City of Memphis
TENNESSEE

JIM STRICKLAND
MAYOR

EXECUTIVE DIVISION

January 27, 2016

Mr. Doug McGowen
Chief Operating Officer
City of Memphis
125 N. Main, Suite 308
Memphis, TN 38103

Dear Chief McGowen:

Per the request of the Deputy Chief Operating Officer and in response to a citizen's complaint, we have completed our special investigation regarding the alleged misuse of City time and resources perpetrated by a City employee. According to the citizen, the employee was conducting personal business during working hours including, but not limited to, sending and receiving email correspondence. Moreover, the citizen provided 72 email transactions that displayed the employee sending and receiving personal email messages related to non-City business.

The primary objective of this investigation was to determine whether the employee misused City time and resources. The scope of the investigation was limited to an evaluation of 72 email transactions which covered the period August 12, 2013 through December 2, 2015.

To accomplish our objective, we requested the assistance of Information Services (IS) to determine whether the City's internet access log identified any devices that were used to access the domains associated with the 72 email transactions. Additionally, we reviewed applicable personnel policies and procedures to determine whether the employee violated any City policies. Finally, we compared the employee's work schedule and applicable attendance records to the dates and times listed in the email correspondence to determine whether they occurred during the employee's working hours.

We concluded that there was not sufficient evidence to substantiate the misuse of City time and resources. The employee's actions relative to the email transactions did not unreasonably inhibit the performance of his City job duties and responsibilities. Our conclusion is based upon the following:

## SUMMARY OF INVESTIGATION

1. Access Log Review

- Since the City's internet access log is limited to 90 days of activity, we only submitted the email correspondence that was dated within 90 days to IS for review. However, IS did not find any evidence of the employee logging into City owned devices to access the domains noted in the 17 email transactions. Table 1 contains the transactions that were submitted for review.

**Table 1 – Email Correspondence Submitted for Internet Access Log Review**

| | DAY | DATE | TIME |
|---|---|---|---|
| 1 | Wednesday | 10/7/2015 | 5:33 PM |
| 2 | Wednesday | 11/4/2015 | 12:48 PM |
| 3 | Monday | 11/9/2015 | 8:13 AM |
| 4 | Tuesday | 11/10/2015 | 4:31 PM |
| 5 | Tuesday | 11/10/2015 | 5:34 PM |
| 6 | Tuesday | 11/10/2015 | 7:16 PM |
| 7 | Wednesday | 11/11/2015 | 11:16 AM |
| 8 | Thursday | 11/12/2015 | 5:36 PM |
| 9 | Thursday | 11/12/2015 | 5:58 PM |
| 10 | Thursday | 11/12/2015 | 6:20 PM |
| 11 | Thursday | 11/12/2015 | 7:30 PM |
| 12 | Friday | 11/13/2015 | 9:37 AM |
| 13 | Monday | 11/16/2015 | 4:49 PM |
| 14 | Tuesday | 11/17/2015 | 9:29 AM |
| 15 | Tuesday | 11/17/2015 | 11:14 AM |
| 16 | Tuesday | 11/24/2015 | 11:56 AM |
| 17 | Wednesday | 12/2/2015 | 1:10 PM |

2. City Policies and Procedures Review

- None of the email correspondence was generated from the employee's City-owned email account; all were generated through the employee's personal email accounts. Consequently, the City does not track activity related to the use of personal devices.

- We obtained evidence that the employee submitted written notification and received approval regarding his intent to engage in secondary employment or business ventures outside of his City position as required by City policy.

- We did not find any evidence that applicable personnel policies and procedures were violated by the employee. Further, we did not find any documentation (i.e., written reprimands, etc.) regarding the employees work performance, that would suggest that his secondary employment or business ventures affected his attendance, efficiency, or productivity related to his employment with the City.

3. Working Hours Review

- Based upon our comparison of the attendance records and dates and times listed on all 72 email transactions, the employee was not at work when 35 email transactions were generated. Table 2 provides the details of the transactions that occurred during non-working hours.

**Table 2 – Email Transactions Generated During Non-Working Hours**

| | DAY | DATE | TIME | PAID TIME OFF Y/N | WORK SCHEDULE | PRESENT AT WORK Y/N |
|---|---|---|---|---|---|---|
| 1 | Tuesday | 10/8/2013 | 4:11PM | N | 6:30AM-2:30PM | N |
| 2 | Tuesday | 10/8/2013 | 4:58PM | N | 6:30AM-2:30PM | N |
| 3 | Tuesday | 10/8/2013 | 5:45PM | N | 6:30AM-2:30PM | N |
| 4 | Friday | 10/11/2013 | 2:02PM | Y | 6:30AM-2:30PM | N |
| 5 | Wednesday | 10/16/2013 | 6:21PM | N | 6:30AM-2:30PM | N |
| 6 | Monday | 10/21/2013 | 5:53PM | N | 6:30AM-2:30PM | N |
| 7 | Wednesday | 10/30/2013 | 6:59PM | N | 6:30AM-2:30PM | N |
| 8 | Monday | 11/18/2013 | 3:50PM | N | 6:30AM-2:30PM | N |
| 9 | Monday | 12/2/2013 | 4:04PM | N | 7:00AM-3:00PM | N |
| 10 | Tuesday | 12/3/2013 | 3:24PM | N | 7:00AM-3:00PM | N |
| 11 | Thursday | 12/12/2013 | 5:57PM | N | 7:00AM-3:00PM | N |
| 12 | Friday | 2/14/2014 | 10:32AM | Y | 7:00AM-3:00PM | N |
| 13 | Wednesday | 2/19/2014 | 5:08PM | N | 7:00AM-3:00PM | N |
| 14 | Tuesday | 2/25/2014 | 7:00PM | N | 7:00AM-3:00PM | N |
| 15 | Thursday | 2/27/2014 | 4:47PM | N | 7:00AM-3:00PM | N |
| 16 | Monday | 3/3/2014 | 1:40PM | Y | 7:00AM-3:00PM | N |
| 17 | Wednesday | 3/12/2014 | 3:11PM | Y | 7:00AM-3:00PM | N |
| 18 | Wednesday | 3/12/2014 | 4:12PM | Y | 7:00AM-3:00PM | N |
| 19 | Friday | 3/14/2014 | 2:55PM | Y | 7:00AM-3:00PM | N |
| 20 | Friday | 3/14/2014 | 3:56PM | Y | 7:00AM-3:00PM | N |
| 21 | Sunday | 12/21/2014 | 7:53PM | N | 7:00AM-3:00PM | N |
| 22 | Wednesday | 4/29/2015 | 4:50PM | N | 6:30AM-2:30PM | N |
| 23 | Tuesday | 7/7/2015 | 1:16 PM | Y | 6:30AM-2:30PM | N |
| 24 | Wednesday | 7/8/2015 | 8:02 AM | Y | 6:30AM-2:30PM | N |
| 25 | Wednesday | 9/30/2015 | 4:57PM | N | 6:30AM-2:30PM | N |
| 26 | Wednesday | 10/7/2015 | 5:33 PM | N | 6:30AM-2:30PM | N |
| 27 | Wednesday | 11/4/2015 | 12:48 PM | Y | 6:30AM-2:30PM | N |
| 28 | Tuesday | 11/10/2015 | 4:31 PM | N | 6:30AM-2:30PM | N |
| 29 | Tuesday | 11/10/2015 | 5:34 PM | N | 6:30AM-2:30PM | N |
| 30 | Tuesday | 11/10/2015 | 7:16 PM | N | 6:30AM-2:30PM | N |
| 31 | Thursday | 11/12/2015 | 5:36 PM | N | 6:30AM-2:30PM | N |
| 32 | Thursday | 11/12/2015 | 5:58 PM | N | 6:30AM-2:30PM | N |
| 33 | Thursday | 11/12/2015 | 6:20 PM | N | 6:30AM-2:30PM | N |
| 34 | Thursday | 11/12/2015 | 7:30 PM | N | 6:30AM-2:30PM | N |
| 35 | Monday | 11/16/2015 | 4:49 PM | N | 6:30AM-2:30PM | N |

- For the remaining 37 email transactions, attendance records revealed that the employee was at work during the time the transactions were generated. However, given the number of emails sent, the fact that email delivery can be set to be delayed, and employees are entitled to breaks, the evidence is insufficient to conclude that the employee defrauded the City. Therefore, it is reasonable to conclude that there was no fraud, waste or abuse of City time. Table 3 provides a summary of the transactions that occurred during working hours.

**Table 3 – Email Transactions Generated During Working Hours**

| DATE | TIME | TOTAL |
|---|---|---|
| 8/12/2013 | 11:35 AM<br>11:54 AM | 2 |
| 8/15/2013 | 9:47 AM | 1 |
| 10/21/2013 | 10:38 AM<br>1:31 PM | 2 |
| 10/23/2013 | 10:48 AM | 1 |
| 11/4/2013 | 1:39 PM | 1 |
| 11/6/2013 | 1:56 PM | 1 |
| 11/15/2013 | 8:57 AM | 1 |
| 11/18/2013 | 1:22 PM | 1 |
| 11/26/2013 | 10:10 AM<br>12:19 PM | 2 |
| 1/23/2014 | 9:46 AM | 1 |
| 2/11/2014 | 9:56 AM<br>1:09 PM | 2 |
| 2/25/2014 | 10:05 AM<br>1:18 PM | 2 |
| 3/5/2014 | 8:42 AM | 1 |
| 3/6/2014 | 9:04 AM<br>9:05 AM | 2 |
| 3/7/2014 | 9:13 AM<br>11:57 AM | 2 |
| 3/10/2014 | 12:43 PM | 1 |
| 3/20/2014 | 12:40 PM | 1 |
| 12/19/2014 | 10:10 AM | 1 |
| 1/8/2015 | 1:13 PM | 1 |
| 3/3/2015 | 10:57 AM<br>12:42 PM | 2 |
| 8/6/2015 | 7:35 AM | 1 |
| 8/7/2015 | 12:20 PM | 1 |
| 11/9/2015 | 8:13 AM | 1 |
| 11/11/2015 | 11:16 AM | 1 |
| 11/13/2015 | 9:37 AM | 1 |
| 11/17/2015 | 9:29 AM<br>11:14 AM | 2 |
| 11/24/2015 | 11:56 AM | 1 |
| 12/2/2015 | 1:10 PM | 1 |
| | **TOTAL** | 37 |

**RECOMMENDATION**

We recommend that Public Works management make periodic, unannounced observations of the employee's work station and activity to ensure his secondary employment doesn't unreasonably inhibit the performance of his job duties and responsibilities. Additionally, management should document the observations and investigate any actions that warrant management's immediate attention.

The work performed in this investigation does not constitute an audit under Government Auditing Standards. We appreciate the cooperation of the management and staff of the Public Works, IS, Legal, and Human Resources Divisions during our investigation. Please do not hesitate to call me at 636-6241 if you have any questions or need additional assistance.

Sincerely,

Debbie Banks, CFE, CICA, CMFO
City Auditor

c: Jim Strickland, Mayor
Brian Collins, Chief Financial Officer
Bruce McMullen, Chief Legal Officer
Alexandria Smith, Chief Human Resources Officer
Patrice Thomas, Deputy Chief Operating Officer
Robert Knecht, Director, Public Works Division
Brent Nair, Director, Information Services Division