



Closing – Case Activity Report

Case Number:	3131-088-2023	Case Name:	APA/Barbara Rice
Case Type:		Agency:	APA
Investigator:	Bensen/Bach	Date of Report:	05-22-2025
Electronic Case File Only:	☒		
Other:			

OVERVIEW OF ALLEGATIONS

On October 4, 2023, the Offices of the New York State Inspector General (NYSIG) received an anonymous complaint, ostensibly from employees of the Adirondack Park Agency (APA), containing a list of numerous allegations against Executive Director Barbara Rice. During the pendency of NYSIG's investigation, additional allegations were also raised by witnesses. These allegations focused on four areas of concern: (i) Director Rice's involvement in the 2023 Adirondack Planning Forum procurement and the alleged appearance of "self-dealing;" (ii) Director Rice's intention to relocate the new APA headquarters to the Village of Saranac Lake in alleged violation of the appropriation from the Legislature; (iii) Director Rice's alleged conflict of interest in an enforcement matter; and (iv) Director Rice's alleged general mismanagement of the agency and retaliation against staff.

SUMMARY OF INVESTIGATIONS/FINDINGS

(i) Director Rice's involvement in the 2023 Adirondack Planning Forum procurement and alleged appearance of "self-dealing"

The initial complaint alleged that Director Rice used her authority as director to move the location of the 2023 Adirondack Planning Forum to benefit both herself and the Village of Saranac Lake (the Village). The allegation continued to reference Rice's long-standing relationship with the Village and a desire to further their interests as the sole motivation for Rice's desire to move the forum from Lake Placid, where the event had been held previously, to the Village.

In addressing this allegation, NYSIG investigated the 2023 Adirondack Planning Forum's Invitation for Bid (IFB) process. This investigation included: a review of all three IFB's for a conference facility along with the sole response submitted; interviews of several APA employees who were involved in the IFB process; and analysis of certain telephone records, as specified below.

In preparation for the 2023 Forum, an IFB, Contract Number NYSAPA/C2023-01, was first issued on June 10, 2022, and open for bid submissions until July 11, 2022. When no bids were received, a second IFB, Contract Number NYSAPA/C2023-2, was issued on July 20, 2022, and open for bid submissions until August 18, 2022. The terms of this second IFB were revised from the previous, for example, dictating the proximity between rooms and lowering the capacity required for meeting space. Again, no bids were received. Finally, a third IFB, Contract Number NYSAPA/C2023-3, was issued on October 20, 2022, and open for bid submissions until November 17, 2022. The terms of this third IFB were also revised from the previous, for example, requiring lodging rooms and again lowering the capacity for meeting space. Despite other variations among them, all IFBs consistently dictated that the facility must be within 10 miles of Ray Brook NY. This radius encompasses several areas including the Village and Lake Placid. The sole bid received in response to the third IFB was from the Hotel Saranac, submitted on November 9, 2022.

While other facilities met the IFB's qualifications, the Hotel Saranac was the only vendor to respond.¹ During interviews with APA employees, NYSIG was told that Director Rice wanted to have the conference at the Hotel Saranac. NYSIG was further informed that Director Rice and Megan Phillips, APA Deputy Director for Planning, intended to contact the Hotel Saranac after the IFB was posted, in substance, to inform the Hotel Saranac of its existence. This was a period of time when, under state finance law, offerors may not contact any employees of APA other than the APA's designated contact ("the restricted period"). The designated contact was neither Director Rice nor Phillips. NYSIG's review of phone records associated with Phillips' showed no outgoing calls to the Hotel Saranac during restricted periods. During an interview with NYSIG, Rice stated that she was aware that she should not have contacted the Hotel Saranac during the restricted periods and denied having done so. NYSIG's review of phone records associated with Rice showed an outgoing call on August 3, 2022, to the Hotel Saranac, lasting four minutes. This call was within the restricted period under the second IFB, Contract Number #NYSAPA/C2023-2, and before Hotel Saranac submitted their bid in response to the third IFB. While this demonstrates contact with Hotel Saranac during the restricted period and before the Hotel Saranac submitted their successful bid, NYSIG cannot make a determination as to the substance of this contact and, moreover, as Hotel Saranac was the only responsive bidder, cannot conclude that the communication improperly interfered with the selection process.

The complaint to NYSIG also suggested Rice's insistence on the selection of Hotel Saranac was related to Rice's ties to the area. Specifically, NYSIG was informed that Rice's family owns a small business near the hotel, and that Rice previously served as a trustee for the Village. However, NYSIG did not find any evidence to show that Rice has any affiliation with the Hotel Saranac, or that moving the Planning Forum to the hotel benefited Rice directly. Moreover, here, the agency went through a bidding process to award the contract for the event. Review of the IFB documents, emails between the hotel and appropriate agency personnel, and the sole response received by the agency all support the position that there were no other viable options for the forum.

(ii) Director Rice's intention to relocate the new APA headquarters to the Village in alleged violation of the appropriation from the Legislature

¹ NYSIG was informed that the Lake Placid Crown Plaza, which had hosted this event previously and met the IFB qualifications, was not hosting events during this time due to COVID-19.

The initial complaint alleged that Director Rice misrepresented the reasons for moving the APA headquarters to the Village and used her authority to retaliate against employees who disagree with her intention to move the agency. Additionally, on April 30, 2024, during an interview with an APA employee involved in the process, this employee alleged that Director Rice was misleading the Executive Chamber (the Chamber) by failing to make them aware of the expected increase in the construction costs of the new APA headquarters.

Here, NYSIG investigated the steps taken to secure funding for the new headquarters, the associated legislation providing any such appropriation(s), as well as Rice's authority to decide where the headquarters would be located. Several APA employees reported to NYSIG that the initial plan was for the new headquarters to be built at the site of the current headquarters. NYSIG was further advised that prior to the funds being made available an analysis of the existing APA headquarters was conducted and showed it needed significant repair. Through statements from APA and New York State Division of the Budget (DOB) staff, NYSIG learned that the process for getting the funding through budget legislation for the new headquarters began under the former Executive Director Terry Martino.² The DOB employee also described negotiations with the Assembly predicated on a budget proposal that was designed to build the headquarters at the current Ray Brook site, and that consideration for a site other than Ray Brook would have effected the budget proposal. This proposal was for consideration within the budget for State Fiscal Year (SFY) 2022-23. In support of the statement that the proposal was specific to Ray Brook, witnesses relied on the NYS Assembly Yellow Book (Yellow Book) for SFY 2022-23. While the Yellow Book, the Assembly's preliminary analysis of the Executive budget proposal, does reference a "\$29 million capital appropriation for the design and construction of a new APA headquarters in *Ray Brook, Essex County*" (emphasis added), the final approved budget appropriated \$29 million without specific reference to "Ray Brook" stating the appropriation was "[f]or services and expenses related to the rehabilitation and construction of facilities, including but not limited to design and construction, consultation, inspection and engineering, and personal services, fringe and indirect costs."³ Thus, the approved appropriation does not dictate the location of these facilities.

The DOB employee stated that after the appropriation was approved, Rice approached DOB about exploring the Village location. Specifically, the DOB employee stated that during a call—which included this DOB employee, Rice, and a Chamber employee who reports to the Director of State Operations—Rice informed DOB that, with permission to do so, the APA had begun to explore constructing the new APA headquarters in the Village. The DOB employee continued that since then, while Rice and the APA have kept DOB aware of the status of the project, DOB has not had an active role in the planning process. The DOB employee informed NYSIG that while DOB is not necessarily required to have an active role in the planning process for an appropriation, it is generally included in these discussions with the agency. However, NYSIG did not find any evidence to show that Rice's efforts to change the location of the new agency headquarters from Ray Brook to the Village is an inappropriate use of the existing appropriation.⁴

² The DOB employee also indicated that prior to the final approval, Rice was appointed to the position of Director of the APA.

³ See S8004-D Budget, Chapter 54 of 2022.

⁴ The SFY 2022-23 appropriation has been consistently reappropriated since, including in the budget for SFY 2024-25 and the budget for SFY 2025-26. We note that in addition, the budget for SFY 2025-26 also includes a new \$10 million dollar appropriation for "services and expenses related to the rehabilitation and construction of facilities, including but not limited to design and construction, consultation, inspection and engineering, and personal service, fringe and indirect costs." See <https://assembly.state.ny.us/2025budget/bills2025/enacted/A3004D.pdf>.

The complaint further alleged that Rice was abusing her authority in the building process to get the project in the Village location approved. In that regard, the complaint alleged that Rice retained Bergmann Associates to do a feasibility study of the proposed new headquarters. The allegation continued that as a “quid pro quo” for a favorable feasibility study, and after the study had commenced and a draft report was completed, Rice then hired David Plante, an employee from Bergmann Associates, as Deputy Director of Regulatory Programs. NYSIG’s investigation determined that Plante was not involved in the study while employed at Bergmann and prior to joining the APA. Additionally, NYSIG’s review of records related to the feasibility study revealed that multiple draft reports have been written, all of which vary in different respects, and that the study remains ongoing. Accordingly, NYSIG did not find evidence of a “quid pro quo.” Regarding the practice of conducting such a study, an APA employee testified that the purpose of the feasibility study was to determine if the new headquarters would be suitable for APA’s needs. According to a DOB employee, the purpose of the study is to develop a plan that fits within the necessary parameters, so unless a project is impossible, it is expected that the study will be favorable. NYSIG did not find any evidence that Rice had any direct connection to Bergmann Associates, nor that Rice’s hiring of an outside entity to conduct a feasibility study was improper, or outside of regular practice.

During an interview with an APA employee, the employee alleged that Rice was misleading the Chamber by failing to make them aware of the expected increased cost of construction for the new APA headquarters. This employee informed NYSIG that on March 4, 2024, Bergmann Associates informed the APA that the cost of the planned building had increased by approximately \$8 to \$10 million. The employee continued that in a meeting that same day with representatives from the Chamber and DOB—who were involved in the planning process related to the approved appropriation—Rice mentioned that they were evaluating a budget issue regarding the new headquarters, however then in response to a comment from the Assistant Secretary for Environment that they were unaware of any budget issues, Rice then stated there were no budget issues. During interviews with a NYS Office of General Services (OGS) employee and a DOB employee, NYSIG learned that the cost of the project had changed to exceed the appropriation given to the APA. When asked about the impact of the cost of such an increase, the DOB employee stated that if the cost of the project exceeds that of the appropriation, DOB would need to either find discretionary funds or make a new appropriation request to the Legislature to cover the shortfall. The DOB employee went on to add that there are checks and balances in place such that both OGS and DOB would need to approve the proposed budget and building plan prior to OGS securing the contracts that would lead to the construction of the building. The DOB employee also stated that at the time of the interview they did not believe that the APA was ready to make a budget proposal to DOB as the APA was trying to find ways to reduce the costs to fall in line with the appropriation. Additionally, NYSIG was informed by an OGS employee that none of the \$29 million approved appropriation for the project has been spent to date, and that any spending on the project thus far has come from an earlier appropriation given to the agency in the SFY 2020-21 budget to update the current headquarters.⁵ NYSIG did not find any evidence that Rice violated the

⁵ A DOB employee informed NYSIG that prior to the \$29 million capital project appropriation for this construction, DOB sought a \$1 million appropriation for a new APA headquarters. This appropriation, included in the SFY 2020-21 budget, was to renovate the current headquarters, specifically: “[f]or alterations, rehabilitations and other improvements to facilities, including but not limited to design and construction, consultation, inspection and engineering costs.” See S7504-C Budget, Chapter 54 of 2020. Subsequently, as the \$1 million was not believed to be sufficient for renovation considering the state of the building, DOB along with executive staff for the APA believed the best course of action was to submit a new proposal. This proposal resulted in the \$29 million appropriation initially provided for within the SFY 2022-23 budget.

approved appropriation as: (i) the existing appropriation does not dictate the location; and (ii) the APA has not yet finalized a proposal for the new headquarters that exceeds the approved appropriation.

The complaint further alleged that Rice's plan for the new headquarters in the Village would require the APA to grant itself an "814 Order" (permit) allowing the headquarters to be built on the shoreline as proposed.⁶ NYSIG was informed by APA employees that this permit relates to project locations within certain distances from shorelines, and in circumstances where a project involves such a location, the APA generally tries to work with the entity to redesign or adjust their building plans to come into compliance without the need for an 814 Order permit. However, NYSIG was also informed that, while discouraged, the APA does grant 814 Order permits. Additionally, NYSIG learned that there is precedent for the APA granting 814 Order permits to itself, including as far back as 2011. The complaint also alleged that Rice does not intend to have an outside party involved in this permitting process. However, in testimony from Rice and an APA employee, NYSIG was informed that the review process for the permit will be handled by APA staff who are not involved in the building project. Specifically, Rice informed NYSIG that the executive team involved in the building project discussions are not involved in the permit review process, which will be assigned to the Regulatory Programs Division. NYSIG did not find any evidence that the APA's own application for such an 814 Order permit is in violation of APA's regulations.

The complaint further alleged that Rice intended to move the headquarters to the Village to benefit herself because her family owns a furniture store there. The allegation was that by moving the headquarters to the Village, her business could stand to benefit by furnishing the headquarters and through a potential increase in customers because of the headquarters' proximity to the store. On this issue, a DOB employee informed NYSIG that the potential economic impact on the surrounding community would likely be minimal. Specifically, the employee noted that while the headquarters may move, the distance between the current location and the new location is so minimal that employees' spending habits would be unlikely to change. Additionally, Rice stated to NYSIG during her interview that her family's store will not bid to furnish the headquarters. NYSIG did not find any evidence to support the allegation that Rice's interest in moving the headquarters was motivated by a potential benefit to Rice's family's store.

(iii) Director Rice's alleged conflict of interest in an enforcement matter

In an interview with another APA employee, NYSIG received an allegation that Rice used her authority to change an agency decision in an enforcement case to benefit one of her friends. The investigation revealed that based on a call she received from a family friend, Rice asked an APA employee to re-open a case that had already been reviewed and closed. When asked about the allegation, the employee involved noted that the scenario was troubling in that Rice was involving herself in an enforcement case where she knew one of the players personally, adding that such requests were never made by the former APA Director. However, the employee further indicated that in the end and after the matter was re-opened, a mutually beneficial agreement was reached, and the right outcome was achieved. NYSIG's review of the underlying enforcement matter at issue

⁶ APA General Permit/814Order 2002G-1RA, effective March 13, 2009, "provide[s] a simplified process for State, county and municipal highway and municipal sewer and water departments to obtain a permit for the disposal of up to 5,000 cubic yards of allowable uncontaminated waste materials resulting from highway maintenance and construction activities." See <https://apa.ny.gov/files/permits/gp/GP2002G-1RA-814Order.pdf>.

revealed that the “agency decision” was not “changed,” as alleged. Accordingly, NYSIG did not find any evidence that Rice improperly changed an enforcement decision.

(iv) Director Rice’s alleged general mismanagement of the agency and retaliation against staff

Related to her management of the agency, the complaint alleged that Rice failed to produce an annual report as required by the enabling statute of the Adirondack Park Agency Act. As of February 15, 2024, the date Rice was interviewed by NYSIG, Rice indicated that the 2022 annual report had just been released and the 2023 report was in progress. When asked about the delay Rice indicated that when she took over the agency, she had other priorities and has since reprioritized. On this issue, NYSIG reviewed Executive Law Section 804 (general powers and duties of the APA), which states “[t]he agency shall have the power ... [t]o report periodically to the governor and the legislature on the conduct of its activities but not less than once a year, furnishing a copy of each such report to the clerk of the county legislative body of each county wholly or partly within the park and to the review board.”⁷ NYSIG also reviewed the APA website and observed that Annual Reports for 2022, 2023 and 2024 have been published.⁸

Additionally, the complaint alleged Rice failed to make all staff meetings available virtually and failed to afford “reasonable accommodations” for certain staff. NYSIG learned that the agency conducts a monthly in-person staff meeting. The APA has a 50% telecommuting policy, with the dates for such telecommuting to be determined by the employee. In this regard, NYSIG determined that the allegation regarding staff meetings stems from employees not wanting to adjust their schedules to attend the monthly meeting in person. However, the decision of when and where an all-staff meeting is held, including the requirement that it be conducted in person, is within the authority of the agency director. NYSIG is aware of two staff members who made requests for “reasonable accommodation,” related to a specific condition, which were approved for a defined period. During this approved period, such staff members were permitted to be briefed on the in-person staff meeting by their supervisor instead of attending in person.⁹

Further, the complaint also alleged that in the face of opposition to her plan to relocate the APA headquarters, Rice either refused to promote members of staff, refused to fill support positions for members of staff, or took away duties and responsibilities of staff members who opposed her plan. NYSIG is aware that staff at the APA are comprised of both “Management / Confidential” (M/C) employees, and those represented by the Professional Employees Federation AFL – CIO (PEF).

Throughout the course of the investigation, NYSIG was informed by multiple APA employees that their duties and responsibilities were reduced after voicing their opposition to relocating the agency headquarters. For example:

- An APA M/C employee testified that prior to Rice being appointed he was responsible for over two thirds of the APA’s planning division, and that shortly after Rice’s appointment, in May of 2022, the employee also took over the Resources Analysis Scientific Services (RAS) Team. The employee alleged

⁷ See § 804(10).

⁸ See <https://apa.ny.gov/files/admin/annual-report/2022-APA-AnnualReport.pdf>, <https://apa.ny.gov/files/admin/annual-report/2023-APA-Annual-Report.pdf>, and <https://apa.ny.gov/files/admin/annual-report/2024-APA-Annual-Report-Web.pdf>.

⁹ One of these staff members submitted an additional request for “reasonable accommodation” at the expiration of the approved period, which was denied, however did not seek the available remedies for that denial.

that after approximately a year of disagreeing with Rice's proposal, the employee's planning duties were reassigned, and RAS duties were moved to a new division.

- Another APA M/C employee described a similar scenario whereby, after disagreeing with Rice's proposal, the employee noticed that their duties were being reassigned to other staff members.
- Several other APA M/C employees claimed they were excluded from meetings that were directly related to their positions after disagreeing with Rice's proposal.
- Finally, an APA employee, represented by PEF, described a situation whereby, the employee disagreed with Rice's proposal and thereafter Rice attempted to remove the employee's access to their assigned fleet vehicle.¹⁰

These actions are within Executive Director Rice's management discretion and subject to any collectively bargained for PEF employee rights. If the removal of access to an assigned fleet vehicle implicates those rights, the employee's recourse is through the grievance process.¹¹

Throughout NYSIG's investigation there were allegations that Rice promoted staff who were not qualified for their respective position(s). However, while witnesses described these individuals whom Rice promoted as "not good at their jobs," they did not provide any specific information to show these individuals lacked the requisite qualifications.

Once NYSIG began this investigation, numerous witnesses expressed that Rice believed someone "turned her in" to NYSIG causing the instant investigation. NYSIG was also informed that as a response to this investigation, Rice began to rely on her "inner circle" and ostracized everyone that she believed to have cooperated with the investigation. Moreover, many of the holdover executive staff and staff that had been with the agency for years expressed a fear that Rice was actively looking to either replace or terminate them. The allegations do not lay out a specific claim of retaliation or adverse action based on any individual employee's cooperation with the Inspector General.

CONCLUSION

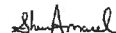
Based on the foregoing, this case is closed.



Investigator



Investigative Attorney



Chief Investigator



(initials)

Chief of Investigations/
Executive Management Approval

¹⁰ During her interview with NYSIG, Rice stated that she questioned the need for this vehicle assignment based on the employee's job description. NYSIG confirmed that the vehicle assignment to this employee was not changed.

¹¹ See https://oer.ny.gov/system/files/documents/2022/04/oer_22_pefootworkgrievanceform.pdf.

Check any box and complete any section that applies to this case:

☒ **Unsubstantiated**

☐ **Other**

RECOMMENDATIONS AND ACTIONS

☐ **Refer for Prosecution**

Prosecutorial Agency:

☐ Prosecution Declined

- ☐ Arrest
- ☐ Conviction
- ☐ Fine
- ☐ Restitution

Number Arrested:
Number Convicted:
Total Amount:
Total Amount:

☐ **Refer to Ethics Commission**

☐ **Refer for Discipline**

☐ Disciplinary Action Declined

- ☐ Discipline Initiated
- ☐ Discipline Imposed
- ☐ Fine
- ☐ Restitution
- ☐ Other Savings

Number of Subjects:
Number of Subjects:
Total Amount:
Total Amount:
Total Amount:

☐ **Refer for Administrative Action / Corrective Action Recommended & Accepted**

☐ Number of Subjects Left State Service as a Result of Investigation:

☐ Posted Report Date:

☐ Posted Press Release Date:

Other Comments:
