



Organization, Personnel and Technology Committee

Update on implementation of
recommendations from State Audit and
independent review of workplace concerns

Item 6a

September 13, 2022

Update

State Audit

- Updates submitted on June 20, 2022
- Updates on recommendations due
 - October 2022
 - April 2023

Independent Review of Workplace Concerns

- Update on status of recommendations
- Summary

Update on Implementation of Recommendations from State Audit

Recommendations due June 2022

Update on State Audit

June 2022

Number of
Recommendations:
Due: 4
Fully implemented: 5

State Audit Recommendations

A progress dashboard outlining Metropolitan's progress on addressing recommendations from the [California State Auditor's report](#).

EEO

RECOMMENDATION	DEADLINE	STATUS
<p>To ensure that it is complying with state and federal laws as well as best practices, by October 2022 MWD should update its EEO policy to:</p> <ul style="list-style-type: none">• Include a robust definition and examples of retaliation.• Include information about an employee's right to file a complaint directly with the California Department of Fair Employment and Housing (DFEH) or the U.S. Equal Employment Opportunity Commission (EEOC).• Make explicit reference to written investigatory procedures and describe where employees can obtain a copy of those procedures.• Ensure that the policy accurately reflects all other requirements in state and federal law. In order to do so, MWD should establish a process for regularly reviewing the policy to determine whether changes are needed.	10/22	Fully Implemented
<p>To ensure that it has effective and up-to-date policies on related personnel matters, by October 2022 MWD should review and update its sexual harassment policy as needed and develop an official policy defining and prohibiting abusive conduct.</p>	10/22	In Progress
<p>To better position itself to handle all EEO responsibilities required by state and federal law and best practices, by October 2022 MWD should implement the following improvements to its EEO office:</p> <ul style="list-style-type: none">• Create and fill additional positions that are commensurate with the workload of the EEO office, including additional staff to handle investigations, training, and compliance.• Assign formal, written responsibilities for specific staff within the office.• Structure the EEO office in such a manner that it can operate independently, with minimal potential threats to impartiality.	10/22	In Progress
<p>To ensure timely response to EEO complaints, by October 2022 MWD should update its investigation procedures to include timeframes that match DFEH best practices for responding to, investigating, and closing EEO complaints and should adhere to those time frames. MWD should report to its board</p>	10/22	In Progress

Status Tracker



● Fully Implemented 26%
● In Progress 74%

Recommendations due October 2022

Update on State Audit

EEO

On Schedule to
Fully Implement

Due: October 21, 2022

Recommendation		Status
5	Review and update its sexual harassment policy as needed and develop an official policy defining and prohibiting abusive conduct.	EEO-The Sexual Harassment Policy (H-13) was implemented in June 2022 and disseminated to the MWD workforce in July 2022. HR-The Abusive Conduct and Workplace Violence Policy (H-04) has been updated and is being reviewed with bargaining units.
6	Implement the following improvements to EEO office: <ul style="list-style-type: none">▪ Create and fill additional positions that are commensurate with the workload of the EEO office, including additional staff to handle investigations, training, and compliance.▪ Assign formal, written responsibilities for specific staff within the office.▪ Structure the EEO office in such a manner that it can operate independently, with minimal potential threats to impartiality.	The EEO Office created and hired a Deputy Chief EEO Officer in May 2022. It also created a new investigator position entitled Chief EEO Investigator. Two candidates have been selected for this position and are scheduled to start this month. The EEO Office is no longer within HR and serves as an independent office that reports directly to the GM.

Update on State Audit

EEO

On Schedule to
Fully Implement

Due: October 21, 2022

Recommendation		Status
7	Update its investigation procedures to include time frames that match DFEH best practices for responding to, investigating, and closing EEO complaints and should adhere to those time frames. MWD should report to its board quarterly on how many EEO complaints have been received and investigated, including how many of those investigations surpassed the time frames in MWD's procedures.	EEO Complaint & Investigative Procedures have been developed and shared with bargaining unit leadership for review in August 2022. The procedures were developed based on best practices and include the requirement to report EEO statistics to the board quarterly.
10	Implement an electronic recordkeeping system that will allow for accurate and complete tracking of EEO complaints in a single location. MWD also should designate an individual to be responsible for logging, tracking, and updating EEO complaint records.	An electronic case database system is being customized for MWD. The Go Live date is scheduled for October 2022. The Deputy Chief EEO Officer is responsible for ensuring the database is updated.

Update on State Audit

EEO/ Human Resources

On Schedule to Fully Implement

Due: October 21, 2022

Recommendation		Status
11	Implement a written, formal process that outlines the steps that it must follow and the factors it must consider when deciding whether and how to issue discipline. MWD should also develop a recordkeeping policy that documents the disciplinary process so that it can demonstrate that its process is thorough and consistent.	A process has been documented to outline the factors and steps within the disciplinary process, including appropriate documentation to ensure consistency.
12	<p>Develop written procedures for identifying and intervening in potential retaliation while EEO investigations are ongoing.</p> <p>Dedicate a person to follow up with complainants after EEO investigations to ensure that incidents involving potential retaliation are not occurring, as well as track these follow-up discussions.</p>	This recommendation is included in the EEO Complaint and Investigative Procedures mentioned in the previous slide.

Update on State Audit

EEO/ Human Resources

On Schedule to Fully Implement

Due: October 21, 2022

Recommendation		Status
13	<ul style="list-style-type: none">Amend its administrative code to require that all personnel-related settlements that invoke confidentiality or have any financial impact—including paid and reinstated leave—be reported quarterly to the board's Legal and Claims Committee, regardless of settlement type.Develop a written policy that outlines mandatory information required when reporting settlements. This reporting on each settlement should include whether EEO issues were implicated, whether the employee is still employed by MWD, the existence and type of any financial or confidentiality terms, and whether MWD has taken any corrective action in response to the alleged issues.Implement centralized recordkeeping procedures for all employee settlement agreements, including a means of confidentially indicating the existence of such settlements in the EEO complaint database, its personnel database, or some other central repository.	<p>Board Letter 7-8 (Administrative Code Amendment) addresses the first two bullets of this recommendation and will be presented to the Board in September 2022 for consideration.</p> <p>An electronic case database system is being customized for MWD to include recordkeeping of settlement agreements. The Go Live date is scheduled for October 2022. HR is responsible for tracking all employee settlement agreements.</p>

Update on State Audit

Human Resources

On Schedule to Fully Implement

Due: October 21, 2022

	Recommendation	Status
14	<p>Adopt and publish comprehensive formal hiring procedures that include the following elements.</p> <ul style="list-style-type: none">▪ A documented process for screening applications based on defined criteria.▪ Clear instructions for justifying hiring decisions, with examples of appropriate justifications.▪ Document retention requirements for human resources staff and hiring managers that align with the steps of the hiring process required in MWD's hiring procedures.	<p>HR consultants have been retained to draft a formal recruitment procedure document to include best practices and include all State Audit and SLR recommendations. The final draft is under review by management and will be shared with the bargaining units in September.</p>
16	<p>Reinstate the EEO office's role in the hiring process and develop formal procedures describing that role.</p>	<p>The EEO Concurrence Process has been drafted and is being reviewed.</p>

Update on State Audit

Ethics

On Schedule to
Fully Implement

Due: October 21, 2022

Recommendation		Status
19	<p>Revise administrative code to:</p> <ul style="list-style-type: none">Prohibit interested parties from participating in the office's investigation process, except when necessary to provide information or otherwise respond to allegations.Establish the best practices highlighted in this report for protecting the independence of the ethics office, such as ensuring that the ethics officer has sole authority to interpret MWD's ethics rules and that the ethics office can obtain advice from outside legal counsel.	<p>In August, the Board approved amendments to the Administrative Code which:</p> <ul style="list-style-type: none">Establish the Ethics Officer as the sole authority for interpreting MWD ethics rulesGrant the Ethics Officer authority to obtain independent legal counselExplicitly prohibit interference and unnecessary participation in ethics investigationsAdd additional enhancements to Office consistent with state audit recommendations

Update on State Audit

Housing

On Schedule to
Fully Implement

Due: October 21, 2022

Recommendation		Status
20	<ul style="list-style-type: none">▪ Improve the detail and consistency of its current procedures for responding to maintenance requests. These enhanced procedures should detail when MWD will handle a request on its own and when it will address a request as part of a larger effort, and they should establish clear and reasonable time frames for each scenario.▪ Establish procedures for more reliably tracking the length of time it takes to respond to housing issues and regularly report its performance on these issues to the board, including any measures it has taken to improve this performance.▪ Develop a contingency plan for comprehensively addressing its long-term issues with housing—such as installing prefabricated homes or renovating existing units—in case its current plan for replacing employee housing is delayed.	A draft work order procedure, work order priority matrix, priority timeline, and draft contingency plan is being developed.

Update on State Audit

Safety

On Schedule to
Fully Implement

Due: October 21, 2022

Recommendation		Status
22	Enhance its written policies to formally define retaliation and include specific steps responsible parties should take when performing the duties laid out in policy, such as protecting employees from retaliation.	<p>Revised Safety Policy HSEM 101.4 - Safety Communications to incorporate retaliation policy improvements adopted by the Board on August 16, information on reporting retaliation to the Ethics Office, and managers' mandatory duty to report retaliation to the Ethics Office.</p> <p>MWD Retaliation Policy now includes definition of retaliation and expanded coverage of safety concerns.</p> <p>Ethics Office providing live retaliation policy training to MWD workforce in Sept/Oct. in coordination with safety staff.</p>

Recommendations due April 2023

Update on State Audit

Human Resources/ DE&I

Due: April 2023

	Recommendation	Status
15	Formally train hiring managers and human resources staff on their roles and responsibilities.	Training will be conducted after recruitment procedures are finalized.
17	Develop formal procedures for analyzing employee demographics and taking appropriate action based on those data. As part of this process, MWD should report to its board on the results of these analyses and actions.	Formal procedures are being drafted for analyzing employee demographics.

Independent Review of Workplace Concerns

Independent Review of Workplace Concerns

Status of Recommendations

#	Recommendation	Action	Status
2	Implement a policy to address abusive conduct, even if not EEO-related.	In Progress	Draft H-04: Abusive Conduct & Workplace Violence Prevention Policy is under final review to be completed in October.
18	Update the District's "EEO Discrimination Complaint Procedures," and provide copies to complainant(s) and respondent(s) in each investigation.	In Progress	EEO Complaint & Investigative Procedures
23	Take appropriate steps to prevent any form of retaliation against individuals involved in the complaint process.	In Progress	H-07, H-13, and EEO Complaint & Investigative Procedures
45	Require Directors to model professionalism and respectful behavior at all times and reinforce these expectations on a regular basis.	Addressed/ Ongoing	<ul style="list-style-type: none"> • Adopted Board's Principles of Governance Statement (11/2021) • Adopted civility resolution (7/2022)
47	Conduct an annual employee survey for at least the next five years to evaluate the District's progress in implementing the recommendations in the Report, and the effectiveness of those recommendations.	In Progress	Annual survey scheduled to be conducted in June 2023 to allow time for evaluation.

Independent Review of Workplace Concerns

Status of Recommendations Summary

	Referred	Completed	Addressed/ Ongoing	In Progress
General Manager/EEO	26	5	19	2
General Manager and Legal Departments	1	1	-	-
Legal and Ethics Departments	4	1	2	1
Joint Labor-Management Advisory Committee	9	1	7	1
Board	7	1	6	--
Total	47	9	34	4

Comparison between State Audit and Independent Review of Workplace Concerns

State Audit Recommendations		Assessment of Workplace Concerns Recommendations	
4.	<p>To ensure that it is complying with state and federal laws as well as best practices, by October 2022 MWD should update its EEO policy to:</p> <ul style="list-style-type: none"> • Include a robust definition and examples of retaliation. • Include information about an employee's right to file a complaint directly with the California Department of Fair Employment and Housing (DFEH) or the U.S. Equal Employment Opportunity Commission (EEOC). • Make explicit reference to written investigatory procedures and describe where employees can obtain a copy of those procedures. • Ensure that the policy accurately reflects all other requirements in state and federal law. In order to do so, MWD should establish a process for regularly reviewing the policy to determine whether changes are needed. 	1.	Update current EEO-related policies to reflect best practices.
		35.	Implement a District-wide communication program regarding what conduct may constitute retaliation under the District's policy, and the District's commitment to protecting employees from retaliation.
5.	To ensure that it has effective and up-to-date policies on related personnel matters, by October 2022 MWD should review and update its sexual harassment policy as needed and develop an official policy defining and prohibiting abusive conduct.	2.	Implement a policy to address abusive conduct, even if not EEO-related.
6.	<p>To better position itself to handle all EEO responsibilities required by state and federal law and best practices, by October 2022 MWD should implement the following improvements to its EEO office:</p> <ul style="list-style-type: none"> • Create and fill additional positions that are commensurate with the workload of the EEO office, including additional staff to handle investigations, training, and compliance. • Assign formal, written responsibilities for specific staff within the office. • Structure the EEO office in such a manner that it can operate independently, with minimal potential threats to impartiality. 	6.	Continue to enhance the District's current EEO training program.
		24.	Provide in-depth and regular training to all EEO Office personnel regarding complaint intake and investigation best practices, and ensure internal EEO investigators are trained in trauma-informed practices, including interview techniques and credibility assessments.
		14.	Elevate the EEO Office to an independent department reporting to the Board (including hiring an EEO Officer), and eliminate Legal's direct involvement in most investigations.
		15.	Create at least three additional internal EEO investigator positions.
		43.	Encourage management transparency by providing appropriate support and resources to resolve EEO Issues.

State Audit Recommendations		Assessment of Workplace Concerns Recommendations	
7.	To ensure timely response to EEO complaints, by October 2022 MWD should update its investigation procedures to include time frames that match DFEH best practices for responding to, investigating, and closing EEO complaints and should adhere to those time frames. MWD should report to its board quarterly on how many EEO complaints have been received and investigated, including how many of those investigations surpassed the time frames in MWD's procedures.	8.	Require managers to promptly and consistently address EEO Issues and other employee concerns.
		20.	Initiate and complete investigations of EEO Issues in a timely manner.
		39.	Require the District to provide monthly and annual reports to the OP&T Committee that include quantitative data regarding EEO Issues.
8.	To avoid future instances in which EEO complaints go unaddressed, by June 2022 MWD should develop written procedures that specify how non-EEO staff who receive complaints from employees should handle referrals of EEO complaints to the EEO office, and MWD should train staff on those procedures.	18.	Update the District's "EEO Discrimination Complaint Procedures," and provide copies to complainant(s) and respondent(s) in each investigation.
9.	To ensure that the EEO office has appropriate jurisdiction over EEO complaints, by June 2022 MWD should develop written procedures for handling potential threats to impartiality in investigations. These procedures should contain explicit conditions in which a party other than the EEO office, such as the ethics office or the general counsel's office, plays a lead role in an EEO complaint.	16.	Regularly communicate with all employees regarding the separate components of the EEO Office and the Ethics Office, including direct messaging from the General Manager, the CAO, and the Ethics Officer.
10.	To ensure that all EEO complaints and their outcomes are recorded accurately and promptly, by October 2022 MWD should implement an electronic recordkeeping system that will allow for accurate and complete tracking of EEO complaints in a single location. MWD also should designate an individual to be responsible for logging, tracking, and updating EEO complaint records.	17.	Implement a hotline program to allow for anonymous reporting of EEO Issues.
		37.	Establish a system to ensure that the EEO Office maintains ongoing communication with the complainant(s) and the respondent(s) during an investigation
11.	To help ensure equity and consistency in its disciplinary process, by October 2022 MWD should implement a written, formal process that outlines the steps that it must follow and the factors it must consider when deciding whether and how to issue discipline. MWD should also develop a recordkeeping policy that documents the disciplinary process so that it can demonstrate that its process is thorough and consistent.		

State Audit Recommendations		Assessment of Workplace Concerns Recommendations	
12.	<p>To prevent and address mistreatment of complainants and potential violations of its retaliation policy, by October 2022 MWD should do the following:</p> <ul style="list-style-type: none"> Develop written procedures for identifying and intervening in potential retaliation while EEO investigations are ongoing. Dedicate a person to follow up with complainants after EEO investigations to ensure that incidents involving potential retaliation are not occurring, as well as track these follow-up discussions. 	37.	Establish a system to ensure that the EEO Office maintains ongoing communication with the complainant(s) and the respondent(s) during an investigation.
		38.	Inform every employee interviewed during an investigation that District policy prohibits retaliation against any employee who submits a complaint, and against any witness who participates in the investigation, including the respondent.
13.	<p>To ensure that the board is informed of how often EEO matters are being settled and by what means, by October 2022 MWD should:</p> <ul style="list-style-type: none"> Amend its administrative code to require that all personnel-related settlements that invoke confidentiality or have any financial impact—including paid and reinstated leave—be reported quarterly to the board’s Legal and Claims Committee, regardless of settlement type. Develop a written policy that outlines mandatory information required when reporting settlements. This reporting on each settlement should include whether EEO issues were implicated, whether the employee is still employed by MWD, the existence and type of any financial or confidentiality terms, and whether MWD has taken any corrective action in response to the alleged issues. Implement centralized recordkeeping procedures for all employee settlement agreements, including a means of confidentially indicating the existence of such settlements in the EEO complaint database, its personnel database, or some other central repository. 		

State Audit Recommendations		Assessment of Workplace Concerns Recommendations	
14	<p>To ensure fairness and accountability in the hiring process, by October 2022 MWD should adopt and publish comprehensive formal hiring procedures that include the following elements:</p> <ul style="list-style-type: none"> • A documented process for screening applications based on defined criteria. • Clear instructions for justifying hiring decisions, with examples of appropriate justifications. • Document retention requirements for human resources staff and hiring managers that align with the steps of the hiring process required in MWD's hiring procedures. 	41.	Require the District to provide monthly and annual reports to the OP&T Committee that include quantitative data regarding EEO Issues.
15.	To promote consistency in the hiring process, by April 2023 MWD should formally train hiring managers and human resources staff on their roles and responsibilities.		
16.	To prevent bias in hiring, by October 2022 MWD should reinstate the EEO office's role in the hiring process and develop formal procedures describing that role.		
17.	To better analyze its workforce demographics and identify potential barriers to employment, by April 2023 MWD should develop formal procedures for analyzing employee demographics and taking appropriate action based on those data. As part of this process, MWD should report to its board on the results of these analyses and actions.	39.	Require the District to provide monthly and annual reports to the OP&T Committee that include quantitative data regarding EEO Issues.
18.	To ensure that responsible parties have the information they need to make improvements, by June 2022 MWD should annually share the results of its demographic analyses with its various management groups as well as its recruitment staff.		
19.	<p>To ensure that its ethics office is independent, as required by state law, by October 2022 MWD should revise its administrative code to:</p> <ul style="list-style-type: none"> • Prohibit interested parties from participating in the office's investigation process, except when necessary to provide information or otherwise respond to allegations. • Establish the best practices highlighted in this report for protecting the independence of the ethics office, such as ensuring that the ethics officer has sole authority to interpret MWD's ethics rules and that the ethics office can obtain advice from outside legal counsel. 		

State Audit Recommendations		Assessment of Workplace Concerns Recommendations	
20.	<p>To better protect those employees required to reside in employee housing from the issues threatening the safety and habitability of this housing, by October 2022 MWD should:</p> <ul style="list-style-type: none"> • Improve the detail and consistency of its current procedures for responding to maintenance requests. These enhanced procedures should detail when MWD will handle a request on its own and when it will address a request as part of a larger effort, and they should establish clear and reasonable time frames for each scenario. • Establish procedures for more reliably tracking the length of time it takes to respond to housing issues and regularly report its performance on these issues to the board, including any measures it has taken to improve this performance. • Develop a contingency plan for comprehensively addressing its long-term issues with housing—such as installing prefabricated homes or renovating existing units—in case its current plan for replacing employee housing is delayed. 		
21.	To better protect the safety of its employees, by June 2022 MWD should revise its safety policies to establish a minimum level of collaboration between safety representatives and management, such as establishing requirements for regular meetings and requiring managers to attend safety committee meetings.		
22.	To better ensure the effective handling of safety complaints and the protection of workers who make them, by October 2022 MWD should enhance its written policies to formally define retaliation and include specific steps responsible parties should take when performing the duties laid out in policy, such as protecting employees from retaliation.	23.	Take appropriate steps to prevent any form of retaliation against individuals involved in the complaint process.
		35.	Implement a District-wide communication program regarding what conduct may constitute retaliation under the District's policy, and the District's commitment to protecting employees from retaliation.



Discussion

