

STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF
INVESTIGATION



AGENCY: OHIO DEPARTMENT OF DEVELOPMENT
FILE ID NO.: 2010-338
DATE OF REPORT: SEPTEMBER 23, 2011

The Office of the Ohio Inspector General.... The State Watchdog

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STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF INVESTIGATION

FILE ID NUMBER: 2010-338

SUBJECT NAME: Thomas R. Maves

POSITION: Energy Specialist

AGENCY: Ohio Department of Development

BASIS FOR INVESTIGATION: Complaint

ALLEGATIONS: Accepting Favors or Things of Value; Failure to Enforce Rules or Policies; Failure to Comply with State or Departmental Rules, Procedures or Policies; Falsification of Expense Accounts or Requests for Reimbursement; Misuse or Abuse of State Funds

INITIATED: October 15, 2010

DATE OF REPORT: September 23, 2011

ALLEGATIONS AND COMPLAINT SUMMARY

The Office of the Ohio Inspector General received a confidential complaint on September 16, 2010, alleging a former employee of the Ohio Department of Development (ODOD), Thomas R. Maves, billed and was reimbursed by a grant recipient for his travel expenses, which exceeded the state's travel limits. Furthermore, Maves bypassed the state's reimbursement process by sending a letter on ODOD letterhead, requesting the grant recipient send the travel payment to his home address. By receiving payment, he allegedly accepted favors or things of value.

The complainant also alleged ODOD mishandled Maves' misconduct by failing to discipline him. Although the department investigated Maves' misconduct, he was allowed to resign, without receiving disciplinary action.

The investigation into the allegations in the initial complaint led to the discovery of additional information of interest. The Office of the Ohio Inspector General pursued additional allegations, including instances where Maves traveled in and outside the state of Ohio without the required prior approval from his supervisors and filed an out-of-state travel expense report where his supervisor's signature appeared to be forged. Additionally, Maves and two grant recipients, Resolve, Inc. of Washington, D.C., and Team Northeast Ohio, of Cleveland, allegedly misused state and federal funds. Having oversight responsibility, Maves approved payment of expenses not authorized under the terms of the grant agreements.

BACKGROUND

Within the Ohio Department of Development, the Ohio Energy Resources Division's purpose is connecting companies and communities to financial and technical resources in order to deploy renewable energy technologies and energy efficiency. Maves worked as an energy specialist in the Ohio Energy Resources Division and, among other duties, was responsible for grant monitoring. Two grantees Maves was required to monitor were Resolve, Inc. and Team Northeast Ohio. The Ohio Department of Development contracted with Resolve to facilitate meetings and activities of the Ohio Wind Working Group, a collaboration of individuals from the manufacturing, government, and research and development sectors. The Ohio Wind Working Group partners together with local landowners to address the obstacles in wind energy

development and educates the public on the benefits of wind energy.¹ Team Northeast Ohio served as a consultant to determine how Ohio ranked among other states for attracting wind energy, particularly in the manufacturing sector.

The Office of the Ohio Inspector General interviewed the complainant, as well as former ODOD Director Lisa Patt-McDaniel, and Maves' former supervisor, Advanced Energy Development Manager Jim Zuber. The office reviewed ODOD's internal investigation; internal audit of several energy grant funds, including Resolve and Team Northeast Ohio; and numerous records including emails and correspondence between ODOD senior staff discussing Maves' misconduct and potential disciplinary action. The office also obtained copies of ODOD's correspondence with the Ohio Ethics Commission.

INVESTIGATIVE SUMMARY

Allegation 1 - Accepting Favors or Things of Value

During 2007 and 2008, state of Ohio travel expense reports and grant recipient accounting records show Maves bypassed the state's reimbursement process. The complainant's allegations and the resulting investigation showed Maves submitted an expense statement directly to a grantee with a cover letter produced on Ohio Department of Development letterhead requesting the reimbursement be delivered to Maves' home address. The table below details expenses Maves submitted directly to the grantees Resolve, Inc., and Team Northeast Ohio.

<u>Expenses Maves Improperly Charged Against the Resolve, Inc. and the Team Northeast Ohio Grant Agreements</u>	
<u>Charges to Resolve, Inc. Grant:</u>	
Travel expenses for Dearborn, Michigan conference (7/30-8/1/08)	\$ 765.39
Travel expenses for Cleveland, Ohio conference (12/8-12/9/08)	\$ 909.22
Five Steering Committee Dinners	\$1,768.27
• 100th Bomb Group (12/6/07)	
• Cap City Diner (3/13/08)	
• Cap City Diner (5/29/08)	
• Brio Tuscan Grille (9/18/08)	
• Intercontinental Hotel (12/9/08)	
<u>Charges to Team Northeast Ohio Grant:</u>	
Dinner at Blue Point Grille (2/26/08)	\$ 390.00
Total charges to Resolve, Inc. and Team Northeast Ohio grants	\$3,832.88

¹ The Ohio Wind Working Group is managed by the Ohio Department of Development's Ohio Energy Resources Division and is funded through the United States Department of Energy's Wind Powering America program.

As shown in the table on the previous page, Maves received \$765.39 for travel to a conference in Dearborn, Michigan, as a result of submitting a request for reimbursement covered by a letter sent to the grantee, Resolve, Inc., dated August 11, 2008, **(Exhibit 1)** Resolve, Inc. also paid Maves \$909.22 for his travel expenses for a conference in Cleveland, Ohio. Also shown in the table on the previous page, Maves approved reimbursements of \$1,768.27 for meals he attended with employees from the grantee Resolve, Inc. Following a dinner he attended with associates from another grantee, Team Northeast Ohio, Maves approved a reimbursement of \$390.

In addition to spending in excess of the limits set for state employees by state of Ohio regulations, Maves also violated Executive Order 2007-09S, Imposing Limits on the Use of Public Funds for the Purchase of Food, which prohibits payment of food expenses. **(Exhibit 2)** The specific value of the meals consumed by Maves was not recorded in each instance because the receipts were not itemized. However, the known total paid to Maves of \$3,832.88, as shown on page 2, was prohibited under the grant agreements, and by receiving these payments, Maves accepted favors or things of value.

Ohio Revised Code §2921.42 (A) (4) states,

“No public official shall knowingly...have an interest in the profits or benefits of a public contract entered into by or for the use of the political subdivision or governmental agency or instrumentality with which the public official is connected.”

Maves was a public official not only connected to a government agency (ODOD) that had contracts with Resolve and Team Northeast Ohio, but Maves was also assigned to monitor these grants on behalf of his agency. At the same time Maves was monitoring the grantees for compliance with the terms of the grant agreement, he concealed receipt of payments for meals and travel expenses from these grants.

Accordingly, there is reasonable cause to believe a wrongful act or omission occurred in this instance.

Allegation 2 - Failure to Enforce Rules or Policies

The complainant alleged the Ohio Department of Development mishandled Maves' misconduct by allowing him to resign without receiving any disciplinary action. Under the terms of the union contract governing Maves' employment, ODOD was required to conduct a pre-disciplinary process to address his misconduct. Although the department completed its investigation and had intentions of firing Maves, his resignation was accepted before the disciplinary proceedings were completed. As a result, Maves was neither reprimanded nor fired. Since the pre-disciplinary process was not completed, ODOD Chief Legal Counsel Candace Jones told the office of the Ohio Inspector General that the department could not place a "resigned – not in good standing" or "resigned – not recommended for rehire" code on Maves' Personnel Action form because the department wanted to avoid potential litigation. As a result, few knew the circumstances surrounding Maves' resignation, which became effective March 19, 2010. Thus, Maves' Personnel Action form was coded "resigned – regular written."

At ODOD's request, Maves reimbursed the state \$3,832.88 for the travel and meal expenses he received from grant monies. According to Director Patt-McDaniel, Maves' check was deposited to the grant accounts. **(Exhibit 3)**

During an interview with the Office of the Ohio Inspector General, Director Patt-McDaniel also stated that ODOD was providing additional training to grant recipients and department employees to ensure they have a clear understanding of what constitutes a proper and reasonable expenditure of grant monies.

According to the Ohio Ethics Commission, because Maves left state employment and reimbursed the improper payments, the commission determined this outcome to be an appropriate settlement resolution.

Accordingly, there is no reasonable cause to believe a wrongful act or omission occurred in this instance.

Allegation 3 - Travel without Prior Authorization

An internal investigation completed by the Ohio Department of Development found that Maves traveled on numerous occasions, both in Ohio and out of state, in his official capacity as a state

employee, without receiving prior supervisory approval for the purpose, event, time, or estimated cost of the travel. Although Maves told ODOD staff that he had verbal approval from his supervisor, this was not confirmed by ODOD because at the time of their investigation, the supervisor had already left state employment.

In an interview with the Office of the Ohio Inspector General, Maves' former supervisor Jim Zuber stated that he never gave Maves verbal approval for any state travel, including out-of-state travel. Zuber said that travel by ODOD employees had to be forecasted and planned several months in advance due to costs and budget constraints. Zuber also stated that Maves knew of the policy requiring written approval in advance of any travel, but Maves failed to obtain any type of approval. By not requesting prior approval for travel, Maves violated ODOD's Disciplinary Policy C-14, 2.c., Failure to follow directives, policies or procedures (May 2006). **(Exhibit 4)**

Accordingly, there is reasonable cause to believe a wrongful act or omission occurred in this instance.

Allegation 4 - Falsification of Travel Reimbursement Form

In the course of the internal investigation of Maves' misconduct, ODOD discovered that Maves submitted a travel expense report for the period of July 30-August 1, 2008, which included travel to Dearborn, Michigan. On this travel expense report, the signature of Maves' supervisor appeared to be forged. When asked who had signed the form, Maves stated that he did not know, but it was not his direct supervisor. Maves also stated he did not forge the signature. When asked why his direct supervisor, Jim Zuber, did not sign his travel expense reports to approve his travel expenses, Maves said Zuber had provided verbal approval of his travel expenses. Maves further stated that he did not have Zuber sign his travel expense reports because the reports were not being submitted to ODOD for reimbursement. During an interview with the Ohio Inspector General's Office, Zuber denied ever giving verbal approval to Maves for travel expenses and stated that Maves was not authorized to sign Zuber's name on any forms, including travel documents. It was not determined who signed the travel expense report.

Maves' travel expense reports were paid by ODOD, but none had valid written supervisory approval. Maves could not recall if he received authorization for travel to Dearborn, Michigan, and Washington, D.C. However, Shaun Walz, the former budget and finance specialist who

handled all out-of-state approvals for ODOD, confirmed there were no records of ODOD providing authorization for Maves to conduct these out-of-state trips. Therefore, Maves violated ODOD's Disciplinary Policy C-14, 23.b., Falsifying any document, payroll time sheets, attendance forms, travel reimbursement forms or other documents used in course of daily work (May 2006). **(Exhibit 4)**

Accordingly, there is reasonable cause to believe wrongful act or omission occurred in this instance.

Allegation 5 - Misuse of State and Federal Funds

Maves had responsibility for the oversight of several grants, including Resolve Grant 08-04 and Team Northeast Ohio Grant 08-35. An internal audit conducted by ODOD confirmed that Maves approved expenses in violation of the terms of these grants.

Resolve Grant 08-04

The internal audit found Maves improperly spent \$1,768.27 in grant monies allocated to Resolve Grant 08-04 by dining with others at restaurants on five separate occasions in 2007 and 2008. Maves facilitated payment of these food-related expenditures with grant money without providing proper documentation of who attended, how many attended, what was served, and what official business was discussed. These meal expenses were inconsistent with federal cost principles and represented an unauthorized use of grant money.

On three separate occasions, Maves also submitted state travel expense reports to Resolve Grant 08-04 for reimbursement, thereby bypassing ODOD internal controls and the Ohio Office of Budget and Management (OOBM) travel rules. Maves' travel expense reports did not have valid approvals from his supervisor, were submitted directly to the grantee and not processed by ODOD, and every travel expense report submitted to Resolve included expenses above the maximum allowable rate set by OOBM. Maves was paid by the grantee in violation of the grant agreement. Furthermore, Maves added another ODOD employee's expenses to his own travel expense report, which violated OOBM travel rule 126-1-02 of the Ohio Administrative Code, Rates and Requirements for Reimbursement of Travel Expenses of State Agents. **(Exhibit 5)**

Resolve, the grantee, charged \$1,674.61 in expenses to the grant and sent the travel reimbursements to Maves at his home address. As program monitor, Maves approved these expenses. All of these expenses were prohibited under the terms of the grant agreement.

Team Northeast Ohio Grant 08-35

The ODOD internal audit also uncovered mismanagement of the Team Northeast Ohio Grant 08-35. Maves approved a charge for \$390 to reimburse the cost of a dinner he attended with associates from Team Northeast Ohio on February 26, 2008. The following day, Maves spent \$973.20 for a limousine service to chauffeur employees of Team Northeast Ohio and himself in a van to evaluate various potential wind energy sites. Maves neither sought nor received prior approval for these expenses, but later facilitated payment from the grant. Payment of these food expenses was prohibited by Executive Order 2007-09S (**Exhibit 2**), as well as the grant agreement. Maves' mismanagement of these grant monies violated ODOD's Disciplinary Policy C-14, 24., Misuse of Federal or State funds (May 2006). (**Exhibit 4**)

While Maves retained authority and ultimate responsibility to assure the grantees adhered to the terms of the grant agreements, this did not excuse the grantees from their requirement to use the grant funds appropriately. For example, using the grants to pay for meals at restaurants was unauthorized and a direct violation of the grant agreements. In fact, the ODOD internal audit report showed that in addition to the improper reimbursements paid to Maves, the grantees were cited numerous times for using grant funds to pay for unreasonable and improper expenditures. In addition to improperly billing the grantees and accepting reimbursements for expenditures prohibited under the grant agreement, Maves also neglected to effectively monitor the grantees' wrongful and improper use of the grant funds. The ODOD internal audit revealed total questionable costs of \$4,925.59 for Resolve Grant 08-04, and \$9,990.20 for Team Northeast Ohio Grant 08-35.

Accordingly, there is reasonable cause to believe a wrongful act or omission occurred in this instance.

CONCLUSION

The Office of the Ohio Inspector General found evidence that Thomas Maves, an energy specialist in the Ohio Energy Resources Division, improperly accepted favors or things of value from two Ohio Department of Development grantees. Maves resigned his position and reimbursed the state \$3,832.88 for travel and meal expenses, which was returned to the grant funds. **(Exhibit 3)** The records confirmed Maves traveled without supervisor approval on several occasions, and one travel expense report contained a supervisor's signature that appeared to be forged. Finally, Maves misused federal and state grant funds by approving unauthorized expenses for Resolve Grant 08-04 and Team Northeast Ohio Grant 08-35. The Office of the Ohio Inspector General was unable to substantiate the allegation that ODOD overlooked Maves' misconduct or failed to take appropriate disciplinary action. Maves submitted his resignation letter before ODOD completed its pre-disciplinary process and, as a result, he was not disciplined.

The Ohio Department of Development and the Ohio Ethics Commission reviewed Maves' actions. Maves tendered his resignation, and repaid ODOD for the improper expenses for travel and meals. Based on these findings, the Office of the Ohio Inspector General finds no reason to conduct any further investigation.

RECOMMENDATIONS

The Office of the Ohio Inspector General makes the following recommendations and asks the Ohio Department of Development to respond within 60 days with a plan detailing how these recommendations will be implemented. The Ohio Department of Development should:

- 1) Require all department managers to periodically review expense reimbursement policies and procedures and regularly execute internal audits of expense reimbursements to ensure accuracy and adherence to governing policies.
- 2) Require grant administration staff to review the expenses for requests for reimbursement, as submitted by grant recipients, to determine whether they are in line with the projected expenses in the initial grant budget.

- 3) Require itemized receipts for any food or restaurant expenses to ensure that costs are not in violation of the grant.

- 4) Require requests for reimbursement of food or restaurant expenses to include a meeting purpose, agenda, and list of attendees to justify how the expense is permissible under the grant.

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