



SAN FRANCISCO BAY AREA RAPID TRANSIT

OFFICE OF THE INSPECTOR GENERAL

AUDIT & INVESTIGATIONS POLICIES & PROCEDURES

MAY 2026



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# SECTION 1: THE BART OFFICE OF THE INSPECTOR GENERAL

## I. Introduction

The purpose of this manual is to provide a description of the duties and responsibilities of the Bay Area Rapid Transit (BART) Office of the Inspector General (OIG) in conducting performance audits and fraud, waste, or abuse investigations in compliance with [Generally Accepted Government Auditing Standards](#) (GAGAS) and the [Principles and Standards For Offices of Inspector Generals](#) (“Green Book”), respectively.

The Inspector General (IG) and OIG staff will review the contents of this manual annually to ensure it is complete, supports compliance with standards, and reflects actual practices. All staff will have access to this manual.

This manual reflects the February 2024 version of GAGAS published by the Comptroller General of the United States and the Green Book effective July 2024.

## II. Mission, Vision, Core Values, and Philosophy

### **Mission**

To provide a catalyst for improvements of BART operations and promote a credible, efficient, effective, equitable, fair, focused, transparent, and fully accountable form of governance.

### **Vision**

To improve BART services by providing independent, objective, and reliable information regarding BART’s ability to meet its goals and objectives and establish an adequate system of internal controls, root out improper governmental activities (i.e., fraud, waste, or abuse), and address racial, gender, and ethnic inequities.

### **Core Values**

The OIG established four core values that lead us in our work and advance our efforts to build and maintain a reputation of outstanding quality and performance. Our core values are:

- **Honesty:** be consistent and fair in all efforts
- **Integrity:** commit to professional standards
- **Accountability:** seek answers for stakeholders
- **Transparency:** provide visibility on the use of funds

### **Philosophy**

The OIG’s function is an essential element of BART’s public accountability. The OIG’s work depends on the following three standards:

## **Independence**

The OIG and OIG staff must be independent in fact and appearance, which requires being free from personal, external, and organizational impairments. Independence enhances the OIG's credibility with the public and is critical to ensuring that findings, opinions, conclusions, judgments, and recommendations are impartial.

## **Objectivity**

The OIG conducts all projects objectively, factually, and without preconceived ideas, notions, biases, or vested interests regarding the subject. Additionally, the OIG bases all findings, conclusions, and recommendations on a full review of relevant information, and with open-minded consideration of opposing points of view.

## **Technical Accuracy**

The OIG uses strict quality assurance programs to ensure staff exercise due professional care, adequately plan projects, and prepare workpapers that contain sufficient and compelling evidence to support any statements of fact in its reports.

### **III. Authority and Responsibilities**

The BART OIG was authorized in Bay Area Regional Measure 3, approved by voters on June 5, 2018. The measure gave the OIG the authority to conduct, supervise, and coordinate audits and investigations to identify opportunities to improve the efficiency and effectiveness of BART operations and delivery of capital projects, including toll-funded projects, and to ensure compliance with applicable federal and state laws. The passage of the measure resulted in the establishment of § 28840-28845 in the California Public Utilities Code. Specifically, § 28841 establishes the duties and responsibilities of the OIG, which include, but are not limited to, the following:

- a) Examine the operating practices of the district to identify fraud, waste, and opportunities for efficiencies in the administration of programs and operations.
- b) Ensure the BART administration, the board of directors, and the public are fully informed of their findings and recommendations.
- c) Identify opportunities to improve the data used to determine project resource allocations.
- d) Conduct, supervise, and coordinate audits and investigations relating to the district's programs and operations, including, but not limited to, toll-funded programs.
- e) Identify best practices in the delivery of capital projects and recommend policies to enable the district to adopt these practices when practicable.
- f) Recommend policies promoting efficiency in the administration of programs and operations.

- g) Review and recommend best practices that the district should follow to maintain positive and productive relations with its employees and the collective bargaining units representing those employees.

Section § 28843 requires the OIG to provide a report summarizing significant problems identified in audits and investigations and whether BART has implemented the resulting recommendations.

Further, §28844 states that, “Any investigatory file compiled by the [OIG] is an investigatory file compiled by a local law enforcement agency subject to disclosure pursuant to Article 1 (commencing with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code.”

## **IV. Audits, Investigations, & Non-Audit Services**

### **Performance Audits**

The OIG conducts Performance Audits in accordance with GAGAS. Performance Audits provide objective analysis, findings, and conclusions to assist management and those charged with governance and oversight with, among other things, improving program performance and operations, reducing costs, facilitating decision making by parties responsible for overseeing or initiating corrective action, and contributing to public accountability.

### **Whistleblower Investigations**

The OIG conducts investigations in accordance with the Green Book. Investigations are performed either in response to complaints from BART employees, contractors, the public, or other stakeholders, or on our own initiative based on fraud, waste, or abuse concerns that come to our attention. We specifically conduct civil and administrative investigations. When we believe that there has been a violation of criminal law, we forward the case to the District Chief of Police, District Counsel, the appropriate county District Attorney, California Attorney General, United States Attorney, or other appropriate law enforcement agencies. In those instances, we may aid the law enforcement agencies in conducting the investigation.

### **Non-Audit Services**

The OIG is not required to conduct non-audit services. In limited circumstances, the OIG may choose to accept a request to perform such services for BART. All requests must be approved by the IG, who will evaluate the impact that the services would have on OIG independence. If the IG concludes that performing a requested non-audit service would impair OIG independence, the IG will notify management that their request is declined. The IG will document the evaluation and determination.

If the IG concludes there is no impairment and chooses to accept the request, the IG will assign an auditor(s) to perform the non-audit service in accordance with GAGAS. Assigned OIG staff should determine whether providing such a service, either by itself or in aggregate with other non-audit services, would create a threat to their independence, and determine whether management can fulfill its responsibilities in relation to non-audit services. OIG staff are to refer to GAGAS sections 3.64 through 3.106 for guidance.

## SECTION 2: THE AUDIT PROCESS

### I. Triennial Audit Plan

The IG is responsible for presenting a three-year audit plan to the Board of Directors (Board) and Audit Committee. The OIG will conduct a risk assessment to determine which areas to add to the audit plan. The assessment considers observations made during prior audits and fraud, waste, or abuse investigations; and suggestions and concerns expressed by the BART Board, BART committees, the public, employees, contractors, and suppliers. The areas that the IG selects for the audit plan will be those that present the highest risk to BART's ability to meet its objectives. To comply with GAGAS, the OIG will take on only audit ideas for which the OIG has sufficient and appropriate capabilities and resources. The IG may amend the audit plan as necessary and communicate changes to the Board and the Audit Committee.

Throughout the given fiscal year, the IG with the Deputy Inspector General (DIG) will prioritize the audit plan based on risk level; available resources; potential for identifying new revenue, cost savings, or significant improvements; and value-added potential. The IG and DIG will also evaluate whether an audit will likely require the use of a specialist and, thus, would require contracting for specialized services. The BART contracting process is lengthy and may require starting the process several months before launching the audit to ensure the audit is able to move forward without undue delay once initiated.

### II. Audit Performance

Audits are generally broken down into the following five audit phases: 1) Audit Initiation; 2) Planning; 3) Risk Assessment; 4) Field Work; and 5) Audit Reporting. Each phase is designed to ensure compliance with GAGAS. However, deviations from the OIG's normal processes may occur, when necessary, based on time constraints or project objectives. The IG must approve deviations to ensure quality, and to prevent impairments to independence or noncompliance with GAGAS.

#### **Phase 1: Project Initiation**

1. Meet with OIG management. Assigned OIG staff meet with the IG, or designee, to discuss 1) the project objectives, risk, added value, and general scope of work; 2) specific items or issues to be reviewed during Planning; 3) BART Board Member, management, and/or other stakeholder concerns; 4) possible sources of information including persons to interview; 5) orientation-type information OIG staff may need to gain an understanding of the assignment; and 6) a general timeframe for completing the project.
2. Send an Engagement Notice: The IG notifies the BART General Manager and affected executive leaders of project commencement with an Engagement Notice. The communication identifies the preliminary objective of the project assignment and the orientation-type information OIG staff would like to receive at the entrance conference such as:

- organization charts
  - mission statements
  - goals or objectives
  - budgets
  - management/performance measurement reports
  - financial statements
  - prior audit reports
  - any written policies/procedures
  - internal control objectives and/or techniques
3. Notify BART Board Directors, BART union leaders, and other appropriate officials of the project and request their input regarding any areas of interest or concern they would like OIG staff to consider when developing the project scope.
  4. Hold an Entrance Conference. The objectives of the entrance conference are to: 1) provide for OIG staff and auditee staff introductions; 2) discuss the project scope and objective(s); 3) describe the audit process; 4) obtain the information requested in the Engagement Notice; 5) request that the auditee provide a statement describing any significant program accomplishments for possible inclusion in the final report; 6) indicate the proposed timing for the project; 7) request the auditee designate an individual to act as the key contact and/or liaison; and 8) discuss any management concerns.

## Phase 2: Planning

### Audit Planning

The objective of Planning is to gather historical, organizational, and financial information that will help familiarize the OIG staff with the project subject, provide background data for the Planning Memorandum and final report, and facilitate subsequent Risk Assessment and testing procedures. OIG staff should use professional judgment to determine the applicability of each of the following steps depending on the type of assignment.

- Obtain departmental brochures, website locations, and access, etc., to provide background information regarding the program or activity being audited.
- Obtain an organization chart for the program or activity being audited.
- Review prior audit reports and workpapers from the OIG as well as management letters from BART's outside auditors for indications of prior problems.
- Review open and recent Whistleblower investigations related to the project subject.
- Determine the impact that any ongoing legal proceedings may have on project objectives.
- Interview program managers to obtain additional background information regarding the program or activity being audited including intended benefits, history and accomplishments, current objectives, workload, peak periods, backlogs, and any known problems or obstacles.

- If not received during the Entrance Conference, obtain a copy of relevant written procedures and sample copies of reports that management receives concerning workload, use of major program resources (including budget, people, and equipment), achievement of program objectives, organization and relevant process flowcharts, public complaints, and requests for service.
- Review budget documents for background on the program. Review department/program mission statements and objectives. Identify the principal cost and revenue elements over the last three to five years, if available. Identify the program's source of funds and potential restrictions on them.
- As appropriate, interview staff on a section-by-section basis, conduct walk-throughs, and observe processes and activities to become generally familiar with how programs operate and the program's data systems function.
- Determine whether computer-processed data are an important or integral part of the program or activity being audited. If they are likely to be significant to the project objectives, obtain copies of relevant written procedures, input forms, file layouts, and reports. Determine if any applicable information systems' general and application controls are documented.
- Review San Francisco Bay Area Rapid Transit District Act (BART Act) §28500 and related sections of California Codes relevant to the program or activity being audited, e.g., Government, Utility, Labor, or Public Contract Codes<sup>1</sup>. Determine the legal authority for the audited organization, program, activity, or function.
- Identify laws and regulations applicable to the program or activity being audited. If appropriate, request the assistance of the BART General Counsel's Office in identifying relevant federal and state laws and regulations and/or BART Act provisions and ordinances.
- If the program involves a BART contract/grant, obtain and review an executed copy of the contract. Find out how the contractor was selected (e.g., competitive bidding or sole source).
- Identify authoritative standards relevant to the program (e.g., professional standards or industry associations), data sources, and/or practices in other jurisdictions that can potentially be benchmarked.
- Evaluate whether diversity and equity were included in enterprise risk planning for the program or activity being audited. Determine whether the program is inclusive and culturally responsive. Consider differences in federal and state laws regarding these areas.
- Determine whether other auditors, particularly BART Internal Audit, have conducted or are conducting audits that are relevant to the project objectives.
- Obtain and review copies of audits of similar programs in other jurisdictions from the ALGA website or elsewhere.

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<sup>1</sup> California Legislative Information may be found at <https://leginfo.legislature.ca.gov/faces/codes.xhtml>

### Preparing the Planning Memorandum

The purpose of the Planning Memorandum is to summarize Planning efforts and results. The Planning Memorandum usually includes:

- Background information regarding the project assignment such as 1) the history of the project subject; 2) a description of current operations including key responsibilities, funds, divisions, functions, processes, activities, and revenue sources; 3) relevant auditee goals and objectives; 4) relevant organization and process flowcharts; and 5) a three to five year summary of expenses and/or revenues, budgetary, operating and capital program information, and staffing levels, if available.
- Known problems with the auditee's operations or other transit or transportation operations that are performing similar functions and that face similar threats and challenges to providing services.
- BART Board Member, union leader, management, or other BART stakeholder's input or requests regarding the project assignment.
- Applicable BART Act and code provisions; federal or state laws or guidelines; BART Operating Rules and Procedures, policies, and procedures; contract or grant requirements; best practices or industry standards; and Joint Powers or other agreements with other jurisdictions.

### **Phase 3: Risk Assessment**

The OIG implements a risk-based approach to test internal controls and help identify threats inherent to the auditee's activities. The essence of a risk-based approach is the overarching risk-assessment tenet that management is responsible for developing a system of internal controls that:

- Includes the plans, policies, methods, and procedures to meet an organization's missions, goals, and objectives.
- Is well documented, complete, current, efficiently executed, and effectively communicated.
- Is consistently adhered to and applied.
- Is subject to continuous and effective monitoring, review, and needed updates.

It is management's responsibility to speculate on what can go wrong with its operations and implement an adequate system of internal controls to address the risks to the entity's operations that would prevent the organization from meeting its goals and objectives.

OIG staff are expected to perform the following eight Risk-Assessment tasks prior to establishing their Audit Program:

1. Identify the threats associated with the subject of the project, including potential fraud and waste.
2. Assess the inherent risk level for each threat.

3. Prepare a threat list and identify those significant to the audit subject area.
4. Obtain the auditee's internal control objectives and techniques, including information system controls.
5. Assess the relative strength of the auditee's internal controls significant to the audit area.
6. Assess the auditee's vulnerability to identified threats.
7. Prepare a risk matrix.
8. Write the Audit Program.

The Audit Program is the final task in completing the Risk Assessment phase and provides a plan for conducting Field Work. The Audit Program should include the major steps to perform the project and act as a guide through Field Work.

#### **Phase 4: Field Work**

Field Work is the execution of the written Audit Program during which OIG staff perform tasks for gathering and analyzing evidence to address the audit objectives; develop finding elements; reevaluate audit risk and independence threats; and quantify the impact of findings. OIG staff may choose from a wide range of analytical methods to address the Audit Program and must obtain sufficient, appropriate evidence to support findings and conclusions.<sup>2</sup> Interpreting, summarizing, or analyzing evidence is typically used in the process of determining the appropriateness and sufficiency of evidence and in reporting the results of the field work. The following presumptions are useful in judging the sufficiency of evidence:

- Greater the risk, the greater the quantity and quality of evidence required.
- Stronger evidence may allow less evidence to be used.
- A large volume of evidence does not compensate for a lack of relevance, validity, or reliability.

Professional judgment assists auditors in determining the sufficiency and appropriateness of evidence taken as a whole.<sup>3</sup> The workpapers should reflect the details of the evidence and disclose how it was obtained. OIG staff should perform and document an overall assessment of the collective evidence used to support findings and conclusions. If OIG staff conclude that evidence is not sufficient or appropriate, they should not use such evidence as support for findings and conclusions.

OIG staff should describe any limitations or uncertainties with the reliability or validity of evidence if (1) the evidence is significant to the findings and conclusions within the context of the project objectives, and (2) such disclosure is necessary to avoid misleading the report users about the findings and conclusions. OIG staff are to include this description in the written audit report.

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<sup>2</sup> GAGAS Section 8.90

<sup>3</sup> GAGAS section 3.109 to 3.117

## Types of Evidence

Audit Programs should be designed to rely on different types of evidence depending on the project objectives. Types of evidence include:

- Physical: Physical evidence is obtained by direct inspection or observation of activities of people, property, or events. Such evidence may be documented in the form of memoranda summarizing the matters inspected or observed, photographs, charts, maps, and actual samples.
- Documentary: Documentary evidence consists of created information. The documents, forms, journals, or reports may originate within the auditee organization or may come from an external source. Examples are letters, contracts, laws, regulations, procedures, budget information, accounting records, and management information on performance.
- Testimonial: Testimonial evidence is obtained from others through statements received in response to inquiries or through interviews. Statements important to the project should be corroborated with additional types of evidence when possible. Testimonial evidence should take into consideration whether the individual may be biased or may have only partial knowledge about the subject. In other words, OIG staff should evaluate the objectivity, credibility, and reliability of testimonial evidence.
- Data: Data-based evidence pertains to information that is entered, processed, or maintained in a data system and is generally organized in, or derived from, structured computer files. Data vary widely in form, from data in electronic files to tables in published reports, and include:
  - data extracts from databases, data warehouses, or data repositories;
  - data maintained in Microsoft Excel or similar commercial products;
  - data extracts from enterprise software applications;
  - public use data or other replicated detail or summary-level databases accessible through an application other than the original source system; and
  - data collected using web-based forms and surveys.

OIG staff are to perform a data-reliability assessment for data they rely on for findings and conclusions. This applies to data provided to them or data that they extract independently. The nature, timing, and extent of the assessment procedures are affected by the strength of the audited entity's internal controls over the information, including information systems controls, the significance of the data, its source, and expected level of use to support findings and conclusions.

### Early Communication of Deficiencies

Some control deficiencies will require early communication to the BART Board or executive leadership so that they may take prompt corrective action to prevent further occurrences.<sup>4</sup> Therefore, OIG staff should discuss deficiencies with the IG, or designee, throughout the audit so that the project team can decide as to the need to communicate deficiencies to management early.

### Findings and Conclusions

When OIG staff develop findings and conclusions, they should plan and perform procedures to identify the criteria, condition, cause, and effect of the findings to the extent that these elements are relevant and necessary to achieve the project objectives. OIG staff should also consider internal control deficiencies in their evaluation of identified findings. Findings include the following five elements:<sup>5</sup>

- Condition: what is
- Criteria: what should be
- Cause: what produced the condition (who? why?)
- Effect: the “so what” or the product of the condition
- Recommendation: proposed corrective action

OIG staff will meet with their supervisor regularly to discuss the progress of their project assignments. During these meetings, staff will report on what they accomplished since the last meeting and discuss any issues needing direction or resolution; potential need to terminate the engagement; and whether changes to the Audit Program are warranted.

If changes to project objectives are identified during supervisory meetings, staff should document the revised engagement objective and reason for the change. OIG staff are also to discuss the need to terminate an audit and, if so, propose doing so to the IG. Only the IG may conclude that terminating an audit is necessary. If terminated, OIG staff are to document the results of work to date of termination and why the engagement was terminated.<sup>6</sup> OIG staff are to communicate changes to objectives or termination to the BART Board of Directors and executive leadership.

At the conclusion of Field Work, staff will meet with their supervisor for a Pre-Draft Conference to review the completed Field Work and help expedite the report drafting process by ensuring concurrence regarding 1) the findings and conclusions; 2) the punch paragraph(s); 3) the report outline; and 4) recommendations.

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<sup>4</sup> GAGAS section 8.25

<sup>5</sup> GAGAS Sections 8.116, 8.124 to 8.127, and 9.18 to 9.28

<sup>6</sup> GAGAS Section 5.55 (c)

## Phase 5: Project Reporting

OIG staff should issue reports in a format that is appropriate for its intended use, either in writing or in some other retrievable form. Project Reporting consists of the procedures outlined below and will generally follow the process as presented. However, the nature of the OIG's work requires flexibility, and the following steps are to be considered part of a fluid process:

### Drafting the Report

OIG staff are to prepare a draft report that incorporates the decisions reached during the Pre-Draft Conference and submit the completed draft report to the DIG for review and editing. The following are to be included in all reports:

- Executive summary;
- Introduction statement;
- Statement of compliance with GAGAS or modified statement, if applicable;
- Statement of project objectives;
- Description of the project scope and methodology with sufficient detail for users to understand how project objectives were addressed;
- Full discussion of findings and conclusions;
- Punch paragraphs at start of each finding. This is a succinct summary of the information contained in the finding in the order the information is presented;
- Scope of internal control reviews and any deficiencies found when internal control is significant to the project objectives;
- Summary of data-reliability assessment for data used to support findings and conclusions or that otherwise have material importance.
- Recommendations to address the cause of each finding; and
- Nature of any confidential or sensitive information omitted, if applicable.

Some information may be prohibited from public disclosure or may otherwise be excluded from a report due to confidentiality or sensitivity. OIG staff should consider the broad public interest in the program or activity in deciding whether to exclude information from publicly available reports. For example, circumstances associated with public safety, privacy, or security concerns could justify the exclusion of certain information. When this occurs, OIG staff should disclose in the report that certain information has been omitted and the circumstances that make the omission necessary.

OIG staff should evaluate whether omitting the information could distort the project results or conceal improper or illegal practices and revise the report language as necessary to avoid report users drawing inappropriate conclusions from information presented. In circumstances when information is classified or otherwise prohibited from general disclosure by federal, state, or local laws or regulations, the OIG may issue a separate classified or limited use report containing such information and distribute that report to only persons authorized by law or regulation to receive the report.<sup>7</sup>

### Indexing the Report

OIG staff will prepare a copy of the draft report that is indexed to supporting workpapers prepared during the project.

### Engagement Quality Review (Referencing)<sup>8</sup>

The Deputy IG will assign an OIG staff member to serve as the project Referencer and compare the indexed draft report to the supporting workpapers to ensure compliance with GAGAS evidence standards. Referencing is one of the most important quality assurance steps in the IG's audit process which confirms the accuracy of facts, figures, and dates, and ensures findings are adequately supported by the evidence in the audit documentation, and that the conclusions and recommendations flow logically from the evidence.<sup>9</sup>

The Referencer shall:

- Be an OIG staff member who did not work directly on the project assignment;
- Have the competence and capabilities, including sufficient time and the appropriate authority, to perform the engagement quality review; and
- Comply with applicable legal and ethical requirements, including those addressing threats to the objectivity of the Referencer (see Section 4 VII for circumstances and notification requirements).
  - The Referencer should also be alert to circumstances in which the nature and extent of discussions with the engagement team about significant judgments could give rise to a threat to the Referencer's objectivity. If such a threat arises, the Referencer must notify the IG or DIG. The IG or DIG will evaluate the threat and determine appropriate actions, which may include limiting the scope of discussions, reassignment, or applying other safeguards sufficient to reduce the threat to an acceptable level.

The Referencer is responsible for performing procedures at appropriate points in time during the engagement to provide an appropriate basis for an objective evaluation. During the referencing process, the Referencer will record questions or comments related to the adequacy and sufficiency of the evidence

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<sup>7</sup> GAGAS sections 9.61 through 9.63

<sup>8</sup> GAGAS 5.145 to 5.147

<sup>9</sup> GAGAS section 9.17(a)

supporting the report. OIG staff who prepared and indexed the draft report must respond to all reference notes to the satisfaction of the Referencer. When the Referencer is satisfied with the staff member's responses to the reference notes, they will mark the reference note as resolved. In the event the staff member and the Referencer disagree on whether the staff member's response resolves the concern, the Referencer must notify the IG or DIG, who will determine the appropriate resolution. In any event, the final report may not be issued until the Referencer confirms the concern is resolved and notifies the IG that the engagement quality review is complete.

Any changes made to the draft report after referencing is complete should be reviewed by the project lead and, if necessary, re-referenced. The final draft should then be reviewed and approved by the Deputy IG and then sent to the IG for final draft review and approval.

### Finalizing the Report

The IG, or designee, will send a copy of the final draft report to representatives of the audited entity and any other appropriate BART officials (e.g., BART General Counsel) for review prior to the Exit Conference. The OIG will then conduct an Exit Conference with representatives of the audited entity and any other appropriate BART officials to discuss their input and comments regarding the project and the draft report.

To ensure technical accuracy and fairness to the audited entity, the IG, or designee, will incorporate any agreed upon changes to the draft report. OIG staff are to provide a final report with those edits to the audited entity as soon as practical after the Exit Conference along with a management response form for them to populate with their corrective action plans for each recommendation.

Auditee(s) are allowed 30 days to provide a written response to be included in the final report. If the auditee does not provide a written response within the allotted period, the IG will reserve the right to issue the report without a response. If the auditee provides a response that the IG believes is inaccurate or misleading, the IG reserves the right to include a rebuttal to the response in the final report.

The IG will provide a copy of the final report to the Board of Directors and may meet with BART Board Directors individually to discuss the audit findings and recommendations. The IG will then release the report to the public. This includes posting to the OIG website and social media accounts.

Finally, the report will be presented to and discussed with the BART Audit Committee, which may also hear testimony from the audited entity as well as other interested parties. The BART Audit Committee Chair will report the results of its discussion to the full BART Board at the next Board meeting and the OIG may elect to present the report to the full Board. Likewise, the Board may request a presentation of the audit.

If, after a report is issued, the OIG determines that the report lacked sufficient, appropriate evidence to support findings or conclusions, the IG will notify appropriate officials (e.g., BART management), remove the

report from the IG's website, and post a public notice that the report was removed. The IG will then decide whether to do more work to reissue the report with revised findings and conclusions.<sup>10</sup>

### **III. Audit Documentation**

OIG staff should prepare and maintain documentation related to planning, conducting, and reporting on each project. Documentation should be sufficient to enable an experienced auditor who has had no previous connection with the project to ascertain whether the evidence that supports OIG staff's judgment and conclusions is adequate. Documentation should contain support for findings, conclusions, and recommendations. Documentation may be retained in both electronic and hard copy form.

Whenever possible, source documents should be included in the workpapers. However, when source documents are too voluminous to be incorporated, OIG staff should identify the specific documents they examined, copy relevant data, and/or include samples of documents to facilitate the reviewer's understanding of staff's review of the information. OIG staff are not required to include copies of, or list detailed information from, every document they examined when those documents are not used to support the report, findings, or recommendations.

The format and content of documentation may vary depending on the circumstances of the project.

Workpapers should include:

- Audit Program referencing documentation applicable to each program step or marked as not applicable with corresponding explanation.
- Audit documentation supporting findings, conclusions, and recommendations, and demonstrating compliance with GAGAS and supervisory review.
- Any departures from GAGAS requirements and the impact on the project and the OIG's conclusions.
- Cross-indexed and referenced copy of the report.
- Quality control questionnaire documenting compliance with GAGAS.

#### **Documentation Storage and Availability**

Workpapers are stored on Sharepoint. Access is limited to OIG staff.<sup>11</sup> OIG staff should make appropriate individuals and documentation available to other auditors and reviewers upon request, subject to applicable laws and regulations and IG approval. Audit related documents used to support the final audit report shall be retained for a minimum of 7 years. Once the 7 years have passed, the IG will evaluate and determine if destroying those records is needed.

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<sup>10</sup> GAGAS section 9.68

<sup>11</sup> GAGAS sections 5.54, 5.87, 5.132 and 5.139

## Confidential Workpapers

Information that is contained in workpapers that are deemed confidential must be handled with care and identified as confidential by using file names, document headers, or watermarks that say “confidential,” etc. Any confidential paper files shall be locked in secure areas of the office. Consistent with GAGAS, OIG staff shall not publicly disclose any information received during a project that is considered confidential by law.

## IV. Audit Findings of Noncompliance or Potential Illegal Acts, Fraud, or Abuse

OIG staff should exercise due professional care in probing into indications of possible illegal acts to avoid interfering with potential investigations, legal proceedings, or both. Under some circumstances, laws, regulations, or policies require OIG staff to report indications of certain types of illegal acts to law enforcement or investigatory authorities before extending field work. OIG staff may also be required to withdraw from or defer work on the project, or a portion of it, to avoid interfering with an investigation.

Whether a particular act is fraud or noncompliance within provisions of laws, regulations, contracts, or grant agreements may have to await final determination by a court of law or other adjudicative body. Therefore, when OIG staff disclose matters that have led them to conclude an illegal act is likely to have occurred, they should take care not to imply that they have concluded as to whether it is illegal.<sup>12</sup>

Instances may arise where OIG staff are concerned that publicly reporting information may compromise investigative or legal proceedings. In these instances, the IG or Deputy IG will consult with authorities or legal counsel and limit public reporting to matters that would not compromise those proceedings.<sup>13</sup>

If evidence indicates that an illegal act, noncompliance, fraud, or abuse has occurred, the IG, or designee, will determine whether additional work needs to be performed or whether work should be suspended because of the finding, and determine whether a referral should be made to the BART General Counsel and/or law enforcement regarding potential investigations or legal proceedings. The OIG will report known or likely noncompliance with provisions of laws, regulations, contracts, and grant agreements or fraud directly to outside parties when management fails to do so or fails to take timely and appropriate corrective action.<sup>14</sup> In such instances, the IG will contact the BART General Manager and/or General Counsel to discuss the matter and, if appropriate, provide them relevant documentation. OIG staff are to document those discussions in the workpapers. If formal notifications and letters are appropriate to the circumstances, OIG staff are to retain those documents as workpapers.

## V. Status Updates

The OIG provides the BART Board of Directors and BART Audit Committee an annual and semiannual report that include updates on completing audits, projects, and other initiatives and provide summaries of OIG

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<sup>12</sup> GAGAS Sections 9.35 through 9.44

<sup>13</sup> GAGAS sections 9.39 and 9.44

<sup>14</sup> GAGAS Section 9.45

findings, investigations, and audits, and provides the California Legislature with the annual report. The OIG posts the reports to its website and makes them available to the public.

## **VI. Recommendation Follow-up**

On a semiannual basis, the OIG requires the General Manager to provide updates on open recommendations and evidence supporting partial or full implementation as of the OIG's last reporting period. OIG staff review the updates and evidence to verify progress and the sufficiency of the actions taken. Recommendations are classified based on management's corrective-action or OIG decision:

- Open – No or minimal action has been taken toward implementation.
- In Progress – Action taken toward implementation.
- Implemented – Full action has been taken and the OIG verified implementation.
- Not Accepted – Management chose not to implement and accepted the identified risk.
- Dropped – OIG concluded that the recommendation is obsolete due to a change in circumstances or length of time since issuance.

An interactive recommendation dashboard is maintained on the OIG's website: [bart.gov/oig](http://bart.gov/oig).

## **SECTION 3: WHISTLEBLOWER HOTLINE AND INVESTIGATIONS**

These procedures aim to ensure accountability by creating a consistent and logical method for receiving, tracking, and investigating allegations of fraud, waste, or abuse, and describe how the OIG uses a risk-based approach to prioritize and investigate allegations that pose the greatest risk to BART.

### **I. Whistleblower Hotline**

The OIG encourages all employees, contractors, and the public to report their observations regarding fraud, waste, or abuse to the OIG. Whistleblowers may submit complaints via the OIG's whistleblower hotline at <https://bartoig.ipm.starcompliance.com/#landing> or by phone at 510-464-6100, 24-hours a day every day of the year. The OIG accepts anonymous complaints but encourages reporters to provide contact information for the purpose of asking follow-up or clarifying questions. Persons who submit complaints to our office are protected by [BART's Whistleblower and Antiretaliation Policy](#) and [California Whistleblower Protection Laws](#).

[California Government Code section 53087.6\(f\)\(4\)](#) collectively defines "fraud, waste, or abuse" as "any activity by a local agency, employee, or contractor or subcontractor that may be in violation of any local, state, or federal law, ordinance, or regulation relating to corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse or misappropriation of government property, funds, or resources, or willful omission to perform a duty, is economically wasteful, or involves gross misconduct." These activities are also collectively referred to as "improper governmental activities."

### **II. Confidentiality**

OIG staff must maintain the highest level of confidentiality over investigations and investigation files. As previously noted, California Public Utilities Code § 28844 states that OIG investigatory files are treated as files compiled by a local law enforcement agency subject to disclosure pursuant to Government Code Section 7923.600. OIG staff are not to disclose the identity of a complainant unless the complainant has consented to such disclosure; such disclosure is unavoidable during the investigation; or disclosure is required by law.

### **III. Security Sensitive Information (SSI)**

The OIG requires staff to handle Security Sensitive Information (SSI) in compliance with the Transportation Security Administration's (TSA) best practices and obtain SSI clearance from the Director of Security Programs. The IG or Deputy IG will arrange for new OIG staff to obtain SSI clearance so that they may conduct their work without undue delay. In addition to the SSI clearance, OIG staff will be granted access to facilities as needed for investigations, including restricted areas. The IG or Deputy IG will arrange access.

## IV. Receiving Allegations

Allegations received via the OIG Whistleblower Hotline are automatically entered into the OIG's case management system, CaseTrac. Complainants may remain anonymous yet still receive a PIN and case number to follow up on the status of their complaint via the system and communicate with the OIG through the system's portal. OIG staff are to create a CaseTrac record for complaints received via other means and provide the complainant with a pin and case number, if possible.

## V. Allegation Triage

Within 72 business hours, OIG staff must review new complaints and determine whether to investigate, redirect to a future audit, decline, or forward to another oversight body.

- Investigate: Applies to complaints for which there is a reported violation of or noncompliance with a law, regulation, contract term, policy, or procedure, or employee fraud, waste, or abuse.
- Audit: Applies to complaints better addressed through a performance audit that evaluates the larger process versus one component of that process.
- Decline: Applies to complaints that have insufficient information, have already been addressed by our office, are de minimis violations, or invalid, e.g., complaints outside of BART operations.
- Forward: Applies to cases that should be handled by another BART department, such as the Office of Civil Rights, or an outside authority, such as the Federal Bureau of Investigations.

During review, OIG staff must immediately inform the IG and DIG if they believe the complaint:

- Is of a significant and immediate danger to the health or safety of people or property. Our office will inform appropriate individuals in a manner consistent with our confidentiality requirements.
- Is urgent or time-sensitive, e.g., a bribe that is about to take place or an imminent purchase of substandard products.
- Involves a board director, committee member, board-appointed officer, or police chief.
- Alleges retaliation as a result of reporting a concern to our office.
- Names any current or prior OIG employee.

## VI. Due Professional Care

OIG staff are to exercise reasonable judgment and professional skepticism. This requires acting diligently in accordance with applicable professional standards and ethical principles and taking a critical approach to assessing the evidence with appropriate scrutiny.

## VII. Quality Control

The IG and Deputy IG are to ensure that OIG staff understand their assigned tasks and how to complete them diligently and timely before starting the work. OIG staff are to work cooperatively with others to understand their assignments and the purpose and objectives of the investigation. The Deputy IG, or designee, will review the work performed by OIG staff as soon as practicable and follow up for corrections, clarification, or adjustments to ensure evidence collected is sufficient, appropriate, and reliable, and to ensure the investigation is heading in the correct direction.

## VIII. Evidence Collection and Analysis

OIG staff are to collect and analyze evidence using investigative techniques that ensure that the evidence that they obtain is sufficiently reliable for making judgments regarding the matters being investigated. Investigative techniques include, but are not limited to, interviews; collection and analysis of records, data, physical evidence, and other materials; forensic accounting; and surveillance and other monitoring techniques. OIG staff are to select techniques that are fair and objective and review the evidence in a similarly fair and objective manner.

## IX. Investigation Plan

Prior to starting an investigation, OIG staff are to develop a written investigation plan that identifies the allegation and each allegation element to be addressed; evidence to be collected; analyses, surveillance, and interviews to be performed; and any other tasks needed to determine the facts of the investigation or otherwise complete the investigation. OIG staff are to include steps that identify and **assess both inculpatory and exculpatory evidence**. OIG staff are also to anticipate potential constraints on the investigation, such as time, and opportunities to coordinate efforts with other oversight bodies to avoid duplication of effort or interference with another investigation. The Deputy IG will review the investigation plan and discuss it with OIG staff before approving the work. Together they will ensure the investigation plan sufficiently addresses the allegation within a reasonable time. A reasonable time will be dependent on the nature of the allegation and the OIGs available resources as well as the constraints noted by OIG staff.

## X. Evidence Sufficiency, Reliability, & Appropriateness

OIG staff are to ensure that the evidence supporting their investigative findings is sufficient, reliable, and appropriate and provides a reasonable basis for their investigative findings and conclusions. OIG staff are to ensure that they collect sufficient and appropriate evidence to address each element of an allegation whether substantiated or not.

## **XI. Timeliness**

To ensure the most value to the public and BART, the OIG strives to turnaround each investigation within a reasonable time. OIG staff are to consider this when developing their investigation plan and should document their completed activities soon after completing them for timely review by the Deputy IG.

The amount of time needed to investigate an allegation will be dependent on the nature of and risk associated with it; the OIG's available resources and competing priorities; and the receipt of new, higher-risk Whistleblower complaints. Likewise, OIG staff may find it necessary to expand the scope of the investigation. OIG staff are to remain flexible in their approaches to accommodate such issues and, through regular meetings and case evaluations led by IG and Deputy IG, prioritize and reprioritize their cases so that the most critical issues are addressed first, and their time used well.

## **XII. Reporting**

California Public Utilities Code § 28841 requires that the OIG keeps BART administration, the Board of Directors, and the public informed of its investigative findings and recommendations. Therefore, the OIG issues a public report for each of its completed investigations unless the IG and Deputy IG determine the investigative effort and seriousness of the allegation are de minimis. The OIG develops and issues public reports supported by accurate, fair, and objective evidence and that present investigative results in a clear and concise manner so that it is understood by its varied report users.

The OIG identifies those involved in investigations in only limited circumstances to avoid violating privacy and confidentiality rights granted by law and creating unwarranted actions against those involved in the investigation. The OIG makes the decision to provide names on a case-by-case basis and considers all elements of an investigation in doing so.

When names must be released to BART General Counsel or executive leadership so that they may take appropriate action, the OIG will issue a separate, confidential report that summarizes the allegation, investigative findings, and recommendations, and that details the facts and evidence gathered in chronological order to assist them in understanding the OIG's investigative results and findings.

## **XIII. Follow-up**

On a semiannual basis, the OIG requires the General Manager to provide updates on open recommendations and evidence supporting partial or full implementation as of the OIG's last reporting period. OIG staff review the updates and evidence to verify progress and the sufficiency of the actions taken. Recommendations are classified based on management's corrective-action or OIG decision:

Open – No or minimal action has been taken toward implementation.

In Progress – Action taken toward implementation.

Implemented – Full action has been taken and the OIG verified implementation.

Not Accepted – Management chose not to implement and accepted the identified risk.

Pending Outside Agency Action – Management cannot proceed with implementation until another jurisdiction completes its processes, e.g., District Attorney’s Office.

Dropped – OIG concluded that the recommendation is obsolete due to a change in circumstances or length of time since issuance.

#### XIV. Special Circumstances

The OIG may receive allegations that require special handling to ensure they are properly addressed and to avoid any real or perceived conflict of interest. This includes allegations against Board Directors, Board Appointed Officers, and OIG staff. The OIG takes the following measures when such allegations are received:

- **Board Directors:** Because the IG reports to the Board of Directors, a complaint against a Director creates a potential conflict of interest. Therefore, the IG and Deputy IG will evaluate the allegation, possibly with the advice of legal counsel, to determine how to proceed, and may obtain outside assistance to conduct the investigation.
- **Board Appointed Officials:** Due to the nature of the position, IG has close professional relationships with Board Appointed Officials, which could create a potential conflict of interest. Therefore, the IG and Deputy IG will evaluate the allegation to determine how to proceed and whether to refer to the Board of Directors for action.
- **OIG Staff:** Fraud, waste, or abuse complaints against OIG staff are to be handled by the IG who will obtain the assistance of General Counsel. The IG may have the Deputy IG assist in the investigation. If a complaint against an OIG staff member is made through the Whistleblower Hotline, access to the CaseTrac record will be restricted. OIG staff are to immediately notify the IG or Deputy IG of complaints they receive against OIG staff.
- **Inspector General:** OIG staff are to immediately report allegations against the IG to the Deputy IG who will review the circumstances and contact General Counsel to discuss the complaint and obtain outside services to investigate as necessary.

#### XV. Interviews

Interviews are an essential part of conducting fraud, waste, or abuse investigations as they allow OIG staff to gather pertinent information, including eyewitness accounts, that help prove or disprove an allegation. OIG staff should generally begin with interviewing the complainant, then witnesses, and then the subject. OIG staff may also need to interview subject-matter experts to help understand the circumstances of the allegation.

Prior to interviews, OIG staff are to gather and analyze all relevant documents, communications, and evidence pertaining to the case to help determine the appropriate questions to ask and the appropriate timing to interview witnesses and the subject.

OIG staff should use the OIG's interview notification templates to notify witnesses and subjects of interviews, and schedule interviews at a reasonable time during normal work hours. OIG staff may schedule meetings outside those standards to accommodate special circumstances. Investigators may conduct interviews via video conference or in person, though the latter is the preferred method for subjects and may be necessary in some circumstances.

A represented employee may have union representation during an interview, whether they are a witness or subject. It is up to the employee to make the determination. However, OIG staff should ask the employee if they would prefer the OIG notify their union on their behalf. Union representatives may ask clarifying questions and provide additional information at the conclusion of the interview, but they are not to answer questions on behalf of the employee, lead the interviewee, or interfere with questioning. Non-represented employees and others may have an attorney present during an interview.

OIG staff should inform interviewees that they may take breaks to consult with their union representative or counsel, or to collect themselves or use bio facilities. Likewise, OIG staff should allow interviewees to leave at any time and are to document the time and circumstances that prompted the departure.

## **XVI. Safety Requirement During Interviews**

OIG staff should have interviewees place their belongings in a locker prior to an interview due to the possibility of an interviewee bringing a weapon to an interview if they believe that a legal or employment action could be pending. While there may not be a strong likelihood of this happening, safety is a priority. OIG staff are to apply this procedure consistently and not to specific individuals.

## **XVII. Recording Interviews**

OIG staff should record interviews but must ask the interviewee for permission first. California is a two-party state meaning both parties must agree to being recorded; therefore, an interviewee may decline having the interview recorded. Recordings will become part of the evidence supporting findings and conclusions, but OIG staff should still have a written account of the interview. In some cases, the IG may require transcription of the recording.

## SECTION 4: ACHIEVING QUALITY

The OIG is committed to achieving a high level of quality for all projects and has established a quality management program to ensure its commitment to those standards and compliance with GAGAS<sup>15</sup> (“Yellow Book”) and the AIG Green Book. OIG policy mandates that OIG staff use these policies and procedures together with the Yellow Book or Green Book to ensure compliance with GAGAS or AIG standards. In any instance of inadvertent omission of specific verbiage or inadvertent conflict between statements in this manual and the Yellow Book or the Green Book, the standards supersede this manual.

### I. Auditing Standards

As noted in this manual, the OIG follows GAGAS in conducting performance audits and, potentially, non-audit services. OIG staff have access to the Yellow Book and are responsible for adhering to its requirements.

The Association of Local Government Auditors (ALGA) published the ALGA Yellow Book Peer Review Guide (guide) to help local government auditors meet the requirements of GAGAS. Portions of the guide are incorporated into our processes to help ensure work conforms to GAGAS.

### II. Investigative Standards

As also noted in this manual, the OIG conducts investigations in accordance with the AIG Green Book. OIG staff have access to the Green Book and are responsible for adhering to its requirements.

### III. GAGAS Compliance Statement

Each OIG audit report includes the following statement indicating that the work was conducted in accordance with GAGAS: *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 on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.*<sup>16</sup>

On rare occasions, the OIG may find it necessary to deviate from an applicable GAGAS requirement(s). In such cases, OIG staff are to modify the statement to either (1) indicate the specific requirement(s) not followed, or (2) state that the OIG did not follow GAGAS.<sup>17</sup> OIG staff must obtain IG approval before deviating from GAGAS.

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<sup>15</sup> GAGAS Chapter 5

<sup>16</sup> GAGAS Section 9.03

<sup>17</sup> GAGAS Section 9.05

## IV. Authoritative Report References

To ensure OIG staff use reliable information, they should identify reputable authoritative resources to reference in a report. Some appropriate resources include information published by the United States Government Accountability Office (GAO), Association of Inspectors General (AIG), Institute of Internal Auditors (IIA), Association of Certified Fraud Examiners (ACFE), American Institute of Certified Public Accountants (AICPA), Committee of Sponsoring Organizations of the Treadway Commission (COSO), International Auditing and Assurance Standards Board (IAASB), Office of Management and Budget (OMB), and sources that are accepted by most authorities in the field. News articles, blogs, and documents that appear to be the opinion of a single person or a small group of individuals with no references to authoritative sources are not a desirable reference in a report. Websites such as Wikipedia should not be cited, though the references cited may be evaluated to determine whether they are reputable.

## V. Quality Management and Oversight

The OIG has established policies and procedures to ensure quality work including:

### **Policies and Procedures Manual**

This manual details the specific procedures and controls used to ensure compliance with professional standards and produce quality work. Each OIG staff member is responsible for reviewing and complying with the manual. This manual is maintained in electronic format accessible to all members of the OIG team. The Deputy IG will ensure all OIG staff know where to access it upon hire.

### **Standard Programs**

Audit Programs are standardized for each phase of performance audits. Templates identify forms and procedures to be completed for each phase of the audit and require OIG staff to establish appropriate objectives to address the audit topic and appropriate tasks to address the audit objectives. The IG or Deputy IG must approve all Audit Programs, monitor OIG staff's progress with it, and ensure their completion.

### **Supervisory Review**

OIG staff charged with supervising an audit or investigation are to document their workpaper review and make notes of anything requiring clarification or correction. Supervisors are also to conduct regular, periodic briefings and meetings to discuss (1) project steps and results; (2) demonstration of professional judgment; (3) workpapers, Audit Programs, and independent reviewer notes; and (4) report draft edits. The IG or Deputy IG will determine the necessary frequency of meetings dependent upon the audit subject, factors unique to the project, and/or the staff assigned to the audit.

### **Engagement Quality Review (Referencing)**

As noted in greater detail in the Reporting subsection above, report referencing is conducted by OIG staff not assigned to the project who have the competence and capabilities, including sufficient time and the

appropriate authority, to perform the engagement quality review and must comply with applicable legal and ethical requirements, including those addressing threats to the objectivity of the Referencer. OIG staff are responsible for following the guidance in the Reporting subsection and ensuring that all facts, statements, findings, and conclusions are appropriately and sufficiently supported.

### **Audit Standards Review Checklist**

The OIG uses a checklist designed after the ALGA Peer Review Guide as a self-assessment tool to ensure the audit work complies with GAGAS. OIG staff are to complete the checklist at the end of each audit and include it with their workpapers. The IG or Deputy IG are to review and approve the completed checklist prior to finalizing an audit report and distributing it outside of the office.

### **Quality Management Risk Assessment**

Annually, the Deputy IG will perform a quality management risk assessment that will determine if the OIG's quality objectives are being met and identify any potential risks to the OIG that may compromise its ability to continue to maintain its quality standards. The Deputy IG is to document the risk assessment and recommend any needed corrective action to the IG, in writing.

### **Monitoring and Remediation Process**

Annually, the Deputy IG will analyze and summarize the results of its monitoring procedures.<sup>18</sup> Such analysis will 1) assess the design, implementation, and operation of the system of quality management, 2) take appropriate corrective action to respond to identified deficiencies, 3) assess compliance with professional standards and the OIG's policies and procedures. The Deputy IG is to document the analysis and recommend any needed corrective action to the IG, in writing.

The Deputy IG is also to provide an update on the effectiveness of the actions taken in response to the prior year's monitoring analysis. The IG will review the memo and recommendations and provide direction on implementing them or provide an alternative recommendation that addresses the issues. The Deputy IG is to maintain the documentation supporting the analysis, summary, IG direction, and actions taken.

## **VI. External Quality Control**

### **Peer Review**

The OIG participates in ALGA's and/or AIG Peer Review program and undergoes a GAGAS peer review every three years.<sup>19</sup> The IG will ensure that policies, procedures, engagement, and other documentation are retained for a period sufficient to permit those performing the peer review to evaluate compliance. The OIG will publish the peer review to its website ([www.bart.gov/oig](http://www.bart.gov/oig)), provide it to the BART Board of Directors, and

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<sup>18</sup> GAGAS Section 5.87

<sup>19</sup> GAGAS Sections 5.155 and 5.179.

present it to the Audit Committee. If the OIG does not receive an external audit peer review every three years, audit reports will include a modified GAGAS compliance statement.<sup>20</sup>

When using another audit organization's work, the OIG will request a copy of the organization's most recent peer review report and maintain it with the project workpapers.

## **VII. Independence**

The OIG is committed to remaining independent to ensure that our opinions, findings, conclusions, judgments, and recommendations are objective and impartial and will be viewed as such by reasonable and informed third parties.

OIG staff should avoid situations that could lead reasonable and informed third parties to conclude that they are not independent and, thus, not capable of exercising objective and impartial judgment on all issues associated with conducting audits and investigations and reporting on the work.<sup>21</sup>

### **Conceptual Framework Approach to Independence**

OIG staff should identify and evaluate threats to independence in accordance with the GAGAS Conceptual Framework. OIG staff are to evaluate the following seven broad categories of threats to independence: structural, self-interest, self-review, bias, familiarity, undue influence, and management participation, and determine whether identified threats to independence have been eliminated or reduced to an acceptable level, applying safeguards as necessary. OIG staff should document which threats require safeguards and what safeguards are applied. If threats cannot be eliminated or reduced to an acceptable level, the IG will decline or terminate the audit.<sup>22</sup>

OIG staff are to apply the GAGAS Conceptual Framework Approach to Independence throughout the life of the audit to address any new threats that may arise.

### **Period of Independence**

OIG staff should be independent from an audited entity during: (1) any period of time that falls within the period covered by the subject matter of the audit; and (2) the period of the professional engagement, which begins when the OIG either signs the initial engagement letter or other agreement to perform an audit or begins to perform an audit, whichever is earlier. The period lasts for the entire duration of the professional relationship (which, for recurring audits, could cover many periods) and ends with the formal or informal notification, either by the OIG or the audited entity, of the termination of the professional relationship or by the issuance of a report, whichever is later. Accordingly, the period of professional engagement does not

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<sup>20</sup> GAGAS Section 9.05

<sup>21</sup> GAGAS Sections 3.17 through 3.63

<sup>22</sup> GAGAS Section 3.60

necessarily end with the issuance of a report and recommence with the beginning of the following year's audit or a subsequent audit with a similar objective.

## **Composition of Independence**

Independence is comprised of both independence of mind and appearance:

### Independence of Mind

The state of mind that permits the performance of a project without being affected by influences that compromise professional judgment, thereby allowing an individual to act with integrity and exercise objectivity and professional skepticism.

### Independence of Appearance

The absence of circumstances that would cause a reasonable and informed third party, having knowledge of the relevant information, to reasonably conclude that the integrity, objectivity, or professional skepticism of an organization or member of the team had been compromised.

## **Annual Declaration and Continuous Evaluation**

OIG staff are to complete an Annual Declaration form each year confirming their independence, qualifications, and commitment to ethical practices. If a personal impairment to independence is identified, the IG will reassign the project, meet with staff to discuss mitigating the impairment, or withdraw from the project. If there are any remaining potential personal impairments, the OIG will disclose them in the report.

OIG staff are to continuously evaluate their independence to identify any new threats that may come up during the year. At least once a year, OIG staff will affirm their retrospective compliance with the OIG's ethical standards and independence expectations.

In addition, OIG staff are required to complete an annual conflict of interest statement (Fair Political Practices Commission Form 700). The process for completing the Form 700 is handled by the District Secretary's Office every February/March.

## **Impairments Identified After a Report is Released**

If an impairment to independence is identified after a report is issued, the IG will assess the impact on the project and GAGAS compliance. If the IG determines that the new threats would have altered the outcome of the project, the IG will follow the requirements of GAGAS Section 3.34 to ensure that report users do not rely on the findings or conclusions affected by the independence threat.

## **VIII. Supervision**

Supervision provides assurance that OIG staff are performing their responsibilities efficiently and effectively, and that all work is conducted in compliance with OIG policies and procedures. The IG and their designees supervise the work of OIG staff. Depending on the project, lead staff may be asked to supervise the work of

others. The IG in coordination with the Deputy IG will ensure that all personnel performing supervision or review will have appropriate skill and proficiency to do so.

### **Biweekly Team Check-In Meeting**

The Inspector General encourages the sharing of diverse thought and perspectives from all OIG staff and recognizes that the OIG is stronger when differing perspectives are welcomed and group think is avoided. All members of the OIG meet biweekly to discuss office projects, investigations, and governmental activities that may impact the OIG. During the Check-In meetings, the team will discuss what information to exchange with the audit organization and the best mechanism to deliver the information.

### **Role of the IG**

The IG has significant involvement in all OIG projects. The IG:

- Assigns a sufficient number of appropriately skilled staff and makes sure they understand the audit/investigation objectives.
- Attends entrance, exit, and other major conferences with auditees.
- Meets with OIG staff on a regular basis to ensure that projects are progressing satisfactorily.
- Reviews and approves Audit Programs, select working papers, report drafts, the final report, and all related report communications, e.g., presentations.
- Consults with OIG staff regarding difficult and contentious issues to ensure conclusions are understood, agreed-upon, implemented, and documented.
- Resolves differences of opinion between the OIG staff and the auditee.
- Ensures those assigned responsibility for the OIG system of quality management have the necessary experience, ability, and authority.
- Ensures documentation is provided to the Referencer to permit completion of the engagement quality review.
- Maintains contact with the BART Board of Directors, union leaders, the BART General Manager, and BART General Counsel.
- Is the contact with the news media and the public.

## **IX. Audit/Investigation Professional Judgment**

GAGAS requires use of professional judgment in planning and performing audits, and in reporting audit results. These same principles are applicable to the use of professional judgement when conducting investigations. OIG staff are responsible for understanding and exercising professional judgment as described in GAGAS sections 3.109 through 3.117. The Deputy IG in coordination with the IG will evaluate whether OIG

staff are sufficiently demonstrating professional judgment in their work and, if necessary, provide training and guidance to those who are not.

OIG staff are expected to render the care and skill expected of a prudent and competent auditor in the same or similar circumstances. In exercising due professional care, OIG staff should be alert to the possibility of intentional wrongdoing, errors and omissions, inefficiency, waste, ineffectiveness, and conflicts of interest. Such conditions and activities should be discussed with the IG.

OIG staff are required to assess the materiality, impact, and effect in developing potential findings. Potential findings are discussed with the IG, or designee, throughout the project. Findings that are not material in nature may be communicated internally to BART staff through a separate management letter.

## **X. Ethical Principles**

All members of the OIG are expected to apply the ethical principles of integrity, objectivity, professional behavior, public interest, and proper use of government resources, information, and positions. The OIG as a whole and OIG staff individually must maintain and demonstrate compliance with those GAGAS ethical principles so that users of our work are confident that we have preserved our independence, took on only work we are qualified to perform, conducted high-quality projects, and have applied GAGAS to our work.<sup>23</sup>

## **XI. Competence**

The IG, in coordination with the Deputy IG, ensure that OIG staff assigned to an audit or investigation collectively possess the necessary technical knowledge, skills, and abilities to conduct that assignment prior to beginning the engagement. The IG is responsible for staffing the OIG with competent personnel who have the skills needed for their assigned roles prior to beginning the engagement and ensuring that work is conducted in accordance with professional standards, legal, and regulatory requirements. This is accomplished through appropriately defined job descriptions and a robust recruiting process that looks for qualified individuals whose skills complement the skills of existing OIG staff as well as fill in any gaps of knowledge. In assigning staff to projects, the IG attempts to match skills and interests of OIG staff to areas of work.

The IG ensures that the recruitment process results in hiring competent, qualified investigators. Our office uses BART's recruitment process, and the IG and DIG review applications, resumés, and/or supplemental questions submitted through that process, and interview candidates to identify the most qualified applicants. The IG hires from the recruitment process only candidates who have the essential knowledge, skills, and abilities necessary to fulfill their roles and responsibilities.

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<sup>23</sup> GAGAS Chapter 3

The OIG may use specialists to assist in conducting an audit or investigation. OIG staff are required to identify the nature and scope of work requiring a specialist and then determine the competence and qualifications of specialists to ensure they are capable of performing the required work. OIG staff are to ensure that specialists are free from independence impairments and specialists are required to attest to their independence. OIG staff are to document their assessment of a specialist's competence, qualifications, and independence. If the engagement requires an internal specialist who will be performing work in accordance with GAGAS, OIG staff must also confirm and document that the specialist has met the GAGAS CPE requirements. All documentation and the specialist's assertion of independence are to be kept with the project workpapers.<sup>24</sup>

The assessments and independence assertion may be done as part of a procurement process or separately depending on the circumstances but must be done prior to engaging the specialist's services.

## **XII. Professional Development**

The IG has implemented a program to ensure that staff maintain professional proficiency through Continuing Professional Education (CPE). Auditors responsible for planning, directing, conducting, or reporting on government audits should complete at least 80 hours of continuing education and training every two years, which contributes to the auditor's professional proficiency. At least 20 hours should be completed in any one year of the two-year period. At least 24 of the 80 hours of continuing professional education and training should be in subjects directly related to government.<sup>25</sup> At least 12 of the 80 hours should be in subjects related to enhancing investigative abilities.

To the extent possible, OIG staff should complete a minimum of 40 hours of training per year. In circumstances where exemptions or exceptions may be applicable to the GAGAS requirements, OIG staff are to refer to the Yellow Book for guidance and work with the IG or Deputy IG to determine if an exemption or exception is acceptable.

OIG staff are encouraged to attain certifications from the Association of Inspector Generals or to obtain other professional credentials like the Certified Internal Auditor (CIA), a Certified Public Accountant (CPA), Certified Government Financial Manager (CGFM), Certified Information System Analyst (CISA), or Certified Fraud Examiner (CFE), to enhance their work-related skills.

To assist with meeting continuing education requirements and to encourage involvement in professional organizations, the OIG, to the extent the OIG's budget allows, will pay for, or reimburse the following:

- Examination, training, meeting, and registration costs or fees.

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<sup>24</sup> GAGAS Sections 4.12 and 8.82

<sup>25</sup> GAGAS Sections 4.16, 4.17, 4.18 and 4.25

- Membership with professional organizations such as the Association of Inspector Generals and the Association of Local Government Auditors.
- Membership necessary to maintain certification status for professional designations applicable to the OIG's work.

The OIG supports costs for travel to training events so far as the office's budget allows. The IG sets an annual budget for OIG staff members to obtain CPE and relevant training throughout a fiscal year. The IG will communicate this amount to OIG staff for their CPE planning needs. All training must be approved by the IG in advance and demonstrate how it supports the OIG audit plan, fills knowledge gaps, and/or complements existing skills.

Each staff member is responsible for maintaining their certifications and meeting GAGAS training requirements. OIG staff are to update the office's CPE tracker to record pertinent information about their training and save proof of training, such as description of the training, certificate of completion, receipts, etc., in their specified folders on Sharepoint. Each employee is ultimately responsible for maintaining their training documentation in an organized manner as to facilitate internal and external reviews.

The IG will assign someone to periodically review the CPE tracker and documentation to ensure it meets with GAGAS requirements.

## SECTION 5: OTHER OIG MATTERS

This section of the manual provides guidance on various administrative matters that support and affect the OIG.

### I. Communications

The IG is the point of contact for all the following:

- Governor
- Members of the Governor's office
- Legislators
- Legislative Staff
- Journalists
- Reporters

OIG staff should route any request for information and forward communications from those listed above to the IG. If necessary, OIG staff should politely decline meeting requests and phone calls from those listed and communicate that all queries and discussions are handled by the IG. The IG may assign the Deputy IG as point of contact.

### II. Records Requests

The District Secretary's Office (DSO) handles all public records requests in accordance with the [California Public Records Act](#). The DSO's procedures include notifying the IG or designee of any requests concerning the OIG files. Per the OIG's establishing legislation, our investigatory workpapers are considered law enforcement files and not subject to disclosure. In circumstances where exceptions may apply, the IG will coordinate with General Counsel.

If OIG staff receive a direct request for files and information, they should direct the requester to NextRequest ([bart.nextrequest.com/](http://bart.nextrequest.com/)) or the DSO and inform them that our investigatory files are generally not subject to disclosure, per Public Utilities Code Section 28844. If the requester is not satisfied with that response, OIG staff should refer them to the IG.

### III. Professional Conduct

The success of any project is due in part to the cooperation and assistance of BART staff. As such, it is important to remember that BART employees are working for their respective functions and that their primary duty is to fulfill their daily assignments. Therefore, OIG staff should be courteous and understanding of employee time constraints and work priorities. OIG are also to demonstrate patience, empathy, and

understanding toward those who are subject to or otherwise impacted by our audits and investigations. If  
OIG staff need an employee to perform a major task, they should discuss it with the Deputy IG in advance.

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**Policies and Procedures Manual Approval**



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Claudette Biemeret, Inspector General

**Version History**

- May 2026 (Audit & Investigations Manual)
- March 2025 (Audit & Investigations Manual)
- May 2025 (Investigations Manual)
- November 2023 (Audit Manual)
- September 2021 (Investigations Manual)
- August 2020 (Investigation framework)
- June 2020 (Audit Manual)