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LETIZIA TAGLIAFIERRO
INSPECTOR GENERAL

May 1, 2020

Marie Therese Dominguez, Esq.
Commissioner
New York State Department of Transportation
50 Wolf Road
Albany, New York 12232

Re: NYS IG 2657-007-2019

Dear Commissioner Dominguez:

On September 4, 2019, the New York State Department of Transportation (DOT) referred a complaint to the Office of the New York State Inspector General alleging misconduct by [REDACTED]. Specifically, the complaint alleged that [REDACTED] used DOT resources, including DOT's computer and email systems, to create and transmit a fraudulent DOT pay stub to his son, utilized his DOT email account to conduct personal business, and attempted to secure State employment for his son. Additionally, DOT alleged that [REDACTED] failed to file a request for outside employment/activity with DOT upon his election to the [REDACTED] and failed to notify DOT that he serves on the board of a local credit union.

The Inspector General conducted an investigation of these allegations, which included a review of [REDACTED] personnel file, work email, and time and attendance records, as well as DOT's

policies and procedures regarding conflicts of interest, attendance and leave, and email usage. As such, the Inspector General is referring the interim findings of this investigation to DOT for any further action deemed necessary. The following is a summary of the Inspector General's investigation and interim findings.

██████████ a senior transportation analyst assigned to ██████████ has been employed by DOT since ██████████

██████████ Used DOT Resources to Create and Transmit a Fraudulent DOT Pay Stub to His Son

DOT's policy on use of its electronic, computer, and email systems prohibits the use of email for personal or unethical reasons. It reads, "Generally, the use of the e-mail system for personal reasons is prohibited, but NYSDOT recognizes that the use of electronic mail permeates modern life and that there are instances when a brief personal e-mail sent or received using NYSDOT resources might be necessary (e.g., to address essential personal and family matters) but unreasonable use of NYSDOT's e-mail system for personal purposes is prohibited. . . [U]sers will not use e-mail for illegal, disruptive, harassing, unethical or unprofessional activities, for personal gain, or for any purpose that would jeopardize the legitimate interests of the State." Furthermore, DOT issued Bulletin B-17-G-209, pertaining to the Appropriate Use of State Equipment, Tools, and Materials, which provides, "It is . . . not allowable to use Department equipment . . . for personal purposes not directly related to work."

The Inspector General's investigation found that ██████████ using a DOT scanner and DOT's computer and email systems, altered a coworker's DOT pay stub to create a false pay stub in ██████████ name, which he then forwarded to his son using DOT email. Specifically, on the morning of July 25, 2019, ██████████ used a DOT scanner to scan a pay stub issued to his coworker, ██████████. The scanned image, which ██████████ emailed to his DOT email account, was then altered to remove ██████████ name from one area of the stub and insert ██████████ name in its place. However, ██████████ failed to remove ██████████ name from a second area on the pay stub. Later that same morning, ██████████ corrected his error by creating another version of the pay stub, which replaced both instances of ██████████ name with ██████████ name. Upon completion of this alteration, ██████████ used a DOT scanner to scan the document to himself, and then using his DOT email account, ██████████ sent an email to his son, ██████████ attaching both the image of the fabricated pay stub and an image of ██████████ driver license. In this email, ██████████ wrote, "██████████ sorry I did not get a chance to drop off the copy of my license and pay stub. I scanned and attached. Let me know if that is OK. Thanks." Later that afternoon, ██████████ again using a DOT scanner and his DOT email account, sent his son another email. In this email, ██████████ wrote, "My actual pay stub," and attached an image of his true DOT pay stub. The investigation did not reveal any additional context for ██████████ actions.

Given these findings, I recommend that DOT commence employee discipline against ██████████ for his abuse of State resources. Additionally, DOT should determine how ██████████ came into possession of ██████████ DOT pay stub and if ██████████ was aware of the same.

█████ Used DOT's Email System to Conduct Personal Business

The Inspector General's investigation, which included a review of █████ DOT email account, also found that █████ misused DOT's email systems for personal reasons, including conducting non-DOT business, in violation of DOT policy. The review found that █████ frequently utilizes his DOT email account during work hours to conduct business in his capacity as the former vice president and current president of the █████. The review also found that █████ receives monthly notifications of board meetings via his DOT email, as well as monthly emails containing meeting minutes. In addition, the review found that █████ occasionally utilizes his DOT email to approve of █████ and to evaluate and analyze credit applications. Additionally, the review found that █████ uses his DOT email account to communicate with family members and to conduct other personal business during his working hours. For example, over a two-week period in October 2019, █████ used his DOT email account to send and receive numerous emails relating to an issue with recently installed hardwood flooring at his home. The Inspector General's investigation did not find evidence that █████ attempted to assist his son gain employment with DOT.

Based on this finding, I recommend that DOT take appropriate administrative action against █████ for his misuse of State resources, which he demonstrated through his inappropriate use of DOT's email systems.

█████ Failed to Obtain Approval for His Outside Employment/Activity

The Inspector General's investigation further found that █████ appears to have violated DOT's employment/activity policy by serving as █████

— Although DOT has not designated █████ a "policy maker," a designation that pursuant to regulation would have required █████ to obtain approval from DOT and possibly the New York State Joint Commission on Public Ethics (JCOPE) before engaging in certain outside activities, As a DOT employee, █████ is required to follow DOT's policy and procedures regarding outside employment and activities.¹ Specifically, under DOT Procedure PER 79b, DOT employees must obtain approval for certain outside employment and activities. While █████ was not designated a "policy maker" implicating the requirement to file outside activity with the Joint Commission of Public Ethics ("JCOPE"), DOT Procedure PER 79b requires such approval when employees who are not policy makers engage in personal business or professional activities that may relate to NYSDOT contracts, projects or activities; real property interests that may relate to NYSDOT contracts, projects or activities; and/or political or governmental activities.

The investigation found that █████ was elected to the █████ Pursuant to DOT Procedure PER 79, █████ was required to obtain approval from DOT for his involvement in "political or governmental activities." However, a

¹ [19 NYCRR Part 932.](#)

review of [REDACTED] DOT personnel file in September 2019 found no request or approval for this activity.

In light of these interim findings, I recommend that DOT determine whether [REDACTED] has sought and obtained approval from DOT for his outside activity with the [REDACTED] [REDACTED]. If not, I recommend that DOT take appropriate action to remedy this matter.

[REDACTED] Improperly Used Sick Leave Accruals

During the course of the investigation of the allegations, the Inspector General found evidence that [REDACTED] improperly used sick leave accruals to go golfing. The Inspector General, through a review of [REDACTED] DOT emails and time and attendance records, discovered at least two occasions (August 12, 2019 and August 26, 2019) when [REDACTED] advised a supervisor via email that he would not be returning to the office for personal reasons but then used sick leave accruals for these absences. On both of these occasions, [REDACTED] DOT emails indicate that he went golfing.

I recommend that DOT discipline [REDACTED] for his misuse of sick leave accruals.

Please advise me of any action taken by DOT in response to these recommendations. If you require further information, please contact Deputy Inspector General Jeffrey J. Hagen at 716.847.7102.

Sincerely,

[REDACTED]

Letizia Tagliafierro
Inspector General

Cc: Janice McLachlan, Esq.
Acting Assistant Commissioner and General Counsel