



# INVESTIGATIVE REPORT

Lori Torres, Inspector General

OFFICE: INDIANA DEPARTMENT OF CORRECTION (DOC)  
TITLE: DOC ADDITIONAL COMPENSATION  
CASE ID: 2019-06-0163  
DATE: August 6, 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 the Indiana Inspector General (OIG) with addressing fraud, waste, abuse and wrongdoing in executive branch agencies of state government. Ind. Code §4-2-7-2(b). The OIG also investigates allegations of criminal activity and Code of Ethics violations within state government. Ind. Code §4-2-7-3. The OIG may recommend policies and carry out other activities designed to deter, detect and eradicate fraud, waste, abuse, mismanagement and misconduct in state government.

On June 17, 2019, the OIG received a complaint that a board within the executive branch of state government (Board) had submitted a voucher to the Auditor of State (AOS) for payment addressed to a current Department of Correction (DOC) employee (Employee), but the Board used a contractor account code on the voucher. The complaint alleged that the Board may have been paying the Employee to perform his official DOC duties, which raised concerns under the additional compensation rule<sup>1</sup>. AOS flagged the payment and denied the voucher.

OIG Special Agent Mike Lepper conducted an investigation into this matter. Special Agent Lepper examined several documents from AOS, including the flagged voucher, email

---

<sup>1</sup> The Indiana Code of Ethics rule on additional compensation, 42 IAC 1-5-8, prohibits a state employee from soliciting or accepting compensation for the performance of a state employee's official duties except as permitted by law.

communications and the Employee's vendor payment history. He also examined a letter the Employee wrote in response to an initial inquiry from AOS. In the letter, the Employee explained that he does not provide training services to the Board in his DOC capacity. Special Agent Lepper conducted interviews with several individuals from AOS and individuals from the DOC facility at which the Employee worked.

The Employee's supervisors were unaware that the employee was teaching Board courses twice per year, but both supervisors confirmed that the Employee's DOC duties did not involve teaching for the Board. When asked if the Employee had ever used state time or state property for his outside employment activities, the Employee's direct supervisor said he did not believe the Employee had ever done so.

Special Agent Lepper interviewed the Employee. The Employee said he has been teaching portions of Board courses for the past fifteen years, but he has been a state employee for the past four years. The Employee said the Board training occurs twice per year and the Board pays him \$150 each time.

The Employee stated that in addition to Board training, he also engages in other outside employment. The Employee explained that he does not normally get "called out" for this job, but in the event that he is called out, he is paid \$50. The Employee repeatedly emphasized his commitment to keeping his Board training and other outside employment separate from his DOC position. He said he has never taught for the Board or performed any work for his other outside job while on state time and has never used any state equipment or resources for such work.

Special Agent Lepper also interviewed an administrative assistant to the Board. The assistant confirmed that the Board has a contract with the Employee to teach at the Board's

certification class, which is conducted twice each year. She said the Employee does not perform any work for the Board in his DOC capacity.

Through this investigation, Special Agent Lepper found that the Employee was not in compliance with DOC's outside employment policy, as the Employee had not received written approval for his outside employment; however, as of July 12, 2019, his supervisors notified Special Agent Lepper that the Employee was now in compliance with DOC's policy and provided Special Agent Lepper with a copy of the approved request.

The investigation also revealed that the Employee had a financial interest in a contract with the Board, but he did not file a disclosure statement in compliance with Ind. Code §4-2-6-10.5. This provision prohibits a state officer, state employee or special state appointee from knowingly having a financial interest in a contract made by any state agency. Subsection (b) of this statute contains an exception for a state employee who does not participate in or have contracting responsibility for the contracting agency and who files a written statement with the State Ethics Commission before execution of the contract. The Employee does not participate in or have contracting authority for DOC but failed to file a written statement before executing his contract with the Board. Although his failure to file this statement may be a violation Ind. Code §4-2-6-10.5, the OIG declines to bring an ethics complaint in this case due to the Employee's minimal financial interest in the Board contract and his adherence to other rules under the Indiana Code of Ethics.

### **Recommendations**

Based upon the investigation described in this Report, the OIG makes the following recommendations to the Employee, DOC and the Board.

### Recommendation 1

First, because the Employee is a state employee who derives compensation through a state contract with the Board, he should promptly file a written disclosure statement with the State Ethics Commission for his current 2019 contract with the Board. Although Ind. Code §4-2-6-10.5(b) requires an employee to file the disclosure statement before he or she executes a contract with another state agency, filing a disclosure statement now will show that the Employee is being transparent in his dealings with the Board and making efforts to comply with the spirit of the statute. Going forward, the Employee should file the disclosure statement with the Commission prior to execution of the contract with the Board or any other state agency with whom he contracts to ensure full compliance with Ind. Code §4-2-6-10.5(b). He also should ensure his disclosure statements meet the criteria set forth in Ind. Code 4-2-6-10.5(c). The Employee can find more information on filing the financial disclosure statement at <https://www.in.gov/ig/2331.htm>.

### Recommendation 2

Second, DOC should ensure that all employees have a copy of DOC's current outside employment policy. If a DOC supervisor has knowledge or a reason to believe that one of his or her direct reports is engaging in outside employment, the supervisor should consult with the direct report and confirm whether the employee is in compliance with the policy. DOC supervisors and employees should submit all questions regarding compliance with the Code of Ethics' outside employment rule, Ind. Code §4-2-6-5.5, to the DOC Ethics Officer, the OIG for an informal advisory opinion or to the State Ethics Commission for a formal advisory opinion.

### Recommendation 3

Finally, the Board should consult with AOS to determine if any changes should be made to the way the Board submits the Employee's claim voucher; for example, the Board should confirm whether it is still appropriate to use a contractor account code on the voucher or whether any specific documentation or explanation should be submitted with the voucher. This may help the AOS process the vouchers more efficiently.

Dated: August 6, 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