

Noncompliance

1. Fraud Reporting System

Ohio Rev. Code § 117.103 (B)(1) states that a public office shall provide information about the Ohio fraud-reporting system and the means of reporting fraud to each new employee upon employment with the public office. Each new employee shall confirm receipt of this information within thirty days after beginning employment. Furthermore, **Ohio Rev. Code § 117.103 (B)(2)** states that on the effective date of this section (May 4, 2012), each public office shall make all its employees aware of the fraud-reporting system.

For fiscal year 2020, the City hired two new employees but did not obtain a signed acknowledgement form from the new employees until September 2020. Failure to notify employees of the fraud reporting system could lead to instances of unreported fraud.

In order to prevent unreported instances of fraud, the City should communicate the fraud reporting system to its current employees and implement a process for informing new employees.

Human Resources Department Response:

The Human Resources Department in conjunction with HR Divisions within bigger departments will ensure that all full time and part time employees receive HR Policies and Procedures (P&P) 2.12, "Reporting Suspected Fraud" during New Employee Onboarding (NEO). Employees will also be required to sign Fraud Acknowledgement Forms which will be placed in the employee's Personnel File for the duration of employment with the City.

For current full/part time employees, the HR Department in conjunction with HR Divisions within bigger departments will distribute the HR P&P 2.12 as a refresher, so that all employees are notified and are in compliance with the policy.

The City recognizes the importance of keeping these acknowledgement forms on file and providing employees a hotline which is articulated within the HR P&P 2.12. This hotline ensures complete confidentiality and protects the employee from retaliation.

2. Conflict of Interest – Tamaya Dennard

Ohio Rev. Code § 2921.42(A)(1) states that no public official shall knowingly authorize, or employ the authority of influence of the public official's office to secure authorization of any public contract in which the public official, a member

of the public official's family, or any of the public official's business associates has an interest.

Ohio Rev. Code § 2921.42(H) provides that any public contract in which a public official, a member of the public official's family, or any of the public official's business associates has an interest in violation of this section is void and unenforceable.

Ohio Rev. Code §102.03(D) and (E) apply to public officials or employees when their family members are seeking employment with, or are employed by, the same public agency they serve.

1980 Ohio Ethics Commission Op. No. 80-001, has defined a family member as including, but not limited to: (a) grandparents; (b) parents; (c) spouse; (d) children, whether dependent or not; (e) grandchildren; (f) brothers and sisters; and (g) any person related by blood or marriage and residing in the same household.

Furthermore, **Ohio Rev. Code § 102.02(A)(2)(e)** states elected officials must file an annual financial statement disclosure with the Ohio Ethics Commission listing debts more than \$1,000.

On February 25, 2020, former Council Member Tamaya Dennard was arrested on federal charges of one count each of honest services wire fraud, bribery concerning programs receiving federal funds, and attempted extortion under color of right. Ms. Dennard resigned from Council on March 2, 2020.

On June 29, 2020, Ms. Dennard entered a plea of guilty on a charge of wire fraud before the Honorable Susan Dlott having previously signed a plea agreement requiring her to pay back \$15,000 received for votes on a development project in the City. Judge Dlott entered a finding of guilty against Ms. Dennard as a result of her guilty plea. On November 24, 2020, at sentencing for conviction, Judge Dlott announced a sentence of 18 months in prison.

Additionally, while a Council member, Ms. Dennard failed to list debts exceeding \$1,000 on her financial disclosure form and is facing an Ohio Elections complaint based on taking consulting fees from her campaign finance account.

Failure to ensure all Council members are free from potential conflicts of interest coming before them could cause result in unallowable activity. The City should consult with their legal counsel to review the requirements of Ohio Rev. Code § 2921.42 to ensure that all public officials are conducting City business in accordance with Ohio Ethics laws.

Law Department Response:

In summary, Noncompliance Item #2 of the attached management letter references the recent arrest, guilty plea, and conviction of former City of Cincinnati Councilmember Tamaya Dennard in 2020. The letter notes that Ms. Dennard failed to list qualifying debts in accordance with Ohio Revised Code financial disclosure requirements and, further, that Ms. Dennard accepted \$15,000 in exchange for votes on a City development project, and that she resigned from Council prior to entering a guilty plea to the underlying charges.

Actions by elected officials which are in violation of the legal and ethical standards required of public officials in Ohio are troubling to residents of the jurisdiction, the other elected officials, and the managers and employees of the impacted jurisdiction. In this case, the public official in question took part in actions constituting wire fraud while serving as an elected official of the City of Cincinnati ("City"). To the best of my knowledge, such actions were taken under circumstances under which other City officials or members of the City Administration were not aware of such conduct and would not have had any reason to be aware of such illegality on the part of the elected official.

It is the goal of the City of Cincinnati to continue to take all necessary steps to ensure that such illegality does not arise in the future. As in prior years, the City Administration provides multiple training opportunities for incoming elected officials on the topic of ethics and state ethics laws. These ethics trainings are regularly conducted in conjunction with the Ohio Ethics Commission, and additional ethics trainings are provided by the City Solicitor's Office upon request or as needed. The City's elected officials are advised and encouraged to raise specific questions regarding potential conflicts of interest with attorneys from the City Solicitor's Office so that appropriate review and individualized guidance can be provided. In accordance with state law, if a proposed action appears ambiguous in relation to Ohio ethics law prohibitions, elected officials are strongly encouraged to seek a written opinion from the Ohio Ethics Commission to ensure that they will have a legal defense under Ohio law if they proceed with the proposed action, provided that the Ohio Ethics Commission permits the proposed action following its review.

The training provided to the City's elected officials is intended to ensure that members of City Council are fully aware of their duties and responsibilities under state ethics laws related to prohibited conflicts of interest and other listed prohibitions. Likewise, guidance is provided to elected officials regarding their obligations under the Ohio Revised Code financial disclosure requirements. Elected officials are regularly advised that the City Solicitor's Office is available to address any questions or legal concerns on those topics. While we cannot know the intentions of another human being or proactively prevent wrongdoing which is conducted in secrecy outside of the

scope of City operations, we can prioritize and emphasize ethics training and seeking legal guidance in all appropriate cases. The City intends to remain fully vigilant to preclude repetition of this type of conduct to the extent possible.

Additionally, proposed legislation is being considered to strengthen the City's ability to prevent wrongdoing related to conflicts of interest and related crimes, increase financial reporting requirements, and to streamline the ability to remove an elected official who engages in unethical and illegal conduct. If approved by City Council and, in the case of amendments to the City Charter, by a majority of Cincinnati voters, such measures will further help to maintain and ensure good governance and compliance with state ethics laws by members of Cincinnati City Council. Likewise, in December 2020, City Council further passed legislation to established an Economic Development Reform Panel which is tasked with closely reviewing the City's development process and proposing recommendations to City Council and the City Administration on best practices regarding how to insulate that process from political influence and potential conflicts of interest. All of these combined efforts are intended to eliminate or minimize the risk of recurrences of the conduct described in Noncompliance Finding #2.

3. Conflict of Interest – Two Council Members

Ohio Rev. Code § 2921.42(A)(1) states that no public official shall knowingly authorize, or employ the authority of influence of the public official's office to secure authorization of any public contract in which the public official, a member of the public official's family, or any of the public official's business associates has an interest.

Ohio Rev. Code § 2921.42(H) provides that any public contract in which a public official, a member of the public official's family, or any of the public official's business associates has an interest in violation of this section is void and unenforceable.

Ohio Rev. Code §102.03(D) and (E) apply to public officials or employees when their family members are seeking employment with, or are employed by, the same public agency they serve.

1980 Ohio Ethics Commission Op. No. 80-001, has defined a family member as including, but not limited to: (a) grandparents; (b) parents; (c) spouse; (d) children, whether dependent or not; (e) grandchildren; (f) brothers and sisters; and (g) any person related by blood or marriage and residing in the same household.

Two City Council members were arrested on various federal charges regarding

activity during their time on Council, and have been voluntarily suspended from Council while their cases proceed through the federal court. The outcome of these cases have not been determined at this time.

Failure to ensure all Council members are free from potential conflicts of interest coming before them could cause result in unallowable activity. The City should consult with their legal counsel to review the requirements of Ohio Rev. Code § 2921.42 to ensure that all public officials are conducting City business in accordance with Ohio Ethics laws.

Law Department Response:

In summary, Noncompliance Item #3 of the attached management letter notes that two members of Cincinnati City Council were arrested on various federal charges regarding alleged activities which, if substantiated by a court, would potentially result in findings of prohibited conflicts of interest and other crimes by such elected officials. The letter notes that the two members of Council have been voluntarily suspended from City Council while their cases proceed through the federal courts and that the outcomes have not been determined at this time. The City Administration further acknowledges that no guilty pleas or convictions have been made in either of the criminal proceedings regarding the two members of City Council, and that every person is innocent of such charges until proven guilty by a court of law.

Allegations of actions by elected officials which, if true, would be in violation of the legal and ethical standards required of public officials in Ohio are always confounding and deeply troubling to residents of the jurisdiction and to the other elected officials and the managers and employees of the administration of the impacted jurisdiction. In this case, the public officials in question are each alleged to have taken part in independent actions which, if proven to be true, would constitute federal crimes related to bribery and/or other violations of federal law while serving as elected officials of the City of Cincinnati ("City"). To the best of my knowledge, any such alleged actions, if ultimately substantiated by a court, would have been taken under circumstances under which other City officials or members of the City Administration would not have been aware of such alleged conduct and would not have had any reason to be aware of such alleged illegality on the part of either of the elected officials.

It is the goal of the City of Cincinnati to continue to take all necessary steps to ensure that this type of alleged illegality does not arise in the future. As in prior years, the City Administration provides multiple training opportunities for incoming elected officials on the topic of ethics and state ethics laws. These ethics trainings are regularly conducted in conjunction with the Ohio Ethics Commission, and additional ethics trainings are provided by the City Solicitor's Office upon request or as needed. The City's elected officials are advised and

encouraged to raise specific questions regarding potential conflicts of interest with attorneys from the City Solicitor's Office so that appropriate review and individualized guidance can be provided. In accordance with state law, if a proposed action appears ambiguous in relation to Ohio ethics law prohibitions, elected officials are strongly encouraged to seek a written opinion from the Ohio Ethics Commission to ensure that they will have a legal defense under Ohio law if they proceed with the proposed action, provided that the Ohio Ethics Commission permits the proposed action following its review.

The training provided to the City's elected officials is intended to ensure that members of City Council are fully aware of their duties and responsibilities under state ethics laws related to prohibited conflicts of interest and other listed prohibitions. Elected officials are regularly advised that the City Solicitor's Office is available to address any questions or concerns on those topics. While it is not possible to fully know the intentions of another human being or to proactively prevent alleged wrongdoing which is conducted in secrecy outside of the scope of City operations, the City of Cincinnati has been extremely troubled by the arrests and indictments of two City Councilmembers for the described alleged conduct. Accordingly, the City is prioritizing and emphasizing the above-described ethics training and recommendations to obtain legal guidance in all appropriate cases. The City intends to remain vigilant to preclude repetition of this type of alleged conduct.

Additionally, proposed legislation is being considered to strengthen the City's ability to prevent wrongdoing related to conflicts of interest and related crimes, increase financial reporting requirements, and to streamline the ability to remove an elected official who engages in unethical and illegal conduct. If approved by City Council and, in the case of amendments to the City Charter, by a majority of Cincinnati voters, such measures will further help to maintain and ensure good governance and compliance with state ethics laws by members of Cincinnati City Council. Likewise, in December 2020, City Council further passed legislation to establish an Economic Development Reform Panel which is tasked with closely reviewing the City's development process and proposing recommendations to City Council and the City Administration on best practices regarding how to insulate that process from political influence and potential conflicts of interest. All of these combined efforts are intended to eliminate or minimize the risk of recurrences of the alleged conduct described in Noncompliance Finding #3.

4. Annual Financing Reporting

Ohio Rev. Code § 117.38 states public offices reporting pursuant to generally accepted accounting principles shall file their annual financial reports within one hundred fifty days after the close of the fiscal year. The Auditor of State may

prescribe by rule or guidelines the forms for these reports. The Auditor of State may extend the deadline for filing a financial report and establish terms and conditions for any such extension.

The City obtained a filing extension of December 30, 2020 but did not file its 2020 annual report until January 28, 2021. The City did not have procedures in place for effective monitoring of the timeliness of the City's annual report.

Failure to file an annual report in a timely manner could result in a penalty of twenty-five dollars for each day the report remains unfiled, not to exceed seven hundred fifty dollars. The Auditor of State may waive these penalties, upon the filing of the past due financial report. Additionally, the lack of an annual report could result in auditing difficulties.

The City should file its annual report within the required time frame at the end of each fiscal year with the Auditor of State's Office.

Finance Department Response:

The City's mitigation efforts in response to the COVID-19 pandemic, including a Temporary Leave Program, early retirement incentives, and limited office hours, impacted several areas that were critical to the timely preparation of the fiscal year 2020 Comprehensive Annual Financial Report. The City recognizes the importance of filing its annual financial reports with the Auditor of State's Office within the required time frame in accordance with Ohio Revised Code and will have procedures in place for monitoring and ensuring their timely completion.

Recommendations

1. Budgetary Posting

Sound accounting practices require accurately posting appropriations to the ledgers to provide information for budget versus actual comparison and to allow the Council to make informed decisions regarding budgetary matters.

The Appropriation resolution and subsequent amendments establish the legal spending authority of the City and the appropriation ledger provides the process by which the City controls spending, it is therefore necessary the amounts appropriated by the Council are precisely stated and accurately posted to the appropriation ledger.

The City did not have procedures in place to accurately post authorized budgetary measures to the accounting system. The appropriations (and/or amendments thereof) approved by Council were not properly posted to the

accounting system.

At June 30, 2020, the budgeted amounts posted to the City's accounting ledgers varied from the appropriations approved by Council as follows:

Fund	Per Appropriation Resolutions	Amount Posted to System	Variance
General Fund (50)	\$421,322,285	\$431,977,707	(\$10,655,422)

In addition, the General Fund Final Budget Expenditures in the 2020 financial statement supplementary information were overstated by \$10,812,000 from the appropriation resolutions adopted by City Council.

Failure to accurately post the appropriations to the system could result in overspending and negative cash balances.

To effectively control the budgetary cycle and to maintain accountability over expenditures, the City should post to the ledgers, on a timely basis, appropriations approved by the Council. The City should then monitor budget versus actual reports to help ensure appropriations have been properly posted to the ledgers.

Finance Department Response:

Staff in the Division of Accounts and Audits will reconcile appropriations approved by the Council to those posted to the accounting system on a monthly basis.

2. Park Board Comprehensive Budget

The City of Cincinnati initiated a contract with the accounting firm of Crowe Horwath LLP wherein the firm would provide financial analysis and advisory services relative to the Park Board, Parks Department and Parks Foundation. Crowe Horwath issued a July 26, 2016 report that included the following recommendations: the Park Board obtain a Memorandum of Understanding between the Board, City and Foundation; and the Park Board prepare a comprehensive budget of all sources of anticipated revenues and expenditures.

For 2020 the Park Board did not maintain a comprehensive budget of all sources of anticipated revenues and expenditures. The Park Board prepared, approved, and monitored a budget for the Park Board and the City of Cincinnati prepared a separate budget for certain Park activity accounted for in the City funds.

Failure to prepare a combined budget leaves the Park Board and City of Cincinnati without a complete picture of Cincinnati Park activity and could result

in inefficiencies, increased costs, and lack of proper monitoring by the Park Board and Cincinnati City Council. Failure to use a double entry accounting system increases the risk that errors, theft and fraud could occur and not be detected in a timely manner.

The Park Board, Parks Department and Parks Foundation should review and implement the recommendations in the July 26, 2016 Crowe Horwath report.

Park Board Response:

The MOU was signed between the Park Board, City of Cincinnati, and Parks Foundation on April 16, 2018. Park Board Staff provided the Commissioners a full budget picture during the July 20, 2020 board meeting. Throughout the year, the Park Board Staff will transfer approved Commissioner Fund budgeted dollars into City Fund 430. The Cincinnati City Council will need to approve the dollars prior to transfer into Fund 430, so the money can be used for purchasing supplies or contractual services. All Park Board staff purchases are paid out of a City fund.

3. ODOT Accounting/Failure to Record Pass-Through Monies

In our audit engagement letter, as required by AU-C Section 210, Terms of Engagement, paragraph .06, management acknowledged its responsibility for the preparation and fair presentation of their financial statements; this responsibility includes designing, implementing and maintaining internal control relevant to preparing and fairly presenting financial statements free from material misstatement, whether due to fraud or error as discussed in AU-C Section 210 paragraphs .A14 & .A16. Governmental Accounting Standards Board (GASB) Cod. 1100 paragraph .101 states a governmental accounting system must make it possible both: (a) to present fairly and with full disclosure the funds and activities of the governmental unit in conformity with generally accepted accounting principles, and (b) to determine and demonstrate compliance with finance-related legal and contractual provisions.

Ohio Department of Transportation (ODOT) monies in the form of grants for one project were paid to contractors by ODOT on behalf of the City totaling \$5,310,441. The City did not record this money in the accounting system, and the financial statements have not been adjusted to reflect the receipt and disbursement of this money.

The City did not have procedures in place for effective monitoring of the City's financial activity, and the accuracy of accounting and financial reporting. Failure to accurately post and monitor financial activity increases the risk that errors, theft, and fraud could occur and not be detected in a timely manner.

Due care should be exercised when posting entries to the financial records and financial statement preparation. The City officials should update control procedures for review of financial activity so that errors can be detected and corrected in a timely manner.

Finance Department Response:

Staff in the Division of Accounts and Audits will work with Department of Transportation and Engineering (DOTE) accounting staff to update control procedures so ODOT grant monies paid to contractors on behalf of the City are recorded correctly in the accounting system and any errors can be detected and corrected in a timely manner.

4. IT Password Parameters

Effective controls require security settings configured to require an authentication process that limit password history, applies password length, set complexity rules and limits the number attempts users are permitted to try to login.

The systems default parameters do not enforce password complexity. Lack of appropriate authentication settings weakens security and exposes user accounts to greater potential for unauthorized access.

The default authentication setting should be updated to include more complex password requirements and the minimum length of the passwords should be raised.

Enterprise Technology Solutions Department Response:

This finding is limited to a specific Enterprise Financial System. A short-term and long-term remediation plan has been discussed and scheduled to be implemented. Short term, by 5/1/2021 existing password complexity, length and mixed case will be required per the City's Information Security Policy (ISP) and industry best practices. Long term solution to be completed by 7/1/2021 will implement Single Sign On (SSO) or Active Directory (AD) integration thus leveraging a single username and password what will exceed the City's ISP and industry best practices for password history, password length, complexity rules and number of failed login attempts.