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Fraud Hotline Report: Tips about Transportation manager alleged government waste and abuse

Report

F R A U D HOTLINE

To call it out, call it in.

The Auditor's Office found evidence of waste and abuse when investigating tips about vehicle use and outside employment in the Transportation Bureau. We shared our findings and recommendations with the Transportation Bureau.

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Tip to the Fraud Hotline

Tip



The Auditor's Office operates a Fraud Hotline to receive tips about suspected fraud, waste, inefficiency, and abuse.

An October 2022 tip alleged that a Transportation manager, wasted government resources and abused their position. A second tip submitted in January 2023 raised similar concerns about the same manager.

The employee is the Executive Manager of the Public Infrastructure Team and is responsible for resolving development permitting regulatory conflicts between the transportation, environmental, parks, and water bureaus. Their role involves meeting with developers and design professionals and building relationships with permitting customers.

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The tips alleged waste and abuse because the employee:

- Used a City vehicle to run errands and commute to and from work
- Worked as a high school volleyball coach during work hours
- Misused City funds to give gift cards to employees
- Acted with bias in permitting decisions which resulted in financial judgments against the City

Investigation Findings



The Auditor's Office found evidence of waste and abuse

Waste involves the needless, careless, or extravagant expenditure of City funds, or the misuse or mismanagement of City resources or property. Waste does not have to involve a private use or personal gain and can be intentional or unintentional.

Abuse involves the improper use of a City position or the improper use or destruction of City records or resources.

We found evidence of waste and abuse because the employee used a City vehicle for personal use without permission. The City rule related to vehicle use only allows use related to official City business. Incidental personal use and commuting are allowed with Bureau authorization.

We found rule violations and perceptions of waste because the employee performed a second job during work hours without taking leave. The City allows outside employment, but the work must not involve scheduled City work time and employees must make a written disclosure about the work.

1. The employee used a City vehicle to run errands and commute to and from work without permission

The employee wasted City resources when using a City vehicle for personal use. They used the vehicle from March 2021 and until April 2023. During this time, they drove 8,500 miles in the vehicle causing wear and tear and used 264 gallons of fuel. The fuel cost \$833. The cost for parking at the downtown office during this time was \$8,220. In addition to wasted resources, their personal use of the vehicle had other negative impacts for the City:

- Perception of waste: driving a publicly marked vehicle is a high-profile act and members of the public noticed and photographed the employee using the vehicle in places that were not related to official business such as: the grocery store, at school events, and parked on a residential street. They reduced public trust for the City and its officials when they misused the vehicle.

- Liability: The employee used the vehicle to transport their child. This increased liability. City rules do not allow transporting people for non-business purposes.
- Income tax reporting consequences: Federal law requires the City to report fringe benefits such as take-home cars when reporting employee income.

The employee used a City vehicle for personal use, including to commute to and from work, without permission. In addition to photo evidence provided by the tipster, Fraud Hotline staff observed the vehicle parked at the employee's residence after hours. The employee acknowledged that they used a City vehicle every work day from March 2021 until April 2023 to commute and run errands. They said that the bureau director and their supervisor were aware that they were taking a vehicle home. In an interview with investigators, they shared that a Human Resources employee told them that they had a right to take a vehicle home. When we followed up with those people, they all denied knowing about the manager's take-home use. There was no documentation or forms showing they were allowed to take the vehicle home.

The employee violated multiple rules when using the vehicle to commute without permission or for personal business.

- Oregon ethics law prohibits using a public position to get a financial benefit that would not otherwise be available to a member of the public. Official compensation, such as salary and healthcare benefits, are excepted.
- The City rule prohibiting personal use of City resources includes vehicles.
- The City rule about vehicle use allows employees to take them home in limited situations. The rule states that City-owned vehicles shall not be used for personal business nor solely for commuting. A bureau director and commissioner-in-charge must review and approve the take-home use and the Chief Administrator's Office must report it to City Council annually. The rule also prohibits transporting passengers who are not conducting City business.

The employee justified using the vehicle to commute by saying they were one of a few office employees who did not work remotely during the Covid pandemic. They said they performed duties for other employees such as delivering mail and equipment, watering plants, and even clearing storm drains on the street outside the building. They also said that they maintained and fueled the vehicle with their own funds. Despite these justifications, they did not have permission from supervisors to use the vehicle to commute. Using the vehicle for personal reasons was not a part of their official compensation package.

The employee did not understand City rules related to take-home use. They signed a form indicating that they reviewed the rule about personal use of City resources, but they misinterpreted it to mean that they needed a take-

home vehicle to perform the duties they mentioned above and that their take-home use was a benefit to the people of Portland as a whole. They also said they were not familiar with aspects of the City rule referencing vehicle and take-home use.

In contrast, other employees we interviewed understood that take-home use was only allowed in very limited circumstances. Administrative staff we spoke with said that the take-home use policy was severely out of date and that they were working on updates but had nothing official to report.

Lax oversight was also a factor. The employee has a high-level level function with minimal supervision. The position has substantial authority to make significant decisions with a high consequence of error. Transportation did not monitor vehicles for take-home or personal use. We learned that Transportation had the option to install Global Positioning System tracking on passenger vehicles but decided against it.

2. The employee performed duties for another paid job during their regular work schedule without taking leave or disclosing their outside employment

In the fall of 2022, the employee coached high school volleyball for at least 71.25 hours during time that conflicted with their regular work schedule. The calculation is based on times the volleyball team had a scheduled game or practice during the employee's scheduled work time according to the volleyball schedule posted online. It does not include travel or preparation time. The employee did not take any vacation leave during those times. The 71.25 hours constitute 15 percent of the employee's regularly scheduled work hours over that period. This estimate does not include travel and preparation time. If those are included, the amount may exceed that percentage.

The employee did not make a written disclosure of their outside employment. City rules about outside employment require written disclosure if employees have a second job. The employee would not have broken any rules if they disclosed the outside employment and took leave from their City job when both work schedules overlapped.

There was a public perception of waste because the coaching job conflicted with the employee's work hours. The employee had a high-profile position at the City. Their duties included meeting with developers to resolve permitting issues. Coaching a high school team is also a high-profile activity because it involves playing a prominent role while staff, students, and parents are watching sporting events. Members of the public noticed the conflict between these two roles. The employee reduced public trust when they coached high school volleyball during their regular work schedule without taking leave or disclosing the outside employment in writing. The activity was also more conspicuous because they drove a City vehicle when performing the outside job.

Performing the job during work hours did not involve actual waste. The employee didn't take leave, but they also had earned enough leave to compensate for the time they were coaching. They had so much leave saved

that at the end of the year, they lost enough to cover the amount of leave they should have taken for coaching. That's because the City limits how much leave can roll over at end of the year. This doesn't mean that it was OK for them to not record the leave, but it does mean that the City didn't lose resources because of it.

The employee ran afoul of City rules when they didn't take leave or disclose their outside employment.

- The City rule about personal use of City resources prohibits using work time for personal use, such as running personal errands or walking a pet.
- The City rule about work hours requires employees who are Fair Labor Standards Act (FLSA) exempt to adjust their work schedule if they work less than 75 percent of their schedule in a pay period. The manager was an exempt employee and may have been working less than 75 percent of his schedule.
- The City rule about outside employment requires written disclosure of employment and any actual or potential conflicts of interest. Outside employment cannot involve the use of scheduled work hours. It is allowed if the employee makes a disclosure and takes leave.

The employee did not disclose outside employment or take leave because Transportation supervisors did not clearly communicate expectations to staff. Employees we interviewed were not aware of City rules related to disclosing outside activity. Administrative staff confirmed that no Transportation employees had disclosures on file. It is unclear whether there are additional employees who are not disclosing outside activity.

3. We did not substantiate claims related to gift cards or bias in decision making

We reviewed approval forms and receipts related to the gift cards the employee purchased for staff. The purchases complied with City rules that allow awards of \$100 or less to City employees for professional achievements, such as cash flowers and gifts

We did not find enough evidence to open an investigation regarding biased decision making resulting in financial judgments against the City. The tipster provided two cases as examples and suggested people to interview but declined to offer further assistance. We read the cases and talked to some of the people mentioned in the complaint but did not find enough evidence to continue with an investigation.

Our Recommendations



Transportation should follow Human Resources Administrative Rule 5.01 to hold the employee accountable if warranted, strengthen oversight of vehicle use and outside employment, and ensure all Transportation staff are aware of rules. The state and City have rules in place to ensure officials engage in ethical conduct and that government operates efficiently and effectively. When an employee violates those rules in a public manner it violates the trust Portlanders place in their government. This is especially true when it involves a high-level employee who is spearheading a new initiative intended to increase the efficiency of the City's development process and improve customer service.

To hold the employee accountable, Transportation should:

1. Follow Human Resource Administrative Rule 5.01 to determine whether the employee's vehicle use, use of leave, and outside employment were prohibited activities and take appropriate corrective action.

To strengthen oversight of vehicle use and outside employment, Transportation should:

2. Develop and implement a procedure to monitor vehicle use for conformance with rules and follow up regarding suspected instances of noncompliance.
3. Evaluate the feasibility, costs, and benefits of applying Global Positioning System tracking to all Transportation vehicles. If it decides to use the system in passenger vehicles, it should develop a monitoring procedure.
4. Update the vehicle use rule to explain when incidental personal use is allowed.
5. Work with BHR to develop and implement a system for disclosure of outside employment, including actual and potential conflicts of interest, that aligns with City rules.

To ensure staff are aware of rules related to vehicle use and outside employment, the Transportation Director should:

6. Inform employees about updates to the vehicle use rule and the importance of proper time keeping and outside employment disclosures.

Response from the Portland Bureau of Transportation



The Portland Bureau of Transportation responded to the investigation with a statement agreeing with the recommendation to hold the employee accountable. The Bureau does not believe they have widespread issues related to vehicle use and outside employment, but said that it would evaluate options to strengthen oversight in those areas.

About Portland's Fraud Hotline

The Auditor's Office administers the Fraud Hotline to enable the public and City employees to confidentially report suspected fraud, waste, inefficiency and abuse of position by or against the City. The Hotline also serves to identify and prevent losses of City funds and act as a deterrent to fraud, waste and abuse of position. Hotline tips can be submitted online at www.PortlandFraudHotline.com or by phone by calling 866-342-4148.

When the Auditor's Office finds waste, inefficiency or abuse of position via the Hotline, it is required by law to notify the Portland City Council of the findings. This report, which is delivered to the City's mayor and commissioners, serves as that notice. It is also released publicly to inform about substantiated Hotline tips.

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