

Washington State Auditor's Office
Whistleblower Investigation Report

Department of Transportation

Report No. 1011893

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Washington State Auditor
Troy Kelley

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Lynn Peterson, Secretary
Department of Transportation

Report on Whistleblower Investigation

Attached is the official report on Whistleblower Case No. WB 13-034 at the Department of Transportation.

The State Auditor's Office received an assertion of improper governmental activity at the Department. This assertion was submitted to us under the provisions of Chapter 42.40 of the Revised Code of Washington, the Whistleblower Act. We have investigated the assertion independently and objectively through interviews and by reviewing relevant documents. This report contains the result of our investigation.

Questions about this report should be directed to Whistleblower Manager Jim Brownell at (360) 725-5352.

Sincerely,

TROY KELLEY
STATE AUDITOR

cc: Steve McKerney, Director of Internal Audit
Governor Jay Inslee
Evelyn Lopez, Acting Executive Director, Executive Ethics Board

Whistleblower Investigation Report

State of Washington Department of Transportation

ASSERTION AND RESULTS

In May 2013, our Office received an assertion that a transportation engineer for the Department of Transportation used state time and resources to write, publish and promote a book. A state rule (WAC 292-11-010) prohibits the use of state resources for the purpose of conducting an outside business.

We found reasonable cause to believe an improper governmental action occurred.

ABOUT THE INVESTIGATION

We obtained a copy of the subject's email folders and hard drive and our forensic staff created reports based on the information that was found.

A review of Internet activity showed 24 days from November 6, 2012 through July 1, 2013, when the subject accessed websites related to his book. The subject accessed an online shopping website where his book was sold, including a website specifically intended for authors. In addition the subject accessed two other websites, one where the electronic version of his book is located and another website where his book is also sold. The subject said he was checking on how well his book was doing and the reviews.

In our review of the subject's email folders we found on June 28, 2011, the subject began including in his signature block a graphic of his book along with a direct link to the shopping website where the book could be purchased. This graphic and link remained in his signature block until June 2013, when he was directed to remove the link and refrain from referencing the book by his supervisor. The focus of our email review was from May 2012 through July 2013. During that time we found 11 emails directly related to promoting his book. In some of the emails the subject asked people to read and review his book and in others he suggested the senders read his book.

The subject also has an outside business which he accessed via the Internet on one occasion and sent two e-mails inviting people to attend a meeting he was speaking at as a representative of his outside business.

The subject explained he was proud of the book and thought it not only was an accomplishment for himself, but also for the Department. He said the emails he sent requesting reviews were to help establish credibility. He described situations where he would receive feedback from other professionals about his book, which would allow him to fine-tune the model described in his book, which directly benefited the Department as

it is using this model. The subject said that although he would receive and respond to emails during business hours he worked on the issues brought to his attention at home. He said he did not think he had done anything wrong by including the information about his book in his signature block. He said he just wanted to get the information out for everyone to use.

In addition, the subject's Internet history showed the subject appeared to have purchased a book from the shopping website. The subject did not recall purchasing the book. A Department policy states that no surfing of shopping sites on the Internet is allowed.

Our review of the hard drive revealed no evidence to support the assertion the subject used state time and resources to write and publish his book.

DEPARTMENT'S PLAN OF RESOLUTION

It is important to us that we appropriately and consistently adhere to all state laws and ethical standards regarding the use of state resources. We take our responsibility to the public seriously and endeavor to continually improve and maintain the public's trust.

The Department will do a further review of the investigation findings and an internal review of the associated documents and will take the appropriate corrective and/or disciplinary actions.

All new hires are required to take Ethical Standards training, with refreshers required every three years. Additionally, the Department will provide follow up communications to all employees in the Project Development Division reminding them of ethics laws and policies in the use of state computers and resources, and emphasizing the importance of adhering to these standards.

STATE AUDITOR'S OFFICE CONCLUDING REMARKS

We thank Department officials and personnel for their assistance and cooperation during the investigation.

Whistleblower Investigation Criteria

State of Washington Department of Transportation

We came to our determination in this investigation by evaluating the facts against the criteria below:

RCW 42.52.160 - Use of persons, money, or property for private gain.

(1) No state officer or state employee may employ or use any person, money, or property under the officer's or employee's official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee, or another.

WAC 292-11-010 - Use of state resources.

(5) Prohibited uses:

(a) Any use for the purpose of conducting an outside business, private employment, or other activities conducted for private financial gain;

(b) Any use for the purpose of supporting, promoting the interests of, or soliciting for an outside organization or group, including, but not limited to, a private business, or a political party, or supporting, promoting the interests of, or soliciting for a nonprofit organization unless provided for by law or authorized by an agency head or designee;

(e) Any use related to conduct that is prohibited by a federal or state law or rule, or a state agency policy;

Department of Transportation Executive Order E 1021.01 Employee Use of Electronic Systems.

III. Information to Carry Out This Secretary's Executive Order

(C) Prohibited Use Established

(11) No web surfing of shopping sites.

Contacts

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