City of Austin Office of the City Auditor

Investigative Report

Austin Code Employee Abused City Position

October 2020



In 2019, Franklin Fejarang abused his position as a hiring manager in Austin Code's finance division to offer an internship opportunity to the sibling of a romantic interest. Fejarang repeatedly brought up the internship offer while flirting with the romantic interest and trying to advance their relationship. Fejarang modified the sibling's resume that was submitted as part of their Austin Code application. When the romantic interest made it clear they did not want to pursue an intimate relationship with Fejarang, Fejarang slowed the hiring process and ultimately rejected the sibling's application. Through these actions, Fejarang abused his position to obtain a personal gain from a citizen and abused his position to grant a special privilege to another.

Additionally, we found that in 2018 Fejarang abused his position to grant special hiring privileges to others when he hired three of his roommates to work in Austin Code and report directly to him. Fejarang also accepted compensation that could reasonably be expected to impair his judgement as a supervisor, when he accepted rent payment from at least one roommate while they worked for him at Austin Code. Another roommate paid Fejarang for utilities only. At the time of our investigation, the third roommate lived rent-free with Fejarang, while still reporting to him.

Contents	Allegation & Background Investigation Results Appendix A - Subject Response Appendix B - Office of the City Auditor's Response to Subject Response Appendix C - Management Response Investigation Criteria Methodology & CAIU Investigative Standards	10 15 16 18
	Cover: Aerial view of downtown Austin, iStock.com/RoschetzkyIstockPhoto	
Allegation	In October 2019, we received an anonymous allegation that Franklin Fejarang, a Financial Manager II in Austin Code, offered to hire the sibling of a romantic interest he was pursuing to work for him in Austin Code's finance division. The allegation also noted that Fejarang helped edit the sibling's resume to best fit the position. When the romantic interest told Fejarang that they were not interested in a romantic relationship, Fejaran terminated the sibling's application process.	-
	Additionally, while investigating the above allegation, we received two separate allegations that Fejarang was hiring his friends, family, and roommates to work for him, and that he may have paid them higher salaries than other employees with similar positions.	
Background	Austin Code makes sure City Code and ordinances are met so Austin continues to be a livable city. As Financial Manager II at Austin Code, Franklin Fejarang has oversight of the department's accounting and budgeting processes, and supervises their financial staff. He is the designated hiring manager for the finance division and has discretion in the hiring of temps and interns. He is also the final approver for a new	

employee's pay rate. He has been the Financial Manager for over 5 years.

Investigation We found evidence that Franklin Fejarang abused his position as a hiring manager in Austin Code's finance division to offer an internship **Results** opportunity to the sibling of a romantic interest. Fejarang went so far as to help the sibling modify their resume, which was ultimately submitted **Summary** as part of their application to work at Austin Code. Fejarang repeatedly brought up the internship offer while flirting with the romantic interest and trying to advance their relationship. When the romantic interest made it clear they did not want to pursue a romantic relationship with Fejarang, Fejarang slowed the hiring process and ultimately rejected the sibling's application. Through these actions, Fejarang abused his position to obtain a personal gain or favor from a citizen and abused his position to grant a special privilege to another. Additionally, we found that in 2018 Fejarang abused his position to grant special privileges to others when he hired three people who were his roommates to work in Austin Code's finance division and report directly to him. Fejarang also accepted compensation that could reasonably be expected to impair his judgement, when he accepted rent payment from at least one roommate while they worked for him at Austin Code. Another roommate paid Fejarang for utilities only, and at the time of our investigation, the third roommate had been living rent-free with Fejarang for two years, and still reported to him. In the summer of 2019, Fejarang was pursuing a romantic relationship with Finding 1 an individual he met on a popular dating app. We reviewed text messages Abuse of Position between Fejarang and the romantic interest, which indicated Fejarang wanted to be more than friends. The text messages, along with witness testimony, show that Fejarang abused his position with the City as a hiring manager. In an apparent attempt to gain a romantic relationship with that individual, he offered to hire the romantic interest's sibling as a temp at Austin Code's finance division. The position was later changed to an internship to match the sibling's qualifications. Fejarang got approval from his supervisor to hire an intern, after he decided to hire the romantic interest's sibling. Fejarang did not disclose his relationship with the candidate when requesting approval. We also found that Fejarang helped the sibling modify his resume. In several text messages between Fejarang and the romantic interest, he suggested specific changes to the sibling's resume. The text messages also show that Fejarang asked the romantic interest to send the sibling's resume to his personal email address (See Exhibit 1). He later sent photos to the

romantic interest of himself editing the sibling's resume.

Exhibit 1: Text Messages Related to Modifying the Sibling's Resume

Franklin Fejarang's text messages are in the gray bubbles.

Romantic interest's text messages are in the blue bubbles.

Investigation Criteria:

City Code Chapter 2-3

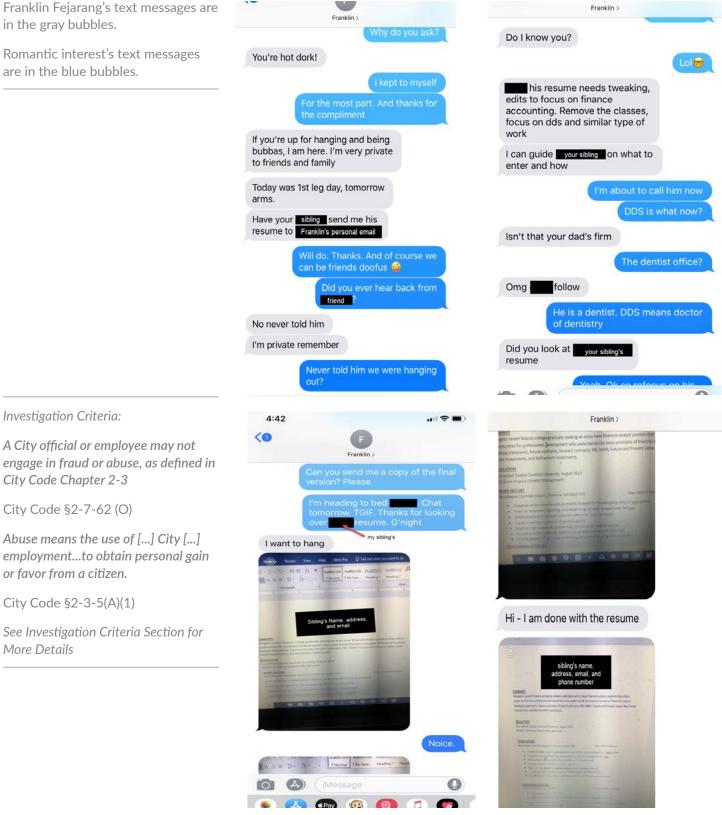
City Code §2-7-62 (O)

or favor from a citizen.

City Code §2-3-5(A)(1)

More Details

A City official or employee may not



SOURCE: Text messages provided by the romantic interest.

Investigation Criteria:

A salaried City employee may not use their official position to secure a special privilege [...] for another person, or harm another person.

City Code §2-7-62(I)

See Investigation Criteria Section for More Details We compared the sibling's original resume to the one edited by Fejarang and found significant changes between them. Most notable was that the work history in the new version edited by Fejarang showed that the sibling worked a particular job from "2014 to present," when the sibling only did that type of work during the summers. This suggested that the sibling had more experience, roughly 60 months, than they had in reality, 15 months, as indicated on the original resume. When corporate HR was asked whether hiring managers are allowed to edit candidates' resumes, an HR advisor stated that this is not recommended as it may provide "an unfair advantage to a candidate in our competitive process." Given that as a hiring manager, Fejarang would review candidates' hiring information and their resumes, his action was an abuse of position.

The sibling later applied for the internship position and included the resume modified by Fejarang as part of the application. The modified resume submitted included Fejarang's initials in the file name. Fejarang forwarded the modified resume and application form, which contained the same information as the resume, to Austin Code HR. In a series of text messages, Fejarang kept the romantic interest updated as to the progress of their sibling's application; including how much the sibling would be paid when hired. This was unusual given that the department's HR assistant was responsible for keeping the candidate up-to-date on their application. Fejarang told the romantic interest that their sibling would start working September 3 or 16, 2019 (See Exhibit 2). Fejarang also texted the romantic interest that their sibling would be hired by Code; and shared that he had a bedroom available to rent in his home. The sibling went through the hiring process and successfully completed a criminal background check.

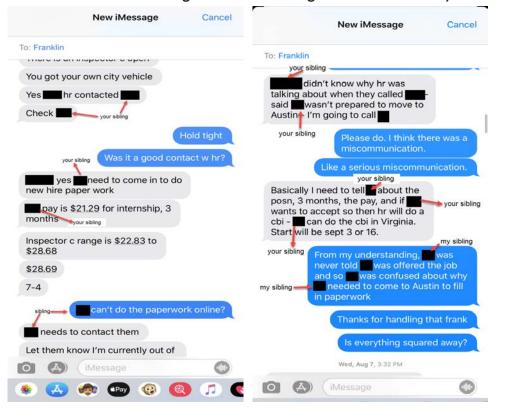


Exhibit 2: Text Message Related to Sibling's Start Date & Salary

SOURCE: Text messages provided by the romantic interest.

During this period, the romantic interest made clear to Fejarang that they were not interested in an intimate relationship and preferred to be friends. Based on text messages he sent, Fejarang did not take this very well. The text messages between them show the connection between Fejarang's desire for a romantic relationship and his hiring of the sibling. When it was clear the romantic relationship would not develop, Fejarang told the romantic interest that their sibling was not offered a job. He added, "don't think [your sibling] has a job when [they] arrives in Austin." He also stated that even if a temp or intern was officially offered a position, it could be cancelled at any time. As a hiring manager, Fejarang had the final say on hiring and could decide not to hire a candidate. By declaring that the sibling would not have a job, Fejarang abused his position as a hiring manager to interfere with the sibling's hiring process.

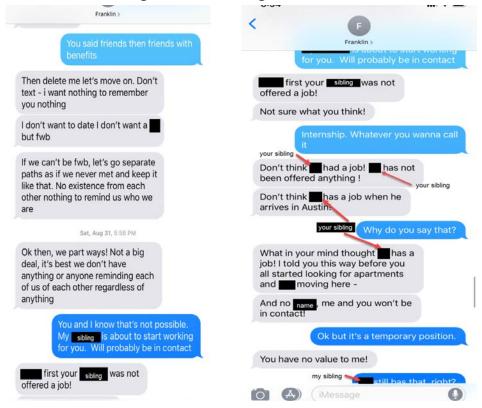


Exhibit 3: Text Message Related to Disagreement with Romantic Interest

SOURCE: Text messages provided by the romantic interest.

New iMessage Cancel New iMessage Cancel To: Franklin To: Franklin process - there was nothing stating is clear No body but you all assumed And if a temp or intern was officially This has nothing to do with me and offered at anytime it can be vou cancelled. t is in writing that the start date is eptember 3 or September 16. here was no assuming. Just going Take care! Good luck Please delete my contact your sibing No No one has given offer! And I told you it's in the process - there was nothing stating is clear Answer my question first. Then I'll Message 0 (\mathbf{A}) (A) Message 0 1000 Pay . 5 dPay . C 1000 0 Ρ Q W Е R т Y U 1 U 0 P Q W Е R Т Y L F J κ L А S D G н S Κ A D F G н J L Ζ X С V В N M \bigotimes Ζ С В \otimes Х V N M 123 space return 123 return space (...) 8

Exhibit 3 continued

SOURCE: Text messages provided by the romantic interest.

Following his argument with the romantic interest, there was a delay in the hiring process for the sibling. The sibling's background check had come back without any issues, and Austin Code HR was ready to move to the next step of sending an offer letter and setting a start date. As noted earlier, Fejarang had already texted the romantic interest about potential start dates and the salary, noting that their sibling only needed to accept the offer. (See Exhibit 2). An HR employee updated Fejarang on the status of the sibling's application but Fejarang did not respond. After weeks of no action, the sibling was asked to submit transcripts, which were not requested when they initially applied for the position. When we spoke to a corporate HR advisor, they noted that these actions were not in line with best practice. We received conflicting testimony about who requested the transcripts. However, shortly after the transcripts were received, the sibling's application was terminated. The Austin Code HR manager and Fejarang jointly terminated the sibling's application because the sibling had not taken a class in over a year and therefore did not qualify for an internship.

At this point, the sibling had moved to Austin from the East Coast and was waiting to begin the internship. Due to the hiring process being terminated, the sibling left Austin because they didn't get the job. Fejarang denied that the termination of the sibling's application was tied to argument with the romantic interest. Fejarang told our office that before the relationship soured, he had told the romantic interest that the hiring of their sibling had nothing to do with their relationship. Fejarang also shared a text message he sent the romantic interest indicating he felt the relationship and hiring were unrelated. However, when examining all the text messages made available to our office, we noticed that in many cases when Fejarang provided an update to the romantic interest on the sibling's hiring process, he would follow up the statement with a request for them to spend time together. At times, he made it clear in the texts he wanted a physical relationship (See Exhibit 3). The text messages between Fejarang and his romantic interest also indicate that the hiring process slowed and was ultimately terminated only after the romantic interest rebuffed Fejarang's advances (See Exhibit 4). Based on the whole conversation between the two, the hiring and desire for an initimate relationship appeared to be linked.

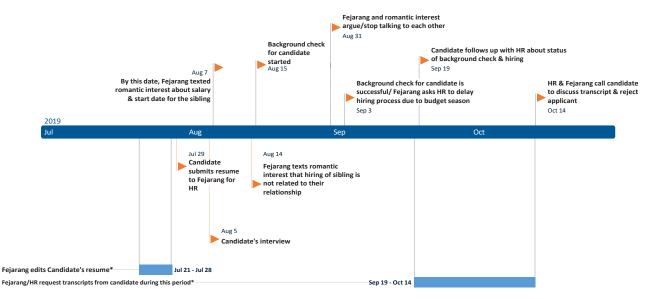


Exhibit 4: Timeline of Events

SOURCE: City Auditor's Office generated timeline based on evidence collected throughout this investigation.

These actions appear to constitute violations of the following criteria:

- City Code §2-7-62(O): Standards of Conduct: Abuse
 - City Code §2-3-5(A)(1): Abuse
- City Code §2-7-62(I): Standards of Conduct: Special Privilege
- Administrative Bulletin 06-03 on Fraud, Waste, and Abuse: Abuse

Finding 2

Fejarang accepted other compensation that could reasonably be expected to impair independence in performance of City duties. While investigating the allegation detailed above, we received two additional allegations that Fejarang was hiring his roommates, friends, and family to work at Austin Code Finance. It was also alleged that he may be paying them a higher salary than other employees in the same positions. We reviewed Fejarang's previous hires while he was a manager, including temps, full-time employees, and interns. We found three temp hires who were living with Fejarang during at least part of the time they were working for him at Austin Code Finance. Two of the temps no longer work for the City. The third temp still works for Austin Code, and at the time of the investigation continued to live with Fejarang.

All three individuals admitted that they lived with Fejarang while they

worked for him at Austin Code. Two of them said that Fejarang asked them to come work for him because Austin Code Finance was short staffed. When we spoke to the individuals, they said they were given the impression by Fejarang that they already had the job before they applied for it. Two of the three roommates hired by Fejarang also stated that they didn't receive a formal interview, just a brief chat. One of the roommates said the chat took place at Fejarang's home. Additionally, one of the roommates did not go through a criminal background check before working with Austin Code. When we spoke with Austin Code HR and Fejarang, we were told that anyone working in Code's finance division must go through a criminal background check. This includes the administrative staff.

All three roommates reported directly to Fejarang. As manager over the finance division, he was responsible for their career development as employees and any disciplinary action. Additionally, as hiring manager, Fejarang is responsible for making the final decision on the pay rate of his new hires. In this case, we found that Fejarang approved the pay rates for all three roommates he hired. For two of the roommates, when Austin Code HR provided a pay range, Fejarang opted for the highest amount on the pay range. For the third roommate, Austin Code HR recommended a specific hourly rate instead of a pay range like the others, and Fejarang approved it. The HR staff who processed these documents added that they felt the hourly wages reflected the candidates' experiences.

In their personnel files, two of the roommates hired by Fejarang listed his home address on their application forms as their personal home addresses. We found that at least one of the three roommates hired by Fejarang paid him \$600 in rent per month and lived with him for roughly six to seven months. Another roommate hired by Fejarang did not pay rent but paid their share of utilities, which ranged from \$100 to \$200 each month. This roommate also lived part-time with Fejarang for a few months, as they would regularly travel out-of-state. The third roommate, who still works at Austin Code, has lived with Fejarang for roughly two years. This roommate denied paying any rent and stated that they lived with Fejarang rent-free. Fejarang confirmed this when we spoke to him. Given that Fejarang was the supervisor for all three individuals, getting money monthly for rent or utilities from two of them could reasonably be expected to impact his independence as he performs his duties as a supervisor.

These actions appear to constitute violations of the following criteria:

- City Code §2-7-62(H)(1): Standards of Conduct: Compensation that impairs judgement
- City Code §2-7-62(I): Standards of Conduct: Special Privilege

I Franklin Fejarang am submitting this response to the Auditors investigation regarding code violations alleged in the report.

I was called into the auditors office in October of 2019 to answer questions regarding the allegation of abusing my authority as a hiring manager by not moving forward with a hiring process of a potential candidate.

Recordings of the intake interview will show that the lead investigator had taken the complainants allegations as factual prior to speaking with me or reviewing any documentation that I could provide. In this intake meeting, - lead investigator) demanded multiple times that I confess to not hiring the individual because of the ended relationship. When i continued to deny this allegations she told me in a threatening tone that I had made the decision to not hire this person for personal reasons and told me the code director was not going to be happy when she presented her with this information. At one point in the interview process my union representative had to tell her to stop, I had answered the question several times already and asked her to please move on. I provided information to the investigator that i had text messages that would confirm my statement that the decision to not hire the candidate had nothing to do with an outside relationship. The interview process was concluded soon after this statement. I was asked to provide the texts by email. Those texts were provided to the auditors office by email. I was also asked to meet with the auditors again and bring my phone so they could confirm the texts and relevant conversation. I have included copies of the text messages in my response.

The audit report also leaves out important information regarding the hiring process and qualifications required by the department to move forward with a potential candidate. The candidate in this hiring process was going to be hired as a temporary employee only for a few months. Temporary employees are not protected by mcs rules and do not go through a competitive hiring process. Temporary employees for financial titles must have a college degree and must pass a criminal background check to be considered for employment. This candidate stated they were finishing their last classes for the degree and would be completed prior to hiring. We ask for transcripts to verify degrees. This is a standard hiring practice at the city and most private businesses, especially when working with financial information. When the transcripts for this candidate were reviewed by human resources and myself they showed that the candidate was short classes to receive a degree. The intern program is very similar to the temporary employee hiring process. Interns do not go through a competitive process and are not protected under mcs rules. Interns must pass a criminal background check and must be enrolled in college classes. We needed to verify the candidate was currently enrolled in college to finalize the hiring as an intern. The candidate's transcripts showed that the candidate was not enrolled in any classes at that time. When asked if he was enrolled in classes he confirmed he was

not. If i would have moved forward with hiring this candidate, knowing that he did not have a degree for temporary employment or currently enrolled in college courses for intern hiring, I would have been breaking city policy by hiring a candidate that did not meet the minimum requirements for the job. I could not hire this individual because he did not meet the requirements for either position. The investigator does not clearly state these facts because they do not fall in line with the narrative and conclusion she had at the very beginning of this investigation.

I do not deny that I was in a relationship with the candidate's family member and that relationship did end. I do not deny helping the candidate with his resume to better show his work history and align it with financial functions that followed the degree program he had been working on. I told the auditors countless times that the relationship and decision to end the hiring process had absolutely nothing to do with the relationship in question. I provided text between me and the candidate's sibling that stated the exact same thing was said multiple times in our conversations.

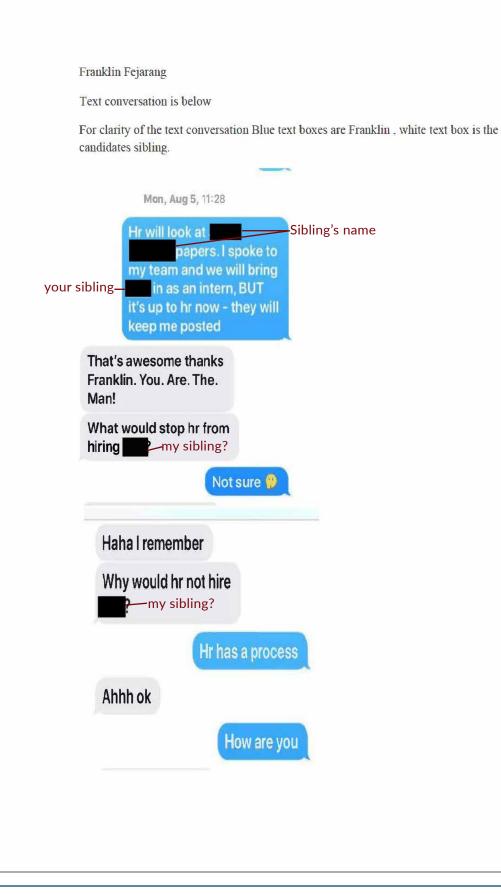
I have hired and managed a lot of employees while working at the city of Austin. The employees that have been my roommates have never received special treatment or been given more opportunities than any other employees under me. I believe in helping people succeed and giving them tools and the support needed. I understand the concerns or perceptions that these employees could receive preferential treatment. I have given the last roommate notice to vacate my residence prior to the completion of this report.

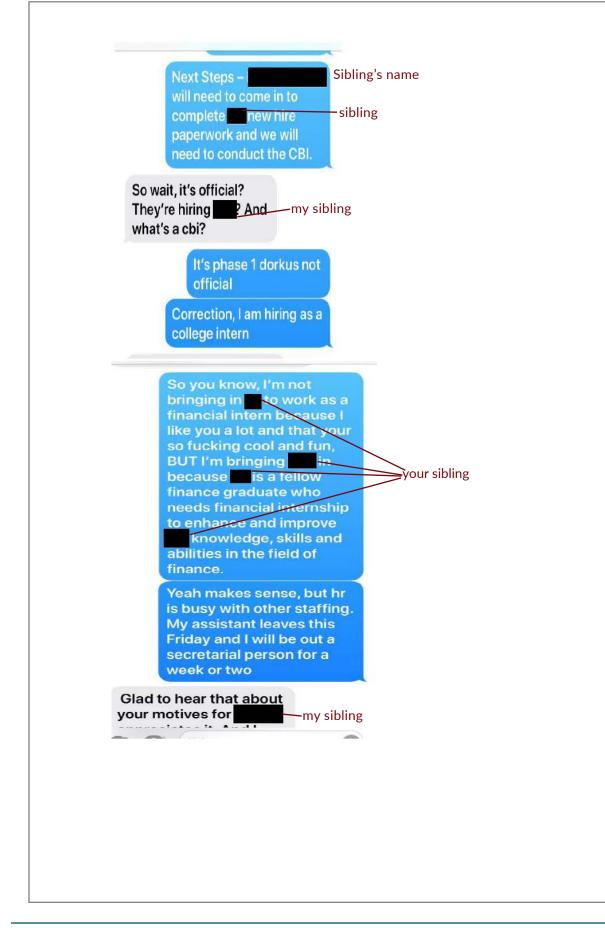
There is nothing in the report or witness testimony that shows preferential treatment to any of the current or past employees.

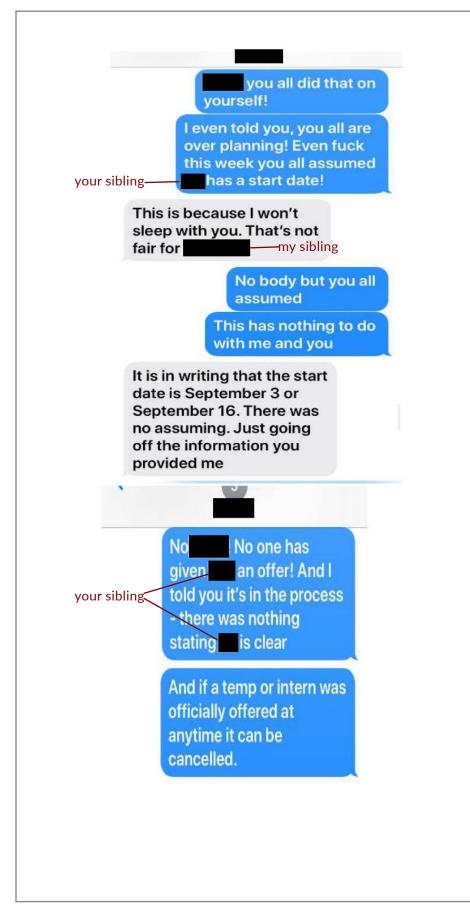
The report states that all of the employees/roommates went through the hiring process and the chosen rate of pay was reviewed by human resources and was in-line with other employees that had similar experience. The investigator again leads the reader to believe that i gave these employees special treatment in the hiring process by stating that they did go through formal processes or interviews. They did not give further facts as to why they did not go through these processes.

These employees were originally hired as temporary employees. As stated earlier, there is no formal process or policy to hire temporary employees, no competitive process or interview panels. Many temporary employees are hired throughout the city by word of mouth, asking other employees or reaching out to friends or family. These positions are typically only 1-5 months long and need to be filled quickly. These are not permanent positions and they do not receive protections or benefits of regular full time employees that must go through a competitive hiring process. Neither I nor any of the employees secured any special privilege or exemption during their employment.

The report also shows that two of the roommates listed my home address as their current personal home address. Neither the employees nor I attempted to hide this information from anyone in human resources or the code department. I believe the third roommate moved in after they were hired.







Appendix B - Office of the City Auditor's Response to Subject Response

We reviewed the subject's response. We believe our findings stand.

Fejarang's interview was reviewed, and his claims about tone and unnecessarily repeated questions were unfounded. The tone of the City Auditor staff was even and professional throughout. Additionally, Fejarang habitually provided incomplete and inconsistent answers in his interview. Given these answers, the City Auditor staff were compelled to repeat questions, which is an investigative best-practice in fact-finding interviews.

Regarding Fejarang's statement that asking for transcripts was a standard hiring practice, our office reviewed the hiring and personnel files of previous candidates (both temps and interns) hired by Fejarang. The files did not contain any transcripts. Additionally, Fejarang admitted in his interview that he did not ask for transcript from previous interns or temps.

Appendix C - Management Response

P.O. Box 100	of Austin Memorandum 88, Austin, TX, 78767 TINCODE ARTMENT
То:	Office of the City Auditor
From: José G. Roig, Interim Director, Austin Code Department	
Date:	October 14, 2020
Subject:	Audit Investigation Report – Austin Code Financial Manager II

The Austin Code Department (ACD) is in receipt of an investigation report from the Office of the City Auditor pertaining to an employee's abuse of power and violations of the City's standards of conduct as an employee and hiring manager for the department.

The report alleges that in 2019, the department's former Financial Manager II inappropriately and unethically abused his position as a hiring manager, engaging in improper hiring practices that could be viewed as a violation of City procedure.

Austin Code does not dispute the findings of the report and does not condone any such conduct. The department takes this matter very seriously and greatly appreciates the work of the City Auditor in this case. Please be advised that the Financial Manager II is no longer employed with the City of Austin.

Since these incidents occurred, ACD has established several hiring practice safeguards to prevent such abuses of power. As of May 2020, the department has implemented a 90-day Strategic Hiring Plan designed to define and communicate the responsibilities of the hiring manager and ACD Human Resources (HR), ensure the consistency of forms, interview questions, and job descriptions, and serve as a step-by-step guide for hiring managers to efficiently fill all vacancies, including temporary positions, with quality candidates in a fair and equitable process.

In addition to the 90-Day Strategic Hiring Plan, the department developed control measures for hiring, including the following:

- ACD HR works directly with the hiring managers to oversee and facilitate all recruitment campaigns.
- Temporary positions are to be posted in a process identical to that of full-time equivalent (FTE) positions to ensure a competitive, fair, and equitable process.

Page 1 of 2

Appendix C - Management Response

- Temporary applicants are required to complete on online employment application.
- A competitive selection process is in place for temporary employees, versus a direct hire process, which is currently permissible under City policy.
- A hiring Approval Binder is to be utilized to fill all vacancies which contains: job posting, detailed job description, candidate scoring matrix, finalist recommendation form, hiring and justification summary, top candidate(s) summary, internal equity form, zoning form (to establish base pay), candidate application, and applicant resumé. The binder allows for thorough vetting of the candidate and approval through the chain of command, from initiation by ACD HR, through the hiring manager, and up to the Director.
- All hiring managers are required to complete an annual Talent Acquisition and Compensation Training session. This training was most recently completed on September 22, 2020.

In addition to the above measures, ACD HR is currently in the process of developing a comprehensive College Internship Program that will outline hiring procedures for department interns.

Thank you for bringing this issue to our attention. Please contact me if you have any additional questions or concerns.

Page 2 of 2

Investigation Criteria

Finding 1

City Code §2-7-62 – STANDARDS OF CONDUCT: ABUSE

(O) "A City official or employee may not engage in fraud or abuse, as defined in City Code Chapter 2-3 (City Auditor)."

City Code §2-3-5 - CITY AUDITOR: POWER AND DUTIES

(A)(1) "Abuse means: the use of [...] City [...] employment, [...] to obtain personal gain or favor from a citizen..."

City Code §2-7-62 - STANDARDS OF CONDUCT

(I) "A salaried City official or employee may not use the official's or the employee's official position to secure a special privilege or exemption for the official or the employee, to secure a special privilege or exemption for another person, to harm another person, or to secure confidential information for a purpose other than official responsibilities."

Administrative Bulletin 06-03 on Fraud, Waste, and Abuse: Abuse

"Abuse" means:

1. the misuse of a City office, employment, contract, or other position with the City to obtain personal gain or favor from another City employee, vendor, or citizen;or

2. the violation of a City policy, procedure, rule, or regulation in a way that impairs the effective and efficient execution of City operations.

Finding 2 City Code §2-7-62 - STANDARDS OF CONDUCT

(H)(1) "No City official or employee shall solicit or accept [...] compensation to be received while a City official or employee, if the [...] compensation could reasonably be expected to impair independence in judgment or performance of City duties."

City Code §2-7-62 - STANDARDS OF CONDUCT

(I) "A salaried City official or employee may not use the official's or the employee's official position to secure a special privilege or exemption for the official or the employee, to secure a special privilege or exemption for another person, to harm another person, or to secure confidential information for a purpose other than official responsibilities."

Methodology

To accomplish our investigative objectives, we performed the following steps:

- Reviewed applicable City Code and policy;
- Conducted background research;
- Reviewed personnel and hiring records;
- Reviewed computer and email data;
- Reviewed text messages;
- Interviewed City of Austin staff;
- Interviewed former employees; and
- Interviewed the subject.

Investigations by the Office of the City Auditor are considered non-audit projects under the Government Auditing Standards and are conducted in accordance with the ethics and general standards (Chapters 1-3), procedures recommended by the Association of Certified Fraud Examiners (ACFE), and the ACFE Fraud Examiner's Manual. Investigations conducted also adhere to quality standards for investigations established by the Council of the Inspectors General on Integrity and Efficiency (CIGIE) and City Code.

The Office of the City Auditor, per City Code, may conduct investigations into fraud, abuse, or illegality that may be occurring. If the City Auditor, through the Integrity Unit, finds that there is sufficient evidence to indicate that a material violation of a matter within the office's jurisdiction may have occurred, the City Auditor will issue an investigative report and provide a copy to the appropriate authority.

In order to ensure our report is fair, complete, and objective, we requested responses from both the subject and the Department Director on the results of this investigation. Please find attached these responses in Appendix A and C.

CAIU Investigative Standards

The Office of the City Auditor was created by the Austin City Charter as an independent office reporting to City Council to help establish accountability and improve city services. We conduct investigations of allegations of fraud, waste, or abuse by City employees or contractors.

City Auditor Corrie Stokes

Deputy City Auditor Jason Hadavi

Chief of Investigations Brian Molloy

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