

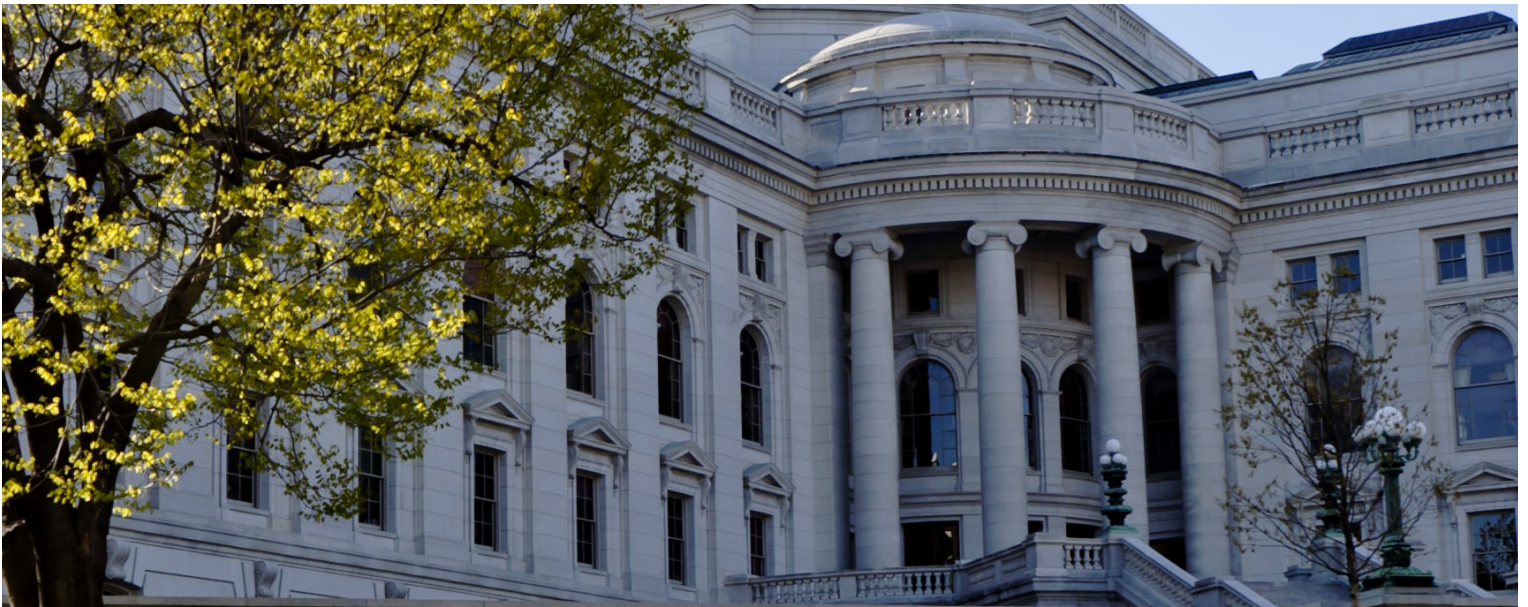


STATE OF WISCONSIN  
**Legislative Audit Bureau**  
NONPARTISAN • INDEPENDENT • ACCURATE

Report 23-10  
July 2023

# **Fraud, Waste, and Mismanagement Hotline**

*Semiannual Report: January 2023 – June 2023*



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Howard Marklein  
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# Fraud, Waste, and Mismanagement Hotline

*Semiannual Report: January 2023 - June 2023*



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The Legislative Audit Bureau supports the Legislature in its oversight of Wisconsin government and its promotion of efficient and effective state operations by providing nonpartisan, independent, accurate, and timely audits and evaluations of public finances and the management of public programs. Bureau reports typically contain reviews of financial transactions, analyses of agency performance or public policy issues, conclusions regarding the causes of problems found, and recommendations for improvement.

Reports are submitted to the Joint Legislative Audit Committee and made available to other committees of the Legislature and to the public. The Audit Committee may arrange public hearings on the issues identified in a report and may introduce legislation in response to the audit recommendations. However, the findings, conclusions, and recommendations in the report are those of the Legislative Audit Bureau.

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The Bureau accepts confidential tips about fraud, waste, and mismanagement in any Wisconsin state agency or program through its hotline at 1-877-FRAUD-17.

For more information, visit [www.legis.wisconsin.gov/lab](http://www.legis.wisconsin.gov/lab).

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STATE OF WISCONSIN

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# Legislative Audit Bureau

Joe Chrisman  
State Auditor

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[www.legis.wisconsin.gov/lab](http://www.legis.wisconsin.gov/lab)  
[AskLAB@legis.wisconsin.gov](mailto:AskLAB@legis.wisconsin.gov)

July 21, 2023

Senator Eric Wimberger and  
Representative Robert Wittke, Co-chairpersons  
Joint Legislative Audit Committee  
State Capitol  
Madison, Wisconsin 53702

Dear Senator Wimberger and Representative Wittke:

The Legislative Audit Bureau has operated the Fraud, Waste, and Mismanagement Hotline since April 2008. The hotline permits the public and individuals within state government to confidentially report alleged fraud, waste, and mismanagement within the scope of state government. Individuals may remain anonymous, and statutes require us to protect the identity of any individual making a report.

Hotline reports are received primarily through a toll-free telephone number (1-877-FRAUD-17), and they are also received by mail and a secure online form. We review each report to determine whether the allegation or concern can be addressed by staff in state agencies or through an independent review by Bureau staff.

From the inception of the hotline and through June 30, 2023, we received 1,518 reports. From January 1, 2023, through June 30, 2023, we received a total of 37 reports, including 25 that were state-related. We highlight findings related to selected hotline reports that we resolved since the publication of our last semiannual report (report 23-2), including concerns reported to the hotline related to the Fox River Navigational System Authority.

We appreciate the courtesy and cooperation of the various entities with whom we worked to resolve hotline reports.

Respectfully submitted,

Joe Chrisman  
State Auditor

JC/SH/ss





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## Fraud, Waste, and Mismanagement Hotline

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***The Bureau operates  
a toll-free hotline  
(1-877-FRAUD-17).***

As required by s. 13.94 (1) (br), Wis. Stats., the Bureau operates a toll-free hotline to confidentially report alleged fraud, waste, and mismanagement. Callers may remain anonymous, and statutes specifically require the Bureau to protect their identities even when other information related to calls is made public. A secure online form is also available to report concerns and is available at <http://www.legis.wisconsin.gov/LAB/>.

The hotline has been in operation since April 2008 and is primarily administered by certified fraud examiners. It does not duplicate or replace other government hotlines or complaint resources. We address hotline reports by:

- following up during the course of ongoing audit work;
- initiating interviews and documentation reviews with other state agencies;
- conducting audits or reviews in response to substantiated allegations and reporting our findings to the Joint Legislative Audit Committee; and
- making referrals, providing information, and correcting misinterpretations that result in allegations.

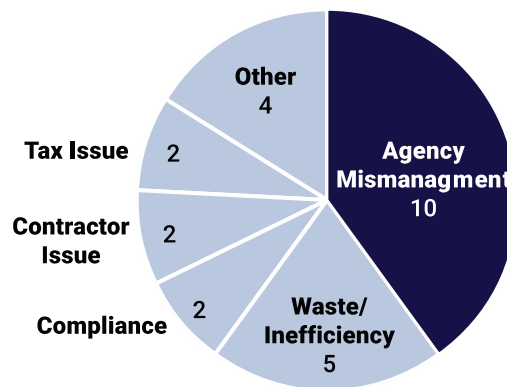
## January through June 2023 Hotline Activity

*From January through June 2023, we received a total of 37 reports.*

Since the inception of the hotline, we have received 1,518 hotline reports alleging fraud, waste, and mismanagement. We received a total of 37 reports from January 1, 2023, through June 30, 2023. Of these 37 reports, 25 reports (67.6 percent) were state-related. As shown in Figure 1, the majority of such reports pertained to concerns about alleged agency mismanagement.

Figure 1

### Reports of Fraud, Waste, and Mismanagement in State Government<sup>1</sup> January through June 2023



<sup>1</sup> Includes 25 state-related reports received from January 1, 2023, through June 30, 2023.

As shown in Figure 2, we placed each state-related hotline report into one of three categories as of June 30, 2023. These categories are:

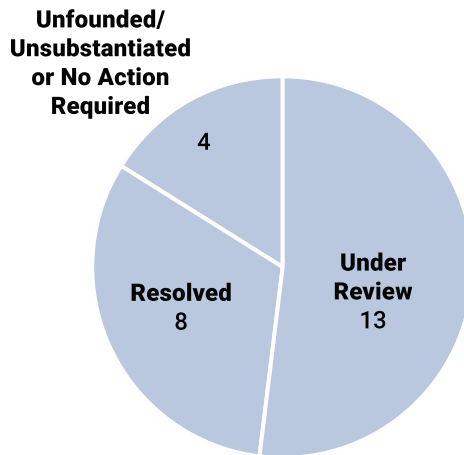
- resolved, which includes actions taken such as internally researching relevant information, conducting fieldwork with relevant agencies, or referring the matter for review by an agency;
- unfounded/unsubstantiated or no action required, which includes a determination that the reported allegation was untrue or limited information was provided to evaluate the concern; and
- under review, which includes hotline reports in which a review is ongoing and therefore remains confidential by law.

*As of June 30, 2023, we had resolved 8 of the 25 reports to the hotline that were state-related.*

As of June 30, 2023, we had resolved directly or by referral 8 of the 25 reports to the hotline that were state-related, as shown in Figure 2. We determined that 4 reports were unfounded, unsubstantiated, or no action was required. As of July 1, 2023, 13 of the 25 state-related hotline reports remained under review.

Figure 2

**Status of State-Related Hotline Reports<sup>1</sup>**  
January through June 2023



<sup>1</sup> Status as of June 30, 2023, of the 25 state-related reports received from January 1, 2023, through June 30, 2023.

### Highlights of Selected Hotline Activities

Some reports to the hotline involve allegations about an individual employee. Other reports to the hotline require a broader review, such as assessing statutory compliance for a state program. We highlight findings related to selected hotline reports that we resolved since the publication of our last semiannual report in January 2023 (report 23-2).

- We received an allegation related to a Department of Transportation (DOT) employee’s compliance with a personnel policy. In January 2023, we referred the matter to the Department of Administration’s Division of Personnel Management (DPM) for review. DPM’s review did not substantiate the specific allegation, but did identify other improvements the employee could implement. In April 2023, DOT issued the employee a letter of expectations, and DOT communicated to divisional supervisors in May 2023 to improve its oversight of the personnel policy.

- We received an allegation related to noncompliance with fleet policies among certain University of Wisconsin (UW)-Madison employees. Based on available UW-Madison information, we found that 36 UW-owned vehicles were parked overnight at unauthorized locations, which may result in UW-Madison providing an unreported personal commuting benefit to certain employees. In early 2023, UW-Madison took steps to address the noncompliance observed. In July 2023, we recommended that UW-Madison increase its oversight of UW-owned vehicles and provide periodic training to employees on applicable fleet policies.
  
- Based on multiple allegations we received related to certain management decisions, such as hiring practices, and the transparency of board activities, we conducted a limited-scope review of certain activities of the Fox River Navigational System Authority (Authority). In performing the review, we considered the Authority’s compliance with statutory requirements, its lease agreement with the Department of Administration (DOA), policies established for the Authority by its nine member board, open records laws, and open meetings laws for board proceedings. We also considered statutory responsibilities of DOA related to the Authority. Due to the number of concerns we identified and substantiation of selected allegations, we summarize the overall results of the review in a separate chapter entitled “Fox River Navigational System Authority.”

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## Fox River Navigational System Authority

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***The Authority began its operations in September 2004 under a lease agreement with DOA.***

The Fox River Navigational System Authority (Authority) was established by 2001 Wisconsin Act 16 following a September 2000 memorandum of agreement that transferred a series of locks, harbors, property, structures, and other facilities on the Fox River from the federal government to the State. The Authority began its operations in September 2004 under a lease agreement with the Department of Administration (DOA) to rehabilitate, repair, replace, operate, and maintain the navigational system as a recreational and historic corridor. The lease agreement between DOA and the Authority permits the Authority to manage the property transferred to the State through 2034.

The Authority is governed by a nine-member board (Board). The Board includes six appointees of the Governor and three members who serve on behalf of the secretaries of the Department of Natural Resources (DNR), the Department of Transportation (DOT), and the Director of the Wisconsin Historical Society. The six appointed board members include two members from each of Brown, Outagamie, and Winnebago counties. The appointed county members had served an average of 10 years as of June 2022. The Board is statutorily required to appoint a chief executive officer (CEO), and the Authority may hire and set compensation for its employees. The board members and CEO are subject to the code of ethics for public officials under ch. 19, Wis. Stats., and Wisconsin Ethics Commission reporting requirements.

Pursuant to s. 237.04 (3), Wis. Stats., the Authority may hire employees, define their duties, and determine compensation outside the State's civil classification system. Authority employees participate in the Wisconsin Retirement System and certain other state employee benefit programs. As of June 2022, the Authority had 5.0 full-time equivalent employees and 26.0 limited-term employees who were primarily lock tenders and maintenance staff.

The Authority was awarded a total of \$23.0 million in funding primarily from the federal government that could be used to maintain or seal the lock system. These and other funds were deposited in the “Unlock the Fox” fund. As of June 30, 2022, the Authority reported total cash and investments of \$16.5 million. In addition to earnings from its investments, the Authority receives \$125,400 annually in segregated funds from the State Conservation Fund and revenues it is authorized to charge for use of the locks, such as selling daily or seasonal passes for boaters or commercial vessels. The Authority’s annual expenditures averaged \$1.3 million from fiscal year (FY) 2017-18 through FY 2021-22. Although certain funds are required to be reserved for potential future closure of the locks, the Authority’s available funding had consistently exceeded the required amount through 2022.

Based on a report to the Fraud, Waste, and Mismanagement Hotline, we initiated a limited-scope review of the Authority. Concerns were raised about the Authority, including its hiring practices and the Board’s compliance with open meetings laws. To complete this limited-scope review, which focused on activities from January 2018 through June 2022, we analyzed the Authority’s compliance with:

- statutory requirements, its lease with DOA, and Board-established policies in maintaining the lock system and other state property;
- Board-established policies and personnel management practices;
- open records laws; and
- open meetings laws.

## Maintaining the Lock System

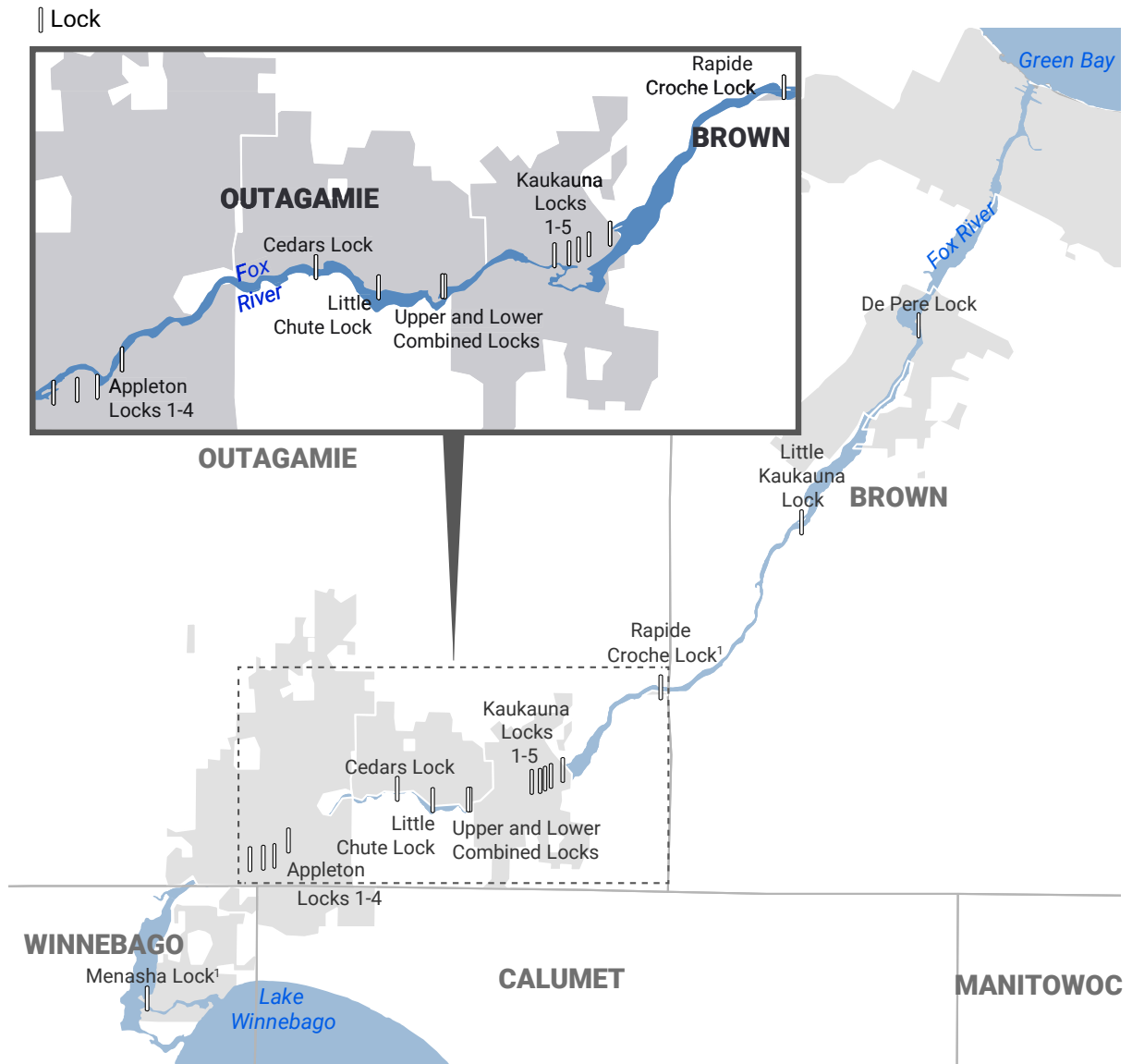
Under its 2004 lease agreement with DOA, the Authority manages a series of locks, harbors, lock tender houses, and other structures relating to the navigation of the Fox River system. As of June 30, 2022, the Authority reported a total property value of \$10.0 million of which most was attributed to the locks.

***Between 2006 and 2015, the Authority rehabilitated all but 1 lock, and 15 of 17 locks were operational during 2022.***

At the time the lock system was transferred to the State in 2004, 3 of the 17 locks were operational and a fourth had been sealed since 1985 to prevent the spread of an invasive species. Between 2006 and 2015, the Authority rehabilitated all but the one lock that had been sealed. Although rehabilitated, certain locks were not opened to the public. According to information from the Authority, 15 of the 17 locks were operational in 2022. Figure 3 includes information on the 17 locks managed by the Authority.

Figure 3

**Locks of the Fox River Navigational System Authority**



<sup>1</sup> Lock is closed to the public.

In September 2015, DNR requested that the Authority close one of the locks after identifying an invasive species in the Fox River. In an effort to reopen the lock, the Authority commissioned a series of studies and submitted a proposal to DNR in 2018 to construct an electric barrier to permit navigation of the lock while preventing migration of the invasive species. From January 2018 through June 2022, the Authority spent \$365,800 on engineering designs and studies for a potential electric barrier. If successful, the Authority may also consider a similar electric barrier for the lock sealed since 1985. In June 2022, the Board discussed

the potential to survey public interest in opening the lock prior to moving forward with the project.

***We identified four concerns with eight lock-related projects.***

We reviewed eight lock-related projects completed by the Authority that exceeded \$10,000 based on the payments it made from January 2019 through December 2021. The total cost of these projects was \$873,400. We reviewed the Authority's compliance with Board-approved financial policies from 2014 that specify procurement procedures for selecting contractors and certain Board approvals. We identified four concerns with the Authority's management of these projects:

- The Authority did not document that the Board had approved two of the eight projects we reviewed.
- We found that the Authority did not document that it sought or received statutorily required DOA approval for design specifications of all five of the lock-related projects where such approval was applicable. Under s. 16.85 (16), Wis. Stats., DOA is required to review and approve the design and specifications for any rehabilitation or repair projects before any work begins and to monitor the progress of the projects. These actions are also required under DOA's lease agreement with the Authority. The Authority relied on an engineering contractor for drafting design plans, conducting certain procurement activities on behalf of the Authority, and providing oversight for maintenance and repair work on certain projects.
- For seven of eight projects, we found the Authority did not document that it complied with Board-established financial policies when conducting the related procurement process.
- For four of eight projects, we found the Authority did not document Board approval of all payments of \$5,000 or more.

***The Authority's lease with DOA requires the Authority to obtain prior approval from DOA before it may sublease any property.***

We also assessed the Authority's recordkeeping for its management of state property surrounding the locks. When the lock system was transferred to DOA, and subsequently leased to the Authority, several lease and easement agreements (agreements) executed by the federal government were already in place. Subsequently, the Authority executed new agreements for private and public uses of property along the Fox River. Under s. 237.05 (2) Wis. Stats., the properties are leased from the State, and the Authority's lease with DOA requires that the Authority obtain prior approval from DOA before it may sublease any property.



Based on the Authority's 2021 records, we identified 77 instances in which the Authority had leased property or provided easements to other entities. However, in response to our request, the Authority provided documentation for only 15 agreements covering 19 subleases or easements it had granted, and 5 of the 15 agreements were not complete copies of the agreement or were unsigned by one or more parties. In addition, although 11 of the 15 agreements we reviewed identified that DOA approval was required, the Authority did not provide documentation that DOA had approved each agreement, as statutorily required. According to the Authority, it had received verbal agreement from DOA staff in 2005 for executing certain agreements. However, the Authority could not provide details regarding the verbal agreement.

***For one lease agreement, the Authority did not execute a new agreement in 2005 or collect rent from 2005 through 2022 from an entity that was occupying Authority property.***

For one lease agreement that had been in place at the time of the transfer of property to the State and expired in December 2004, the Authority had not renewed or extended the lease with the private entity. Although the entity continued to occupy portions of the property subsequent to January 2005, the Authority's records indicate no rental payments were received from the entity through June 2022. The Authority is continuing to negotiate with the entity to collect an estimated \$85,000. However, negotiations have been further complicated by contamination the Authority identified in 2021 when it conducted an environmental study on the site of the property covered by this lease.

We identified three discretionary initiatives the Authority pursued. Two of the three initiatives were ultimately not implemented.

***In August 2020, the Board discontinued efforts to establish a visitor center in Appleton.***

- The Authority had considered establishing a visitor center in Appleton. The project was supported by 2015 Wisconsin Act 357, which permitted the sale of land by the State to a developer; enumerated this specifically in the Authority's statutory powers; and exempted the construction from Building Commission approval. In April 2018, the Joint Committee on Finance approved the land sale, and the transfer of the land was completed by December 2018. However, in August 2020 the Board discontinued efforts to establish the visitor center in Appleton. Since inception of the planning efforts and through January 2021, the Authority's records identify \$281,900 in total costs for the visitor center.
- Second, in April 2019 the Authority entered into a contract with a mobile application developer in which the Authority paid the developer the full contract amount of \$35,000 at the time the agreement was signed. The application developed did not meet all anticipated functionality requirements and ultimately work on the application was discontinued.

*The Authority opened an interpretive trail along the Kaukauna locks in 2022, funded primarily through a private grant.*

- Third, in 2020 the Authority began establishing a 1.3-mile “interpretive trail” along the Kaukauna locks with the goal to encourage more visitors to the Fox River and provide historical information on the lock system. The Authority received a private grant to support the project. Authority records indicate the trail opened in August 2022 at a cost of \$294,000.

During the course of our fieldwork, the Board began addressing several concerns we identified. For example, as of June 2023, the Board was working to update its financial policies. However, the Authority had not conducted long-term strategic planning efforts for lock-related projects, state properties it managed under its lease agreement with DOA, and other initiatives. Without a long-term plan, it may be difficult for the Board to initiate strategic investments in certain properties or evaluate various Authority proposals for use of the available resources that are within the established mission of the Authority.

In July 2023, we recommended that the Authority work with the Board to revise financial policies, comply with these policies, and provide training to its employees on the policies. We also recommended that the Authority conduct strategic planning to identify short- and long-term goals for all properties of the lock system and work with DOA on these plans as well as obtain written approval from DOA of design specifications for statutorily required lock-related projects and for all leased property agreements.

## Authority Personnel Management

*At the time of our fieldwork, the Authority had not updated its personnel policies since 2014.*

At the time of our fieldwork, the Authority had not updated its personnel policies since 2014. We identified four concerns with the lack of adequate Board-approved policies:

- The Authority’s existing personnel policies did not specify any required oversight by the Board when new positions were established.
- The Authority’s existing personnel policies did not specify how the Authority should conduct recruitment activities when filling vacant positions nor did the Authority develop a comprehensive or consistent process to do so based on our review of the hiring of seven positions we reviewed during 2021 and 2022.
- The Authority’s existing personnel policies did not specify the requirement to maintain personnel files or the required contents nor did the Authority’s files consistently contain similar documentation or all expected documentation based on our review of five files for Authority employees during 2021.

- The Authority did not have a policy to conduct performance evaluations, nor did it routinely conduct such evaluations through June 2022.

***We found that the Authority did not have an ethics or conflict of interest policy prior to June 2022.***

We found that the Authority did not have an ethics or conflict of interest policy prior to June 2022. We identified that the Authority established two new full-time positions in 2021 that were hired without a competitive process and without documentation of Board approval. One such position was awarded to a family member of an Authority employee. During the course of our review, we also identified other conflicts of interest among Authority employees, including an instance of a husband and wife working at the Authority in 2021 and another Authority employee who was related to an Authority contractor. Such conflicts of interest within a small organization make it difficult to ensure appropriate supervisory relationships and oversight are in place.

***The Board approved updated personnel policies in May 2023.***

The Board approved updated personnel policies in May 2023, in part to improve the Authority's hiring process and oversight of Authority positions. For example, the policies require regular employee evaluations and increased Board oversight of the hiring process. In July 2023, we recommended that the Authority comply with Board-approved policies, regularly review personnel policies, consistently maintain records related to hiring and personnel files, and provide periodic training to all employees on personnel policies.

## **Open Records Law Compliance**

***We found the Authority did not have established policies to retain certain records, follow the general record retention schedules, or submit any RDA to the Public Records Board.***

As a public body, the Authority is expected to maintain records for the public's interest. The Authority is considered a "state agency" under s. 16.61 (2) (d), Wis. Stats., requiring it to provide a records disposition authorization (RDA) to the Public Records Board or follow the general schedules established by the Public Records Board for common types of records. However, we found the Authority did not have established policies to retain certain records, follow the general record retention schedules, or submit any RDA to the Public Records Board. In May 2023, the Board approved records retention policies and had begun a process to comply with these policies. In July 2023, we recommended that the Authority comply with open records law requirements by cataloging its records and developing procedures for retaining records for the required time period.

## **Open Meetings Law Compliance**

The Authority is subject to Wisconsin's open meetings laws in ch. 19, Wis. Stats. These laws apply to all governmental bodies with boards for the purpose of promoting transparency of the Board's discharge of its responsibilities, exercise of the authority granted to it, and the actions of specific board members. As of June 2022, the Board had four primary committees, including executive, capital projects, property, and personnel.

***We found the Board did not consistently comply with six requirements of the open meetings laws.***

The Board generally met monthly, including meeting 57 times between January 2018 and June 2022. We reviewed the minutes and notices related to all meetings held during this period and found that the Board did not consistently comply with six requirements of the open meetings laws, including:

- properly noticing Board meeting topics for discussion for 23 of the 57 board meetings we reviewed;
- providing sufficient detail of planned topics for discussion for 16 of the 57 board meetings we reviewed;
- maintaining complete meeting documentation for two Board committees;
- accurately noticing the statutory exemptions permitting closed sessions for all 24 closed session notices we reviewed, including 11 notices that referenced a general statutory section rather than a specific exemption, 8 notices that did not cite a specific topic consistent with the exemption referenced, and 5 notices that referenced a statutory exemption that does not exist;
- properly documenting in meeting minutes whether a noticed closed session had occurred for 3 of the 24 noticed closed sessions we reviewed; and
- sufficiently documenting motions made during board meetings.

***Since June 2022, the Authority has sought to improve compliance with open meeting law requirements.***

Since June 2022, the Authority has sought to improve compliance with open meeting law requirements during its board meetings. In July 2023, we recommended that the Authority work with the Board to ensure compliance with open meeting law requirements.

## **DOA Responsibilities**

***DOA is statutorily required to approve Authority lock projects.***

DOA is required to approve Authority lock projects under s. 16.85 (16), Wis. Stats., and the Authority is required under s. 237.07, Wis. Stats., to provide certain reports to DOA. However, in response to our request for information from January 2018 through June 2022, DOA did not provide documentation to support that it approved lock projects or reviewed certain Authority reports. For example, DOA could readily locate information it had received in 2015 pertaining to one lock project.

Under s. 237.05, Wis. Stats., and the terms of its lease agreement, the Authority may not sublease any part of the navigational system without approval from DOA. DOA stated that the Authority is expected to seek its approval of such subleases. As noted, the Authority could not

provide documentation to support that subleases it executed had received such approval from DOA.

In July 2023, we recommended that DOA comply with s. 16.85 (16), Wis. Stats., by developing a formal review and approval process for all applicable lock-related projects and specify the process DOA will use for consideration of subleases proposed by the Authority before approval is granted.

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