STATE OF NEW YORK
OFFICE OF THE STATE INSPECTOR GENERAL
Final Report
November 6, 2008

DOL Employee Owes State Nearly $14,000 For Cell Phone and Car Abuse

SUMMARY OF FINDINGS/RECOMMENDATIONS

The Inspector General found that Wuanita Graham, a New York State Department of Labor employee, used her state-owned vehicle and cell phone extensively for personal business between May 2002 and October 2006, costing the state more than $13,762. The Inspector General referred Graham's conduct to the New York State Attorney General for possible criminal prosecution. The Department of Labor has begun disciplinary proceedings against Graham.

ALLEGATION

On September 21, 2007, the Department of Labor forwarded a complaint to the Inspector General alleging that Graham was using her state-assigned vehicle and cell phone for non-business purposes.

SUMMARY OF INVESTIGATION

Graham has been employed by the Department of Labor (DOL) since 1989 as a Rural Employment Aide, currently assigned to DOL's office in Newark, N.Y. Graham's duties include providing employment and related assistance to migrant farm workers throughout Wayne, Ontario, Yates, Seneca and Cayuga counties. As Graham's job involves travel to approximately 300 farms a year, DOL issued her a state vehicle, gas card, travel card, Thruway EZ Pass and cell phone.

Personal Use of State-Assigned Vehicle

The Inspector General compared Graham's Vehicle Cost Records with her Time and Attendance Records for the period May 2002 to October 2006. This comparison revealed that Graham used her vehicle on days that she was not working, at times misrepresenting her whereabouts. In addition, Graham overstated the mileage she drove between work-related locations to disguise her personal use of the vehicle.

In total, Graham reported driving the vehicle on 992 days. For 93 of these days, Graham charged mileage on days she did not work, including Christmas and other state holidays. For example, on June 9, 2006, Graham recorded a trip from her home in Wolcott, N.Y. to Sodus, N. Y., approximately 30 miles roundtrip. However, Graham recorded 75 miles for the trip and her Time and Attendance Records reflected that she was on annual leave. Moreover, Graham's cell phone records reflect that on June 9, 2006, Graham was making cell phone calls from locations east of Sodus, such as Palatine Bridge and Albany.

Similarly, Graham claimed to have driven 48 miles on July 3, 2006, despite reporting she was on Annual Leave. She also claimed 24 miles on July 4, 2006, Independence Day, a federal holiday. There are many other examples of such abuse throughout Graham's vehicle and attendance records. These examples include mileage claimed on Washington's Birthday 2006, Columbus Day 2005, October 9, 2005 (a Sunday), Labor Day 2005, Columbus Day 2004, Memorial Day 2004, Washington's Birthday 2004, Christmas Day 2003 and Thanksgiving Day 2003. The total mileage Graham claimed for days on which she did not work is 7,809. Based on the New York State Comptroller's estimates of fuel and depreciation costs per mile driven, the Inspector General calculated that Graham's personal use of the vehicles on holidays and vacation days cost the state $2,999.20.

On days that Graham did work, she overstated the amount of miles in between work sites, most likely to disguise her personal use of the vehicle. A review of Graham's Vehicle Cost Records revealed that Graham routinely overstated the mileage required to reach her final destination. For example, on August 18, 2006, Graham recorded on her Vehicle Cost Records that she traveled round trip from her home in Wolcott to King Ferry, N.Y., approximately 92 miles roundtrip. However, Graham recorded traveling 205 miles, failing to account for 113 miles.

Graham attempted to explain the discrepancy by stating that she visited multiple farms on her way to King Ferry. Graham argued that, since she was required to record only her final destination, the Vehicle Cost Records would not detail the distance she traveled between these farms. The Inspector General sought to verify this statement by examining Graham's Daily Outreach Logs, in which she was required to record the farms she traveled to and what, if any, assistance was provided to farm workers. In contrast to Graham's statement and her Vehicle Cost Records, Graham's log entry for August 18, 2006, indicates that she commuted to DOL's Newark Office and then visited one farm in Alton, N.Y. The distance from Graham's home to Newark is 54 miles and the distance from Newark to Alton is 17 miles. Thus, according to Graham's log entries, she should have driven approximately 140 miles that day, still significantly less than the 205 miles she recorded in her Vehicle Cost Records.

Similarly, on October 7, 2005, Graham's Vehicle Cost Records reflect that she traveled from her home to Lyons, N.Y., approximately 40 miles round trip. Graham's Daily Outreach Log records only trips to Lyons and to two stops in Wolcott, where she lives. Nevertheless, on her Vehicle Cost Records, Graham claimed she traveled 450 miles, well over the distance needed to travel to and from the locations identified in her Daily Outreach Log.

As Graham did not (and was not required to) identify the exact addresses of the locations she visited, the Inspector General's estimates of Graham's overcharges are based on the approximate distances between the cities or towns she reported visiting. To account for this estimate and to take into consideration the various business related activities Graham may have properly conducted, in estimating the costs of her mileage overcharge, the Inspector General's Office only considered days recorded on the Vehicle Cost Record that reflected an overcharge greater than 30 miles. Additionally, on days in which Graham recorded overcharges greater than 30 miles, the Inspector General's Office credited Graham with a 30-mile allowance to take into consideration proper use of the state vehicle. Again using the Comptroller's estimated costs for fuel and depreciation per mile, the Inspector General estimated that Graham's overcharges cost the state $7,247.46.

When interviewed by the Inspector General, Graham stated she was aware of DOL policy that the vehicle was to be used for official duties only, including visits to farms and workers' camps and to commute to and from work. Graham further stated that it was her understanding she could use her state vehicle for non-official business with permission of her then-supervisor, David Lauzon. Graham cited some examples of instances in which she asserted that her supervisor had granted her to use the vehicle for personal business. However, Graham's records make no mention of these purportedly authorized personal trips. In contrast to Graham's assertion, one of Graham's coworkers stated that he was reminded that DOL policy prohibited personal use of state equipment by Lauzon. Even if Lauzon had told Graham she could use her vehicle for personal business, he would not have been authorized to grant her such permission. Lauzon left state service while this investigation was ongoing and did not respond to the Inspector General's multiple requests for an interview.

Graham was also asked about the discrepancies between her time records and car mileage. Specifically, Graham was asked about her vehicle log reflecting 90 miles being recorded for the round trip distance between her home and office on December 24, 2003, when she reported being on annual leave. Graham stated that she may have reported to the office Christmas party on Christmas Eve. Graham was also asked why the vehicle log records reflected vehicle use on Christmas Day, December 25, 2003. Graham was confused as to why she recorded miles for the state vehicle on Christmas, but assumed it was a mistake. Graham was asked how frequently she recorded mileage in the Vehicle Cost Records, wherein she stated that she records the mileage daily, so she could not explain her mistake.

<u>Personal Use of State-Issue Cell Telephone</u>

The Inspector General's Office also reviewed Graham's cell phone records from January 2004 through October 2006 (when DOL revoked Graham's permission to use a state cell phone) to determine whether Graham used the state cell phone for personal use.

During the time period in question, DOL's policy stated that state cell phones were to be used for business purposes only. If an employee used the cell phone for personal use, he or she was required to reimburse DOL 19 cents per minute.

During her interview with the Inspector General's Office, Graham admitted knowledge of this policy, but later stated that her supervisor had advised her that she did not need to reimburse the state for calls reflecting no additional cost to the state because they were included in the calling plan's allotted minutes. As noted above, Graham's supervisor could not be interviewed to confirm that he permitted her to violate the policy in this manner. Even so, during almost every month reviewed, Graham's cell phone usage exceeded the allotted minutes in her monthly plan. Thus, DOL did incur additional charges from Graham's cell phone usage, and Graham did not reimburse DOL for any of these calls.

A review of the cell phone records for Graham's cell phone from January 1, 2004 through October 2006 reveals extensive personal use of the state cell phone. For example, Graham made 830 calls totaling 2,944 minutes to her daughter; 505 calls totaling 2,043 minutes to her sister and brother-in-law; and 467 calls totaling 1,357 minutes to her son. Graham's most egregious misuse of the cell phone involved 883 calls totaling 8,034 minutes to one friend. There were also 767 calls totaling 3,403 minutes to other friends and family members.

Graham's personal use was not limited to calling friends and family. The cell phone records reveal that Graham made 69 calls to restaurants totaling 82 minutes; 207 calls to real estate companies, mortgage companies, credit card companies, and debt collectors; and numerous calls to various other establishments such as nail salons, lingerie stores, car dealerships and car insurance companies totaling 642 minutes. Graham's disregard for DOL's policies is further demonstrated by her personal cell phone use late at night, on weekends and while she was on annual leave. During one ten-day vacation between January 27, 2006 and February 5, 2006, Graham made and received 99 cell phone calls totaling 342 minutes, including 32 calls to and from numbers in the New York City area.

Applying the 19 cents per minute Graham was obligated to reimburse DOL for personal cell phone calls, Graham's personal use of the state cell phone amounts to at least $3,515.95.

The Inspector General also reviewed Graham's state-issued credit card and Thruway EZ Pass. Several questionable charges were identified, but could not be substantiated as personal use.

FINDINGS AND RECOMMENDATIONS

The Inspector General found that Department of Labor employee Wuanita Graham used her state-assigned vehicle from May 2002 to October 2006 for non-business purposes, driving 26,514 miles at a cost to the state of approximately $10,246.66.

The Inspector General further found that Graham used her state-issued cell phone from January 2004 through October 2006 for non-business purposes, making thousands of personal calls for which she failed to make required reimbursement, costing the state $3,515.95. As Graham received personal benefit from use of the state car and phone, she is required to report the value of this benefit as taxable income.

Based upon these facts, the Inspector General referred Graham's conduct to the New York State Attorney General for criminal prosecution, if appropriate.

The Inspector General notes that DOL has initiated disciplinary action against Graham regarding this misuse of her state vehicle and cell phone.