

IN THE EXECUTIVE ETHICS COMMISSION  
OF THE STATE OF ILLINOIS

IN RE: JUANPABLO PRIETO ) OEIG Case # 19-01088

PUBLICATION OF REDACTED VERSION OF OEIG FINAL REPORT

Below is the redacted final summary report from an Executive Inspector General. The General Assembly has directed the Executive Ethics Commission (Commission) to redact information from this report that may reveal the identity of witnesses, complainants or informants and “any other information it believes should not be made public.” 5 ILCS 430/20-52(b).

The Commission exercises this responsibility with great caution and with the goal of balancing the sometimes-competing interests of increasing transparency and operating with fairness to the accused. To balance these interests, the Commission may redact certain information contained in this report. The redactions are made with the understanding that the subject or subjects of the investigation have had no opportunity to rebut the report’s factual allegations or legal conclusions before the Commission.

The Commission received this report from the Governor’s Office of Executive Inspector General (“OEIG”) and a response from the agency in this matter. The Commission, pursuant to 5 ILCS 430/20-52, redacted the final report and mailed copies of the redacted version and responses to the Attorney General, the Executive Inspector General for the Governor, and JuanPablo Prieto’s last address.

The Commission reviewed all suggestions received and makes this document available pursuant to 5 ILCS 430/20-52.

## OEIG FINAL REPORT

### **I. ALLEGATIONS**

On June 5, 2019, the Office of Executive Inspector General for the Agencies of the Illinois Governor (OEIG) received an anonymous complaint alleging that Chicago Transit Authority (CTA) Director of Diversity Programs JuanPablo Prieto improperly favored Hispanic-owned businesses that participated or sought to participate in the CTA's Disadvantage Business Enterprise (DBE) Program. More specifically, the complaint alleged that Mr. Prieto has coached [Vendor 1],<sup>1</sup> a Hispanic-owned environmental consulting firm that participated in CTA's DBE program, on how to remain certified as a DBE despite no longer meeting the program requirements.

During the investigation, additional allegations arose that Mr. Prieto influenced the hiring process for a Certification Specialist position in the Diversity Programs Department and accepted a ticket to a golf outing from a DBE vendor.

### **II. RELEVANT BACKGROUND**

The Federal Department of Transportation (DOT) established a Disadvantaged Business Enterprise (DBE) program to give "small businesses owned and controlled by socially and economically disadvantaged individuals a fair opportunity to compete for federally funded transportation contracts."<sup>2</sup> As a recipient of federal transportation funds, the CTA is required to comply with the DOT's DBE rules and regulations.<sup>3</sup> The CTA implemented a DBE Program Plan and Diversity Programs Certification Manual to establish policies to comply with the regulations.<sup>4</sup>

Mr. Prieto was hired by the CTA as a Diversity Programs Specialist on May 19, 2014. Since that time, Mr. Prieto has held the following positions within the Diversity Programs Department: Coordinator, Manager, and Senior Manager, as well as his current position of Director, which he has held since September 2019. Mr. Prieto has also been CTA's DBE Liaison Officer since January 2018. In these roles, Mr. Prieto implements the CTA's DBE program; conducts outreach to increase business opportunities for DBEs; provides technical assistance for the expansion and business development of DBEs; and plans and participates in training sessions to inform bidders about the DBE program and CTA business opportunities.

Mr. Prieto oversees a staff of approximately a dozen individuals in the Diversity Programs Department, including Certification Specialists, Compliance Specialists, and Coordinators, as well as their respective managers, including Manager, [CTA Employee 1]. Mr. Prieto reports directly to Chief Administrative Officer [CTA Employee 2].

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<sup>1</sup> The complaint identified the firm as [Vendor 1]; however, the investigation revealed it is [Vendor 1].

<sup>2</sup> <https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise> (last visited 6/17/20).

<sup>3</sup> 49 CFR Section 26.25.

<sup>4</sup> See CTA DBE Program Plan (updated 9/29/2019) and Diversity Programs Certification Manual (updated 2018).

### III. INVESTIGATION

As part of the investigation, the OEIG reviewed relevant policies and procedures, CTA employee emails and timesheets, documents relating to the Certification Specialist hiring process that Mr. Prieto was alleged to have influenced, and documents relating [Vendor 1]'s DBE certification and recertification hearing. In addition, investigators interviewed several individuals, including:

- JuanPablo Prieto – CTA Director, Diversity Programs;
- [CTA Employee 1] – CTA Manager, [Identifying Information Redacted];
- [CTA Employee 2] – CTA Chief Administrative Officer;
- [CTA Employee 3] – CTA Senior Manager, [Identifying Information Redacted]; and
- [Vendor 2 Owner]– owner of CTA DBE vendor [Vendor 2].<sup>5</sup>

#### A. The Hiring Process for a Certification Specialist Position

During the investigation, the OEIG learned that Mr. Prieto requested that a friend of his be interviewed for the Certification Specialist position within CTA's Diversity Programs Department. The OEIG's investigation revealed the following.

##### 1. Review of Relevant Documents

Documents show that the CTA posted a Certification Specialist position for hire between January 4 and 18, 2019, with Manager, [CTA Employee 1] and Talent Acquisition Specialist [CTA Employee 4] designated as the Hiring Manager and Talent Acquisition Specialist, respectively. The position description for the Certification Specialist position indicated that the position required a bachelor's degree in business or public administration and knowledge of operations analysis methods and techniques. Additionally, the position description included some preferred qualifications, such as a working knowledge in accounting, finance, tax, credit analysis, procurement, contracts, or construction practices; and the ability to review and analyze financial information, scope of work documents, and contracts. According to records, 151 people applied for the position during the posting period, and on January 24, 2019, [CTA Employee 4] sent [CTA Employee 1] the resumes of 16 applicants to consider for interviews.

A review of emails shows that on January 25, 2019, Mr. Prieto emailed Senior Manager, [CTA Employee 3] and requested that an applicant named [CTA Candidate] be added to the pool for [CTA Employee 1]'s consideration. A review of [CTA Candidate]'s resume shows that she held a Master of Public Administration degree from DePaul University and had approximately four years of experience in data processing and marketing operations. On January 28, 2019, [CTA Employee 3] responded to Mr. Prieto's email by explaining that the individuals selected by [CTA Employee 4] for [CTA Employee 1]'s consideration were chosen because they had experience in small business, contracts, compliance, or certification, which [CTA Candidate] did not. [CTA Employee 3] asked Mr. Prieto to provide a written justification for moving [CTA Candidate] into

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<sup>5</sup> Mr. Prieto was interviewed on February 24, 2020; [CTA Employee 1] on August 14, 2019 and April 9, 2020; [CTA Employee 2] on May 6, 2020; [CTA Employee 3] on October 10, 2019; and [Vendor 2 Owner] on June 16, 2020.

the active pool of candidates and explain why he believed [CTA Candidate] would be a good fit for the position or in what capacity Mr. Prieto had worked with [CTA Candidate] previously. On January 30, 2019, Mr. Prieto responded, stating that [CTA Candidate] seemed to have the analytical skills they needed for the position, as evidenced by her Master of Public Administration degree and her quality assurance and data processing experience. Mr. Prieto also said that [CTA Candidate]'s marketing experience would be useful in educating prospective DBEs on the certification process.

According to documents, six applicants, including [CTA Candidate], were subsequently interviewed. The interviews were conducted on February 14 and 19, 2019, by a four-person interview panel comprised of [CTA Employee 1], [CTA Employee 4], and two other CTA employees. [CTA Candidate] received the lowest combined interview score of the six applicants and was deemed not qualified and not recommended for the Certification Specialist position, and another applicant was offered and accepted the position.

## **2. Relevant Interviews**

During an OEIG interview, [CTA Employee 1] confirmed that the Human Resources (HR) Department reviewed the applications of the individuals who applied for the Certification Specialist position and forwarded the qualified applicants' resumes to her for consideration for interviews. [CTA Employee 1] said that during this phase, Mr. Prieto told her that he would like a specific applicant interviewed for the position, but she explained to Mr. Prieto that the applicant had been deemed unqualified by HR and had not been forwarded to her for consideration. [CTA Employee 1] said that Mr. Prieto then contacted [CTA Employee 3] and the applicant was added to the pool of candidates to be interviewed. [CTA Employee 1] stated that the applicant lacked the qualifications needed for the position and did not interview well, so she told this to Mr. Prieto and he responded by saying, "At least I got her the interview." [CTA Employee 1] confirmed that the applicant was ultimately not selected for the position.

During his OEIG interview, Mr. Prieto stated that he is friends with [CTA Candidate] and has known her for approximately three years.<sup>6</sup> Mr. Prieto confirmed that [CTA Candidate] applied for the Certification Specialist position but was initially not selected to be sent forward to [CTA Employee 1] for consideration for an interview. Mr. Prieto said he felt [CTA Candidate]'s resume should have been presented to [CTA Employee 1] for consideration, however, based on her education and experience so he called [CTA Employee 3] to ask whether she felt [CTA Candidate] was qualified. Mr. Prieto said he could not recall if he disclosed his friendship with [CTA Candidate] to [CTA Employee 3], nor could he recall whether he has ever requested that HR place other applicants into the pool of applicants to be interviewed for a position. Mr. Prieto claimed, however, that when he requested that [CTA Candidate] be added to the pool of applicants to be considered for an interview, he considered himself to be advocating for a qualified applicant and was not motivated by his friendship with [CTA Candidate].

Meanwhile, [CTA Employee 3] stated that she recalled Mr. Prieto contacting the HR Department during the hiring process for the Certification Specialist position. [CTA Employee 3] said that Mr. Prieto first contacted [CTA Employee 4] and told her that he met [CTA Candidate]

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<sup>6</sup> Mr. Prieto said that he knew [CTA Candidate] through his wife. [Identifying Information Redacted].

at a recruitment event, where she said she intended to apply for the Certification Specialist position. [CTA Employee 3] said Mr. Prieto wanted to know if [CTA Candidate] had applied for the position because he did not see her name among the applicants being considered for interviews. [CTA Employee 3] said that she then received an email from Mr. Prieto requesting that [CTA Candidate] be interviewed for the position. [CTA Employee 3] said Mr. Prieto also called her and said he met [CTA Candidate] at a recruitment event. [CTA Employee 3] explained that she spoke with Vice President, Human Resources Alex Moreno about Mr. Prieto's request and Mr. Moreno asked if [CTA Candidate] was qualified for the position. [CTA Employee 3] said she reviewed the resumes of the Certification Specialist applicants and spoke with [CTA Employee 4] about how she determined which candidates were qualified. [CTA Employee 3] said that in her opinion, [CTA Employee 4] was not wrong to exclude [CTA Candidate] from the pool of qualified applicants, but she also said that [CTA Candidate]'s resume did contain some experience that another Talent Acquisition Specialist could have deemed sufficient to meet the minimum qualifications and included her in the pool of qualified applicants. [CTA Employee 3] said that she presented her assessment of [CTA Candidate]'s qualifications to Mr. Moreno, who approved Mr. Prieto's request. [CTA Employee 3] said she then emailed Mr. Prieto to explain why [CTA Candidate] was initially excluded from the pool of qualified applicants and to request that Mr. Prieto provide a written justification for including [CTA Candidate], which he did.

[CTA Employee 3] stated that she was unaware of any relationship between [CTA Candidate] and Mr. Prieto, but if she learned that there was a personal relationship between [CTA Candidate] and Mr. Prieto to such an extent that [CTA Candidate] was [Identifying Information Redacted], that would "absolutely" change everything. [CTA Employee 3] said that if a manager requested that a candidate be interviewed and did not disclose the existence of a personal relationship, but she later learned of the relationship, she would advocate against including that candidate when bringing the request to Mr. Moreno for approval.

Finally, during his OEIG interview, [CTA Employee 2] said he was not aware that Mr. Prieto requested that a personal friend be interviewed for the Certification Specialist position despite HR having already determined that this friend was not qualified for the position. In addition, [CTA Employee 2] said he was unaware that Mr. Prieto did not disclose his personal relationship with the applicant to HR and instead represented that he met her at a recruitment event. [CTA Employee 2] said that Mr. Prieto should have disclosed the relationship and that his actions were not consistent with CTA's hiring policies. [CTA Employee 2] explained that he would have advised Mr. Prieto to disclose the relationship and remove himself from further involvement in the hiring process.

## **B. Mr. Prieto's Attendance at the [Association] Golf Outing**

During the investigation, the OEIG also learned that around August 2019, Mr. Prieto was given a ticket to attend a golf outing sponsored by the [Association] and attended the golf outing during work hours. As such, the OEIG investigated whether Mr. Prieto's acceptance of the ticket and attendance at the event violated any policies or rules.

According to documents, outreach is one of Mr. Prieto's primary responsibilities as the Director of Diversity Programs, as well as in his previous positions with the CTA. For example,

Mr. Prieto's position description at the time of the complaint provided that he was responsible for "[planning] and [participating] in outreach activities to recruit potential DBEs for the program in an effort to increase DBE contracting opportunities and the pool of available DBE firms," but did not elaborate on the types of activities that are considered outreach.<sup>7</sup> Furthermore, according to Mr. Prieto, there is no internal or external guidance on the types of activities or events that constitute DBE outreach. Mr. Prieto's position description also indicates that he is responsible for overseeing the DBE certification process, including the screening and review of firms seeking DBE certification.

Mr. Prieto's work emails show that on July 23, 2019, he was invited to attend the August 21, 2019 [Association] golf outing by [Vendor 2 Owner], the owner of [Vendor 2], a certified DBE. On July 29, 2019, Mr. Prieto responded to [Vendor 2] saying that he could join him for the outing. Mr. Prieto's timesheets show that he indicated that he attended the [Association] golf outing on Wednesday, August 21, 2019 from 8:00 AM to 4:00 PM, and that this was time worked for the CTA. On August 25, 2019, [Vendor 2 Owner] again emailed Mr. Prieto, this time saying, "Thanks for joining our golf group for the [Association] outing."

During his OEIG interview, Mr. Prieto confirmed that [Vendor 2 Owner] is the owner of [Vendor 2] and said he believes that [Vendor 2] is a DBE firm that has been awarded subcontracts on CTA contracts. Mr. Prieto said that he also considers [Vendor 2 Owner] to be a personal friend and has known him for several years through [Association] and DBE outreach events. Mr. Prieto confirmed that he attended the August 2019 [Association] golf outing as [Vendor 2 Owner]'s guest. Mr. Prieto said, however, that he did not know if [Vendor 2 Owner] personally paid for his ticket to the event or if [Vendor 2 Owner] invited him on behalf of [Association].

During his OEIG interview, however, [Vendor 2 Owner] stated that [Vendor 2] purchased eight tickets to the 2019 [Vendor 2] golf outing and he invited Mr. Prieto, who he considers a work friend, to attend as his guest. [Vendor 2 Owner] estimated the value of the ticket to be over \$100 and said the ticket price covered breakfast, 18 holes of golf, lunch, and a dinner reception.<sup>8</sup> [Vendor 2 Owner] said he believes Mr. Prieto attended the entire event except for the breakfast, and said that although there were several DBE vendors and consultants at the event, he does not know if Mr. Prieto engaged in any DBE outreach at that time. [Vendor 2 Owner] stated that he and Mr. Prieto do not regularly exchange gifts but said he did also invite Mr. Prieto to the 2018 [Association] golf outing, though Mr. Prieto declined to attend.<sup>9</sup> [Vendor 2 Owner] stated that [Vendor 2] had current CTA subcontracts when he invited Mr. Prieto to these golf outings, as well as at the time Mr. Prieto attended the 2019 golf outing. Documents showed that [Vendor 2] had been awarded a CTA subcontract worth \$838,356 on May 17, 2019, approximately three months before Mr. Prieto attended the 2019 [Association] golf outing with [Vendor 2 Owner], and

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<sup>7</sup> CTA Senior Manager, Diversity Programs position description (eff. March 2014)

<sup>8</sup> A review of [Vendor 2]'s receipt for the 2019 [Association] golf outing shows that the registration fee for one foursome was \$1,600; as such, each ticket cost \$400. The receipt further shows that the fee was paid by [Vendor 2 Owner].

<sup>9</sup> Mr. Prieto's emails confirmed that he declined the invitation to the 2018 [Association] golf outing from [Vendor 2 Owner].

that [Vendor 2] was awarded another contract worth \$709,076 just six months later on March 4, 2020.<sup>10</sup>

According to Mr. Prieto, he attended the 2019 [Association] golf outing in his professional capacity. Mr. Prieto explained that the golf outing was a networking event because he spoke with prime contractors and DBE owners about opportunities with the CTA before and after golfing. Mr. Prieto said he has attended other similar events, including the [Commerce] golf outing and various organizations' membership breakfasts. Mr. Prieto stated that he includes these events on his CTA calendar and timesheets and has never been asked by anyone at CTA about his attendance. Mr. Prieto acknowledged that he has not attended other golf outings or events as the guest of a DBE that has been awarded contracts, but said he believes it is appropriate for him to attend a golf outing as the guest of a DBE owner. Mr. Prieto added that he does not make procurement decisions and believes he remains objective in decisions he does make.

During his OEIG interview, however, [CTA Employee 2] stated that he was unaware that Mr. Prieto attended the [Association] or [Commerce] golf outings. [CTA Employee 2] stated that while he did not know if the CTA had any written guidance on outreach activities, if he had known about Mr. Prieto attending these events, he would have asked Mr. Prieto for more information to determine if Mr. Prieto's attendance constituted outreach. [CTA Employee 2] added that if the event involved golfing during work time, he would have advised Mr. Prieto to skip the golfing portion of the event and attend only the outreach portion. Further, [CTA Employee 2] said that he would personally be very cautious about accepting a ticket to a golf outing because of potential ethical issues. [CTA Employee 2] explained that it would be important to consider the value of the ticket, who the ticket was being given by, and the perception of accepting the ticket. Additionally, [CTA Employee 2] said that accepting anything from a vendor presents a possible conflict of interest or, at the very least, gives the appearance of impropriety, since it could suggest favoritism. [CTA Employee 2] said that Mr. Prieto never informed him about attending a golf outing as the guest of a DBE owner and that he did not authorize Mr. Prieto's attendance. [CTA Employee 2] said that if Mr. Prieto had informed him of attending the golf outing as the guest of a DBE owner, he would have advised Mr. Prieto to pay for his own ticket and attend the golf outing on his personal time or to speak with CTA's Ethics Officer.

### **C. Mr. Prieto's Treatment of Hispanic-Owned DBE Firms**

As noted above, the complaint alleged that Mr. Prieto favored Hispanic-owned DBE firms by coaching them on the DBE certification process. More specifically, the complaint alleged that Mr. Prieto has coached [Vendor 1] on how to remain certified despite no longer meeting the DBE program requirements. The complaint also alleged that Mr. Prieto favored Hispanic-owned DBE firms by expediting their certification applications. Finally, the OEIG examined CTA's overall outreach and assistance efforts by the Diversity Programs Department.

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<sup>10</sup> The documents also showed that [Vendor 2] has been paid approximately \$2 million since January 2017 for work performed as a CTA subcontractor, including on contracts awarded before January 2017.

## 1. Coaching Firms on the Certification Process

As noted above, Mr. Prieto is responsible for overseeing the DBE certification process, including the screening and review of DBEs seeking certification, as well as providing management and technical assistance for the expansion and business development of DBEs, and planning and participating in training sessions regarding the DBE program. During his OEIG interview, Mr. Prieto said that the CTA does its best to provide technical assistance to DBEs so that those firms can expand their capacity and capabilities, and that he and his staff host and attend various trainings and events to inform firms about the DBE program.

With respect to [Vendor 1]'s certification, documents show that [Vendor 1] is an environmental consulting and engineering firm that originally became certified as a DBE by Metra, then transferred its DBE certification from Metra to the CTA in 2017. Since January 23, 2014, [Vendor 1] has had at least 19 active contracts with the CTA and was paid \$3,519,944 for work performed on those contracts through July 15, 2019.

During her OEIG interview, [CTA Employee 1] said that sometime in 2018, she was reviewing [Vendor 1]'s 2018 annual No Change Affidavit and discovered that [Vendor 1]'s gross receipts exceeded the DBE program's eligibility limits and would therefore need to be graduated from the DBE program. [CTA Employee 1] said she notified Mr. Prieto about [Vendor 1] and he suggested that she tell [Vendor 1] to request a NAICS expansion, which would allow the firm to keep its DBE certification and avoid graduating from the DBE program.<sup>11</sup> According to [CTA Employee 1], [Vendor 1] then sent a letter to the CTA requesting a NAICS expansion. On December 2, 2018, [Vendor 1] formally applied for the expansion.

According to [CTA Employee 1], upon processing [Vendor 1]'s expansion request, she and other Diversity Programs staff discovered that [Vendor 1]'s owner, [Vendor 1 Owner], had not listed certain assets in his personal net worth (PNW), so she recommended to Mr. Prieto that [Vendor 1]'s expansion request be denied and the firm be graduated from the DBE program. [CTA Employee 1] said that Mr. Prieto requested that she send him an email explaining the issues she found with [Vendor 1 Owner]'s PNW and shortly after she did, [Vendor 1] submitted additional documentation addressing the PNW issue. [CTA Employee 1] explained, however, that this additional documentation did not completely resolve the PNW issue.

The CTA ultimately issued two letters to [Vendor 1] on May 6, 2019: one proposing that [Vendor 1] graduate from the DBE program for exceeding the gross receipts threshold<sup>12</sup> and one proposing that [Vendor 1] be removed from the DBE program for exceeding the PNW limit.<sup>13</sup> Mr. Prieto told investigators that he reviewed both letters to verify that the documents and calculations

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<sup>11</sup> During his interview, Mr. Prieto explained that the Diversity Programs Department's Certification Unit is responsible for processing certification expansion requests and forwarding the files with a recommendation to him for review. Mr. Prieto said that after reviewing the files, he signs off on the recommendation if he agrees with it or sends it back to a Certification Specialist with questions or for clarification or further analysis of any issues presented.

<sup>12</sup> The letter stated that [Vendor 1] exceeded the \$15 million threshold for the 3-year period covering 2017, 2016, and 2015.

<sup>13</sup> The letter cited several issues concerning [Vendor 1 Owner]'s PNW, including that [Vendor 1 Owner] undervalued two other businesses he owned; did not include two Teslas in his assets; and included several liabilities which should have been excluded, so that his PNW exceeded the \$1,320,000 threshold to remain in the DBE program by \$2,402,205.

supported both graduation and removal. On May 17, 2019, [Vendor 1] formally appealed its proposed removal and graduation from the DBE program, in accordance with CTA's policies and procedures.

According to [CTA Employee 1] and Mr. Prieto, as a result of [Vendor 1]'s appeal, a reconsideration hearing was held with Senior Manager, [CTA Employee 5] serving as the Reconsideration Hearing Officer. [CTA Employee 1] and Mr. Prieto said that the hearing to resolve the PNW issue was held first, since a determination that [Vendor 1 Owner] exceeded the PNW limit would have resulted in [Vendor 1] being removed from the DBE program and rendered the gross receipts issue moot. [CTA Employee 1] and Mr. Prieto said that [Vendor 1]'s expansion request to add additional NAICS codes to its certification was also halted while the reconsideration hearing was pending.

Mr. Prieto stated that once [Vendor 1] filed its appeal, he provided [CTA Employee 5] with [Vendor 1]'s certification file. Further, Mr. Prieto said that given the complexity of the appeal, [CTA Employee 5] requested that the CTA hire a third-party Certified Public Accountant to help with the review, which [CTA Employee 2] ultimately did, selecting [CPA Firm].<sup>14</sup> Mr. Prieto acknowledged that [Vendor 1] was able to remain certified and eligible to work and bid on CTA contracts until a reconsideration decision was made. [CTA Employee 2] also said he was not aware of any attempt by Mr. Prieto or anyone else to extend the reconsideration hearing to benefit [Vendor 1].

According to [CTA Employee 2], [CPA Firm]'s calculations showed that [Vendor 1 Owner]'s PNW fell below the limit to remain certified as a DBE,<sup>15</sup> and [CPA Firm] explained how it made its calculation and why its calculation differed from the original calculation of the Diversity Programs Department.<sup>16</sup>

During their interviews, [CTA Employee 1] and Mr. Prieto explained that while the reconsideration hearing relating to [Vendor 1 Owner]'s PNW was pending, the Federal Transit Agency revised and increased the thresholds for the gross receipt totals that corresponded with some, if not all, of [Vendor 1]'s original NAICS certifications. [CTA Employee 1] said that once the PNW issue was resolved, Diversity Programs conducted a review and recalculation of the gross receipts of the NAICS certifications based on the revised threshold amounts and determined that [Vendor 1] remained eligible for the DBE program. Documents show that [Vendor 1]'s expansion request was approved by the CTA on February 20, 2020, with [Vendor 1] approved to perform work in three additional NAICS categories.

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<sup>14</sup> In his interview, [CTA Employee 2] said that a CTA internal auditor first conducted a review of the reconsideration documents but could not determine the proper calculation based on his lack of experience with DBEs. [CTA Employee 2] said he next sent the [Vendor 1] documentation to an accounting firm already retained by the CTA, but the firm declined to conduct the review because it conducts CTA's agency-wide audit, including for the Diversity Programs Department, and determined that conducting the review of a current DBE would present a conflict of interest, so CTA sought another firm, [CPA Firm].

<sup>15</sup> A January 28, 2020 memo from [CPA Firm] to [CTA Employee 2] shows that [CPA Firm] determined [Vendor 1 Owner]'s PNW to be \$586,589, which is below the threshold for the DBE program.

<sup>16</sup> [CTA Employee 2] said that he does not believe the Diversity Programs initially calculated [Vendor 1 Owner]'s PNW incorrectly. Rather, [Vendor 1] brought new documentation to the reconsideration hearing that Diversity Programs did not include in the initial calculation but [CPA Firm] was able to include.

## **2. Certification Application Processing**

To participate in the CTA's DBE program, a firm must first be certified as a DBE by the CTA or another agency within the Illinois Uniform Certification Program (UCP).<sup>17</sup> According to the Illinois UCP, the CTA has 90 days from the receipt of a completed application to decide whether to certify a DBE applicant. During her interview, [CTA Employee 1] explained that there are no written policies or procedures relating to the order in which DBE certification applications must be processed and reviewed, though the CTA's practice is for applications to be reviewed and processed in the order in which they are received.

[CTA Employee 1] confirmed that there have been a few occasions when Mr. Prieto asked her to expedite certain DBE certification applications over others that were received earlier, which she said [CTA Employee 2] agreed should not be done.<sup>18</sup> [CTA Employee 1] noted that these applications were submitted by a variety of applicants, though, and not just Hispanic firms. [CTA Employee 1] said, for example, that Mr. Prieto asked about expediting a certification application for a woman-owned firm that had hoped to bid on a contract solicitation before it was about to close. [CTA Employee 1] also did not provide any examples of applications that had, in fact, been expedited.

During his OEIG interview, however, Mr. Prieto denied that his department expedites certification applications and said instead that they process them as quickly as possible once they are received and determined to be complete.

## **3. Outreach Efforts**

Investigators reviewed documents regarding events hosted or attended by CTA's Diversity Programs Department staff between January 1, 2018 and June 30, 2019. This included approximately 155 outreach events. Of those events, there were only eight that involved exclusively Hispanic organizations, including monthly meetings for [Association] and an "[Commerce]/IL Tollway Graduation." The remaining 146 events hosted or attended by Diversity Programs included events specific to other demographic groups, such as events hosted by Black Contractors, Owners, and Executives and a W.O.M.E.N. Equipping Women-Owned Construction Businesses for Success event.

During his interview, Mr. Prieto stated that he and his staff regularly host and attend various outreach events, including training sessions, networking sessions, panel discussions, and pre-bid and post-bid meetings so they can inform potential bidders and prime contractors awarded contracts about the CTA's DBE program and opportunities for DBEs to participate on upcoming CTA projects. Mr. Prieto said the CTA also advertises its programming on social media and publishes technical assistance information on the CTA's diversity management system, B2GNow.

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<sup>17</sup> The Illinois UCP consists of the Illinois Department of Transportation, the City of Chicago, CTA, Metra, and Pace.

<sup>18</sup> [CTA Employee 2] confirmed that [CTA Employee 1] once sought his guidance because she was concerned about Mr. Prieto expediting applications. [CTA Employee 2] said [CTA Employee 1] did not provide evidence of specific applications being expedited, but he nevertheless advised her that applications should be processed in the order they are received.

According to Mr. Prieto, while there are no federal requirements or guidance relating to an agency's responsibility to provide technical assistance to DBEs, CTA does its best to provide assistance and programming for all DBEs so that they can expand their capacity and capabilities and eventually graduate and become prime contractors. Mr. Prieto said that all programs that the CTA offers are open to any interested firm or DBE, and he attends any event he is asked to attend. [CTA Employee 1] also said she was not aware of Mr. Prieto ever refusing to assist non-Hispanic firms or individuals and said that if a non-Hispanic firm owner called Mr. Prieto and sought his guidance or certification information, Mr. Prieto would assist that individual.

Finally, during his OEIG interview, [CTA Employee 2] said that in the summer of 2019, he heard about a complaint or a comment by a CTA employee that Mr. Prieto favors Hispanic firms and advocates for Hispanic interests; however, [CTA Employee 2] said he heard this information second-hand and did not hear of any specific examples of the alleged favoritism. [CTA Employee 2] added that did not suspect the claim to be true, but he discussed the issue with Mr. Prieto, and said he has not heard any other complaints or comments about Mr. Prieto favoring Hispanic firms since then.

#### **IV. ANALYSIS**

##### **A. The Hiring Process for a Certification Specialist Position**

According to CTA Administrative Procedure 151, Hiring, Promotion and Vacancy Filing (AP 151), the HR Department is responsible for posting a position and determining which applicants meet the minimum qualifications for the position.<sup>19</sup> AP 151 states that HR then forwards the qualified applications to the hiring department, which reviews the information, determines which applicants best meet the position qualifications and requirements, and informs HR who it wishes to interview.<sup>20</sup> Additionally, CTA's General Rule Book prohibits employees from engaging in any conduct unbecoming an employee.<sup>21</sup>

Documents show that in 2019, [CTA Candidate] was one of 151 applicants for a Certification Specialist position within the Diversity Programs Department. [CTA Candidate]'s application indicated that she had the minimum education required for the position as well as some experience that could possibly be construed as meeting the minimum requirements for the position. [CTA Employee 3] explained, however, that [CTA Employee 4] selected applicants that had experience in small business, contracts, compliance, or certification, as set out in the preferred qualifications of the position description, to send to [CTA Employee 1] for further consideration and that [CTA Candidate] was not one of those because she did not have the preferred qualifications.

However, the investigation revealed that Mr. Prieto subsequently requested that [CTA Candidate] be added to the pool of applicants to be interviewed for the position. While Mr. Prieto

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<sup>19</sup> AP 151 Hiring/Promotion and Filing Vacancies, Section 4(A) (December 1, 2008).

<sup>20</sup> *Id.*

<sup>21</sup> CTA General Rule Book, Section 14(e) and (j), (August 15, 2014).

told [CTA Employee 4] and [CTA Employee 3] that he met [CTA Candidate] at a recruitment event, the investigation revealed that he actually had a personal relationship with [CTA Candidate], who was a close enough a friend to him and/or his wife [Identifying Information Redacted]. Although Mr. Prieto denied that he sought to have [CTA Candidate] included in the interview pool because of his friendship with her, he did not disclose the true nature of the relationship in order for others at the CTA to make a proper assessment of whether [CTA Candidate] should have been added to the interview pool after not having initially been sent forth for consideration. In fact, according to [CTA Employee 3], knowing the relationship between Mr. Prieto and [CTA Candidate] may have impacted whether she advocated for [CTA Candidate] to be reconsidered when she brought the issue to Mr. Moreno. Further, [CTA Employee 2] stated that Mr. Prieto's actions with respect to [CTA Candidate] were not consistent with CTA's hiring policies and that he would have advised Mr. Prieto to disclose the relationship and remove himself from further involvement in the hiring process.

Because Mr. Prieto unnecessarily involved himself in the hiring process without disclosing the true nature of his relationship with [CTA Candidate], the OEIG concludes that Mr. Prieto acted in a manner unbecoming of a CTA employee, and this allegation is, therefore, **FOUNDED**.<sup>22</sup>

#### **B. Mr. Prieto's Attendance at the [Association] Golf Outing**

The State Officials and Employees Ethics Act (Ethics Act) gift ban provision and the CTA's Ethics Ordinance gift ban provision both prohibit employees from accepting gifts from any prohibited source,<sup>23</sup> which includes any individual or entity that does business or seeks to do business with the CTA.<sup>24</sup> Furthermore, the CTA DBE Program Plan provides that the DBE Liaison Officer is responsible for mitigating potential conflicts of interest with respect to DBE matters,<sup>25</sup> and guidance from the Federal Transit Administration provides that conflicts of interest, or even the appearance of a conflict of interest, between recipients of federal funds and their contractors should be strictly avoided.<sup>26</sup>

The OEIG's investigation revealed that on August 21, 2019, Mr. Prieto attended the 2019 [Association] golf outing as the guest of [Vendor 2 Owner], the owner of DBE firm [Vendor 2] that does business with the CTA, continues to seek additional opportunities to do so, and that Mr. Prieto himself believed to be a DBE subcontractor on CTA projects. In fact, [Vendor 2] is a DBE firm that has been awarded two CTA subcontracts worth a combined \$1,547,432 since May 17, 2019, one of which was awarded about three months prior to [Association] golf outing and the other about six months thereafter. The investigation revealed that [Vendor 2 Owner] paid for Mr. Prieto's ticket to the golf outing, which cost \$400—well above the \$100 threshold allowed by the Ethics Act.

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<sup>22</sup> The OEIG concludes that an allegation is "founded" when it has determined that there is reasonable cause to believe that a violation of law or policy has occurred, or that there has been fraud, waste, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance.

<sup>23</sup> 5 ILCS 430/10-10, "Gift Ban;" Ethics Ordinance of the Chicago Transit Authority, Section 2.4 (August 10, 2011).

<sup>24</sup> 5 ILCS 430/1-5, "Prohibited Source."

<sup>25</sup> CTA DBE Program Plan 49 CFR Part 26 (May 6, 2019).

<sup>26</sup> FTA Best Practices Procurement and Lessons Learned Section 2.1 Standard of Conduct (October 2016).

While there are a number of exceptions to the gift ban,<sup>27</sup> Mr. Prieto's acceptance of the ticket does not appear to fall within any of those exceptions. Most particularly, the golf ticket does not meet the exception for gifts exchanged between personal friends. Although Mr. Prieto said that he considers [Vendor 2 Owner] to be a personal friend, he also said that he attended the event in his professional capacity, engaged in networking activities while there, and included his time at the outing on his timesheet—all suggesting he knew or at least believed the ticket was related to his work and was provided to him because of his position with the CTA rather than because of a personal friendship with [Vendor 2 Owner]. Further, [Vendor 2 Owner] told investigators that he and Mr. Prieto do not regularly exchange gifts. Finally, as both Mr. Prieto and [Vendor 2 Owner] said that they only know and interact with one another through work and their professional involvement with [Association], Mr. Prieto would have had no reason to believe his ticket to the golf outing was anything other than an invitation for him in his professional capacity.

Further, Mr. Prieto is the CTA's DBE Liaison Officer who oversees the CTA's DBE program. As such, Mr. Prieto's attendance at the [Association] golf outing as [Vendor 2 Owner]'s guest could reasonably be perceived by others as exceeding the bounds of the Liaison Officer and DBE relationship, especially because of the new contract awarded to [Vendor 2] nearly six months later. Ultimately, Mr. Prieto's actions, at a minimum, create the appearance of impropriety with respect to [Vendor 2 Owner] and [Vendor 2], which his own supervisor, CTA Chief Administrative Officer [CTA Employee 2], echoed.

Based on the foregoing, the OEIG concludes that Mr. Prieto accepted a gift from a prohibited source in violation of the Ethics Act and the CTA's Ethics Ordinance when he attended the August 21, 2019 [Association] golf outing with [Vendor 2] owner [Vendor 2 Owner]. Additionally, Mr. Prieto's actions created the appearance of impropriety in violation of the CTA's DBE Program Plan. Accordingly, these allegations are **FOUNDED**.

### **C. Mr. Prieto's Treatment of Hispanic-Owned DBE Firms**

During the investigation, the OEIG learned that Mr. Prieto's duties include overseeing the DBE certification process, as well as providing technical assistance to DBE and training sessions regarding the DBE program, including DBE expansion, all of which could be generally construed as coaching DBEs on the certification process.

With respect to Mr. Prieto coaching [Vendor 1] specifically, the OEIG learned that, in late 2018, the Diversity Programs Department determined that [Vendor 1] was eligible for graduation from the DBE program for exceeding the program's gross receipts threshold, and in early 2019, determined the firm was eligible for removal from the program because [Vendor 1 Owner]'s PNW exceeded program limits. Documents show that the CTA ultimately sent a proposed removal letter to [Vendor 1], suggesting that the issues Diversity Programs staff noticed with [Vendor 1 Owner]'s PNW were not corrected. The investigation revealed that [Vendor 1]'s appeal of the CTA's determinations that it be graduated and removed from the DBE program was handled by way of a reconsideration hearing in accordance with CTA policies and procedures. Investigators learned that aside from communicating with [CTA Employee 5] about the appeal timeline and providing her with the appeal file to review, Mr. Prieto was otherwise removed from the appeal process and

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<sup>27</sup> 5 ILCS 430/10-15.

was not involved in the determination about [Vendor 1 Owner]’s PNW that was ultimately made by an outside CPA firm. The OEIG also learned that once the PNW issue was resolved, the CTA necessarily re-assessed [Vendor 1]’s gross receipts documentation under the recently raised threshold and determined they did not exceed this new threshold, meaning they no longer needed to be graduated from the DBE program. As such, [Vendor 1] remained certified as a DBE able to conduct business with the CTA.

In addition, the investigation revealed insufficient evidence to conclude that Mr. Prieto expedited certification applications of Hispanic-owned small businesses and DBE firms. Specifically, while [CTA Employee 1] said that Mr. Prieto has requested that several applications be expedited, she acknowledged that these applications were not exclusively submitted by Hispanic-owned firms and did not point to any specific instance of an application actually being expedited. Further, Mr. Prieto said that his department does not expedite applications, he treats all applicants fairly and does not consider race or gender when processing applications, and he has told firms requesting that their application be expedited only to submit any required documentation as soon as possible and to contact a technical assistance agency for assistance. Even still, the investigation revealed that there are no rules regarding the order of processing applications and that even if an agency’s practice is to process applications in the order they are received, circumstances can dictate otherwise or exceptions can be made if needed.

Finally, the OEIG learned that there are no guidelines on how agencies conduct outreach or provide technical assistance to DBEs; and there is no requirement that outreach and assistance be offered equitably to different socially disadvantaged groups. Still, [CTA Employee 1] and Mr. Prieto both stated that CTA DBE events are open to all and that CTA does not restrict attendance to only specific demographic groups. In addition, the documents showed that the CTA’s DBE outreach efforts between January 1, 2018 and June 30, 2019 were not skewed in favor of Hispanic communities and DBE firms, with only 9 of 155 appearing to be exclusive to the Hispanic community, and with DBE staff also attending events specific to other demographics. In addition, the investigation revealed insufficient evidence to conclude that Mr. Prieto expedited certification applications of Hispanic-owned small businesses and DBE firms.

Given all the foregoing, there is insufficient evidence to conclude that Mr. Prieto favored Hispanic-owned DBEs, including [Vendor 1]. Therefore, the allegation is **UNFOUNDED**.

## **V. FINDINGS AND RECOMMENDATIONS**

As a result of its investigation, the OEIG concludes that there is **REASONABLE CAUSE TO ISSUE THE FOLLOWING FINDINGS:**

- **FOUNDED** – JuanPablo Prieto improperly attempted to influence the hiring process for a Certification Specialist position when he requested that a friend be interviewed for the position and failed to disclose to HR staff the nature of their relationship.
- **FOUNDED** – JuanPablo Prieto violated the Gift Ban provision of the Ethics Act and the CTA Ethics Ordinance by accepting a ticket to a golf outing in August 2019 from a DBE vendor that performs work on CTA contracts.

- **FOUNDED** – JuanPablo Prieto created an appearance of impropriety in violation of the CTA’s DBE Program Plan by accepting a ticket to a golf outing from a DBE vendor that performs work on CTA contracts.
- **UNFOUNDED** – JuanPablo Prieto did not improperly favor Hispanic firms in DBE matters.
- **UNFOUNDED** – JuanPablo Prieto did not improperly ensure [Vendor 1] remained certified as a DBE despite no longer meeting the requirements.

Given the foregoing, the OEIG recommends that the CTA take whatever action it deems necessary with respect to Mr. Prieto. The OEIG also recommends that the CTA take appropriate action to ensure that Mr. Prieto is aware of CTA’s hiring policies and procedures, including any that relate to the disclosure of personal relationships when engaging in the hiring process.

The OEIG further recommends that the CTA consider developing policies, in addition to the noted Gift Ban provisions, for employees who conduct outreach activities as part of their duties. For instance, these policies could provide guidance to employees regarding the types of functions that can be attended and who should pay for these functions, as well as requiring supervisor approval, if necessary. At minimum, however, the OEIG recommends that the CTA stress the importance of avoiding the appearance of impropriety when interacting with vendors.

No further investigative action is warranted and this case is considered closed.

Date: October 14, 2020

Office of Executive Inspector General  
for the Agencies of the Illinois Governor  
69 W. Washington St., Suite 3400  
Chicago, IL 60602

**Adam Bush-Emmart**  
Assistant Inspector General

**Julie Africk**  
Investigator #126



**Office of Executive Inspector General  
for the Agencies of the Illinois Governor**

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**AGENCY OR ULTIMATE JURISDICTIONAL AUTHORITY  
RESPONSE FORM**

Case Number: 19-01088

Return 20 Days After Receipt

Please check the box that applies. (Please attach additional materials, as necessary.)

We have implemented all of the OEIG recommendations. Please provide details as to actions taken:

We will implement some or all of the OEIG recommendations but will require additional time to do so.  
We will report to OEIG within 45 days from the original return date. (12/14/20)

We do not wish to implement some or all of the OEIG recommendations. Please provide details as to what actions were taken, if any, in response to OEIG recommendations:



Signature

CTA Deputy General Counsel  
Print Agency and Job Title

STEPHEN L. WORD  
Print Name

10/30/20  
Date



**TO:** Office of the Executive Inspector General

**FROM:** Thomas McKone  
Chief Administrative Officer

**DATE:** December 14, 2020

**RE: OEIG Case No. 19-1088 – FINAL REPORT RESPONSE**

The above-referenced final report (Final Report) involves allegations of misconduct by the Director, Diversity Programs JuanPablo Prieto. The OEIG found that Mr. Prieto improperly attempted to influence the hiring process for a Certification Specialist position when he requested that a friend be interviewed for the position and when he failed to disclose to HR staff the nature of their relationship. The OEIG also found that Mr. Prieto violated the Gift Ban provision of the State Officials and Employees Ethics Act (State Ethics Act) and the CTA Ethics Ordinance by accepting a ticket to a golf outing in August 2019 from a Disadvantaged Business Enterprise (DBE) vendor that performs work on CTA contracts. As part of this finding, the Final Report also stated that Mr. Prieto created an appearance of impropriety by accepting a ticket to the August 2019 golf outing from a DBE vendor that performs work on CTA contracts.

CTA concurs with the findings made by the OEIG in this Final Report, namely that Mr. Prieto improperly attempted to influence the hiring process for the Certification Specialist position, and that by accepting a ticket to an August 2019 golf outing he violated the Gift Ban provision and created an appearance of impropriety in violation of the State Ethics Act and the CTA Ethics Ordinance. This is CTA's response detailing the actions CTA has taken with regards to the OEIG's Final Report recommendations.

**CTA's Response to the OEIG's Recommendations**

*Given the foregoing, the OEIG recommends that the CTA take whatever action it deems necessary with respect to Mr. Prieto.*

Mr. Prieto will undergo additional training regarding CTA Administrative Procedure #151: Hiring/Promotion and Vacancy Filling Policy/Procedures (AP 151) and the CTA Ethics Ordinance, particularly with respect to the appearance of impropriety. Also, Mr. Prieto will be directed to remedy the Gift Ban violation of the State Ethics Act and the CTA Ethics Ordinance by refunding the full value of the gift he received to the vendor. Additionally, CTA will direct the vendor to not offer CTA employees gifts in the future.

*The OEIG also recommends that the CTA take appropriate action to ensure that Mr. Prieto is aware of CTA's hiring policies and procedures, including any that relate to the disclosure of personal relationships when engaging in the hiring process.*

All CTA employees involved in the hiring process are instructed on CTA's hiring policies and procedures, including those that relate to the disclosure of personal relationships when engaging in the hiring process. CTA continually audits and reviews its hiring process to ensure compliance with AP 151 and other hiring policies and procedures. CTA will provide additional counseling to Mr. Prieto regarding CTA's hiring policies and procedures, including those that relate to the disclosure of personal relationships when engaging in the hiring process. As stated in the recommendation above, Mr. Prieto will be provided additional instruction on AP 151 and the CTA Ethics Ordinance, particularly with respect to the appearance of impropriety.

*The OEIG further recommends that the CTA consider developing policies, in addition to the noted Gift Ban provisions, for employees who conduct outreach activities as part of their duties. For instance, these policies could provide guidance to employees regarding the types of functions that can be attended and who should pay for these functions, as well as requiring supervisor approval, if necessary. At minimum, however, the OEIG recommends that the CTA stress the importance of avoiding the appearance of impropriety when interacting with vendors.*

As stated in the response to the first recommendation above, with respect to the violation of the Gift Ban provision by Mr. Prieto, he will be directed to remedy this violation of the State Ethics Act and the CTA Ethics Ordinance by refunding the full value of the gift he received to the vendor. With respect to developing policies for outreach employees, currently the CTA provides an ethics seminar to all officers, all employees holding the position of manager or above, and all persons in positions identified by the Ethics Committee once every four years. See CTA's Ethics Ordinance, Section 2.17. As part of this training, CTA addresses the appearance of impropriety, under section 2.1 of the CTA's Ethics Ordinance, because it covers many aspects of ethical conduct. In addition, CTA provides ethics training to all officers and employees as required under 5 ILCS 430/5-10 of the State Ethics Act. In addition to the foregoing trainings, CTA will also provide targeted training to employees who conduct outreach activities as part of their duties. This specialized training will specifically address avoiding the appearance of impropriety when interacting with vendors.

No further action will be taken on this matter and CTA considers this complaint closed.

cc: Nora Leerhsen, CTA Chief of Staff  
Colleen Thomas, OEIG