



State of Ohio
Office of the Inspector General

THOMAS P. CHARLES, Inspector General

REPORT OF INVESTIGATION

FILE ID NUMBER: 2008284

AGENCY: Ohio Department of Transportation

BASIS FOR INVESTIGATION: Complaint by Thomas Romine

ALLEGATIONS: Improper Hiring Practices;
Failure to Comply with Public Records Laws

INITIATED: October 9, 2008

DATE OF REPORT: March 3, 2009

EXECUTIVE SUMMARY

File Number 2008284

On October 9, 2008, the Office of the Inspector General (“OIG”) received a complaint alleging improper hiring practices by the Ohio Department of Transportation (“ODOT”). Specifically, the complainant alleged that Jeff Watson, an ODOT Highway Technician 2, was improperly promoted into an ODOT Bridge Specialist 1 position over other, more qualified candidates. The complaint also included an allegation that a public records request, relative to Watson’s hire, was improperly denied by ODOT officials.

The ODOT District 5 office in Jacksontown, Licking County, advertised a “Bridge Specialist 1” position opening on November 14, 2007, with an application deadline of November 23, 2007. This is a bargaining unit position, for which 37 people applied -- 20 external and 17 internal ODOT applicants. [See Exhibit A.] Of these applicants, a pool of six candidates met both the required minimum qualifications and physical abilities test. Watson was among this pool of six, all of whom were internal candidates.

On February 7 and 11, 2008, these six candidates participated in a “structured interview” consisting of 17 questions. Five of the 17 were technical proficiency questions, requiring the candidates to provide written answers. The remaining 12 were credential and subject matter questions asked by a three-person interview panel. [See Exhibit B.] A review of the structured interview results reveals that Watson received the highest score with 564 points. Watson scored 52 points higher than the next candidate and 114 points more than the candidate scoring third highest. [See Exhibit C.]

Notwithstanding, Watson was not selected for the position. Then-District 5 Deputy Director Don Barber¹ and his Administrative Assistant, Debra Slack, suggested to other ODOT employees that Watson’s score was invalid because he performed *too well* on the structured interview. Without proof, or any effort to verify the allegations, Barber and Slack suggested that

¹ Barber resigned from ODOT under duress as a result of OIG findings of misuse of time. See OIG File No. 2008152.

Watson's performance was best because he had either obtained the test questions in advance from another district which had previously used the test, or that Watson had improperly received bridge training opportunities which the others had not been given.

However, the absence of any effort by Barber and Slack to verify these accusations demonstrates their improper motives. They failed to review -- or they disregarded -- actual tests results to determine whether Watson's actual answers and scores evidenced that he had advance access to the test. They also failed to review -- or they disregarded -- ODOT's own training records, as well as Watson's application materials, which amply reflect Watson's bridge training and work experience. Moreover, they made no contact with ODOT's Office of Investigative Services to discuss their belief that cheating had occurred.

Barber and Slack instead devised a plan to require Watson, and the next two highest scoring candidates, to submit to an unprecedented "Part 2" written exam. The second test consisted of 30 technical questions requiring written answers. [See Exhibit D.] From a total possible score of 250 points on the second written test, Watson scored highest with 205 points, with the other two candidates scoring 185 and 165 points, respectively. [See Exhibit E.]

Over the admonition of the District 5 Business and Human Resources Administrator, Barber and Slack again refused to award Watson the position. This time, they disingenuously argued that the Part 2 process was "flawed" because Watson was given the second test at a different time than the other two candidates. Again, without proof, or any attempt to verify their suspicions, they claimed that Watson somehow obtained an improper advantage. Barber refused to award the position to Watson and, instead, he and Slack chose to withdraw the posting and notify the candidates that the Bridge Specialist position would not be filled "due to an error in the interview process."

On June 17, 2008, Watson and the union filed a grievance. Barber's and Slack's rationale -- "a flaw" in Part 2 of the process -- was maintained throughout the entire grievance process. On

October 6, 2008, a settlement agreement was reached and Watson was awarded the District 5 Bridge Specialist position.

All evidence obtained in this investigation, from both documents and witnesses, indicates Barber and Slack improperly attempted to manipulate the selection process because Barber was adamantly opposed to hiring Watson. Their accusation that Watson cheated or had an unfair advantage in the structured interview process is not only unsupported, but flies in the face of documentation that Watson was clearly the superior candidate.

Barber and Slack's claim that the second test was flawed, because the candidates tested at different times, is also unsupported by any evidence or policy. Rather, all ODOT officials who were involved, or who have reviewed the matter, with the exception of Slack, have opined that testing candidates simultaneously is not a requirement, nor does the failure to do so compromise the testing. Ultimately, we learned from Slack, while under oath, that she and Barber simply did not believe Watson should have the job over the other candidates -- regardless of his test scores. We determined that Barber's and Slack's "flaw" rationale was merely a ruse to derail Watson's hire.

We find that the allegation that Watson was improperly promoted over more qualified candidates to be unfounded. Quite to the contrary, we found ample evidence which demonstrates that attempts were made to undermine Watson's selection, despite his having legitimately scored far superior ratings through two required tests. We find that Barber's and Slack's attempts to discredit Watson and to undermine his selection constitute misconduct. We further find that their representations of "error," maintained throughout the grievance process, were either knowingly false or made with a reckless disregard for the truth.

With regard to public records, we find that state public records policies were violated by ODOT in denying requests for public information related to the selection process for the District 5 Bridge Specialist position. Evidence obtained in this case reveals that almost immediately after District 5 settled the grievance with Watson by awarding him the Bridge Specialist position,

records requests were made by other candidates involved in the hiring process. Letters dated October 10, 2008, and signed by Nick M. Nicholson, Labor Relations Officer, reveal that requests for public information were improperly rejected based on the rationale that, since the settlement barred further grievances, then requests for public records by other candidates would also be barred as well. [See Exhibit F.]

The settlement of a grievance process, related to the bargaining unit position, does not eliminate ODOT's public records responsibilities and requirements. The mere fact that the requests were from unsuccessful candidates, who were also bargaining unit members, does not preclude them from obtaining public records related to the position they unsuccessfully sought. Accordingly, we find ODOT's refusal to provide public records in this case was wrongful.

Finally, we make four recommendations, and ask ODOT to respond within 60 days with a plan for the implementation of these recommendations.

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- B. Bridge Specialist 1 Structured Interview
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- K. Bridge Specialist 1 Structured Interview for Jeff Watson
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- O. Schultz email that the 2nd Test was misplaced

I. BASIS FOR INVESTIGATION

On October 9, 2008, the Office of the Inspector General (“OIG”) received a complaint from Ohio Department of Transportation (“ODOT”) District 5 employee, Thomas Romine, alleging improper hiring practices by District 5 ODOT. Specifically, the complainant alleged that Jeff Watson, an ODOT Highway Technician 2, was improperly promoted into an ODOT Bridge Specialist 1 position over other, more qualified candidates. The complaint also included an allegation that a public records request, relative to Watson’s promotion, was improperly denied by ODOT officials. In support of the allegations, the complaint included documents reflecting the fact that tests administered during the selection process had been lost, as well as the information request and denial by ODOT.

II. ACTIONS TAKEN IN FURTHERANCE OF INVESTIGATION

In the course of this investigation, we obtained and reviewed the following: human resources records from ODOT’s District 5 and Central offices relative to the District 5 Bridge Specialist position and hiring process; e-mails from employees involved in the hiring process; records resulting from the union grievance, step hearings, and settlement relative to the District 5 Bridge Specialist position; and the structured interviews and first written test questions, as well as the “Part 2” test results. With the exception of former District Deputy Don Barber, who had already resigned at the time of this complaint and investigation, all ODOT personnel involved in the posting, proctoring, interviewing, and rating for the position of Bridge Specialist were interviewed. We also obtained and reviewed ODOT training policies and records. Finally, we reviewed hiring policies and procedures for classified positions published by the Ohio Department of Administrative Services (“DAS”).

III. DISCUSSION

A Bridge Specialist 1 is a bargaining unit position. As such, the process for filling vacancies is guided by the terms of a collective bargaining agreement between the State and the Ohio Civil Service Employees Association (“OCSEA”), hereafter referred to as “the Contract.” [Click [here](#)

for the hyperlink to the Contract (electronic version)]. Postings for vacant ODOT bargaining unit positions must be done in a conspicuous manner and for no less than 10 days. ODOT posts notice of their intent to fill vacancies via the Internet at www.dot.state.oh.us.

Postings must include information as to the minimum qualifications required for the position. [See Exhibit G]. The minimum qualifications for an ODOT Bridge Specialist 1 include two years training or experience in reading and interpreting plans and specifications so as to know basic dimensions and bridge terminology; or, two years training or experience in a position applying knowledge of bridge design, construction and maintenance to complete daily assignments. A valid driver's license is also required. To be considered for the position, candidates must clearly specify on their applications how they meet the minimum qualifications.

The Bridge Specialist position is a highly sought ODOT position because of the career and compensation opportunities it provides. As a result of training and experience prerequisites for the Bridge Specialist position, there is a lengthy waiting list for bridge training courses provided by ODOT. Some employees, including Watson, have waited up to two years on the training list. ODOT maintains an Annual Training Plan database which tracks training and the waiting time for all employees who sign up for ODOT training opportunities. [See Exhibit H.]

Per the union contract, ODOT may use interviews and proficiency testing to rate, and then select, the most qualified applicant. [See Exhibit I, pages 41-42.] In this regard, District 5 employs the use of a *structured interview* process to assist in the selection process. While the Contract does not reference the term *structured interview*, the DAS hiring procedure manual relative to OCSEA positions is instructive on this subject. The DAS manual provides that the interviews for bargaining unit positions be "structured," with all candidates being asked the same questions relevant to the duties and the knowledge, skills and abilities of the position. [See Exhibit J, page 11.] A structured interview may also include a written proficiency portion.

ODOT's structured interview for the Bridge Specialist position incorporates written test questions relative to the candidates' subject matter proficiency. The DAS hiring manual relative

to OCSEA positions is instructive on this topic as well. A proficiency assessment is composed of questions, such as multiple choice or work samples, requiring definitive answers with pre-assigned values, to be completed by the applicants in a pre-determined time frame. [See Exhibit J, Section E-1.]

Neither the Contract nor the DAS hiring manual express a preferred method for administering proficiency tests to the candidates -- whether individually or together. The process used for the District 5 Bridge Specialist position required the candidates to be tested and interviewed individually and consecutively. The District further employed the use of a proctor for the test portion of the structured interview. Employees used to proctor tests are required to receive appropriate training. The District 5 Personnel Administrator, Michelle Croom, and one other District 5 employee have received this training.

According to both the Contract and the DAS manual, the proficiency tests themselves are to be maintained in a manner to assure security and integrity of the tests. [See Exhibits I, pages 42-43, & J, Section E-1.] However, it does not appear that the availability of information about test preparers, processes, schedules, proctors, raters, or results is limited or contemplated by the contract.

Ultimately, the candidate with the highest total score from both the interview and the written proficiency should be selected for the position. Selection for bargaining unit positions in District 5 and ODOT has historically followed this course.

In the event that candidates receive comparable or “substantially equal” scores, as characterized by the Contract, the selection for positions in the Bridge Specialist pay range is resolved in favor of seniority. While the Contract does not elaborate on the concept of “substantially equal,” the DAS hiring manual relative to OCSEA positions does. DAS defines “substantially equal” as scoring by candidates within 10 points of each other. [See Exhibit J, Section L-1.] DAS further adds: “If any candidate is not substantially equal, (*i.e.*, weighted score of 10 points or more

above the rest), then the top scoring candidate *shall be* selected.” [See also Exhibit J, emphasis added; parenthetical in the original.]

The DAS manual relative to OCSEA positions does speak to the issue of second interviews, but only in circumstances where candidates score “within 10 points of the top scoring candidate.” [See also Exhibit N.] The Contract does not appear to contemplate the necessity for second-round interviews or testing. This makes sense in view of the rating and seniority parameters provided in the contract and those set forth in the DAS manual which, by operation, limit the necessity for re-testing and second interviews. These parameters also operate to limit arbitrary selection by narrowing ODOT’s discretion in the use of multiple tests and interviews.

ODOT’s discretion to withdraw posted vacancies suffers a similar risk for improper manipulation of the selection process. The Contract addresses this issue specifically. While ODOT maintains the discretion to not fill vacancies resulting from attrition [See Exhibit I, page 38], ODOT “shall not” withdraw from filling posted bargaining unit vacancies “to circumvent” the selection process. [See Exhibit I, page 40.] In the event a dispute does arise as to ODOT’s selection or process, the Contract appears well equipped with mechanisms to reach an appropriate resolution.

Allegation 1: Jeff Watson, an ODOT Highway Technician 2, was improperly promoted into an ODOT Bridge Specialist 1 position over other more qualified candidates.

ODOT received 37 applications for the District 5 Bridge Specialist 1 position. [See Exhibit A]. According to Croom, 11 of the 37 candidates were identified as meeting the minimum qualifications for the position, and only six of the 11 met the physical requirements of the position as measured by a physical abilities test. This examination was observed by five District management staff, which included Croom and District 5 Bridge Engineer Curtis Zigan. As a result, a pool of six applicants, including Watson, remained for consideration.

On February 7 and 11, 2008, these six candidates were required to submit to a structured interview process that included a written proficiency component. Five of the 17 questions (nos. 9, 10, 14, 15 and 17) were technical, proficiency questions requiring the candidates to provide written answers. [See Exhibit B.] The proficiency questions were prepared and rated by Zigan. The remaining 12 questions were part of an interview conducted by a three-person interview panel. [See also Exhibit B.] The panel members were Zigan; Chuck Schultz, the District 5 Business and Human Resources Administrator (now retired); and Debra Slack, the Administrative Assistant to former District 5 Deputy Director Don Barber (now resigned).

The six candidates were separately shepherded through the written and interview portions of the structured interview process. Croom managed the structured interview process and proctored the written portion of the structured interview. Croom was one of two District 5 employees trained to proctor exams.

A review of the structured interview results reveals that Watson scored highest with 564 points -- 52 points higher than the next candidate and 114 points more than the candidate scoring third highest. [See Exhibit C.] Complainant Romine's score was 323. [See also Exhibit C.]

According to Zigan and Croom, the written exam portion of the structured interview was obtained from ODOT's District 8 (Lebanon) office. Zigan told us that he made no substantive alterations but did update the exam to reflect District 5, rather than District 8, geographic bridge references. Zigan also indicated that the exam had been the subject of a union grievance in District 8, and that the union had obtained the test pursuant to a records request. Zigan added that he had no concern that any of the applicants had obtained a copy of the District 8 test because they would not have known from where the test was obtained prior to submitting to the test. And, according to Croom, the test was appropriately proctored to the six candidates who were tested and interviewed separately.

A review of actual proficiency test results for Watson and the other candidates offers the most compelling proof that Watson did not receive an unfair advantage or that the integrity of the test

was compromised in advance of the testing. On two of the five proficiency questions, Watson scored zero points. [See Exhibit K, questions #10 & #15.] On three of the five proficiency questions, the two runner-up candidates received higher scores than Watson. We did not find, nor were we provided, any evidence to support a claim that Watson either inappropriately received higher scores or that the test was compromised in advance of testing.

According to both the Contract and DAS hiring policies, because no other candidate was substantially equal (within 10 points of Watson's overall score), Watson should have been selected. Instead, Watson and the two runners-up in scoring were required to submit to another proficiency test. This time, the test consisted of 30 technical questions requiring written answers. Zigan prepared and scored the tests. Of a possible 250 points, Watson scored 205, with the others scoring 185 and 165, respectively. [See Exhibit E.]

Again, Watson's actual test and results offer the most compelling proof that he had not obtained an unfair advantage in advance of testing. Watson scored zero points on five of 30 questions. Watson's test was proctored by Croom, who had received required proctor training. We also confirmed that there were no improprieties in the testing process or proctoring of Watson's exam.

We did not find, nor were we provided, any evidence to support a claim that Watson inappropriately received higher scores or that the test was compromised in advance of testing. We would note, however, that Slack improperly directed an intern to proctor the other two tests. The intern had not received the required proctor training and had never before, nor has she since, proctored an exam.

Even though a second test was not required, nor was there any precedent for such a requirement, no candidate was substantially equal (within 10 points) to Watson. According to both the Contract and DAS policies, Watson should have been selected.

Accordingly, we find no reasonable cause to believe that a wrongful act or omission occurred in this instance.

Allegation 2: A public records request, relative to the selection process involving Watson's promotion, was improperly denied by ODOT officials.

Evidence obtained in this case reveals that almost immediately after District 5 settled the grievance with Watson by awarding him the Bridge Specialist position, records requests were made by other candidates involved in the hiring process. Letters dated October 10, 2008, and signed by Nick M. Nicholson, Labor Relations Officer, reveal that requests for public information were improperly rejected based on the reasoning that the settlement barred further grievances. [See Exhibit F].

The settlement of a grievance process, related to the bargaining unit position, does not eliminate ODOT's public records responsibilities and requirements. The mere fact that the requests were from unsuccessful candidates, who were also bargaining unit members, does not preclude them from obtaining public records related to the position they unsuccessfully sought.

Accordingly, we find reasonable cause to believe that a wrongful act occurred in this instance.

Other Issue: Former District Deputy Director Don Barber and Administrative Assistant Debra Slack conspired to improperly manipulate the selection process to avoid hiring Jeff Watson.

According to all witnesses interviewed in this investigation, Barber, the District 5 Deputy Director, along with his Administrative Assistant, Slack, decided whether a vacant position, including the District 5 Bridge Specialist vacancy, would be posted for hiring. According to all witnesses interviewed, Slack determined which District 5 employees would participate on interview panels or proctor written exams. And, all witnesses interviewed stated that the results of the hiring process were submitted to Barber and Slack for final approval. Even Slack

acknowledged her role in the process and admitted that Barber sought her counsel on virtually every matter, even to the point of calling her at home when she was on extended leave.

After the structured interviews and tests for the posted Bridge Specialist position were rated and scored, Schultz informed Barber and Slack that Watson received the most overall points. According to Schultz, awarding the position to Watson was “unacceptable to Barber.” Schultz was unsure of the motivation behind Barber’s opposition to Watson.

Schultz stated that Barber and Slack were adamantly opposed to selecting Watson, ultimately suggesting that Watson’s score could be viewed as invalid because he performed too well. Barber and Slack went on to theorize that perhaps Watson’s performance could be discounted because Watson had either obtained the test questions in advance, or that Watson had unfairly received bridge training opportunities not available to the others.

We found no evidence to demonstrate any effort by Barber or Slack to validate or verify their accusations. Barber and Slack either failed to review or they ignored Watson’s actual test results. On none of the five written proficiency questions (nos. 9, 10, 14, 15, 17) did Watson score better than the two candidates’ with the next best overall scores. In fact, Watson scored zeros on two of the five proficiency questions. And, on three of the five proficiency questions, the other two candidates scored higher than Watson. These results do not support Barber’s and Slack’s suggestion that Watson had advance access to test questions.

Barber’s and Slack’s suggestion that Watson’s performance reflected an unfair training edge also evidences their improper motives. The interview panelists (of which Slack was one) specifically inquired of the candidates and rated them relative to prior training and experience. Watson’s interview scores from the panelists regarding training and experience reflect that Watson’s point totals on these questions indeed far surpassed the next two highest scoring candidates. This makes sense in view of Watson’s training records. Watson had signed up for ODOT’s bridge training courses in 2005, which he was approved to receive in 2007, prior to applying for the Bridge Specialist position. Barber and Slack either failed to review or ignored ODOT’s well documented training records.

Also readily available were ODOT work records which document that Watson had hands-on training as a result of a temporary work assignment in 2005. Watson's application, resume, and interview answers clearly disclose the aforementioned credentials. Barber and Slack failed to review or ignored ODOT's well-documented work records.²

This information, and the records to support it, was fully available to Barber and Slack. Slack admitted that they made no effort whatsoever to validate their accusations and that they had no proof to support their claims.

Nonetheless, Barber and Slack decided to require Watson and the next two highest scoring candidates to submit to an unprecedented "Part 2" written exam. Every witness we interviewed stated that it was highly unusual that the highest scoring candidate for a posted, bargaining unit, position would not get selected or that a second test would be required.

Schultz and, in turn, Croom, were instructed to notify these candidates that they would be required to participate in a second written exercise on April 10, 2008. [See Exhibit L.] Records establish that Watson had a conflict with previously scheduled training, also set for April 10. [See Exhibit M.] In an e-mail dated April 9, 2007, Croom suggested to Schultz that, while Watson was available to take the test immediately (April 9) or on Friday the 11th, another option would be to reschedule all three candidates to another date. [See also Exhibit M.] Schultz elected to have Croom proctor the test for Watson on the 9th, with the other two candidates to remain on the schedule for the 10th.

Zigan prepared and scored the second test, which consisted of 30 technical questions requiring written answers. [See Exhibit D.] The second test was not one obtained from another District.

² ODOT training records revealed that the two runner-up candidates had not requested bridge training prior to their application for the District 5 Bridge Specialist posting. Training records also revealed the two runners-up applied for and received bridge training within weeks after Barber and Slack withdrew the Bridge Specialist posting altogether. The other two candidates spent no time on a waiting list prior to receiving this highly-sought ODOT bridge training.

From a total possible score of 250 points on the second written test, Watson scored highest with 205 points. [See Exhibit E]. The other two candidates scored 185 and 165 points, respectively. [See also Exhibit E.]

However, Barber and Slack again chose not to award Watson the position. According to Schultz, he met with Barber and Slack to apprise them that the candidates' scores in the second tests resulted in the same order as those in the first test and that he saw "no way around" awarding the position to Watson. Schultz recounted that Barber said that he would not approve Watson for the hire and that Barber was angry that Schultz permitted Watson to take the test early.

Barber and Slack rationalized that the Part 2 process must be "flawed" because Watson was given the second test at a different time than the other two candidates. Again, they suggested that Watson somehow would have obtained an improper advantage. So, according to Schultz, they agreed to "kill the process and re-post the job." Schultz admitted that this course of action was improper and that the position should have been awarded to Watson. However, none of the other ODOT human resources officials with whom we spoke agreed that administering exams at different times might somehow have compromised the integrity of the process.

Slack told us that Barber also used "budgetary problems" as another reason to cancel the hiring process to avoid selecting Watson for the Bridge Specialist posting. She said she went along with Barber's reasoning, but admitted that the budget issue was not the truth. She said the "real truth was" they thought Watson was the least senior candidate and that his training and experience gave him an unfair advantage.

Barber and Slack instructed Schultz and, in turn, Croom, to notify the candidates that the Bridge Specialist position would not be filled "due to an error in the interview process." [See Exhibit N.] On June 17, 2008, Watson and the union filed a grievance. Barber's and Slack's rationale -- a flaw in Part 2 of the process -- was maintained as the management position throughout the entire grievance process.

Any opportunity for the union or the arbitrator to actually review the Part 2 tests was scuttled by the fact that the tests were not made available by District 5. Records of the grievance process reflect that tests were unavailable because they were somehow “misplaced” by the District. [See Exhibit O.] OIG investigators were also told by District 5 officials that the tests were lost and, therefore, unavailable for review. This remained the case until October 30, 2008, when OIG investigators personally discovered them in an obvious location: in the human resources administrator’s file cabinet, marked under the title “B.S. 1 test 2” and filed alphabetically.

Notwithstanding, on October 6, 2008, a settlement agreement was reached and Watson was awarded the District 5 Bridge Specialist position.

We find that Barber’s and Slack’s attempts to manipulate the selection process by discrediting Watson’s qualifications and test scores constitute misconduct. We further find that their representations of “error,” maintained throughout the grievance process, were either knowingly false or made with a reckless disregard for the truth. We also find the failure to properly account for records pertinent to the selection process to be wrongful.

Accordingly, we find reasonable cause to believe that wrongful acts or omissions were committed by former Deputy Director Don Barber and his Administrative Assistant Debra Slack in the selection process for the Bridge Specialist 1 position.

IV. CONCLUSION

All the evidence discovered in this investigation reveals that Watson legitimately scored highest in two separate selection procedures imposed by District 5 for the posted Bridge Specialist 1 position. Watson’s superior scores reflect the bridge training and work experience he appropriately applied for and received well before the position posting. We find that the allegation that Watson was improperly promoted over more qualified candidates is unfounded.

To the contrary, we find that Watson's selection was nearly derailed by improper conduct by former District 5 Deputy Director Don Barber and his Administrative Assistant, Debra Slack. Evidence in this investigation demonstrates that Barber was adamantly opposed to Watson's selection for the Bridge Specialist position. While we were unable to definitively ascertain Barber's motivation behind his opposition, the evidence, including statements from Slack, reveals that Barber simply didn't want Watson to have the position regardless of Watson's scores. It is clear that Barber, with Slack's assistance, manipulated the selection process through false and unsupported claims in their effort to avoid hiring Watson into the Bridge Specialist position.

Ultimately, the bargaining unit grievance process reached the appropriate result and Watson was awarded the position. However, a review of the records and information obtained in this investigation reveal other significant issues.

First, ODOT's response to requests for public information in this matter was not appropriate. Whether the request for public information is from a general citizen or an unsuccessful candidate in a selection process, ODOT's responsibility is unchanged. While it is true that, under most circumstances, a settlement of a grievance bars another grievance over the identical matter, the settlement does not eliminate ODOT's responsibility to comply with public records requests for information involved in the underlying matter. ODOT's rejection of public records requests in this instance was inappropriate.

Second, as reflected in the grievance records, District 5 officials "misplaced" the unprecedented "Part 2" tests completed by Watson and the other two candidates. Despite repeated requests from union representatives, ODOT managers never produced these documents. The arbitrator was left to rely on an incomplete record to make his final determination. Fortunately, even half the records were sufficient in this matter to demonstrate that improper actions were employed in an attempt to avoid Watson's selection.

The OIG investigators were also told that the tests were missing. However, with only minimal prompting and inquiry, the OIG quickly ascertained the location of the tests. As noted before, the tests were appropriately filed and discovered in the former human resource administrator's office. The District's inability and/or disinterest in locating and providing records was inappropriate.

Finally, in the course of this investigation, we observed that the District 5 human resources and labor relations sections are in total disarray. Absent are front line managers in critical positions such as the Business and Human Resources Administrator and the Labor Relations Officer. Also, the lines of supervision are non-existent or blurred. As a result, we observed sloppy or failed record keeping, inappropriate or inequitable division of labor, and a lack of accountability. One notable exception was District 5 Personnel Director, Michelle Croom, who was helpful and professional.

VI. RECOMMENDATIONS

Based on the evidence and findings in this investigation, the OIG makes the following recommendations. We further request that ODOT respond within 60 days with a plan as to implementation of these recommendations.

1. ODOT should take appropriate administrative actions against Debra Slack;
2. ODOT should immediately organize the District 5 human resources and labor sections, including records management;
3. ODOT should review and implement correct public records compliance policies; and
4. ODOT should review and update training policies and practices to ensure that they are administered consistently and equitably between and within all districts.