs;
- Interviews of relevant staff members;
- Review of relevant City Ordinances, Standard Operating Procedure (SOP's) and COA's policies and procedures;
- Review of Procurement policies, receipts, contracts and use of P-Card's.
- Review of previous investigative reports relating to the involved staff and department; and
- Review police report from the Albuquerque Police Department.

With the various allegations that were brought forward within the initial complaint, document review and interviews, the report and summary will be divided between the following:

- 1. Contracting with SUP-1's family company for business and not going through the COA's procurement process to properly secure work;*
- 2. Improper use of the COA's P-Card;*
- 3. Negative, threatening and inappropriate comments in the workplace directed to various staff; and*
- 4. Retaliation.*

1. Discussion with the subject and numerous witnesses could not prove or disprove if the business in question, SUP-1's brothers business, hereinafter know as BUS-1, was owned by the brother of SUP-1. SUP-1 stated that the owner was not his brother and his brother was an employee of BUS-1. It should be noted that the owner and SUP-1 do have the same last name. After a review of receipts and purchases for contracted services with BUS-1, it was clearly seen that many P-card purchases for services were conducted with BUS-1, exceeding the amounts allowed in the procurement policy and without a contract. Full detailed quotes and bills could not be provided by either the business staff in SA nor BUS-1, who stopped replying to the OIG when asked for the detailed quotes for services. A breakdown is as follows:

Date	Vendor Name	Amount	Method of Payment
08/14/2019	BUS-1	\$ 684.00	P-Card
08/26/2019	BUS-1	\$ 1,008.00	P-Card
09/15/2019	BUS-1	\$ 1,165.00	P-Card
10/04/2019	BUS-1	\$ 708.00	P-Card
11/08/2019	BUS-1	\$ 1,002.00	P-Card
11/17/2019	BUS-1	\$ 1,012.00	P-Card
12/15/2019	BUS-1	\$ 800.00	P-Card
12/23/2019	BUS-1	\$ 1,573.00	P-Card
02/28/2020	BUS-1	\$ 1,864.00	P-Card
04/20/2020	BUS-1	\$ 646.00	P-Card
05/01/2020	BUS-1	\$ 308.00	P-Card
05/08/2020	BUS-1	\$ 700.00	P-Card
05/22/2020	BUS-1	\$ 316.00	P-Card
	TOTAL	\$ 11,786.00	

It should also be noted that BUS-1 for gutters and the receipts indicated they were for large purchases of gutters and installation. The SA policy does not indicate that this is a service provided in by the department large quantities. According to management, the only instance in which SA would apply a gutter would be in a small size over a ramp to prevent water from building up which could lead to slips or falls.

2. The same P-card, used above, and issued to SUP-1, was reviewed for all purchases in the past twelve months. It is important to emphasize that a Procurement Card is not to be confused with a "Credit Card." A Procurement Card is merely a method of payment much like issuing a check.

The P-Card is typically used for small purchases less than \$1,000 per transaction, as per the COA P-Card information available on the employee web. A P-Card may be used to purchase tangible goods, but not services, having a value of less than \$1000 if such goods are not otherwise available through inventory at the City Warehouse or available on an existing City contract. It is important to also note that each P-Card has a total transaction limit of \$1,000. P-Card holders are determined by the Director of each individual department and each holder is required to attend a

comprehensive training on rules and regulations on the use of P-Cards. If the acquisition for a particular good exceeds \$1,000, it does not qualify for a P-Card purchase. **If a purchase is split in two transactions to a single vendor or two similar vendors and the aggregate is in excess of \$1,000, this would constitute a purchasing violation, identified as a split purchase.** The correct solution would be another methodology of purchasing such as Oral Quote, RFB (Request for Bid), RFP (Request for Proposal), etc., depending on the total value and nature of the items being purchased. P-Cards are intended for incidental purchases of non-frequently used or low-cost items.

The below are purchases exceeded the single purchase and monthly use limits:

Date	Vendor Name	Amount	Method of Payment
07/09/2020	BUS-2	\$ 1,734.00	P-Card
06/22/02020	BUS-2	\$ 1,194.29	P-Card
04/29/2020	BUS-2	\$ 1,699.61	P-Card
04/28/2020	BUS-3	\$ 1,215.45	P-Card
02/28/2020	BUS-1	\$ 1,864.00	P-Card
12/23/2019	BUS-1	\$ 1,573.00	P-Card
12/18/2019	BUS-4	\$ 1,099.00	P-Card
11/19/2019	BUS-1	\$ 1,002.50	P-Card
10/10/2020	BUS-5	\$ 1,000.00	P-Card
10/10/2019	BUS-5	\$ 1,536.07	P-Card
09/17/2019	BUS-1	\$ 1,165.00	P-Card
08/26/2019	BUS-1	\$ 1,008.00	P-Card

In addition, interviews and email reviews demonstrated that many receipts and purchases have been questioned about SUP-1. The SA department fiscal manager has questioned purchases that seemed out of the scope of services provided by the department, in usually high quantities of products and those that should have been made on contracts and with approved vendors. Responses to the questions, provided by SUP-1 were often argumentative or were not responded to. The fiscal manager would often have to approve without response, due to timelines set by the COA approval process.

Both SUP-1 and the fiscal manager stated that sometime approvals were made with a phone call, and if the phone was not answered, SUP-1 would make the purchase without approval, as they attempt was made.

3. Numerous staff interviews indicated that SUP-1 often used profanity, made negative comments, or has degraded staff who also work for the COA. These comments included subject matters to include sexual innuendos, rape, murder, religious discussions, and political discussions. Each of these samples and instances involved profanity and vulgarity.

While each story or alleged comment made by SUP-1 could not be proven with direct evidence, for each there were numerous instances of corroboration in terms of multiple witnesses, pieces of the discussions having verifiable facts and details that were true.

Numerous staff were interviewed, some who still work at SA and some who have moved on, indicated that this talk was normal and common, as many of the staff are ‘construction workers’ and that is ‘the way they talk’.

One allegation involved SUP-1 threatening to kill a female co-worker while making the gesture of holding an assault rifle. For this matter, prior to this investigation, a police report was filed with the Albuquerque Police Department (APD). This matter is still pending with APD.

The COA Code of Ordinances § 2-17-6(A) states in part, ***The Inspector General shall not accept complaints related to discrimination or labor law matters, or other matters that are the subject of pending litigation.*** During the course of the investigation, subjects arose that related to discrimination or labor law matters. As the OIG does not have jurisdiction in those matters, they will not be included in this report. One of the original complainants expressed that they would forward these matters to those with jurisdiction.

4. Due to the fact that many of the instances of threats or comments did not include clear and concise dates and that many of the policy changes were not documented, it was difficult for the OIG to decipher if the changes in job duties were in fact, in retaliation for the staff reporting these occurrences. It should be noted that many job duties and functions were changed under the direction of SUP-1. When questioned about these changes, SUP-1 indicated that in his role he can make these changes. In addition, SUP-1 stated that he saw these changes in various draft policies that have not been enacted yet, therefore, he could implement. SUP-1 stated that he was unaware if they needed to go through the bargaining unit or wait for official policy changes.

Throughout the various topics reviewed above, the OIG also observed emails to and from SUP-1 with profanity, negative references and comment about other staff and supervisors, and inappropriate topics such as bubble baths and alcohol.

The OIG makes the following recommendations:

1. Information Technology (IT) and management remind all staff on IT rules, monitoring and public information requests;
2. Consultation with Employee Assistance Program (EAP) and having all SA department staff attend training on subjects such as appropriateness in the workplace, tolerance on religion/race and possibly team building techniques;
3. Discipline of SUP-1 based on substantiated violations of the P-card and procurement policies;
4. Developing a policy and procedure for inventory and items held in excess by the SA department;
5. Reviewing SA policy and procedures, updating and ensuring that work performed in the field matches what is permitted;

6. Developing a process to ensure all purchases on the P-card are pre-approved and documented, and not verbally approved on phone calls; and
7. Review of P-card purchases and contracts in place to ensure continued compliance.

Meetings were held with the Director of Senior of Affairs on September 14, 2020 and November 13, 2020 discuss the initial findings that were available at that time. The Director immediately replied and indicated that she would begin corrective action and review of these preliminary results to include:

- Addressing personnel code of conduct issues involving City email use;
- Review current inventory status of SA program supplies utilizing a team of internal and external SA employees;
- Establish new system of inventory with updated procedures and staff training to improve accountability; and
- Assess excessive P-card usage, non-compliance and process improvements and staff training conducted by City Finance.