

Investigative Report

# Conflict of Interest by Austin Energy Employee

May 2022



In August 2021, Stuart Priour, an Austin Energy solar inspector, violated City Code by approving a permit for his secondary employer, an electrical contractor. Priour had a conflict of interest when he approved this permit because of the money he recently made from this company before he became a City employee.

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Cover: Solar array, Austin Energy

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## Allegation

In September 2021, we received a concern that Stuart Priour, an Austin Energy employee, had a conflict of interest with an electrical contractor. According to the informant, Priour had applied for City permits on behalf of the contractor and was listed as the company’s master electrician of record. Further, Priour allegedly inspected and passed an inspection for a solar project that was installed by the same electrical contractor in August 2021.

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## Background

The mission of Austin Energy, the City of Austin’s electric utility, is to “safely deliver clean, affordable, reliable energy and excellent customer service.”

Stuart Priour is a conservation program coordinator at Austin Energy. He became an Austin Energy employee in June 2021. Priour is responsible for inspecting residential and commercial solar projects to ensure they are up to code and meet local and Austin Energy standards.

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# Investigation Results Summary

In August 2021, Stuart Priour, an Austin Energy solar inspector, violated City Code by approving a permit for his secondary employer, an electrical contractor. Priour had a conflict of interest when he approved this permit because of the money he recently made from this company before he became a City employee.

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## Finding 1 Priour acted on a conflict of interest

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### *Investigation Criteria:*

**SUBSTANTIAL INTEREST** means an interest in another person or an entity if: ... funds received by the person from the other person or entity either during the previous 12 months or the previous calendar year equaled or exceeded \$5,000 in salary, bonuses, commissions or professional fees or \$20,000 in payment for goods, products or nonprofessional services, or 10 percent of the person's gross income during that period, whichever is less...

*City Code § 2-7-2(12)*

*See Investigation Criteria for details*

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### **Priour had a substantial interest in his secondary employer in August 2021**

Before joining the City of Austin, Priour worked as a master electrician at an electrical contractor for about two years. In an interview, Priour said he worked full time at this company right until he started working at Austin Energy. Priour described his schedule, hourly pay, and professional fees he was paid when he worked for this company. Based on these responses, it appears Priour made over \$5,000 in salary and fees from the electrical contractor in the 12 months before he inspected a solar system installed by this company in August 2021.

According to the City Code's financial disclosure rules, Priour had a substantial interest in this electrical contractor because of this compensation. As a result, any official decisions Priour made involving his secondary employer would violate conflict of interest rules in City Code.

### **Priour still works part time for the electrical contractor**

In addition to the salary Priour made from the electrical contractor before he started working for the City, Priour said in an interview that he still works part time on nights and weekends for the same electrical contractor. Priour told us he has worked on a single project located outside Austin Energy's service area. Priour added that he didn't submit a secondary employment disclosure form to Austin Energy for this work because he didn't think it posed a conflict with his City job.

By not disclosing his secondary employment to Austin Energy, Priour appears to have violated the City's secondary employment procedure. This procedure requires employees with secondary employment to submit a disclosure form to their department's human resources team.

### **Priour's approval of the permit was an official decision**

On August 23, 2021, Priour inspected a solar energy system that his secondary employer installed. Afterwards, Priour passed the inspection. This approved the project's electrical permit, which meant Austin Energy could install an electric meter and connect the solar project to the power grid.

Priour and his manager said solar inspectors decide if solar projects meet Austin Energy's standards, and whether they pass or fail an inspection. Priour added that this decision is solely up to the inspector. As a result,

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### *Investigation Criteria:*

**DECISION...** A decision of a City employee means any action in which the employee exercises discretionary authority, including but not limited to the issuance of permits...

*City Code § 2-7-2(4)*

*See Investigation Criteria for details*

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*Investigation Criteria:*

AFFECTED means in the case of a person, entity or property ... reasonably likely to be subject to a direct economic effect or consequence, either positive or negative, as a result of the vote or decision in question. For instance, a person or entity ... seeking a permit or franchise is “affected” by votes or decisions such as ... granting of the permit...

*City Code § 2-7-2(1)*

*See Investigation Criteria for details*

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*Investigation Criteria:*

A City official or employee may not participate in a vote or decision on a matter affecting a natural person, entity, or property in which the official or employee has a substantial interest...

*City Code § 2-7-63(A)*

*See Investigation Criteria for details*

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## Additional Observation

according to City Code, Priour had “discretionary authority” over certain electrical permits including the one involving his secondary employer. Further, his approval of the electrical permit was an official decision, because of the discretionary authority Priour used as a City employee.

### **Priour’s actions affected his secondary employer economically**

Priour affected his secondary employer economically when he approved this electrical permit. According to City Code, an entity seeking a permit is “affected” when the permit is granted. City records indicate that Priour, when he worked full time for the electrical contractor, applied for the electrical permit on the resident’s behalf. Because the electrical contractor applied for the permit, Priour’s decision to approve the permit affected the company. In making this decision, Priour acted on his conflict of interest with his secondary employer.

Priour, his manager, and another employee said this inspection happened partly because of a scheduling mishap: the inspector who was supposed to inspect this project didn’t learn about the inspection until well after the scheduled time. According to Priour, the electrical contractor called him directly to find out what was going on.

When Priour joined Austin Energy, his manager told him he could not work on projects related to his secondary employer, the electrical contractor, for a full year. Priour said he understood this at the time.

Ultimately, despite his manager’s warning, Priour said he decided to do the inspection himself as a professional courtesy to the electrical contractor and the Austin Energy customer. Priour added that it looked “really, really bad” for him to “inspect a system with his name on the permit” and described it as a mistake.

By approving a permit for a company in which he had a substantial interest, Priour appears to have violated the following portion of City Code:

- § 2-7-63(A) – Prohibition on Conflict of Interest

### **We did not find other cases where Priour made decisions about his secondary employer**

We did not find evidence that Priour applied for permits for his secondary employer when he was a City employee as alleged. Similarly, other than in the event described above, Priour did not inspect any solar projects for the electrical contractor after he started at Austin Energy.

Official records may have listed Priour as the electrical contractor’s master electrician of record in August 2021 due to a paperwork delay. The company appears to have tried to remove Priour’s name from City and state records as early as July 2021. As of September 2021, state licensing records did not list Priour as the electrical contractor’s master electrician.



## Appendix A - Subject Response

To Whom It May Concern:

Andrew's report is accurate and fair. On paper, this is a textbook example of conflict of interest and I do not refute the facts of the case. But to be clear, my inspection resulted in no financial benefit to myself or Company and the system itself was safe and working at the time of inspection. Without question, this was a mistake on my part. Hopefully some context will provide insight into my thinking.

My work began and ended on this project, for homeowner Owner (O.), in early 2021 and consisted of design and paperwork with the City. I was never actually on site before the day of my inspection.

The time between when I stopped thinking about the O. job and when I inspected the O. job was perhaps 5 months. In that time I had been employed by Austin Energy for 3 months and had forgotten about the details of the project, including the fact that my name was on the permit. This was a gross oversight on my part and I never would have inspected it had I remembered this simple fact. In addition, it was made clear to me by my supervisor that I was to recuse myself from any project involving Company for 12 months from my date of hire with Austin Energy. For those reasons, this was an obvious error in judgement.

When I was hired, AE had a 6 week wait time on solar PV inspections, and a one to two week wait for a meter. This meant a functioning PV system would wait two months until it was given permission to operate which by this time had been covered by local news outlets, due to customer complaints. My aim was to reduce the wait time as fast as I could. This was the mode I was operating under when I inspected the O. project.

Since I had a working cell phone, unlike the other two inspectors at the time, I was the go-to inspector for contractors and would regularly return to projects after an initial failed inspection, verify the corrections were made and release the meter.

On the day of the inspection, I was one of three solar inspectors employed by AE, one of whom was on vacation for a month, the other was a part-time employee without a work phone. The original inspection was scheduled with Empl. the part-time employee. He had failed it a week prior for minor issues related to labelling and a phone app not working.

The re-inspection was scheduled for a Monday and Empl. not having a work phone or the ability to check email Thurs-Sunday did not get the updated inspection schedule sent out on Thursday and therefore we missed a scheduled inspection with Company. An hour after the scheduled inspection time, the electrician from Company called my work cell phone, because I was the only one to call, to ask why no one from AE had shown up. I hung up and called Empl. and asked if he could please go inspect the system since it was on his schedule. He said he needed more of a heads up and that he was done with inspections for the day even though he was sitting at headquarters 10 minutes away. This was maybe 1pm, middle of the workday. So, reluctantly, I went to the O. residence and inspected the system. I was the only available and willing inspector at the time and my main concern was serving the customer and releasing her meter. All of the corrections were made and this was a straightforward, code-compliant system just like any other.

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## Appendix A - Subject Response cont.

We tested the system to make sure all inverters were working, re-checked all terminations, completed the rapid shutdown test, I sealed the PV meter, returned to the office, closed the permit and released the meter. A few days later I realized my name was on the permit. A few days after that, an inspector with the City brought it up at a meeting but it was not addressed again.

A month or so later I get a call from Andrew informing me I am under investigation. At this point, **Empl.** was aware of the situation and I addressed it with him. I thought the best course of action was to wait until **Empl.** returned to work in a month and ask him to go inspect the system after me, void my inspection result (not erase it from the record in AMANDA) and put his name on the final inspection to re-assure anyone who may care, namely the homeowner, that the system was safe and was not passed due to a conflict of interest. **Empl.** advised that I should simply co-operate with the investigation and take no further action.

In my mind, I was simply cutting through red tape and getting a customer their meter a week earlier than they would otherwise get it. Ironically, this caused an investigation to be launched thereby wasting all the City resources I was trying to save. For that I apologize. I acknowledge my mistake and this investigation was warranted. Thank you for reading this.

Sincerely,

Stuart Priour

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# Appendix B - Office of City Auditor's Response to Subject Response

We have reviewed Priour's response. We believe our findings stand.

# Appendix C - Management Response



## MEMORANDUM

**To:** Brian Molloy, Chief of Investigations, Office of the City Auditor <sup>DS</sup>

**From:** Jackie A. Sargent, General Manager, Austin Energy <sup>jas</sup>

**CC:** Mark Dombroski, Deputy General Mgr & Chief Financial/Administrative <sup>DS</sup>  
Kerry Overton, Deputy General Mgr & Chief Customer Officer <sup>DS</sup> <sup>ko</sup>  
Cindy Steffen, Director Employee Development, Austin Energy <sup>CS</sup> <sup>MD</sup>

**Date:** May 23, 2022

**Subject:** Draft Investigation Report (IN 21009 ) re: Stuart Priour

Austin Energy (AE) is in receipt of the draft investigation report regarding allegations against AE employee, Conservation Program Coordinator Stuart Priour, for Conflict of Interest. Mr. Priour allegedly applied for City permits on behalf of an electrical contractor for whom he was listed as the company's master electrician of record. Mr. Priour also allegedly inspected and passed an inspection for a solar project that was installed by the same electrical contractor.

Our Austin Energy Human Resources (AE HR) team will collaborate with AE Management to review the report and findings to determine the appropriate next steps in this matter.

Should you need additional information, please contact Director of Employee Development Cindy Steffen at 512-322-6249.

*The City of Austin is committed to compliance with the Americans with Disabilities Act (ADA). Reasonable modifications and equal access to communications will be provided upon request.*



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# Investigation Criteria

## Finding 1

### City Code § 2-7-63(A) – Prohibition on Conflict of Interest

A City official or employee may not participate in a vote or decision on a matter affecting a natural person, entity, or property in which the official or employee has a substantial interest [...].

### City Code § 2-7-2(1) – Definitions

AFFECTED means in the case of a person, entity or property, [...] reasonably likely to be subject to a direct economic effect or consequence, either positive or negative, as a result of the vote or decision in question. For instance, a person or entity owning real property, entering into a contract with the City, or seeking a permit or franchise is “affected” by votes or decisions such as zoning of the property, approval of the contract, or granting of the permit. [...]

### City Code § 2-7-2(4) – Definitions

DECISION [...] A decision of a City employee means any action in which the employee exercises discretionary authority, including but not limited to the issuance of permits, imposition or collection of fines or fees, authorizations for expenditures, and other non-ministerial acts.

### City Code § 2-7-2(5) – Definitions

DISCRETIONARY AUTHORITY means the power to exercise any judgment in a decision or action.

### City Code § 2-7-2(12) – Definitions

SUBSTANTIAL INTEREST means an interest in another person or an entity if: [...] funds received by the person from the other person or entity either during the previous 12 months or the previous calendar year equaled or exceeded \$5,000 in salary, bonuses, commissions or professional fees or \$20,000 in payment for goods, products or nonprofessional services, or 10 percent of the person’s gross income during that period, whichever is less. [...]

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## Methodology

We took the following steps to accomplish our investigation objectives:

- Reviewed official records and Austin Energy procedures
- Analyzed City permit data
- Interviewed Austin Energy employees and the subject

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## CAIU Investigative Standards

Investigations by the Office of the City Auditor are considered non-audit projects under Government Auditing Standards and are conducted in accordance with the general and ethics standards, procedures recommended by the Association of Certified Fraud Examiners (ACFE), and the ACFE Fraud Examiner's Manual. Investigations also adhere to quality standards for investigations established by the Council of the Inspectors General on Integrity and Efficiency (CIGIE) and City Code.

The Office of the City Auditor, per City Code, may conduct investigations into fraud, abuse, or illegality that may be occurring. If the City Auditor, through the Integrity Unit, finds that there is sufficient evidence to indicate that a material violation of a matter within the office's jurisdiction may have occurred, the City Auditor will issue an investigative report and provide a copy to the appropriate authority.

In order to ensure our report is fair, complete, and objective, we requested responses from both the subject and the Department Director on the results of this investigation. Please find attached these responses in Appendix A and C.

The Office of the City Auditor was created by the Austin City Charter as an independent office reporting to City Council to help establish accountability and improve city services. We conduct investigations of allegations of fraud, waste, or abuse by City employees or contractors.

**City Auditor**

Corrie Stokes

**Deputy City Auditor**

Jason Hadavi

**Chief of Investigations**

Brian Molloy

**Office of the City Auditor**

**phone:** (512) 974-2805

**email:** [AustinAuditor@austintexas.gov](mailto:AustinAuditor@austintexas.gov)

**website:** <http://www.austintexas.gov/auditor>



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