

STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF
INVESTIGATION



AGENCY: OHIO DEPARTMENT OF TRANSPORTATION
FILE ID NO.: 2018-CA00047
DATE OF REPORT: DECEMBER 17, 2019

The Office of the Ohio Inspector General ... The State Watchdog

“Safeguarding integrity in state government”

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Randall J. Meyer
Ohio Inspector General



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REPORT OF INVESTIGATION

FILE ID NUMBER: 2018-CA00047

SUBJECTS/POSITIONS: Scott Bates,
Sourcing Supervisor

Chad Cline,
Labor Relations Officer 3

AGENCY: Ohio Department of Transportation

BASIS FOR INVESTIGATION: Anonymous Complaint

ALLEGATIONS: Misuse of Position or Office

INITIATED: November 9, 2018

DATE OF REPORT: December 17, 2019

INITIAL ALLEGATION AND COMPLAINT SUMMARY

On November 9, 2018, the Office of the Ohio Inspector General received an anonymous complaint alleging inappropriate conduct by Ohio Department of Transportation (ODOT) District 11 Sourcing Supervisor Scott Bates and his supervisor, Labor Relations Officer 3 Chad Cline. The complaint alleged that Bates and Cline inappropriately approved the purchase of pipe products from ODOT vendor Beagle Hill Services, LLC (BHS). BHS was owned by Brenda Butler, who is the mother of Bates. Cline allegedly was aware of this conflict and still allowed Bates to have a role in managing ODOT's purchases and invoices from Beagle Hill Services. Additionally, the complaint alleged that Bates acted inappropriately by seeking secondary employment at BHS. Based upon the allegations contained in the complaint, the Office of the Ohio Inspector General opened an investigation into these matters.

During the course of the investigation into the initial allegations of inappropriate conduct by Bates and Cline as it related to BHS and the secondary employment of Bates, allegations also surfaced that there was suspected retaliation against several of the ODOT employees interviewed as a part of the investigation.

BACKGROUND

Ohio Department of Transportation

The Ohio Department of Transportation (ODOT) is responsible for planning, building, inspecting and maintaining a safe, efficient, and accessible transportation system that integrates Ohio highways, rail systems, aviation and water networks. The department also helps coordinate and develop Ohio's public transportation and aviation programs which include public transit systems, mobility management program grantees, specialized transportation programs and other public-use airports and heliports.¹

The Ohio General Assembly enacted Ohio Revised Code (ORC) §121.51, effective July 3, 2007, which created the deputy inspector general for the Ohio Department of Transportation. This statute designated this deputy inspector general "... shall investigate all wrongful acts or omissions that have been committed or are being committed by employees of the department"

¹ Source: Biennial budget documents.

and provides the deputy inspector general the same powers and duties regarding matters concerning the department as those specified in sections 121.42, 121.43, and 121.45 of the Ohio Revised Code for matters involving ODOT.

APPLICABLE RULES, POLICIES AND PROCEDURES

ODOT Policy 17-015(P) *Work Rules and Discipline*

1. Neglect of Duty:

H. Failure to report secondary employment, as required by ODOT policy.

4. Failure of Good Behavior:

B. ... intimidation or harassment ... or retaliation.

C. Insolence - rude or disrespectful conduct.

I. ... acts that may discredit, embarrass, undermine or interfere with the mission of the Agency... .

7. Exercising poor judgment in carrying out work assignments.

8. Violation of Ohio Ethics Laws and related statutes, Ohio Revised Code (ORC) Chapter 102 and Sections 2921.42, 2921.43.

ODOT Policy 15-009(P) *Purchasing Ethics and Vendor Visit Policy*

A. ODOT Employee Responsibilities

8. No employee shall solicit or accept anything of value for personal use, either directly or indirectly, from anyone who has or is seeking to do business with the State or with ODOT.

9. No employee shall use or authorize the use of their position of employment to secure anything of value for personal use or promise or offer to provide anything of value from anyone who has or is seeking to do business with the State or with ODOT.

Ohio Ethics Commission *Conflict of Interest*

The Ohio Ethics Commission has determined Ohio Revised Code § 102.03(D) and (E) prohibit a state employee from authorizing or participating in a public contract, if a member of that employee's family has an interest in the contract.² This includes authorizing payments under a

² See, Ohio Ethics Commission Advisory Opinion Number 2009-02.

pre-existing contract. The Commission has also determined that accepting any thing of value, including employment, from a person doing business with the employees' agency, is also a violation, unless the employee is capable of complete and total withdrawal of all official activities that involve the outside employer.³

INVESTIGATIVE SUMMARY

Conflict of Interest Allegation

On January 17, 2019, investigators interviewed Ben Kunze. Kunze told investigators that he was currently a program administrator 3 for the ODOT Office of Employee Development located at the Central Office in Columbus and had been in this position since October 2017. Kunze explained that he was previously assigned to District 11 from February 2011 until October 2017, and left District 11 for his current position at the ODOT Central Office. During Kunze's time at District 11, he was the business and human resources administrator (BHRA). Kunze said the current BHRA for District 11 was Chad Cline. When Kunze was the BHRA, he was the supervisor of several ODOT District 11 employees, including Scott Bates.

Investigators asked Kunze when he learned of the relationship and potential conflict of interest involving BHS and Bates. Kunze said he first became aware of the possible conflict with Bates and BHS when BHS was awarded a purchasing contract with ODOT in 2017. Bates informed Kunze that his mother was going to be an ODOT supplier. Kunze proceeded to tell Bates that "District 11 would not be buying anything from Beagle Hill" because of the apparent conflict of interest. Kunze explained to investigators that due to his position at District 11, he had the authority to make that decision on behalf of ODOT. Kunze said he remembered the conversation with Bates clearly, and that he told Bates, "the optics would not look good." Kunze told investigators that Bates, in his position as sourcing supervisor, had the final authorization to approve all District 11 purchases and invoices and it would be impossible for Bates to remove himself from the process. Kunze said that shortly after his initial discussion with Bates regarding his (Kunze's) decision to not buy anything from BHS, Bates approached Kunze about a conversation he had with the Holmes County garage administrator. Bates told Kunze that the Holmes County garage administrator wanted Kunze to reconsider his decision not to purchase

³ See, Ohio Ethics Commission Advisory Opinion Number 96-004.

from BHS, and claimed BHS had cheaper prices. Kunze said Bates asked him, “What should I tell them?” Kunze said he replied, “... tell them [Holmes County] that you have a conflict of interest, that’s your mom’s business.” Kunze said he was very clear with Bates on this point. Kunze said he told Bates that this did not mean that other districts could not purchase from BHS, “... just that 11 would not.” Kunze instructed Bates not to divulge to other districts that BHS was his mother’s company, so as not to influence their decisions about purchasing from BHS. Kunze also said, “I made this decision to protect ODOT and to protect Bates,” and that Bates understood his decision. Investigators explained to Kunze that after he left District 11 for his current position at the ODOT Central Office, District 11 began to buy products from BHS. Kunze responded that he was not aware District 11 was purchasing from BHS and was concerned about the appearance for ODOT and Bates.

Investigators asked Kunze if he was aware of Bates’ secondary employment with BHS. Kunze explained he was not aware that Bates was working for his mother’s company. Kunze recalled that Bates told him he did not have ownership of, or anything to do with BHS and, “... did not have any plans to work for them.” Kunze reiterated that Bates, in his position as sourcing supervisor, had final authorization on all purchases and invoices for District 11 and it would be impossible for him to remove himself from the process. Kunze told investigators, “Maybe I was totally off base, and everything was legit, but it wasn’t going to happen on my watch because I know Scott (Bates) could not remove himself from the process.”

On January 23, 2019, the Office of the Ohio Inspector General conducted an interview with ODOT District 11 Sourcing Supervisor Scott Bates. Bates stated he had been employed by ODOT for eight years; five years in his current position as sourcing supervisor, and previously as the fiscal officer for District 11. Bates explained that as a sourcing supervisor, he prepares payroll, accounts receivable, inventory, and reviews and approves purchases by District 11 from ODOT contractors. Bates stated he supervises three employees in his department: Kelsy Allensworth, Amber Guilliams and Devyn Lawrence.

Investigators asked Bates about his mother’s company, Beagle Hill Services (BHS). Bates confirmed that his mother, Brenda Butler, was the owner of BHS and she became an ODOT-

approved vendor in 2017.⁴ Investigators then asked Bates if he felt his position as the sourcing supervisor and/or his connection to BHS posed a conflict of interest for himself or ODOT. Bates stated he had a telephone conversation with the ODOT legal section asking for guidance in terms of purchasing and approving invoices from BHS. Bates provided investigators with an email he had received in response to his inquiry from the legal section, [\(Exhibit 1\)](#) dated January 30, 2017. The email advised Bates not to purchase for District 11 using his mother's company, so he could avoid any conflict of interest. The email also directed Bates to have someone else, other than himself, approve BHS invoices if the district chose to purchase from BHS. Bates said based upon the ODOT legal section's email response, he put into place a process to remove himself from the purchasing and invoice process with BHS. Bates said the process he established was to voluntarily remove himself from the BHS purchasing and invoice approval process and designate his supervisor, Chad Cline, to approve all BHS purchases and invoices.

Investigators asked Bates if he had any documentation that would show there was a plan for dealing with BHS that would completely remove him from the approval process. Bates said there was no documented process; however, he provided an email dated February 27, 2018, that was from him to the ODOT chief legal section [\(Exhibit 2\)](#) which stated he would not approve any purchases or invoices for BHS.

⁴ Beagle Hill Services became a certified Disadvantaged Business Enterprise vendor on April 19, 2017.

Email from Jodi Elsass-Locker, ODOT legal section, in response to a question Scott Bates posed during a telephone call.

Dated: January 30, 2017

Scott –

I found the following on the Ohio Ethics web page:

"When someone in public service is confronted with a conflict of interest, he or she must completely abstain from making decisions about or influencing how the matter is resolved.

Such abstention or recusal should include refraining from:

- Voting
- Discussing
- Reviewing
- Recommending
- Inspecting

- Investigating
- Or taking any other action on the matter

Public servants may **NOT** take any action in matters that definitely and directly affect themselves, their family members or their business associates.

As a result, the Ohio Ethics Law prohibits public officials or employees from participating, in any way, in actions or decisions that directly involve their own financial interests, or those of their families or business associates."

Since this is multiple award, there is no requirement to purchase from any one company. So our direction could be that other districts can buy off your mom's contract but not D11 so that you could avoid this conflict.

If the District determines that they will purchase from your Mom's business, my advice is to have someone other than yourself approve the invoicing.

Please let me know if you have any questions.

Jodi M. Elsass-Locker, Esq.
Deputy Legal Counsel

Email from Scott Bates to Jodi Elsass-Locker, ODOT legal section.

Dated: February 27, 2018

Jodi,

Last year D11 decided not to purchase from Beagle Hill Services. This year we have looked at the contract and they are the low bidder. There are counties that have asked to purchase from them this year and since they are the low bidder we will allow them. Per your recommendations below I will not approve any of the purchase orders or invoices for Beagle Hill Services.

Thanks,

Scott Bates

Fiscal Officer

ODOT District 11 Accounting

Bates further stated that if he saw any purchases or invoices from BHS, he would not approve them, but would instead forward them to his supervisor and let him approve the purchases.

However, Bates admitted that if he had wanted to, he could have used his ODOT computer access to see how much business District 11 was doing with BHS, thereby circumventing any process he had established to avoid a conflict. Bates denied accessing his computer to check for any District 11 business transactions with BHS.

Bates also told investigators that he recalled discussing the purchase of pipe materials from BHS with his previous supervisor, Ben Kunze, shortly after his mother received the ODOT contract, which he believed was in early 2017. Bates stated that based upon his conversation with Kunze, District 11 could purchase from BHS, but Bates could have nothing to do with the purchases. Investigators pointed out to Bates that District 11 did not start purchasing from BHS until after Kunze left District 11 in October 2017. Bates' response was that he had asked ODOT's chief legal section for guidance, and even though they approved the idea, "... we decided to not buy from BHS." Investigators asked who the "we" was in his comment. Bates explained he and Kunze made the decision not to purchase from BHS. Investigators then asked when this joint decision by the two of them was made, and at what point in time they sought advice from the ODOT chief legal section. Bates replied, "We asked legal, and then Ben (Kunze) and I sat down and decided not to buy from BHS."

Investigators told Bates that Kunze recalled Bates telling him about BHS being awarded a contract with ODOT and Kunze's reply to Bates was, "... that's great, we are not buying from them." In fact, when Kunze was assigned to District 11, no pipe was being purchased from BHS; however, when Kunze left District 11 and a new administrator was assigned in his place, District 11 began purchasing from BHS.

On January 10, 2019, investigators interviewed Kelsy Allensworth, senior financial analyst. Allensworth is supervised by Bates and has been with ODOT for six years. She is responsible for processing payroll and calculating taxes and other deductions for District 11 employees. She also processes the purchase orders (POs) when materials for District 11 are purchased for ODOT-related projects. Allensworth told investigators that purchases are initiated by the ODOT county garage supervisor who identifies an authorized ODOT vendor when there is a specific

need for an ODOT-related project. County garage supervisors are prohibited from purchasing items for a project from an unauthorized vendor.

Allensworth explained that when she receives a purchasing request, initiated by the county garage supervisor for District 11, she creates a purchase order (PO). The PO is then submitted to her supervisor, Bates, for signature approval. Investigators asked Allensworth if she was familiar with Beagle Hill Services (BHS) and if she created POs for this vendor. Allensworth said she was aware of BHS and stated the PO approval process for BHS was not the same approval process used for other ODOT vendors. She stated the PO approval process was different because her supervisor's mother was the owner of BHS. Allensworth told investigators that Bates informed her that he would not approve any POs that involved his mother's company.

Investigators asked Allensworth to explain the PO approval process as it related to BHS. She stated when a PO was processed by her, ordinarily the PO would go to Bates for signature approval. However, Bates told her that all POs from BHS were required to be reviewed and approved by Bates' supervisor, Chad Cline. Allensworth explained that when Cline was not available, District 11 Deputy Director Roxanne Kane⁵ was given the BHS PO for review and approval. Investigators asked Allensworth if there were any emails or policies documenting the BHS PO approval process. She told investigators she did not believe so and was not aware of any written documents describing the procedure initiated by Bates to handle BHS POs.

Investigators asked Allensworth if there were any other ODOT employees aware of the relationship between Bates, and the contract with his mother's company. Allensworth said she thought Ben Kunze who was working at the Central Office would be aware of the situation, as he was previously Bates' supervisor.

Investigators asked Allensworth if she was aware that Bates had secondary employment with his mother's company. Allensworth explained she was aware of his secondary employment but said she believed his job with BHS entailed the design and installation of septic tanks and not the portion of the business ODOT participates in, which was selling pipe.

⁵ Kane retired effective December 31, 2018.

On February 4, 2019, investigators interviewed Amber Guilliams, financial associate within District 11. Guilliams is supervised by Bates and has been with ODOT since October 2017. She explained that her job duties included processing credit card purchases for county garages within District 11. These credit card purchases are made by the county managers who have assigned ODOT credit cards. Guilliams explained that once a purchase is made with the credit card, she processes the purchase and submits it to her supervisor for approval. Guilliams told investigators that credit card purchases are usually approved by Bates, and sometimes by his supervisor Cline. However, she explained that for BHS, she was told that Cline would approve those transactions.

Investigators asked how she knew about BHS and she explained that Bates, "... had a secondary employment approved for septic tank installation/design and he had told the staff about this earlier, around the time that this work started." Guilliams was not certain why Bates could not approve District 11 BHS POs. She said she was aware that BHS was owned by Bates' mother but did not know that the relationship was the reason Bates could not sign the BHS POs.

Guilliams stated she had only one PO requiring Bates' signature that instead went to Cline for approval. Investigators asked Guilliams how she learned that Cline was required to sign BHS POs rather than Bates. She said Bates told her to hand the POs to Cline in early 2018. She recalled Bates had talked about BHS being his mother's company. Guilliams said that for the one transaction she had involving BHS, she first went to Bates and asked what he wanted her to do with it. She said Bates told her, "it goes to Chad," so she handed it to Cline. Investigators asked Guilliams if Bates had provided a written procedure for the BHS PO approval process. Guilliams stated she was given verbal direction and that she was given nothing in writing about the BHS PO approval process.

On February 4, 2019, investigators interviewed Devyn Lawrence, financial associate for District 11. Lawrence is supervised by Bates and has been with ODOT for four years. She explained that her job is, "... basically to pay bills for ODOT District 11." Investigators asked Lawrence if she was aware of BHS and the conflict involving Bates. Lawrence stated she was aware of the issue and learned of it during the previous year. She knew that Bates' mother owned the company and wanted Bates to work for her company on the septic side of the business.

Lawrence stated that, at some point, she learned she would be handling the BHS PO process differently from other POs. Lawrence told investigators that Bates would not approve the BHS POs. When asked how she discovered Bates could not approve the BHS POs, Lawrence said she took the first one to him and he said, "I can't sign this." Lawrence told investigators that she understood that it looked improper for Bates to approve District 11 purchases from his mother's company, BHS. On the few occasions that Lawrence had an invoice from BHS for approval, she did not submit it to Cline herself. Rather, Bates would take it from her, and he would hand deliver it to Cline for his approval. Lawrence would later obtain the approved invoice from Cline to continue the processing. Lawrence believes she handled approximately five POs involving BHS.

Lawrence told investigators that she had nothing in writing instructing her to remove Bates from all aspects of the BHS PO approval process. Lawrence was asked if Bates could see and/or access BHS data from the ODOT invoicing computer system. Lawrence explained that Bates would be able to see all BHS business with District 11 from his computer at his desk.

Lawrence told investigators that during the week of January 28 through February 1, 2019, Bates called a meeting of those he supervised: Lawrence, Williams, and Allensworth. The purpose of the meeting was to inform them about the investigation being conducted by the Office of the Ohio Inspector General. Lawrence said Bates told them, "He had an idea of who may have brought this to the table" but did not tell them who he thought it was. Lawrence also said Bates stated, "... the person I thought it was got another auditor fired previously," and that Bates appeared very concerned about who brought this issue to the attention of investigators.

In a follow-up interview with Bates conducted by the Office of the Ohio Inspector General, investigators showed Bates 10 BHS purchases that had been made by District 11. Bates was asked about each of the 10 purchases and who approved them. Bates stated he did not approve any of the BHS POs, noting Cline approved most of them, and that Deputy Director Roxanne Kane may have approved some of them. Bates again stated that if a BHS PO was submitted, he would not act on it; instead, he would have Cline, or the deputy director approve the purchase. Investigators showed Bates an email that Allensworth sent to Cline, asking him to approve a BHS PO, which was copied to Bates. Investigators asked Bates why he would be copied on an

email regarding a BHS PO if he was removed from the BHS purchasing process. Bates acknowledged that in his position, due to the way ODOT keeps records, it would be impossible for him to be completely uninformed of purchases being made from BHS by District 11. Bates was asked if he ever took a BHS PO to Cline and requested he approve it for him. Bates told investigators that he had asked Cline to approve at least one BHS PO. Bates said, "If I see it, I say to Chad (Cline), please sign this for Beagle Hill (BHS)." No other explanation was provided by Bates after investigators questioned his ability to remove himself completely from the BHS PO process.

Investigators further informed Bates that Kane stated she only approved POs that required her approval due to the high dollar amount.⁶ Bates was also told that Kane stated she had no idea Kunze had instructed Bates not to make purchases from BHS. Bates responded by saying that he thought the circumstances had changed, since BHS was then the lowest-priced vendor for ODOT specification pipe. He believed that buying the product from the cheapest supplier was the correct thing to do. Bates explained to investigators that it was because of the pricing reduction from BHS that he emailed the ODOT chief legal section regarding District 11's intent to purchase from BHS.⁷ Bates again explained that he emailed the chief legal section two times. Bates stated he sent the first email when Kunze was still at District 11, and that he initiated the second email when BHS' prices dropped for ODOT specification pipe. Investigators asked Bates why, after Kunze left District 11, he (Bates) thought it became acceptable to initiate purchases from BHS, when previously Kunze expressed that doing business with BHS was a conflict for both Bates and ODOT. Bates had no response other than to say his intentions were pure and he was not trying to do anything improper to help BHS. Bates stated he thought saving money was the right thing to do for ODOT.

On January 23, 2019, investigators interviewed Chad Cline. Cline told investigators that he had been with ODOT 15 years, was District 11's acting labor relations officer and business and human resources administrator, and that he had been Scott Bates' supervisor since March 2018. Cline told investigators that he first became aware there was an issue involving BHS and Bates before March 2018, although he could not remember how he became aware of the issue.

⁶ Purchase greater than \$25,000.00 must be approved by the deputy director.

⁷ Email to chief legal February 27, 2018.

Investigators asked Cline if he was aware that Bates' previous supervisor, Ben Kunze, had told Bates that District 11 was not going to buy from BHS, as it was improper and gave the appearance of a conflict of interest. Cline said he was not aware of that fact, and he thought the reason District 11 did not purchase from BHS initially was because they were not the lowest cost supplier, that they lowered their prices, and that ODOT then began buying from them.

Investigators asked Cline if he was aware that Bates had requested guidance from the ODOT chief legal section on whether or not to purchase from BHS. Cline said he was aware Bates had requested guidance from the chief legal section, but Cline did not think he was his supervisor at the time of this request. However, Cline said he was Bates' supervisor when Bates asked for guidance from the chief legal section about a secondary employment request to work for BHS.

Investigators asked Cline whether he and the district put into action a plan that would isolate Bates from the BHS PO and invoice process, based upon the chief legal section's guidance. Cline responded "yes," and explained that the plan was set up so he (Cline) would be the person to review and approve BHS POs and invoices instead of Bates.

Cline said he relied upon the emails from the chief legal section provided by Bates. Investigators referred to the email that referenced the Ohio Ethics Law which prohibits employees from participating, in any way, in actions or decisions that directly involve their own financial interests or those of their family or business associates. Investigators told Cline that the process that was implemented by District 11 to remove Bates from the BHS PO process did not appear to accomplish what the ethics law required. Cline agreed that in Bates' position, the situation could be perceived poorly which in turn could create problems for ODOT. Cline agreed that Kunze's decision not to purchase from BHS was in large part to protect Scott. Investigators asked Cline if he knew why, after Kunze left District 11, the district began to purchase pipe from BHS. Cline said he understood the reason was because BHS had lowered their prices.

Secondary Employment Allegation

Investigators asked Cline about Bates' secondary employment request submitted to the chief legal section on September 4, 2018, since Cline was Bates' supervisor at the time the request was made. Investigators shared with Cline the response the chief legal section sent Bates:

I cannot identify any direct prohibitive conflict between your position as a Sourcing Supervisor for ODOT District 11 and working for Beagle Hill Services as a sewage treatment system designer and installer ... Additionally, one cannot use their ODOT position to benefit their outside interest(s)/employer/business in any way. [\(Exhibit 2\)](#)

Investigators asked Cline if he thought Bates' secondary employment with BHS was a problem for Bates, and Cline replied, "No." Cline said that BHS sold pipe to ODOT, and Bates' was working with septic systems. Cline stated that was why he, "didn't catch it."

Investigators interviewed Attorney Jennifer Gams, ODOT chief legal section, who had reviewed the secondary employment request submitted by Bates on September 4, 2018. Investigators asked Gams about Bates' mother having an existing contract with ODOT, and if that would have impacted her decision to approve the secondary employment request. Gams replied, "yes, that absolutely would have made a difference." During her review of Bates' request, Gams said she looked up BHS; however, she could find no connection to Bates and therefore approved the request.⁸

Investigators followed-up with Bates and asked him why he did not mention anything to the chief legal section about his relationship to BHS, considering all the questions being raised about District 11 purchasing from his mother's company. Bates stated that the secondary work he was performing for BHS had nothing to do with the products BHS sold to ODOT. Bates told investigators that he had just begun working for BHS, and that he worked out of his home and rarely went to the business location. Bates said the work he performed for BHS did not involve the same type of pipe that BHS sells to ODOT District 11. Towards the end of the interview, Bates said, "If the solution to this problem is to stop buying from BHS, that is not a problem, District 11 would stop buying from BHS."

⁸ During this investigation, the ODOT chief legal section made significant changes to the secondary employment form to include questions about conflicts of interest with proposed secondary employers.

SUSPECTED RETALIATION

During the investigation into the initial allegations of inappropriate conduct by Bates and Cline as it related to BHS, investigators became aware of suspected retaliation against several of the witnesses interviewed as a part of this investigation.

APPLICABLE RULES, POLICIES AND PROCEDURES

ODOT Policy 15-004(P) *Violence in the Workplace Policy*

A. Prohibited Behavior

Harassment;

Intimidating ... as defined by applicable law, administrative rules, policies, or work rules that would affect the business interests of the state.

ODOT Policy 17-015(P) *Work Rules and Discipline*

4. Failure of Good Behavior:

B. ... intimidation or harassment ... or retaliation.

C. Insolence - rude or disrespectful conduct.

I. ... acts that may discredit, embarrass, undermine or interfere with the mission of the Agency

On March 4, 2019, Chad Cline emailed Ed Waters, ODOT acting chief investigator to report Carrie Collins, Health & Safety Program consultant for District 11, for falsifying her payroll records.

Mr. Waters,

Question for you. On 3/1/2019 I was reviewing all my employees Kronos. At that time, I noticed one of my employees had a total of 38.5 hours for the total of the first week of the pay period, which was Friday, February 22nd. Later on 3/1/19, after the employee had left I checked her Kronos again. She had went back on 3/1/19 and canceled her lunch for the previous Friday (22nd). This allowed her to leave on 3/1/19 a half hour earlier. My question to you is this Falsification, or is this something I deal with in-house? If you look at her timecard, you will notice she also canceled her lunch on 3/1/19. That is not a concern to me at this time. The employee's name is Carrie Collins.

Thanks,

Chad Cline

Acting Business & Human Resources Administrator/Labor Relations Officer

On March 5, 2019, Waters asked Cline if he had any additional information regarding his complaint. Cline responded, “At this time, I do not have any documentation that I can think of.”

ODOT Labor Relations Administrator Bobby Johnson questioned Cline on March 5, 2019, writing:

I may be wrong, other than changing it a week later. What evidence/thoughts made you believe she falsified? Did someone see her take a lunch that day? (etc.) Guessing that is what we are in search of.

Bobby Johnson
Labor Relations Administrator

Cline responded,

You are correct, I have nothing and doubtful of any witnesses. Other than me believing she changed it to benefit herself, there is nothing. As I stated, I can easily fix/handle this in 5 minutes which is our ultimate goal, I guess. I only involved you all, so that I didn't handle something my way, that we have/or would remove an employee for in the past or future. This employee has had a history of time-keeping issues and I was simply making sure I wasn't missing an opportunity. If you and Ed are ok with it, I will handle. Please just let me know. In my experience, after addressing the issue the problem will be fixed or the employee will eventually do something else that warrants my attention.

Thanks
Chad Cline

Cline notified Waters four additional times about Collins' alleged falsification of her payroll records: on April 12, 2019, (pay period 3/31/19 – 4/13/19); April 28, 2019, (pay period 4/14/19 – 4/27/19); June 21, 2019, (pay period 6/9/19 – 6/22/19); and July 5, 2019, (pay period 6/23/19 – 7/5/19). Investigators asked Collins why there were some pay periods in which she was not making similar changes to her payroll records. Collins told investigators that during the pay period of March 5, 2019 – March 16, 2019, she was in Columbus for a conference and she was not on her regular schedule. For other pay periods, Collins told investigators that she worked her normal schedule, which included eliminating auto deductions on the Friday that she submitted her payroll to Cline. Collins could offer no explanation why her supervisor chose the pay periods he did to report her to ODOT investigators for alleged falsification of her payroll.

Collins works in the Business and Human Resources (BHR) office suite shared by Bates, Cline, Williams, Allensworth, and Lawrence. Collins had been out of the office when the initial interviews with the District 11 BHR staff took place, and upon returning, she was informed by Cline that the Office of the Ohio Inspector General wanted to interview her. Collins stated Cline told her, “Apparently, we have a mole in the BHR.”⁹

Investigators asked Collins about her working hours at ODOT. Collins explained that she had been given permission from her supervisor, Cline, to work four nine-hour days and one four-hour day to make a forty-hour workweek. Collins said she had worked this schedule since May 1, 2017, and that other employees in the BHR section also work this schedule. Collins reported that during most pay periods, the four-hour workday occurs on Fridays. Collins told investigators that ODOT uses a timekeeping system¹⁰ to track employees’ hours worked and the system automatically deducts 30-minutes for lunch if the employee works a minimum of four hours. For Collins, on the Fridays of the two-week pay period, if she works four hours to complete her work week, the timekeeping system automatically deducts 30 minutes for lunch. This occurs even as Collins is leaving work having completed her 40-hour work week and not taking a lunch. To correct this, Collins said she uses the manual editor for the timekeeping system to remove the auto deduction for the 30-minute lunch. Historically, Collins said she has used the editor to delete the auto deduction on the second Friday of the two-week pay period, before submitting her timecard to Cline for review and approval. Collins told investigators this had been her practice since she began working this schedule in 2017.

Investigators asked Collins why she waited until the second Friday or following Monday prior to submitting her payroll to review and correct the auto deductions from her time submission. Collins explained that she was permitted to flex her work hours during the two-week payroll period. Collins noted she is accountable for her time and for the accuracy of what she submits. She explained that she waits until the day she submits her payroll to review each day worked to make sure her entries are correct, and that until she submits her payroll, she is permitted to make changes to correct errors.

⁹ BHR (Business and Human Resources) Cline is the administrator of the BHR.

¹⁰ Kronos is the ODOT timekeeping system.

On March 11, 2019, Collins said she checked to ensure that she was entering information correctly into the ODOT timekeeping software by accessing hers and other employees' timekeeping records¹¹ to note if they were entering the information in the same manner she was. She said she accessed several BHR employees' payrolls and printed out portions so she could review and compare them to determine if she was being targeted by Cline regarding her work hours. Before Collins could reach the printer to collect the printouts, another BHR employee found the printouts of the timesheets. This employee took the information to Cline and explained how she found it. Cline took the information to his supervisor who made the decision to determine who printed the documents. The employee learned that Collins was responsible for printing out the timesheets. Collins told investigators that although she knew the printouts were found on the printer and shared with Cline, Cline never approached her about having printed them.

On May 29, 2019, Ben Kunze was re-interviewed by the Office of the Ohio Inspector General at the ODOT Central Office. Kunze told investigators about a brief meeting he had with Bates on January 24, 2019. The reason for the meeting was that Bates was attending a fiscal officers' meeting at the Central Office and he forgot his ODOT ID and could not gain access to the building. Bates sent a text message to Kunze asking him for assistance with getting into the building. Kunze met Bates in the lobby of the Central Office to help. Kunze described some small talk between the two men, and Kunze recalled saying, "your name has been mentioned around here." In response, Bates said, "I believe I know who it was" (who turned him in and made allegations resulting in the initial investigation). Kunze asked Bates who he thought it was who filed the complaint, and Bates responded, "Devyn." Kunze asked Bates why he believed that, and Bates said he could tell from the handwriting on the complaint sent to the Office of the Ohio Inspector General.

On May 23, 2019, investigators interviewed District 11 IT Manager Mike Dotts at the District 11 office. Dotts works near the BHR offices and interacts with Bates and Cline daily. Investigators asked Dotts if he witnessed any conduct by Cline or Bates that appeared to be retaliatory towards anyone in the BHR/Accounting suite. Dotts told investigators that he had witnessed some

¹¹ Collins had supervisory access to the timekeeping database and could view other employees' timecard submissions.

unusual conduct while working at District 11. He described a BHR staff meeting held on February 25, 2019, that was attended by Cline, Bates, Collins, Dotts, and one additional ODOT BHR employee. Dotts explained that Bates appeared agitated, and when Dotts questioned him about why he was upset he responded, “Some slimy [expletive] turned us in.” Collins, who witnessed this exchange between Dotts and Bates, explained to investigators she felt as if the statement was directed towards her. She noted that Cline, who was Bates’ supervisor, did not say or do anything to curtail Bates from making this statement to Dotts, which was overheard by the others present. Later, Dotts told Collins, “They think you did it.”

On May 23, 2019, the Office of the Ohio Inspector General conducted an interview with Shannon Blocker. Blocker works in the BHR section in the same area as Collins, Williams, Lawrence, and Bates, and her direct supervisor is Chad Cline. Blocker said she was aware of the suspected retaliation by Bates and Cline and that the investigation was ongoing. Blocker explained that since the beginning of the investigation, there was “a difference” in Bates. When asked by investigators to explain what she meant by “a difference,” she said she believed there was “anger ... you can tell Scott is upset ... a lot.” Investigators asked Blocker if she witnessed Bates attempting to find out who reported his alleged conduct to the Office of the Ohio Inspector General. She replied, “yes,” and explained that she was on vacation when the interviews pertaining to the investigation began. Blocker described Bates as being cold and rude to her when she returned to work. On March 12, 2019, Bates asked her to come into his office. Blocker said once inside his office, he told her, “I thought you did it and that was why I treated you the way I treated you ... and I don’t think you did it anymore.” Blocker said after this conversation, Bates treated her better at work. She said she could still tell he was bitter and frustrated, but his feelings were not directed towards her.

Blocker was asked if she knew who Bates thought the responsible person was. She said she did not know, but Bates said he initially thought it was her, Devyn or Amber, but no longer believed it was them. Blocker said, “He now believes he knows who it is.”

On the same date that Blocker was called into Bates’ office, March 12, 2019, Bates also requested Lawrence to come to his office. Once in his office, Bates told Lawrence, “I thought it

was you and now I don't think that." Lawrence said it did not appear to her as an apology from Bates, "but never the less I was floored by his statement." Lawrence said she had no idea what prompted Bates to have this conversation with her. Lawrence also told investigators about another unusual incident when Bates approached her and Guilliams on February 25, 2019, to discuss how things in his department at District 11 would be changing due to the investigation. Lawrence said Bates told the two of them that the ODOT Central Office would be watching, and neither of them would be able to flex their time. Both Guilliams and Lawrence began to believe that Bates was doing this because he thought they were responsible for the investigation by the Office of the Ohio Inspector General. Lawrence said Guilliams became upset and emotional because she had things planned for the time she would flex. Lawrence told investigators that the flextime changes Bates claimed would be implemented never occurred. Lawrence said she, Guilliams, and Bates have all continued to flex their time. Lawrence said that looking back on the conversation, she felt Bates was "putting the screws" to Guilliams and Lawrence because he thought they turned him in to the Office of the Ohio Inspector General.

Investigators spoke to Candy Mason, a permit technician for District 11 as well as the union representative for District 11 employees. Mason explained that on Sunday, March 10, 2019, she received a telephone call from an anonymous source who complained about harassment occurring at District 11. The anonymous caller said that he was an ODOT manager and wanted to know how the union was going to handle an issue involving the women in the BHR/Accounting suite being harassed and intimidated. The caller said Bates and Cline were intimidating the women because they believed one of those women filed a complaint about them with the Office of the Ohio Inspector General.

Mason said that the following day, Monday March 11, 2019, she sent an instant message to Cline to discuss the call she received, and requested to meet with him and Bates to discuss the situation. Cline responded that Bates had not yet arrived to the office, but that Bates would contact her when he did arrive. Mason said she received Cline's consent to speak with Lawrence, Guilliams, and Allensworth, and proceeded to conduct their interviews together. Mason informed them of the anonymous call she had received the day before and asked if they would speak with her about what was occurring in their office suite. Mason told investigators

that none of the three women would speak to her about what was allegedly occurring in BHR/Accounting. Mason described Guilliams and Lawrence as, "... both really quiet."

Mason stated that later in the afternoon on March 11, 2019, Bates sent her an instant message asking, "... when am I going to find out what was said about me?" Rather than reply to the text message, Mason said she went to Bates' office to speak with him in person. Bates asked Mason if she had spoken to Guilliams and Lawrence and if she spoke to them separately or together. When Mason told Bates she had spoken with them together, Bates responded that he wished Mason had interviewed them separately because he believed either Guilliams or Lawrence might have offered some information if interviewed alone. Mason told Bates that neither of the women reported anything about him (Bates) or the investigation by the Office of the Ohio Inspector General. Bates again asked what was said during the interview with the two women and Mason told him he shouldn't be asking her that. Mason told investigators she believed the women in the BHR/Accounting suite were fearful to speak out against Cline and Bates.

On May 30, 2019, investigators interviewed Helen Kelly, ODOT Payroll and Benefits manager. The purpose of the interview with Kelly was to determine how ODOT employees were supposed to utilize the payroll system and decide if Collins had acted appropriately or not in her timekeeping. Investigators asked Kelly if Collins was permitted to revise her payroll during the two-week pay period prior to submitting it to a supervisor. Kelly said that ODOT employees are permitted to make any changes that are appropriate prior to submission to their supervisor. She told investigators that because of Collins' modified working hours schedule,¹² Collins worked approximately four hours on Fridays. Kelly explained that for those employees participating in the modified working hours schedule, the payroll system automatically deducted 30 minutes for lunch when four hours of working time was entered. Kelly explained, "The only way to correct this is to use the editor feature to deduct the 30 minutes." Investigators asked Kelly when the employee must make an adjustment to their payroll, and she responded, "Anytime during the pay period is fine ... The employee is responsible for the accurate submission of their payroll and so long as the submission is accurate, any time before submission is consistent with ODOT policy regarding payroll."

¹² Four nine-hour days and one four-hour day.

CONCLUSION

The Office of the Ohio Inspector General reviewed all allegations during its investigation to determine whether there was reasonable cause to believe that "... wrongful acts or omissions" had occurred on the part of a state officer, agency, or employee. A wrongful act or omission is defined, in part, as "(a)ny willful act or failure to act or perform ... that violates or fails to comply with statutory law"

Conflict of Interest Allegation

The first issue in the investigation dealt with BHS selling pipe products to ODOT District 11, in light of Sourcing Supervisor Scott Bates' personal relationship with the owner of BHS. Bates, who is the son of BHS owner Brenda Butler, acted inappropriately by not completely removing himself from the purchasing and invoice approval process with BHS. As the procurement officer for District 11, Bates was aware of the conflict of interest created by his conduct by failing to remove himself from the BHS PO process. Months before leaving District 11, Bates' supervisor and Business and Human Resources Administrator Ben Kunze explained to Bates that, "... the optics would not look good," and Kunze would not permit District 11 to purchase from BHS. Kunze said he made it clear to Bates that his stance on the issue was as much to protect Bates as it was to protect ODOT. Bates came back to Kunze a second time seeking to do business with BHS, stating that a county garage administrator in the district was requesting to purchase from BHS. Again, Kunze explained to Bates that District 11 would not purchase from his mother's business, BHS, and that due to his position, Bates could never completely remove himself from the transaction approval process.

Shortly after Kunze left District 11 for a new position at ODOT Central Office, Bates sought permission to begin making purchases from BHS, this time from District 11 Deputy Director Roxanne Kane; however, he failed to explain to Kane the history of prior decisions made by Kunze. Bates also sought permission from the ODOT chief legal section. The chief legal section responded to Bates, laying out specific guidelines, and citing Ohio's ethics laws that would apply for any District 11 purchases made from BHS. Months later, Bates responded to the January 30, 2017, email from the chief legal section, explaining that because BHS offered lower prices, District 11 would begin purchasing from them; however, Bates claimed he would not

approve any purchase. Bates did not address in his email other specific conditions laid out by the ODOT chief legal section citing the Ohio Ethics Commission, such as "... completely abstain from making decisions about or influencing how the matter is resolved."

Bates told investigators that at the time District 11 began purchasing pipe materials from BHS, he followed the chief legal section's advice and took himself out of the BHS PO process. However, several of the witnesses interviewed explained that, given Bates' position as sourcing supervisor, it would not be possible for him to totally remove himself from the BHS PO process. On more than one occasion when approached with a PO to sign involving BHS, Bates would tell subordinates he could not approve it, but then would hand-deliver the PO to his supervisor Chad Cline and ask him to approve it for him. As Kunze told investigators, "Scott (Bates) could not remove himself from the process."

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe that a wrongful act or omission occurred in this instance.

Secondary Employment Issues

After District 11 began to purchase from BHS, Bates requested permission to accept secondary employment working for BHS. Bates explained to investigators that he received permission for his secondary employment from the ODOT chief legal section. However, his request for secondary employment failed to disclose to the ODOT attorney reviewing his request that the company he was seeking employment from had a contract with ODOT and was owned by his mother. Without this pertinent information, the attorney reviewing the application responded to his request indicating, "I do not see any direct conflict" Investigators asked Bates how his secondary employment with BHS would be perceived in light of the significant concerns Kunze had with District 11 purchasing from BHS. Bates responded that in his position working for BHS, he was not involved with the same area of his mother's company that dealt with purchasing pipe by ODOT. Bates added, "I assumed that that legal would search to see if BHS was doing business with ODOT." Bates never volunteered this information to the ODOT attorney performing the background review of his request for secondary employment with BHS.

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe that a wrongful act or omission occurred in this instance.

Suspected Retaliation

During the investigation at ODOT District 11 involving conflicts in purchasing practices and secondary employment, allegations surfaced that ODOT employees being interviewed during the investigation were being targeted by Cline and Bates for either their cooperation with investigators, or because they believed the ODOT employees were responsible for the initial anonymous complaint to the Office of the Ohio Inspector General. Bates told investigators during his initial interview on January 23, 2019, that, “I think I know who did it.” The investigation revealed that after the interviews began, Bates and Cline began to treat the employees of the BHR/Accounting suite differently based upon their suspicions of the employees’ involvement in initiating the investigation. Bates apologized to Shannon Blocker and Devyn Lawrence, telling each of them that he initially believed they reported him to the Office of the Ohio Inspector General, but that his opinion had changed and he no longer felt they were the “one.” Investigators determined that Cline began to treat Carrie Collins as if she was the person responsible for bringing this unwanted attention to the BHR/Accounting section. On March 4, 2019, Cline sent the first of five referrals to ODOT investigators and the Human Resources Department at ODOT Central Office alleging that Collins had falsified payroll records.

ODOT Payroll and Benefits Manager Helen Kelly was interviewed and explained that the type of adjustments Collins made to her payroll were not falsifications and confirmed Collins followed proper procedure. When asked about waiting until the end of the two weeks’ pay period to correct auto deductions, she told investigators, “Anytime during the pay period is fine. The employee is responsible for the accurate submission of their payroll and so long as the submission is accurate, anytime before submission is consistent with ODOT policy regarding payroll.”

ODOT Labor Relations Administrator Bobby Johnson asked Cline if he had any evidence to support the allegation that Collins was guilty of falsification of payroll records, besides her

practice of making adjustments to her payroll within the pay period. Cline said he had no other evidence. Johnson specifically asked Cline if he had any other evidence of improper conduct by Collins other than her practice of waiting until the end of a pay period to make changes to her timecard, and Cline responded, "I have nothing and doubtful of any witnesses." When questioned by Johnson about what accusations Cline had against Collins that would constitute a crime, Cline responded, "... other than believing she changed it to benefit herself, there is nothing." Cline stated, "... I only involved you all, so that I didn't handle something my way, that we have/or would remove an employee for in the past or future."

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe that a wrongful act or omission occurred in this instance.

RECOMMENDATION(S)

The Office of the Ohio Inspector General makes the following recommendations and asks the director of the Ohio Department of Transportation to respond within 60 days with a plan detailing how the recommendations will be implemented.

1. Review the conduct of ODOT employees Scott Bates and Chad Cline and determine if administrative action is warranted.
2. Ensure that ODOT employees who interact with ODOT contractors/vendors are properly trained on the ethics laws of Ohio.
3. Review the revised secondary employment form to ensure language that has been added requires the disclosure of all information of contractual relationships between ODOT, the secondary employer, and the prospective employee.

REFERRAL(S)

This report of investigation will be provided to the Tuscarawas County Prosecuting Attorney and the Ohio Ethics Commission for consideration.



STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

NAME OF REPORT: Ohio Department of Transportation

FILE ID #: 2018-CA00047

KEEPER OF RECORDS CERTIFICATION

This is a true and correct copy of the report which is required to be prepared by the Office of the Ohio Inspector General pursuant to Section 121.42 of the Ohio Revised Code.

Jill Jones
KEEPER OF RECORDS

CERTIFIED
December 17, 2019

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