

Investigative Report

Parks and Recreation Department Employee Misused City Resources

August 2019



We found evidence that Ernest Garcia, a Parks Grounds Assistant with the Parks & Recreation Department, misused City resources by attempting to sell a City-issued bus and rail pass.

Contents

Allegation and Background	2
Investigation Results	3
Appendix A - Subject Response	4
Appendix B - Office of City Auditor's Response to Subject Response	5
Appendix C - Management Response	6
Investigation Criteria	7
Methodology and CAIU Investigative Standards	8

Cover: Aerial view of downtown Austin, iStock.com/RoschetzkyIstockPhoto

Allegation

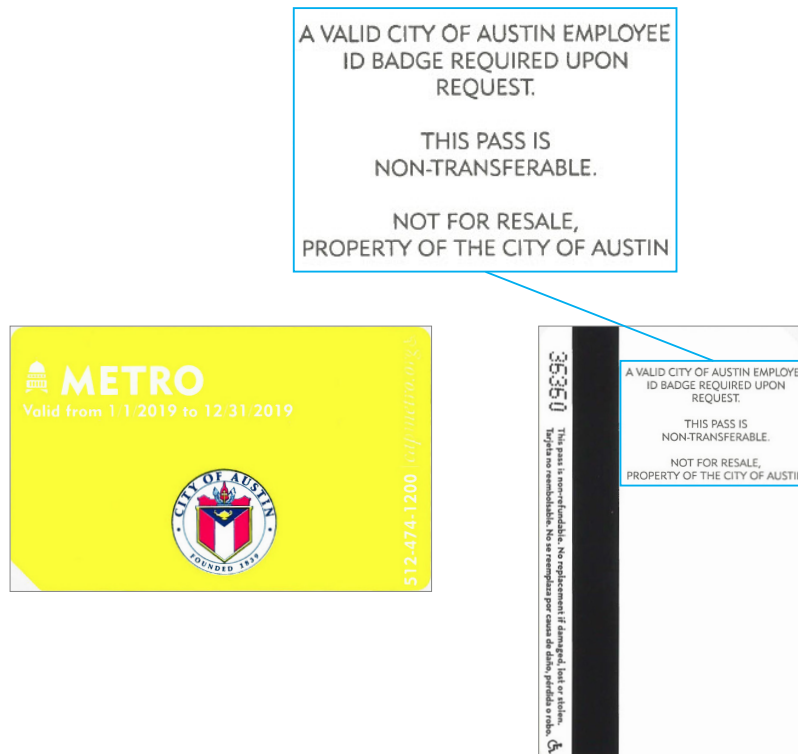
In January 2019, the Office of the City Auditor received an allegation that a City employee named Ernest Garcia, had listed a City-issued bus and rail pass for sale using an online marketplace.

Background

The Parks & Recreation Department (PARC) is responsible for protecting and maintaining the City's parkland and urban forest. Ernest Garcia works as a Parks Grounds Assistant in PARC's Parks Grounds Maintenance division.

Garcia's responsibilities as a Parks Grounds Assistant include performing "minor maintenance, minor construction and/or grounds keeping tasks in and around City parks grounds and recreational facilities." Garcia has worked full-time at PARC since October 2012.

Exhibit 1: Garcia's Bus and Rail Pass



SOURCE: OCA, August 2019.

Investigation Results

Summary

We found evidence that Ernest Garcia, a Parks Grounds Assistant with the Parks & Recreation Department, misused City resources by attempting to sell a City-issued bus and rail pass.

Finding

Misuse of City Resources

In January 2019, a City bus and rail pass was listed for sale on an online marketplace for \$220 under the name “Ernest Garcia.” The listing described the pass as “good for all year” and included a photograph of the front of the pass. The listing did not mention the terms of use noted on its reverse side: “This pass is non-transferable” and “Not for resale, property of the City of Austin.”

We identified the seller, Ernest Garcia, as a PARD employee. We confirmed Garcia intended to sell the pass and arranged to meet with him at a City facility to purchase the pass. At the planned meeting, investigators from our office met Garcia, who was wearing a PARD uniform, and obtained the pass.

In an interview, Garcia said he used the pass to take the bus to work for a short time, but then listed the pass for sale because he no longer needed it and could benefit from some extra money. He stated he set the price of the pass at \$220 because he wanted to price it realistically, to “sell it faster.”

According to records maintained by PARD Human Resources, Garcia received Capital Metro pass no. 36360 on January 9, 2019. When interviewed, Garcia told us that PARD Human Resources did not inform him about any rules related to the pass. He added that he never read the terms on the back of the pass.

The City of Austin offers free bus and rail passes, like the one Garcia attempted to sell, to employees as a commuter benefit. Normally, employees are expected to sign an acknowledgement form when they receive the passes, which makes clear that they are not transferable. At the time Garcia received his pass, PARD Human Resources did not inform PARD employees about the acceptable use of the passes nor require employees to sign the City’s acknowledgment form. In late January 2019, PARD Human Resources began requiring all employees to sign the acknowledgment form.

Garcia’s misuse of resources appears to constitute a violation of the following criteria, as detailed in Investigation Criteria, below:

- City Code § 2-7-62 Standards of Conduct – (J)
- City Personnel Policy – (G) Use of City Resources

Appendix A - Subject Response

From: Ernest Garcia <personal_email >
Sent: Wednesday, July 31, 2019 6:17 AM
To: Williams, Andrew
Subject: Re: IN19004 - Draft investigation report

My only response is that I am now well aware of my actions. And I very sorry for any problems or inconvenience that I have caused. If I was aware or informed of the regulations and rules when recieving the bus pass. I would have definitely not have done it. I do not agree with making my actions available for the public to see, but I can only defend my actions with the truth. I have learned from this as well as i hope we all have. I only hope move forward with my career with the city of Austin. Thankyou.

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

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

City Code requires our office to make our reports public when we find violations of City Code.

Appendix C - Management Response



MEMORANDUM

TO: Andrew Williams, Senior Investigator
Office of the City Auditor

FROM: Liana Kallivoka, PhD, PE, Interim Director
Austin Parks and Recreation Department

DATE: August 15, 2019

SUBJECT: **Draft Investigation Report (no IN19004) re: Ernest Garcia**

The Austin Parks and Recreation Department is in receipt of the draft investigation report regarding allegations against Parks and Recreation Department Employee Mr. Ernest Garcia. Mr. Garcia works for the Parks and Recreation Department as Parks Grounds Assistant. According to the investigation report, Mr. Garcia misused City resources by attempting to sell his City-issued bus and rail pass.

The Parks and Recreation Department Human Resources team will collaborate with PARD Management to review the investigation report, its findings, and determine the appropriate next steps in this matter.

Should you need additional information, please contact Suzanne Piper, DBA, Chief Administrative Officer, at (512) 974-6753, or via email at Suzanne.Piper@austintexas.gov.

Cc: Kim McKnight, AICP, CNU-A, Acting Assistant Director, Parks and Recreation Department
Suzanne Piper, DBA, Chief Administrative Officer, Parks and Recreation Department
Charles Vaclavik, Division Manager, Parks and Recreation Department

Investigation Criteria

City Code § 2-7-62 – STANDARDS OF CONDUCT – (J)

“No City official or employee shall use City facilities, personnel, equipment or supplies for private purposes, except to the extent such are lawfully available to the public.”

City Personnel Policy – (G) Use of City Resources

“Employees are prohibited from using City facilities, equipment, supplies, employee time, or any other City resource for personal use, except to the extent that such resources are available to the public. City resources which may not be used by employees for personal use include, but are not limited to, the following: computers, internet accounts, e-mail and voice mail systems, telephones, facsimile machines, copiers, postage machines, vehicles, office space, desks, and filing cabinets. These resources are dedicated to City business, and City Management shall have full access to both the resources and any contents thereof at all times. Employees have no legitimate expectation of privacy when using these resources...”

Methodology

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

- Reviewed applicable City Code and policy;
- Conducted background research;
- Reviewed department records;
- Interviewed department personnel;
- Obtained the bus and rail pass; and
- Interviewed the subject.

CAIU Investigative Standards

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.

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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.

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