

Case No. 08-WBI-0604-1
Investigative Report

The Seattle Ethics and Elections Commission (SEEC) staff received two independent Whistleblower complaints from Seattle Public Utilities (SPU) employees in June 2008. Each complainant alleged violations of the Ethics Code, SMC Chapter 4.16, and improper governmental action under the Whistleblower Protection Code, SMC 4.20.800 *et seq.*

When the SEEC receives a complaint of improper governmental action, the Executive Director in some cases refers the complaint to the proper “auditing official,” and in other cases retains the complaint for investigation. Referral to a designated “auditing official” is mandatory when the allegation is within the jurisdiction of the police, judicial administration, the county or state prosecuting attorneys, or involves a civil rights violation or allegation of sexual harassment. If the complaint does not fall under the mandatory referral language, or involves an alleged Ethics Code violation, the Director will generally retain the complaint for preliminary investigation. SMC 4.20.830.

In this instance there were allegations of Ethics Code violations, so the Executive Director retained the complaints for investigation. The allegations generally fell into three categories:

1. All-City Manager Andres Macadangdang improperly supervised relatives.
2. All-City Manager Andres Macadangdang abused his authority while training temporary workers.
3. The SPU Drainage and Wastewater Division management grossly wasted public funds through expenditures on overtime salaries in 2007 and continuing into 2008.

EXECUTIVE SUMMARY

Mr. Macadangdang’s supervision of his cousins, Virgil and Virgilio (Leo) Andres, did not violate SMC 4.16.070(1)(b) because his cousins do not live with him, and therefore fail to qualify as “Immediate Family” under the Ethics Code.

There is no evidence that Mr. Macadangdang and his cousins have engaged in private “transactions and activities” that would cause a reasonable person to believe his independence of judgment was impaired in his supervision of his cousins. Therefore, Mr. Macadangdang’s supervision of his cousins did not violate SMC 4.16.070(1)(a).

Mr. Macadangdang did not violate SMC 4.16.070(2)(a) or (b) by using city of Seattle trucks, employees and work time to train and facilitate temporary workers’ acquisition of Commercial Driver’s Licenses (CDL) as his actions were arguably undertaken for the benefit of the City or for a City purpose.

Mr. Macadangdang’s use of City trucks, employees and work time to facilitate two temporary workers’ acquisition of CDL endorsements to their Washington State driver’s licenses

did violate City of Seattle Personnel Rule 11.27, and was therefore an “improper governmental action” under the Whistleblower Protection Code.

Mr. Macadangdang violated State and Federal regulations and the Seattle Municipal Code all of which require persons driving overweight commercial vehicles to have passed a random drug testing procedure and to have entered the city of Seattle random drug testing pool. These violations were “improper governmental actions” within the meaning of the Whistleblower Protection Code.

SEEC staff lacks the expertise to determine whether SPU Drainage and Wastewater Division management’s use of overtime to staff crews is a gross waste of public funds.

INVESTIGATION

The investigation focused on the SPU Drainage and Wastewater (D&W) South District facility located at Charles Street. The time period covered ranges from mid-2007 to September 1, 2008. SEEC staff conducted personal or telephonic interviews with approximately 25 persons, including 17 SPU employees managed or dispatched from the Charles Street Facility.

D&W operations are centered in two district facilities located in north and south Seattle. The North District operates from the Haller Lake facility and is managed by Carrie Parker. The South District operates from the Charles Street facility and is managed by Debbie Maxfield, South District Manager. The Charles Street facility also houses the All-City operation headed by Andres Macadangdang.

Of the ten crews operating in D&W, seven crews, each with a crew chief and between five and fifteen employees, are housed and/or dispatched from the Charles Street facility. The crews are designated as the First Response and Core Taps (FRC/CT), the Closed Circuit TV (CCTV), the Rehab Crew¹ and Grounds Maintenance crews, each supervised by Andres Macadangdang, and, Line and Grade (L&G), Surface Water Management and Underground Storage crews, managed by Debbie Maxfield. D&W also has an apprenticeship program. The Grounds Maintenance crew was the only crew operating from Charles Street during the period of our investigation to employ temporary workers.

SUPERVISION OF FAMILY MEMBERS

Andres Macadangdang has been All-City Manager in D&W since 2003. Virgilio (Leo) Andres and Virgil Andres, twin brothers and cousins to Mr. Macadangdang, began work as D&W employees in March and July, 1997 respectively. Both have been collection lead workers since 2006. Both were working from that time until March 2008 on the FRC/CT crew.

Mr. Macadangdang supervises the FRC/CT crew. During 2007, both Leo and Virgil Andres worked on the FRC/CT and both amassed substantial overtime, resulting in the men being the fifth and sixth highest paid represented employees in D&W. The payment of overtime effectively doubled their salaries from approximately \$50,000 to approximately \$100,000. In

¹ This crew is housed at the Haller Lake facility but is managed from Charles Street.

early 2008, Virgil Andres asked to be moved from the FRC/CT crew so that he would have more time at home with his family.

Debbie Maxfield, South District Manager, recounted that in March of 2008, an effort was made to separate the twins and place them on different crews not directly supervised by Mr. Macadangdang. Virgil was placed on L&G and Leo was assigned to Underground Storage. However, Leo was “loaned back” to FRC/CT to fill a crew vacancy. Leo Andres’ work schedule became swing shift and weekends. This schedule took him out of the direct supervision of the crew Chief John Marchitto for all but two hours per week, and put him under the direct supervision of Mr. Macadangdang.

In interviews, both Virgil Andres and Andres Macadangdang verified their familial connection. Virgil Andres stated that he lives in Auburn and his brother, Leo Andres, lives in Puyallup. According to Virgil Andres, the men do not spend personal time socializing with Andres Macadangdang. The relationship between the men is a work relationship, with no significant personal relationship and no financial relationship between them.

Interviews showed that most employees take an unfavorable view of the direct supervision by Andres Macadangdang of his cousins. Many believe it is a conflict of interest and draw a direct line from the conflict to the award of overtime to the cousins and the exclusion of other employees from a technical and high-paying crew. A minority believe the supervision is temporary and unavoidable, resulting from a lack of employees to fill vacant positions.

D&W has acknowledged the problems created by Mr. Macadangdang’s supervision of his cousins. On June 29, 2008, Sarah Miller, D&W’s Director, sent an e-mail to Mr. Macadangdang with a copy to Debbie Maxfield that reads:

“Please defer any actions or decisions regarding overtime assignments, overtime compensation, or other compensation (including timesheet authorization) for Virgilio to Debbie [Maxfield]. I know that John Marchitto normally authorizes his time, but in case John misses it, or is on vacation, etc. please loop Debbie into the process until Leo gets released back to South Underground Storage.”

TRAINING OF TEMPORARY WORKERS:

On at least four occasions, our investigation found that Mr. Macadangdang used City property and employees to facilitate the training and testing of temporary maintenance laborers.

Complaints regarding Mr. Macadangdang’s use of City property, employees and other resources centered around the acquisition of Class B Commercial Driver’s License (CDL-B) endorsements to valid Washington State driver’s licenses. This endorsement is required to drive a vehicle with a manufacturer’s weight rating of 26,001 pounds or more, a school bus, a larger truck/trailer combination or a garbage truck. To acquire a CDL-B endorsement a person must pass a written exam and, using an overweight commercial truck, pass (1) a walk-around test to show familiarity with equipment such as air braking systems and (2) a two-hour driving skills

test. Until January 2, 2009, a person passing the written test and acquiring a learner's permit can self-train.²

D&W made a 2008 budget request for seven new temporary drainage and wastewater collection workers. Any new temporary workers needed a CDL-B to meet the minimum qualifications for hire. The temporary hires would be used to fill various vacancies across crews until January 2009 when an apprenticeship class would be used to fill these vacancies. In interviews Sarah Miller, Director of D&W, stated that throughout the fall of 2007 into 2008, D&W had difficulty recruiting temporary workers with CDLs.

Our investigation found that Mr. Macadangdang orchestrated two temporary workers' use of an overweight city of Seattle truck, #33722, during both work and off hours specifically so they could acquire a CDL-B endorsement to their Washington driver's license. Mr. Macadangdang utilized full-time represented crew members to facilitate the training and testing of the temporary workers, and appears to have taken steps to hide this use of the truck.

On several occasions, Truck # 33722 was driven from the Charles Street facility to various south end locations by full-time lead wastewater collection workers or crew chiefs (one to drive the flatbed and the other to drive a return vehicle) during their work day. The truck was parked on the public streets for varying lengths of time and used by Leonardo DeGuzman and Nelson Respecio for CDL testing procedures. The truck was never taken by the temporary workers and Mr. Macadangdang themselves from the Charles Street facility. After testing was complete, the truck was then retrieved either by two full-time crew members or crew chiefs and/or Mr. Macadangdang during work hours and returned to Charles Street.

The temporary workers who used the vehicle for training and completion of the driving skills test were not working in assignments that required a CDL endorsement to their Washington State driver's license. The CDL testing was done on city streets when the temporary workers were off the clock. In one instance, the driving occurred before the temporary worker was entered into the random drug testing pool mandated by law.³

² Beginning, however, in January 2009, a person applying for the endorsement will need proof they have met minimum training standards. Commercial driving schools charge up to several thousands of dollars for the training.

³ SMC 4.77.020: Purpose and authority. The Personnel Director shall adopt a "Drug-free Workplace and Drug and Alcohol Testing Plan" consistent with applicable state and federal laws and City policies including but not limited to the Drug-free Workplace Act of 1988 (P.L. 100-690, 41 USC Section 701 et seq.); regulations of federal agencies, 54 Federal Register 4947 et seq. and 49 CFR 6363-4; provisions of the Omnibus Transportation Employee Testing Act of 1991 (Title XII, P. L. 99-570, 49 USC Section 3120) for drug and alcohol testing of certain employees, the implementing regulations of the Department of Transportation, 49 CFR 382 et al., 49 CFR Part 40, and regulations of other federal agencies applicable to City employees under that law; and the Washington State Industrial Safety and Health Act, RCW 49.17 and regulations of the Department of Labor, WAC 296.24.073.

SMC 4.77.030 Policy. The City of Seattle has a significant interest in the health and safety of its employees and the citizens of the City of Seattle. It is the policy of the City to take those steps necessary to ensure that its employees perform their duties and responsibilities free of the influence of unlawful drugs and unimpaired by alcohol. The City also complies with all federal, state and local law in furtherance of those objectives. In accordance with federal law, the City of Seattle is required to implement alcohol and drug testing and training programs for certain defined employees. Strict compliance with this policy is a condition of City employment. Violations will result in disciplinary action up to and including termination.

Records show that on July 19, 2007, Mr. Macadangdang attended a three hour City-sponsored training program which outlined the mandates of Federal, State and City laws and City policy, all of which require employees to be in the random drug testing pool *before* driving an overweight commercial vehicle.

The two temporary workers who obtained CDLs were Leonardo DeGuzman and Nelson Respecio.

Mr. Respecio

Mr. Respecio was hired as a temporary maintenance laborer on October 19, 2007, after attending a job fair where he met Mr. Macadangdang. He was assigned to Grounds Maintenance. His temporary position did not require him to have or obtain a CDL-B endorsement to fulfill his job duties.

Mr. Respecio told the investigator that at Mr. Macadangdang's suggestion he took and passed the written portion of the CDL test, earning his CDL learner's permit on March 25, 2008. Mr. Macadangdang then facilitated his entry into the random drug testing pool on April 16, 2008.

Mr. Respecio's best recollection is that he first unsuccessfully attempted to pass the walk-around on May 19, a Monday, which was his day off.⁴ He recalled the truck being delivered to a parking lot in the vicinity of South Holgate Street by two D&W employees. Mr. Respecio said he had practiced for the walk-around test using city of Seattle trucks while on breaks or on his way home. When interviewed he stated that he did not practice driving on truck #33722 but used the smaller flatbed he used daily as a member of the Grounds Maintenance crew.

On June 3, 2008 Mr. Respecio successfully passed both the walk-around and the two hour driving skills test using Truck # 33722 and gained his CDL-B endorsement. The truck was delivered to "a Boeing field parking lot," by the "manager from Charles Street," according to Mr. Respecio.

Mr. Respecio's temporary employment with the city of Seattle ended on August 19, 2008, when his extended temporary status expired. Although it was alleged that Mr. Respecio and Mr. Macadangdang were close personal friends, staff developed no evidence to support this allegation.

Mr. DeGuzman

Mr. DeGuzman was hired as a temporary maintenance laborer on May 2, 2007. Mr. DeGuzman was hired to work in Grounds Maintenance. His temporary position with SPU did not require him to have or obtain a CDL-B endorsement to fulfill his job duties.

⁴ On the day Mr. Respecio failed the walk-around test, crew chiefs were told by Mr. Macadangdang when he returned the truck to Charles Street that something was wrong with the truck and that it "better get fixed." Two employees, one a crew chief, spent two days attempting to figure out what was wrong with the truck. As it turned out, Mr. Respecio had forgotten to correctly release brake mechanisms, causing dash warning lights to appear.

In December 2007, at Mr. Macadangdang's suggestion, Mr. DeGuzman took and passed the written test to obtain his learner's permit. Because he had driven large overweight trucks in the past he did not use city of Seattle trucks for driving practice.

On Thursday, January 31, 2008, full-time employees recall delivering truck #33722 to a large parking lot-like area at Holgate Street. The delivery was made by a crew chief and a full-time employee during their work day. The crew chief gave the keys to Mr. Macadangdang after the truck was in place. The keys were returned to the crew chief on Monday. Mr. DeGuzman, who had taken a personal day off, met an independent state certified tester, Mr. Steve Ford, at this location and Mr. DeGuzman was given the two hour road test using truck # 33722 on city streets. The truck was returned to this same location and retrieved on Monday by the crew chief and an unknown full-time employee during their regularly scheduled work day.

On February 1, 2008, Mr. DeGuzman was not, as required by law, in the random drug testing pool. Mr. DeGuzman became a designated D&W collection worker on April 2, 2008. He entered the random drug testing pool on April 29, 2008. He was hired as a full-time maintenance laborer in August 2008, a position that does not require a CDL or driving of overweight vehicles.

In interviews several crew members recalled ferrying Truck #33722 at Mr. Macadangdang's request. On at least six separate occasions during their work time, they parked the truck and rode back to Charles Street with a fellow crew member. The truck was ordered taken to these locations from the Charles Street yard by Mr. Macadangdang.

More than one crew member recalled that the truck was delivered to the Holgate Street location twice and to a location close to Boeing field on at least two occasions. Crew members knew that the truck was being used by temporary workers for both the walk around and driving portions of the CDL testing. On at least one occasion a crew chief asked Mr. Macadangdang what was "going on" with the temporary workers. Mr. Macadangdang was reported to have been evasive. After repeated questioning, Mr. Macadangdang admitted that he was "helping the temps to get their CDLs."

No documentation exists which shows the use of truck #33722 for training and testing the temporary workers. In early 2008, entries were made into the Maximo tracking system only when a truck was dispatched in conjunction with a particular work order.⁵

When Commission staff interviewed Mr. Macadangdang he was asked why it was necessary to take truck #33722 away from the Charles Street facility instead of having the testing start from that location. He was also asked to explain why he had gone to such lengths to conceal his use of the trucks to train the temporary workers. Mr. Macadangdang was unable to offer a reason.

CREW ASSIGNMENTS AND OVERTIME

The assignment of employees to particular crews is generally done on a yearly basis. Employees are placed onto ten district-wide crews by the three D&W managers. Crew placement

⁵ This may have changed with the GPS technology currently being implemented.

decisions take into consideration employee experience, employee preference, business needs, expertise, training and personality.

When crew chief positions are vacant due to vacation, illness, retirement, or other reasons, the practice has been to have a full-time represented employee appointed to work as an “out of class” crew chief until the position is filled. On other occasions, the “out of class” position is rotated to allow more than one employee to gain experience as crew chief. Either way, each of these assignments draws from full-time employees though not necessarily from the same crew which has the open crew chief position.

Managers and the Director have been consistent in explaining the manner in which overtime is assigned. It is complex and has been resolved through a series of Labor-Management meetings.

Generally, overtime is available through assignment from a manager who maintains a master overtime list, or on other occasions from a specific crew chief who maintains a crew overtime list for scheduled catch-up work or work which is done off hours to minimize public impact. Overtime is also available when employees fill in for vacant crew/shift positions.

D&W has been operating for over a year with vacancies on many of the crews working from the Charles Street facility. Managers and the Director have undertaken several steps to alleviate this situation, though market forces and other factors have made it difficult. In the meantime, vacant positions in one crew, FRC/CT, have been covered by full-time employees working overtime. Significant overtime was awarded in 2007, and that practice has continued, although to a somewhat lesser extent, in 2008.

ANALYSIS

ETHICS CODE, SMC 4.16

The Ethics Code precludes officers and employees from participating in matters in which their immediate family members have a financial interest, and from performing official duties when they have engaged in “transactions or activities” that would cause a reasonable person to believe that their independent judgment is impaired. It also mandates that City resources be used primarily to serve a City purpose.

FINDINGS

SMC 4.16.070(1) – Conflicts and Appearances

Cousins are treated as immediate family members under the Ethics Code only when they reside in the officer or employee’s household. SMC 4.16.030(F)(3). Since neither of the Andres brothers live with Mr. Macadangang, his supervision of them does not violate SMC 4.16.070(1)(b).

Mr. Macadangdang did not violate SMC 4.16.070(1)(a) as there is no evidence of transactions or activities with his cousins which to a reasonable person would appear to impair his independence of judgment.

Supervision of a relative does not, standing alone, place an employee in violation of SMC 4.16.070(1)(a). In the recently completed case involving Councilmember McIver, the Commission wrote that “friendship is not itself a transaction or activity within the meaning of” the Ethics Code. The same can be written for kinship. In order to prove a violation, the Commission must be presented with evidence of transactions or activities, such as shared vacations or gift exchanges, between relatives who are not “immediate family.”

There is no evidence that Mr. Macadangdang has a relationship with his cousins that is closer than that which he enjoys with other long-term City co-workers. Mr. Virgil Andres stated in an investigative interview that he and his brother lived in Puyallup and Auburn and very rarely spent time outside of work with Mr. Macadangdang. The Andres brothers do not gather together with Mr. Macadangdang’s family for holidays, or otherwise engage in activities that would trigger the application of the Ethics Code.

As is evidence by Sarah Miller’s June e-mail, supervision of one or both of the cousins is nevertheless suspect, and deserves management’s attention. It certainly raises eyebrows among the rank and file when they see one or both of the men doubling their salaries. Nevertheless, staff did not develop evidence that the supervision violates the Ethics Code.

SMC 4.16.070(2) – Misuse of City facilities

Mr. Macadangdang did not violate SMC 4.16.070(2)(a) or (b) by using city of Seattle trucks, employees and work time to train and facilitate temporary workers’ acquisition of CDLs. While a very close call, his actions were arguably undertaken for the benefit of the City or for a City purpose.

Mr. Macadangdang acting as All-City Manager directed SPU employees to deliver and retrieve the city of Seattle overweight flat bed truck #33722 to and from various locations. This was done to facilitate the temporary workers’ efforts to obtain CDLs.

According to Sarah Miller, Director of D&W, the division was having difficulty finding qualified temporary collection workers to fill vacancies during the fall of 2007 and into 2008. The Division was attempting, without success, to hire temporary workers to fill the vacant drainage and wastewater collection worker slots⁶ until January 2009, when apprentices would be available to fill the vacancies. Mr. Macadangdang was aware of these facts. These facts support a finding by the Commission that Mr. Macadangdang’s use of his All-City Manager position, his directives to employees and direct use of city of Seattle property, was primarily done for the “benefit of the City,” or for “a City purpose,” and therefore did not violate SMC 4.16.070(2)(a) or (b). Barring evidence that would support a charge that Mr. Macadangdang’s primary purpose was to provide the temporary workers with CDLs at City expense, evidence which staff did not develop, Mr. Macadangdang did not violate SMC 4.16.070(2).

⁶ Minimum qualifications for the Drainage & Wastewater Collection Worker position require a Class B CDL.

WHISTLEBLOWER CODE, SMC 4.20.800 et seq.

The conclusion that Mr. Macadangdang did not violate the Ethics Code does not end our inquiry. For even accepting that his “ends” were not unlawful, the “means” Mr. Macadangdang used to pursue those ends violated City rules and State and Federal regulations, and therefore constituted improper governmental actions under the Whistleblower Code.

FINDINGS:

1. SEEC staff is not in a position to substantiate the claim that the overtime hours paid to D&W employees is a gross waste of public funds.
2. Evidence shows that Mr. Macadangdang abused his authority and violated city of Seattle policy and state and federal administrative rules when he allowed Mr. DeGuzman to drive the overweight vehicle without first being placed into the random drug testing pool.
3. Evidence shows that Mr. Macadangdang abused his authority when in violation of City policy and Personnel Rules he used city property and employee time to train temporary workers.

“Improper governmental action” is defined as follows in SMC 4.20.850(C)(1)”

[A]ny action by a City officer or employee that is undertaken in the performance of the officer’s or employee’s official duties, whether or not the action is within the scope of employment, and:

- a. Violates any state or federal law or rule or City ordinance, and, where applicable, King County ordinances, or
- b. Constitutes an abuse of authority, or
- c. Creates a substantial or specific danger to the public health or safety, or
- d. Results in a gross waste of public funds.

Overtime

Publicly available figures show approximately \$620,000 in overtime salaries were paid in 2007 to the top 20 earners on the D&W crews supervised from Charles Street. Eighty-one percent of this amount, \$520,000, was paid to crew members supervised by Mr. Macadangdang. The fifth and sixth highest paid employees were Mr. Macadangdang’s cousins, who nearly doubled their salaries for the year. It is understandable how this situation could be interpreted as a waste of public funds, especially when it appears that the hiring of two employees for the FRC/CT crew could alleviate the majority of overtime. To investigate the award of overtime is, however, beyond the expertise of the SEEC, and would place us in a position of second-guessing management decisions on appropriate staffing levels and internal budgetary matters. For this reason, we do not conclude that the overtime spending is a gross waste of public funds. I do,

though, recommend that this subject be reviewed by management, and encourage SPU to consult with the City or State auditor's office on this issue.

Use of City property to train temporary workers

The city of Seattle has a random drug testing program overseen by Ms. Pam Beltz in the City's Personnel Department. Failure to comply with the program's mandates can result in non-compliance fines of \$1,000 per employee per day, levied by the State Patrol acting for the Department of Transportation Federal Motorcarriers Safety Administration.

Ms. Beltz told SEEC staff that Mr. Macadangdang had knowledge of the drug testing requirements under both Federal and State regulations and had knowledge of the City policy, the necessary paperwork, and the proper procedures relating to CDL drivers. She reported that Mr. Macadangdang participated in a three-hour training in July 2007 in which he received this information. Mr. Macadangdang knew that anyone operating an overweight commercial vehicle must have complied with drug testing *before* driving an overweight vehicle.

Mr. Macadangdang nevertheless caused the City to violate these rules, regulations and the City ordinance, placing the City at risk of fines and civil liability, should anything have gone wrong while Mr. DeGuzman was operating an overweight vehicle on the City's streets. Mr. DeGuzman's entry into the random drug testing pool was required nearly three months before he was actually in the pool. Mr. Macadangdang abused his authority⁷ when he disregarded the law to facilitate Mr. DeGuzman's efforts to obtain a CDL.

It was also an abuse of authority when Mr. Macadangdang willfully ignored the prescription of City Personnel rules regarding temporary workers.

Rule 11.27, which addresses training for temporary workers, was crafted after the complex and costly Glaser settlement. Compliance with these rules and training of City employees is overseen by Ms. Julie Curtis of the City's Personnel Department. Ms Curtis explained that Subsection A of Rule 11.27, which states that TES are only eligible for City-sponsored training if it is necessary to perform the jobs to which they are assigned, is an integral part of the Glaser settlement and is the subject of training for managers.

Both Mr. DeGuzman and Mr. Respecio were assigned as temporary workers to Landscape Maintenance and did not require a CDL-B to complete their assigned jobs. The facts would indicate that both men gained their CDLs at Mr. Macadangdang's direction, in violation of Rule 11.27.

Whatever the advisability of trying to enlarge the pool of D&W employees, temporary or otherwise, with CDLs, the means employed by Mr. Macadangdang were improper. Moreover, the shortage of temporary workers with CDL endorsements was not solved by Mr. Macadangdang's improper use of city property and employees. Mr. DeGuzman, now a full-time

⁷ SMC 4.20 does not define "abuse of authority." The Inspector General of US DOD defines it as, "Intentional or improper use of Government resources."

employee, is not employed by the city of Seattle in a position which requires him to have a CDL-B endorsement and Mr. Respecio left city of Seattle employment on August 19, 2008.

CONCLUSION

I do not find reasonable cause to believe that Mr. Macadangdang violated the Ethics Code in his conduct as All-City Manager. I do, though, find that Mr. Macadangdang's use of City time and property to train temporary workers in violation of the City's Personnel Rules and, in one instance, in violation of random drug testing policies adopted by the City pursuant to state and federal mandates, constituted improper governmental actions under the Whistleblower Protection Code.