



Washington State Auditor's Office

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Whistleblower Investigation Report Department of Licensing

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Pat Kohler, Director
Department of Licensing

Report on Whistleblower Investigation

Attached is the official report on Whistleblower Case No. 15-033 at the Department of Licensing.

The State Auditor's Office received an assertion of improper governmental activity at the Agency. 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,

JAN M. JUTTE, CPA, CGFM
DEPUTY STATE AUDITOR
OLYMPIA, WA

cc: Governor Jay Inslee
Frederick Wade, Director of Performance and Accountability
Kate Reynolds, Executive Director, Executive Ethics Board
Jennifer Wirawan, Investigator

WHISTLEBLOWER INVESTIGATION REPORT

Assertion and results

Our Office received a whistleblower complaint asserting a Department of Licensing supervisor allowed expenses for the Home Inspector Program to be charged to other real estate programs.

We found no reasonable cause to believe the subject committed an improper governmental action.

Background

The Business and Professions Division (Division) of the Department of Licensing (Department) is responsible for regulating all real estate-related professional licenses. The Real Estate Program within the Division employs approximately 40 staff to accomplish the various licensing, education and investigation activities.

Some staff have multiple responsibilities that bridge real estate-related licensing programs. Staff complete monthly timesheets, but they do not separately account for time spent on individual programs. Staff time is allocated based on a percentage of time they work on specific licensing programs. The percentages are measured as full-time equivalencies (FTEs). For example, if a staff person works half time on real estate brokers and half time on home inspectors, that person's salary would be charged as 50 percent FTE to the Real Estate Broker Program and 50 percent FTE to the Home Inspector Program.

According to state law (RCW 43.24.086), the cost of each professional licensing program must be fully borne by the members of that profession.

The whistleblower asserted the subject did not properly allocate staff time, which resulted in improper charges to other real estate programs that should have been borne by the Home Inspector Program.

About the Investigation

We spoke with witnesses, reviewed program allocations and examined employment records. We determined the Department does not have policies and procedures for staff to follow when determining how FTE's are allocated.

From April 2014 to March 2015, only a 45 percent FTE was charged to the Home Inspector Program (Program). Forty percent was allocated for one staff member, the other five percent was allocated for the subject.

We found that, in 2014, two staff members were responsible for performing Program functions such as: providing information to the public, assisting with education, and accounting for

Program fees. Additionally, at least nine investigations relating to home inspector licensees were completed by four investigative staff. None of this time was charged to the Program.

Because the staff timesheets do not detail which programs they work on each day, we were not able to quantify the number of FTE's that should have been charged to the Program.

During an interview, the subject explained that the Program is small and does not need much support. He said allocations traditionally do not go below a five percent FTE, therefore once he determined the duties performed by other staff were less than a five percent FTE, he did not allocate any of their time to the Program. He said the investigations are not complex and take very little resources.

We spoke with Department leadership who said the allocation of FTE's is a collaborative process – not just the subject's responsibility. We were told the same approach is used across the entire Division. The Assistant Director of the Division said that she ultimately approves all changes in funding allocations.

We found the Department failed to charge the Program for the cost of all staff time. The Department asserted allocation decisions are a collaborative process by management. Therefore, we found no reasonable cause to believe the subject of this investigation was solely responsible for not complying with state law.

Recommendations

We recommend the Department:

- Determine to what extent costs were not properly allocated to the Home Inspector Program and adjust accounting records accordingly.
- Establish policies and procedures that are adequate to ensure costs are properly allocated to programs within the Business and Professions Division.

Agency's Response

The Department of Licensing appreciates the opportunity to respond to the State Auditor's Office Whistleblower Case No. 15-033. We value the quality and comprehensiveness of the review, and appreciate the assistance of the State Auditor's Office by providing the Department with important facts from its investigation. We appreciate the professionalism and willingness of the staff to engage in discussions and consider input throughout the process.

It is important to us that we appropriately and consistently adhere to all state laws by ensuring the correct resources are allocated appropriately to all programs. We feel the review provided beneficial information and addresses areas where we can work to continuously improve our processes. We have already taken corrective action by determining the total employee costs that were not allocated and adjusted the accounting records through a journal voucher entry. In

addition, we are currently in the process of establishing policies and procedures to ensure costs are properly allocated to the programs with in the Business and Professions Division.

State Auditor's Office Concluding Remarks

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

WHISTLEBLOWER INVESTIGATION CRITERIA

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

RCW 43.24.086 - Fee policy for professions, occupations, and businesses - Determination by rule.

It shall be the policy of the state of Washington that the cost of each professional, occupational[,] or business licensing program be fully borne by the members of that profession, occupation[,] or business. The director of licensing shall from time to time establish the amount of all application fees, license fees, registration fees, examination fees, permit fees, renewal fees, and any other fee associated with licensing or regulation of professions, occupations[,] or businesses, except for health professions, administered by the department of licensing. In fixing said fees, the director shall set the fees for each such program at a sufficient level to defray the costs of administering that program. All such fees shall be fixed by rule adopted by the director in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

RCW 43.88.290 Fiscal responsibilities of state officers and employees – Prohibitions relative to appropriations and expenditures.

No state officer or employee shall intentionally or negligently: Over-expend or over-encumber any appropriation made by law; fail to properly account for any expenditures by fund, program, or fiscal period; or expend funds contrary to the terms, limits, or conditions of any appropriation made by law.