

Attached Message

From: "**Barahimi, Hossein**" <Hossein.Barahimi@METROKC.GOV> [[Save Address](#)]
To: "**Calderwood, Amy**" <Amy.Calderwood@METROKC.GOV>
Cc: "**Ishimaru, Jim**" <Jim.Ishimaru@METROKC.GOV>, "**Davis, Jim**" <Jim.Davis@METROKC.GOV>, "**Wellander, Sean**" <Sean.Wellander@METROKC.GOV>, "**Chen, Ho-Chuan**" <Ho-Chuan.Chen@METROKC.GOV>
Subject: **RE: KCDOT / DEA investigation**
Date: **Wed, 18 Jun 2003 12:29:11 -0800**

Amy

Thank you for your response to our previous email. We appreciate the information you have provided us. To better understand the scope of the expert review, can you please provide us copies of the following information:

- * A copy of the contract and scope of work the county has given DEA for the investigation
- * Any other communication between the County and DEA regarding the investigation. (Emails, hard copy, etc.)
- * You noted in a previous email that the county contacted the City of Bellevue, the UW, and "the Feds" about doing an investigation. Please provide us copies of any communication between the County and these parties, or any other parties contacted, regarding this investigation.
- * If any of these communications were by phone, please let us know whom the call was between and when the call occurred.
- * You mentioned that you have contacted UW engineering faculty about assisting in the review. Who was contacted and what specifically will their role be?

We request that you please cc. Ho-Chuan Chen in future correspondence between the county and DEA or other parties involved in reviewing or participating in this investigation. We also request an opportunity to review the draft report of the investigation before the final report is issued.

Finally, we would like to correct a statement in your email. You stated that, "Your group has been asked to provide information about your concerns...". This is incorrect. We have not been given an opportunity to explain our concerns; instead, we have been directed to provide copies of our work for investigation. (Linda Dougherty letter, 6/13/03)

Thank you for your assistance.

-----Original Message-----

From: Calderwood, Amy
Sent: Tuesday, June 17, 2003 8:48 PM
To: Chen, Ho-Chuan
Cc: Barahimi, Hossein; Ishimaru, Jim; Davis, Jim; Wellander, Sean
Subject: RE: KCDOT / DEA investigation

Ho-Chuan, Hossein, Jim, Sean, and Jim:

First, I apologize for the delay in responding to your e-mail.

Second, I want to assure you that my decision to refer the complaint to the executive/agency for investigation is consistent with the code, and should not be seen as "hand-off" and allowing the agency to direct the investigation. The referral option in the code does not preclude our Office from investigating the agency's response.

I have also talked to Lorraine Patterson about DEA's approach to the investigation, and do not believe that she is attempting to influence the outcome of DEA's investigation. Your group has been asked to provide information about your concerns, and the concurrency group will be providing their perspective on the issues, both of which will be provided to DEA. I don't see this as inherently unfair, or setting up an outcome.

Lorraine Patterson told me that DEA stated that they were qualified to do the investigation, and were also available to do the investigation. You stated in an earlier e-mail that DEA was a reputable firm -- I ask that you give them an opportunity to do their review, and then evaluate the work.

It is not consistent with Ombudsman Office policy to provide the Council with copies of correspondence related to open investigations. Should you wish to provide councilmembers with information related to the complaint, you may do so.

In closing, I want to assure you that I will not simply accept DOT's response to the complaint. You will be involved in the review of the response, and I have contacted UW Engineering faculty about assisting us in our review.

I hope this e-mail is responsive to your concerns. Please feel free to contact me with additional questions. Also, please let me know if you think we should meet to discuss your complaint/concerns.

Thank you,

Amy Calderwood
Ombudsman-Director
296-3506

-----Original Message-----

From: Chen, Ho-Chuan
To: Calderwood, Amy
Cc: Barahimi, Hossein; Ishimaru, Jim; Davis, Jim; Wellander, Sean
Sent: 6/16/03 4:04 PM
Subject: KCDOT / DEA investigation

Amy,

Per our 6/11/03 email to Executive Sims, our 6/13/03 email to you, and Hossein Barahimi's phone conversation with you today, we wish to inform you of our objections to the following:

1. The Ombudsman Office's "hands-off" approach, leaving the investigation to the DOT in spite of our repeated objections.
2. The DOT being in charge of this investigation, as they are the ones about whom we are raising questions. Leaving the investigation to the accused is neither fair, logical, nor appropriate, even when the Ordinance allows you the discretion to do so.
3. The DOT hiring David Evans and Associates (DEA) as the consultant investigating these issues is inappropriate. DEA is a consulting firm with a local office that has had many contracts with the County in the past and can expect to have more opportunities in the future. This means they have a significant disincentive to reach any negative conclusions regarding County programs or policies.
4. DEA is not an expert in the field of travel demand modeling. This is not a service that they advertise. The issues we raised are highly technical and specific to travel demand modeling. DEA would have a limited ability to investigate and reach accurate conclusions regarding these questions. Lacking specific expertise in this area, they will be dependent on explanations given by the DOT.
5. We object to the manner in which the DOT intends to conduct the investigation. They do not intend to inform the consultant of the specific questions we've raised, but instead have them do a general review of the concurrency model process, as well as that of our group (TFDM). This will ensure that the problems we've pointed out will never be directly investigated.

Again, it is our belief that the DOT Concurrency program has committed unprofessional, unethical, and possibly illegal acts. It is our understanding that the Ombudsman is responsible for making sure that any investigation is conducted in a thorough, professional, and objective manner. If you do not have adequate resources to do this task professionally and accurately, it is your responsibility to ask the King County Council for resources instead of compromising the results of this investigation.

To summarize, allowing the DOT, the subject of our questions, to be in charge of this investigation is wrong and we strongly disagree with your decision. We also strongly disagree with the selection of DEA to conduct this investigation. The investigator should not have a conflict of interest and must have specific expertise in the field of travel demand forecasting to do a satisfactory investigation.

If you already have not done so, we respectfully ask that you forward a copy of all documents we have filed with your office to this point, including all correspondence, to all King County Council members for their immediate attention.

Sincerely,

Ho-Chuan Chen, PhD, P.E., Supervisor
Hossein Barahimi, Transportation Planner III
Jim Ishimaru, Transportation Planner III
Sean Wellander, Transportation Planner III
Jim Davis, Transportation Planner II

Travel Forecasting and Data Management Group
CIP and Planning Section
Road Services Division
King County Department of Transportation

> -----Original Message-----

>From: Chen, Ho-Chuan

>Sent: Friday, June 13, 2003 11:41 AM

>To: Calderwood, Amy

>Cc: Barahimi, Hossein; Ishimaru, Jim; Davis, Jim; Wellander, Sean

>Subject: Questions (retaliation investigation process, external

>travel model expert, and your roles and responsibilities)

>

>Amy,

>We have a few clarifying questions to ask you in regards to the
>retaliation investigation process, external travel model expert to be
>hired, and your roles and responsibilities during this process. Would
>you please explain the following concerns to us? Thank you for your
>assistance.

> 1. In your May 28, 2003, response to our question #5, you
>said: "we have no way of preventing the Executive from referring the
>complaint to agency management."

> Based on King County Code (KCC) 2.52.090, "The director
>shall have the following powers: A. To investigate, on complaint or on
>his own, any administrative act of any administrative agency; B. To
>prescribe the methods by which complaints are made, received and acted
>upon; he may determine the scope and manner of investigations to be
>made; ...",

> Our understanding of this ordinance is that you have the
>authority as well as the responsibility to determine the "scope and
>manner" of any investigation. Is that correct?

> In addition, your reference in response #3 to 3.04.50(A)
>refers to ethics code violations, is this your intent?

>

> 2. Could you please tell us if you have informed the
>Council about any of the Complaints we have filed with your office?

> Based on KCC 2.52.110, "After completing his
>consideration of a complaint (whether or not it has been investigated)
>the director should suitably inform the complainant and the
>administrative agency or agencies involved." Please let us know if you
>have informed the Council or intend to do so?

>

> 3. Would you please explain to us what the normal process
>is to investigate a retaliation complaint when it is referred to the
>Department by the Ombudsmen's office?

> A. Does the Department investigate the
>complaint independently (interview both sides separately, verify

>statements, documentation provided, etc.) and then prepare and send a
>report to your office to be sent to the people who filed the complaint?

>Or

> B. Does the Department investigate the
>complaint, draft a report with help and input from the subjects of the
>complaint, and then send the report to your office for distribution? Or

> C. Is there another process that the
>Department has to follow to meet the standards set by your office?

> D. Are there any written guidelines or
>standards for conducting such an investigation?

> E. Even if the Ombudsmen refers the
>complaint to the department for response, is the Ombudsmen still
>ultimately responsible for the reasonableness, fairness, and accuracy
>of the final report?

>

> 4. What does the Ombudsmen do when she receives a report
>from the Department?

> Does the Ombudsman check to make sure the standards and
>processes are followed?

> Does the Ombudsman check to make sure the facts are as
>they are stated in the report?

> What if the investigation is flawed, inaccurate, or
>one-sided, what is the Ombudsman's responsibility?

>

> 5. We heard from KCDOT HR Lorraine Patterson that the
>County is in the process of hiring David Evans & Associates,
>Consultants, as the external travel model expert to investigate issues
>we raised. We have two concerns with this selection: First, DEA has
>been hired by King County DOT in the past and can expect further
>opportunities in the future. Given this, there is a strong financial
>disincentive to find anything that is not what the people awarding
>contracts wish to hear. Secondly, although DES is a reputable firm
>with expertise in engineering and design, they are not specialists in
>travel demand model development. This function is not even listed on
>their website: (<<http://www.deainc.com/services/transdesign.html>>). It
>is surprising that the DOT chooses an investigator that lacks expertise
>in the specific area where we have raised concerns.

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>

>Sincerely,

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>Ho-Chuan Chen, PhD, P.E., Supervisor

>Hossein Barahimi, Transportation Planner III

>Jim Ishimaru, Transportation Planner III

>Sean Wellander, Transportation Planner III

>Jim Davis, Transportation Planner II

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