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Metro Auditor

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December 31, 2014

To: Tom Hughes, Council President
Shirley Craddick, Councilor, District 1
Carlotta Collette, Councilor, District 2
Craig Dirksen, Councilor, District 3
Kathryn Harrington, Councilor, District 4
Sam Chase, Councilor, District 5
Bob Stacey, Councilor, District 6

From: Suzanne Flynn, Metro Auditor 

Subject: **Accountability Hotline Case #139**

In August 2014, the Auditor's Accountability Hotline received a report regarding Zoo managements' response to a concern that was raised about an employee. The person making the report had advised Zoo management about these concerns but did not feel that the problem was being addressed adequately. In response, I initiated an audit. As a result of the audit, I concluded that the personnel investigation conducted by Metro was complex and that it was not clear that the time required responding could have been shortened. Further, because of Metro policy, employees are not always apprised of any actions that are taken. The following report summarizes my review, conclusions and potential improvements that could be made.

I have discussed the findings and recommendations with Martha Bennett, COO; Scott Robinson, Deputy COO; Mary Rowe, Director, Human Resources, and Teri Dresler, Interim Zoo Director. I would like to acknowledge and thank the management and staff in the departments who assisted me in completing this audit. A response by management is attached at the end of the report.

cc: Martha Bennett, COO
Scott Robinson, Deputy COO
Teri Dresler, Interim Zoo Director and General Manager, Visitor Venues
Mary Rowe, Director, Human Resources

Accountability Hotline Case #139

Suzanne Flynn, Metro Auditor

In August 2014, the Auditor's Accountability Hotline received a report regarding Zoo managements' response to a concern that was raised about an employee. The person making the report had advised Zoo management about these concerns but did not feel that the problem was being addressed adequately. I subsequently spoke with the complainant, Zoo management and managers in other departments at Metro to determine if there were any measures that could be taken to improve the disciplinary process. This memo summarizes my review and conclusions reached.

Legal, contractual and policy requirements complicate process

Taking action to improve an employee's performance is not easy. But non-action can have negative consequences such as increasingly poor morale or substandard work. Management should maintain a fair and respectful approach to discipline. The process should begin as soon as possible and employees should be held to the same standard and treated consistently.

Additionally, there are other legal or contractual standards that most likely must be met:

- A represented employee has the right to have union representation at a meeting that may result in discipline.
- There must be a fully justified basis for discipline.
- The process that is followed should give the employee notice of why discipline is contemplated and the right to have a hearing where the employee can respond to the charges made.

Metro has policies and procedures that address performance management and employee conduct and discipline. Metro's practice is to administer discipline commensurate with the nature of the offense and the employee's past performance. Supervisors are required to review information gathered with the Human Resources Department (HR) if more serious actions are contemplated. Although not explicit in the policy, according to the Metro Attorney's Office (OMA), management ultimately is responsible for deciding to take action. HR offers assistance to the supervisor in ensuring the proper procedures are followed and provides training. OMA is usually consulted in the more serious cases and advises management on the risk of taking certain actions.

Complicated personnel situation increased response time

The particular incident that was described in this report was part of a very complex personnel situation. This required the participation of management, HR and the OMA as well as complying with legal and contractual requirements. All of these added time to the response.

Further, according to Metro policy, disciplinary actions should occur in a manner that is least likely to embarrass employees before other employees or the public. Employees were not kept apprised that their concerns were being addressed. As a result, this led to a conclusion by the employee that the concerns expressed to management were not being adequately addressed.

From the date the complaint was made to HR to a final resolution that was evident to Zoo employees was five months. Since HR did not track the closure dates for discipline cases, I was unable to determine if this was above average. Discussions with human resource departments at the City of Portland and Multnomah County indicated that a three-month turnaround was considered a quick investigation and that there are so many variables in each investigation that average turnaround time would not be a good metric.

Potential for improvement

In addition to interviewing managers at the Zoo, I interviewed at least one manager from each department that had administered disciplinary action in the last 18 months. Since this was not a complete or statistical sample, I cannot make generalizations from my interviews. However, there does seem to be room for improvement.

Most of those interviewed were familiar with the processes to be followed and relied on HR staff. The process was perceived as taking a long time particularly when it was formal and involved others outside of the department such as HR employees or Metro attorneys. According to some, difficulty in scheduling all parties and the employee added time to the proceedings. Many interviewees felt that communication and clarity about what actions could or should be taken could be improved. It was also unclear to a manager who was responsible for making the final disciplinary decision.

Conclusion and recommendations

Based upon my review of the personnel action taken and interviews, I concluded that the performance issues presented in this personnel investigation were complex and that it was not clear that the time required responding could have been shortened. However, there were areas for improvement.

1. While the Human Resources Department has made strides in their training offerings, it could create a refresher course for management that includes a discussion of how disciplinary decisions will be made and what factors to consider.
2. Policies and expectations should be clarified about the roles and responsibilities in the disciplinary process.

This audit was not included in the FY 2014-15 audit schedule. It was added to the schedule based upon a report received on the auditor's Accountability Hotline. This performance audit was conducted in accordance with generally accepted government auditing standards. Those standards require that the audit was planned and performed to obtain sufficient, appropriate evidence to provide reasonable basis for the findings and conclusions in the audit objectives. I believe that the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objectives.

Management Response

Attached on following pages.



Metro | Memo

Date: December 26, 2014

To: Suzanne Flynn, Metro Auditor

From: Mary Rowe, Human Resources Director *[Signature]*

Cc: Martha Bennett, Chief Operating Officer
Scott Robinson, Deputy Chief Operating Officer
Alison Kean, Metro Attorney

Subject: Management Response to Audit as a Result of Accountability Hotline Case # 139

The following represents management's response to the audit report which will be issued by your office in January 2015. As a public agency, we recognize the importance of ensuring appropriate policies and procedures are in place, and we appreciate your review of these matters.

Background

Metro Human Resources Department (HR) assists supervisors with investigating employee discipline issues, and supports them in formulating appropriate disciplinary responses. The Human Resources Department also conducts trainings—both in individual and group settings—for managers on the policies and procedures involved in discipline and other personnel matters. The Office of Metro Attorney may also be involved in the disciplinary process depending upon the nature and severity of the case. Notably, each case of discipline is unique and offers its own set of complexities requiring that the merits of each particular instance be reviewed and considered before any determination of how to proceed is made. Because HR has the unique perspective of seeing matters across the entire Agency, it can provide guidance to managers and ensure internal consistency in how matters are handled across all of Metro's departments divisions and venues.

HR appreciates that the complexities of this particular incident were noted in the Audit. Moreover, the Audit aptly recognized that it is unclear if the time required to appropriately address matters in this particular case could have been shortened.

Action Items

HR will take the following steps to address recommendations noted in the Audit:

- 1) At the start of a potential disciplinary process and again during the more complex cases, HR will provide supervisors with clear status updates as to next steps and responsibilities of parties involved.
- 2) Include a refresher course on the discipline process in the course offerings.

We thank the Auditor for providing additional insight to assist us in our continuing efforts to improve.