



INVESTIGATIVE REPORT

Lori Torres, Inspector General

OFFICE: INDIANA FAMILY AND SOCIAL SERVICES ADMINISTRATION (FSSA)
TITLE: FSSA CONFLICT OF INTERESTS
CASE ID: 2019-01-0019
DATE: March 13, 2019

Inspector General Staff Attorney, Heidi Adair, after an investigation by Inspector General Special Agent Mike Lepper, reports as follows:

The Indiana General Assembly charged the Office of Inspector General (OIG) with addressing fraud, waste, abuse and wrongdoing in the executive branch of state government. IC 4-2-7-2(b). The OIG also investigates criminal activity and ethics violations by state workers. IC 4-2-7-3. The OIG may recommend polices and carry out other activities designed to deter, detect, and eradicate fraud, waste, abuse, mismanagement and misconduct in state government. IC 4-2-7-3(2).

On January 29, 2019, the OIG opened an investigation into a complaint involving a Family and Social Services Administration (FSSA) employee (Employee). The complaint alleged that the Employee might be sharing confidential information with his wife (Wife). The Wife worked at a company (Company) that receives funding from FSSA grants. The complaint also alleged that the Employee scored a Request for Funding (RFF) to which the Company had responded.

OIG Special Agent Mike Lepper conducted an investigation into the allegations. During

the course of the investigation, Special Agent Lepper obtained and reviewed documents and email communications and conducted interviews.

Special Agent Lepper learned that the Wife's duties at the Company included submitting certain records to FSSA for an agency-funded program. While one of the Employee's duties was to oversee a part of this process, he did not actually approve the records himself.

Special Agent Lepper found no evidence to support the allegation that the Employee was disclosing confidential information to the Wife or to the Company. In separate interviews with Special Agent Lepper, both the Employee and the Wife stated that they refrained from discussing confidential information with one another, and if the Wife had specific questions about the records, she would ask her policy consultant. Neither the Employee's supervisor (Supervisor) nor his Division Director had evidence that the Employee disclosed confidential information to the Wife or anyone else.

Regarding the conflict of interests allegation, Special Agent Lepper found that the Employee scored forty RFFs during the fall of 2018. The Company submitted five of these forty RFFs. The Employee indicated that the Supervisor knew the Wife worked for the Company because they had discussed it during his hiring process. He said he also reminded the Supervisor before scoring the RFFs, but the Supervisor told him he could still score them. Special Agent Lepper questioned the Supervisor. The Supervisor confirmed that the Employee had mentioned his Wife worked for the Company during his interview before being hired, but the Supervisor did not recall the conversation with the Employee before he scored the RFFs. The Supervisor said they were under the impression that the Wife no longer worked for the Company at the time the Employee scored the RFFs.

Special Agent Lepper found that before the Employee scored the RFFs, he signed a

Conflict of Interests Agreement in which he affirmed that he had no direct or indirect financial interest in any of the proposals.

As a result of these allegations, FSSA removed the Employee's scores from the score sheet and replaced them with an average of the other three scorer's numbers for the five Company proposals. Ultimately, the Company did not receive any of the five grants due to unrelated issues.

Special Agent Lepper found insufficient evidence that the Employee violated IC 4-2-6-9, the ethics rule on conflicts of interests pertaining to decisions and votes, when he scored five RFFs submitted by the Company. IC 4-2-6-9 provides that a state employee may not participate in any decision or vote, or matter related to a decision or vote, if the employee has knowledge that a member of the employee's immediate family¹ has a financial interest in the outcome of the matter. IC 4-2-6-1-(a)(11) defines "financial interest" as "an interest: (1) in a purchase, sale, lease, contract, option, or other transaction between an agency and any person; or (2) involving property or services . . . The term does not include an interest that is not greater than the general public or any state officer or any state employee."

The Employee participated in decisions when he scored the RFFs that could result in a grant award to the Company. The Company likely had a financial interest in the outcome of these decisions; however, past opinions by the State Ethics Commission (SEC) show that this interest does not automatically extend to the spouse simply by working for the employer. The SEC typically considers whether the spouse's salary or compensation is somehow impacted or tied to the decision or vote; for example, if the spouse has an ownership interest in his or her company. In this instance, Special Agent Lepper found no evidence that the Wife's salary or

¹ 42 IAC 1-3-13 defines "immediate family" to include a person's spouse.

compensation was impacted or tied to the outcome of the RFF scores.

Although the OIG found insufficient evidence that the Employee violated IC 4-2-6-9, his actions raised an appearance of impropriety, and FSSA should have screened him from any matters involving the Company. The OIG recommends FSSA consider ways to reduce any further appearance of impropriety and address potential conflicts of interests going forward. FSSA employees serving in a supervisory capacity should be proactive in bringing these matters to the agency Ethics Officer or to the OIG the first time a potential conflict is identified. By including the Ethics Officer or the OIG early in the conversation, the agency can respond appropriately, maintain transparency, and determine whether a screen is needed.

The OIG is closing this case for insufficient cause. Should additional information be brought forward, the OIG may reexamine this initial evaluation.

Dated: March 13, 2019

APPROVED BY:

A handwritten signature in black ink that reads "Lori Torres". The signature is written in a cursive, flowing style.

Lori Torres, Inspector General