



Lucy Lang
Inspector General

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March 3, 2022

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

Re: NYS IG 0102-007-2018
0621-007-2018

Dear Commissioner Dominguez:

In January 2018, the New York City Department of Buildings' (NYC DOB) Special Enforcement Team, a unit which handles prosecutions of registered architects and professional engineers, alleged to the Offices of the New York State Inspector General that two New York State Department of Transportation (DOT) employees, [REDACTED], a civil engineer 2, and [REDACTED], a civil engineer 1, may be engaged in outside employment as licensed professional engineers working on New York City projects during the course of their State workday. The Special Enforcement Team further advised that both professional engineers had filed unusually high numbers of building permit applications with NYC DOB.

The Inspector General investigated these allegations and found evidence that [REDACTED] and [REDACTED] misused State resources in furtherance of their outside employment, although this misuse appeared to be infrequent. Additionally, the investigation found that [REDACTED] submitted for approval from DOT for his outside employment while [REDACTED] did not seek such approval. Lastly, the investigation found that [REDACTED] and [REDACTED] supervisors were unaware of the volume of building permit applications their subordinates were filing with NYC DOB or that their authority to file such building permit applications had been subsequently suspended by NYC DOB. The following is a summary of the Inspector General's investigation of these allegations.

The Inspector General learned that [REDACTED] has worked for DOT since 2008, as a project manager and consultant liaison in the Consultant Management Unit. [REDACTED] has been employed with DOT since 1998, and has held various titles, including consultant manager and bridge inspector. Neither [REDACTED] nor [REDACTED] State job duties and responsibilities involve New York City building permit applications.

According to the DOT Employee Handbook, employees must file a “Notice of Extra Employment or Activity Form” (PER-79) before engaging in any outside employment and, if approved, annually thereafter. A review of ██████ DOT personnel records revealed that he filed PER-79 forms in 2013 and 2014 and received approval for “civil engineering design and supervision,” while no such form was found in ██████ DOT personnel file. Of note, neither ██████ nor ██████ are deemed by DOT to be policy makers and are therefore not required to seek approval from the New York State Joint Commission on Public Ethics for outside employment.

The investigation further found that between 2015 and 2017, ██████ filed approximately 1,200 building permit applications with NYC DOB, while ██████ filed over 17,000 such applications with NYC DOB between 2012 and 2017. According to NYC DOB, most of ██████ applications were for sidewalk sheds and supported scaffolds. On November 19, 2017, a “scaffold/sidewalk shed” that ██████ had filed an application for with NYC DOB collapsed. NYC DOB found that a contributing factor in this collapse was insufficient structural design. In response, NYC DOB suspended ██████ authorization to file building permit applications with self-certified plans. In 2021, both ██████ and ██████ surrendered their self-certification privileges with NYC DOB.

The Inspector General reviewed computer logs related to ██████ and ██████ use of their State computers. This review found that although both ██████ and ██████ occasionally emailed documents to their State email accounts, it did not appear that they used their State computers to conduct design and/or planning work for their outside employment. However, the review found it likely that they had used their State computers and printers to print plan documents related to their outside employment. ██████ when questioned by the Inspector General, confirmed that he had emailed such plan documents to his State email account, and advised that he now recognized this activity was improper.

Both ██████ and ██████ supervisors advised that they were unaware of this outside employment or that ██████ authorization to file building permits applications with self-certified plans had been suspended by NYC DOB following a scaffold/sidewalk shed collapse.¹

NYC DOB advised that it had referred this matter to the New York State Department of Education (SED), which audited the building plans submitted by ██████ and ██████ to NYC DOB to review the status of their professional engineer licenses.² Subsequently, SED offered ██████ an administrative settlement consisting of a nine-month suspension of his professional engineer license, 15-month stayed³ suspension, two-years’ probation, and a \$5,000 fine. ██████ refused this agreement and SED advised it will schedule a hearing on the matter. SED recommended that ██████ be

¹ According to NYC DOB, it is not required to inform DOT or other State agencies of such suspensions of plan self-certification privileges by professional engineers.

² Notably, if SED revokes an individual’s professional engineer license, it is not required to notify that individual’s employer. Both ██████ and ██████ are required to maintain a professional engineer license for their current DOT employment.

³ During a stayed suspension, professional engineers may continue to practice but may not self-certify building plans to NYC DOB and must submit projects for full review.

disciplined⁴, and he was offered an administrative agreement, which included a ten-year stayed suspension of his privileges with NYC DOB and a ten-year concurrent probation on his professional engineer license on the condition that he complete 80 hours of ethics coursework and pay a \$10,000 fine. [REDACTED] accepted this agreement, and a consent order is pending.⁵

Given the above, I recommend that DOT review the status of [REDACTED] and [REDACTED] professional engineer licenses and determine if they continue to meet the requirements of their civil service job titles. Additionally, I recommend that DOT review the status of those employees who possess professional engineer licenses and determine if they are engaged in outside employment for which they have received approval from DOT. Lastly, I recommend that DOT consider monitoring the professional license status of those engineers who engage in outside employment so that DOT is aware of any matters that may impact employees' licenses, which are a precondition of their employment.

Please advise me of any action taken by DOT in response to these recommendations within 45 days of the date of this letter. If you require further information, please contact Deputy Inspector General Jessica Silver at [REDACTED].

Sincerely,



Lucy Lang
Inspector General

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

⁴ [REDACTED] was charged under New York Education Law section 6509(9), in specific violation of 8 N.Y.C.R.R. section 29.1(b)(1), which is willful or grossly negligent failure to comply with substantial provisions of Federal, State, or local laws, rules or regulations governing the practice of the profession.

⁵ Signed agreements require the approval of the SED Board of Regents. As of the writing of this letter, the consent order has not been approved by the Board.