



INVESTIGATIVE REPORT

David Cook, Inspector General

OFFICE: MANAGEMENT PERFORMANCE HUB (MPH)
TITLE: MPH EMPLOYEE GHOST EMPLOYMENT, USE OF STATE RESOURCES
AND GIFTS
CASE ID: 2023-08-0275
DATE: June 19, 2024

Indiana Office of Inspector General Staff Attorney, Doreen Clark, after an investigation by Inspector General Special Agent Sam Stearley, reports as follows:

The Indiana General Assembly charged the Office of the Indiana Inspector General (OIG) with addressing fraud, waste, abuse and wrongdoing in the 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. Ind. Code §4-2-7-3(2).

I. COMPLAINT

On August 8, 2023, the OIG received an anonymous complaint alleging that a supervisor (Supervisor) for the Management Performance Hub (MPH) approved a subordinate employee (Subordinate) to attend a conference outside of Indiana that was unrelated to Subordinate's duties. According to the complaint, several MPH employees noticed that Subordinate did not attend the conference. The complaint also alleged that Supervisor violated his remote work agreement and misappropriated funds.

II. OIG INVESTIGATION

Special Agent Sam Stearley investigated the complaint. During the investigation Special Agent Stearley interviewed multiple individuals, including several MPH employees. Special

Agent Stearley also obtained personnel, criminal and timesheet information on Supervisor and Subordinate. Additionally, Special Agent Stearley obtained information pertaining to the conference, including Authorization for Travel forms, lodging information, receipts and registration information.

Special Agent Stearley learned that the Indiana State Personnel Department (SPD) made special accommodations for Subordinate to work from home due to health issues. An MPH employee stated that when SPD granted Subordinate special accommodations to work from home, Subordinate was seldom in the office for more than two and a half days a week from late July/early August 2022 through July 2023. The MPH employee further provided that Supervisor also did not come into the office from late July/early August 2022 for a period of four to five weeks, claiming his absence was due to illness. Supervisor also would log in for two hours early in the day and subsequently log off and was not active in making any responses.

Special Agent Stearley requested the remote work agreement for Supervisor and Subordinate from an MPH employee. The employee informed Special Agent Stearley that MPH had no remote agreements for Supervisor or Subordinate. The employee also stated that MPH employees do not complete remote work logs when working from home because MPH does not require them. Additionally, the time sheets that Special Agent Stearley obtained revealed that both Supervisor and Subordinate used their accrued time to take days off from work when needed. While the complaint alleged that Supervisor was not in the office from late July to early August 2022 for a period of four to five weeks, Supervisor's timecard demonstrated that there were various dates in July where Supervisor took accrued time off. During August of 2022, specifically from the period of August 1, 2022, to August 25, 2022, Supervisor regularly reported that he was sick every day, but he also recorded about two to five hours of remote work on those same days.

Employee's time records during this period likely coincide with the claim that he had to work from home due to illness. This may explain why Supervisor was online for two hours before logging off.

The complaint also alleged that Subordinate was seldom in the office for more than two and a half days a week from late July/early August 2022 to July 2023. The Subordinate's time records revealed she had taken several holiday and sick hours off in late July. During the time when Subordinate reported regular work hours, she reported the hours as remote work hours. Subordinate reported several vacation hours throughout early November of 2022. From mid November 2022 to July 2023, Subordinate reported many of her hours as remote work or as vacation time. Subordinate seldom reported working regular hours without remote work throughout this period. This activity may explain why Subordinate was seldom in the office in person.

In May of 2023, various MPH employees attended a conference outside of Indiana. The purpose of the conference was to provide MPH employees who had direct involvement with working with specific data software with information regarding data management.

Supervisor was responsible for selecting various MPH employees to attend the conference. MPH employees that Special Agent Stearley interviewed stated that all MPH employees who were selected to attend the conference had a connection with using or managing the data software, except for Subordinate. Special Agent Stearley learned that Supervisor permitted Subordinate to attend the conference because he wanted her to learn to use the data software. Special Agent Stearley obtained copies of Supervisor and Subordinate's State Form 56793, stating their intent to travel to attend the conference.

In an interview with an MPH employee who attended the conference, the employee stated that none of the attendees saw Subordinate attend any of the sessions at the conference. The conference contained several breakout sessions. Special Agent Stearley learned that MPH never required any sign-up sheets or other method to document participation.

Special Agent Stearley learned that MPH purchased tickets for the conference. The Indiana Family and Social Services Administration (FSSA) provided MPH an additional ticket for free, which permitted an additional person to attend the conference. The MPH Controller booked the entire trip and paid for the rooms and flights with her state-issued purchasing card (P-card). Both Supervisor and Subordinate requested and took personal time off before the conference and booked their own flights. The State reimbursed Supervisor and Subordinate for their flights, which was within the cost of other employees' flights, as per agency policy.

During the investigation the OIG learned of additional allegations involving Supervisor and Subordinate, but these allegations were out of the OIG's jurisdiction; therefore, the OIG did not investigate the additional allegations.

III. CONCLUSION

The allegations against the Supervisor and Subordinate implicated the following Criminal Code provisions: Ghost Employment, found in Ind. Code §35-44.1-1-3; and Theft, Ind. Code §35-43-4-2. The allegations also implicated the following provisions of the Code of Ethics: the Ghost Employment rule, 42 IAC 1-5-13; Personal use of state resources rule, Ind. Code §4-2-6-17; and the Gifts rule, 42 IAC 1-5-1.

First, the OIG investigation found insufficient evidence that Supervisor and Subordinate violated either Ind. Code §35-44.1-1-3 or Ind. Code §35-43-4-2. Ind. Code §35-44.1-1-3 states that a person employed by a governmental entity who knowingly or intentionally accepts property

from the entity for the performance of duties not related to the operation of the entity commits ghost employment.¹ Ind. Code §35-43-4-2 states a person commits theft if they knowingly or intentionally exert unauthorized control over property of another person with intent to deprive the other person of any part of its value or use.² The OIG found insufficient evidence that Supervisor and Subordinate intentionally accepted payment for hours they did not work. The timecard records obtained for both Supervisor and Subordinate revealed they had both used their accrued time when taking time off and recorded their remote hours on their time sheet as needed.

The OIG was unable to track or correlate the work hours or activities of Supervisor and Subordinate's remote work because MPH does not require their employees to submit remote work logs. Reviewing both Supervisor and Subordinate's remote work logs may have helped the OIG to determine whether the employees were working or engaging in ghost employment during the time they submitted on their time sheet.

Second, the results of the investigation revealed insufficient evidence that Supervisor and Subordinate violated 42 IAC 1-5-13, the ghost employment rule. 42 IAC 1-5-13 provides that a state employee shall not engage in, or direct others to engage in, work other than the performance of official duties during work hours, except as a permitted by a general written agency, departmental or institutional policy or regulation. As noted previously, the OIG found no evidence that Supervisor and Subordinate failed to properly record their time to reflect their absences. The OIG could not find sufficient evidence to confirm the hours worked remotely because MPH does not enforce the use of remote work logs for their employees.

Third, the OIG found insufficient evidence that Supervisor and Subordinate violated Ind. Code §4-2-6-17. This rule states that an employee may not use state materials, funds, property,

¹ A public servant who violates Ind. Code §35-44.1-1-3 commits a level 6 felony.

² A public servant who violates Ind. Code §35-43-4-2 commits a level 6 felony if the value of the property is at least seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000).

personnel, facilities or equipment for purposes other than official state business unless the use is expressly permitted by a general written agency, departmental or institutional policy or regulation that has been approved by the State Ethics Commission. The OIG found no evidence that any of the MPH employees inappropriately used state funds to attend the conference events.

Finally, the OIG found insufficient evidence that Supervisor and Subordinate violated 42 IAC 1-5-1. This rule states that a state employee shall not knowingly solicit, accept, or receive any gift, service, entertainment, food, drink, travel expenses or registration fees from a person who has a business relationship with the employee's agency or is seeking to influence an action by the employee in his or her official capacity. Though the host of the conference has a business relationship with MPH, neither Supervisor nor Subordinate accepted the tickets as a gift. MPH purchased the tickets, except for the free ticket from FSSA. Supervisor and Subordinate also followed the appropriate procedure for trip approval.

For these reasons, the OIG is closing the case for insufficient cause. Although the OIG is closing this case, the OIG makes the following recommendations to MPH going forward to help avoid the future appearance of impropriety or possible ghost employment at MPH. Furthermore, the Inspector General determined that publishing this IG Report is in the public's interest to encourage other state agencies to follow the recommendations below.

Recommendation 1

First, the OIG recommends that MPH require the use of remote work logs for employees who work remotely. MPH managers should evaluate the remote work logs of their employees on a regular basis. Requiring a remote work log would permit both employees and their managers to keep track and manage their amount of work in correlation with the amount of time worked

remotely. It is also consistent with the Indiana State Personnel Department's Flexible Work Arrangements policy.³

Recommendation 2

Second, the OIG recommends that for future conferences or events, MPH establish a method to keep track of the attendance of their employees. These methods could include a remote work log, sign-up sheet or electronic device that tracks attendance records. Keeping track of the employees' attendance at conferences or outside events will leave little room for doubt or speculation regarding who may or may not have attended the conference or events.

Dated: June 19, 2024

APPROVED BY:

A handwritten signature in black ink that reads "David Cook". The signature is written in a cursive style with a horizontal line underneath it.

David Cook, Inspector General

³ See <https://www.in.gov/spd/files/Flexible-Work-Arrangements-Policy.pdf>.