



STATE OF NEW YORK
OFFICE OF THE STATE INSPECTOR GENERAL
Final Report
December 11, 2009

SUMMARY OF FINDINGS/RECOMMENDATIONS

The New York State Inspector General found that New York State Department of Transportation (DOT) Transportation Maintenance Engineer 1/Regional Bridge Maintenance Supervisor Jonathon Phillips submitted falsified time and attendance and vehicle mileage reimbursement records. The Inspector General referred this matter to DOT for appropriate disciplinary action. A copy of this report also is being provided to the Onondaga County District Attorney for his review.

ALLEGATION

On January 14, 2008, DOT referred to the Inspector General an allegation that Phillips falsified time and attendance and vehicle mileage records on several occasions by leaving work prior to the end of his scheduled workday without deducting leave accruals, and by submitting for undeserved reimbursement for travel in his personal vehicle. The allegation noted that Phillips's personal vehicle had been observed on four occasions during a two-week period parked at Phillips's residence prior to the end of his scheduled workday.

SUMMARY OF INVESTIGATION

Background

Phillips, a Transportation Maintenance Engineer 1/Regional Bridge Maintenance Supervisor assigned to the Syracuse region (Region 3), has been employed with DOT for approximately 28½ years. His current responsibilities require him to supervise two assistants and four maintenance bridge crews each comprised of seven to 15 workers. Phillips's schedule calls for work from 7:30 a.m. to 3:30 p.m., with a half-hour lunch break, and a division of his time between the DOT Syracuse office and work sites in various locations in the six counties contained in Region 3.

Phillips's oversight of bridge repair and maintenance throughout Region 3 requires him to use his personal vehicle for travel. Phillips's travel to and from remote worksites, including trips to and from his Cortland residence or his Syracuse office, is considered part of his work hours and, therefore, the mileage he incurs for such is reimbursable. In contrast, travel to and from Phillips's residence and his official work

station in the Syracuse office is considered commuting and the mileage incurred is, therefore, not reimbursable. DOT requires Phillips to record his daily time and attendance and to submit his business-related travel mileage for appropriate reimbursement. Phillips is not authorized overtime, compensatory time, or work from home.

The New York State Department of Civil Service Attendance and Leave Manual, Section 20.2 – Record of Attendance, requires that an “adequate and accurate record of attendance must be maintained for each [appointing authority] employee” that should include “a time record of actual hours worked [and] leave credits used . . .” DOT requires employees to enter a record of their presence or absence, and the number of hours worked or absent, among other entries, on an electronic attendance record system. Additionally, the New York State Office of the State Comptroller Travel Manual provides that “[w]hen traveling on official State business, only actual, necessary and reasonable business expenses will be reimbursed.” As Phillips utilized his personal vehicle for business travel, he was required to record his mileage and general location of travel in this system.

Phillips’s False Time and Attendance and Vehicle Mileage Records

Prior to the Inspector General’s investigation, Phillips’s supervisor, David Smith, in December 2007 and January 2008, observed Phillips leaving work early on four separate occasions without approval and with no apparent business-related explanations. After observing Phillips’s early departure, Smith or an assistant traveled to Phillips’s residence, located approximately 30 miles from the Syracuse DOT office, and observed Phillips’s vehicle there on all four occasions. On his time attendance records for these four days, Phillips failed to deduct leave accruals to account for the approximately 3¼ hours when he was actually absent from work.

Upon receipt of the allegation from DOT, the Inspector General conducted visual surveillance of Phillips on four dates in December 2008 and compared these findings to time and attendance and personal vehicle use mileage records submitted by Phillips for the same periods. While surveillance on three of these occasions did not uncover any misconduct, as to one date, Phillips not only failed to work an entire shift without subsequently utilizing accrued leave but also submitted for vehicle mileage reimbursement for which he was not entitled.

On December 15, 2008, Phillips was observed arriving at the DOT Syracuse office at 7:35 a.m., leaving at 11:05 a.m., and traveling for approximately three hours before returning to his residence at 2:07 p.m. where he stayed for the remainder of his scheduled workday. In addition to Phillips’s arrival at his residence 83 minutes before the end of his scheduled workday, his lack of notification to his supervisor of his early departure, and his failure to charge the absent time as leave, Phillips’s three hours of largely non-stop travel on this date appears devoid of any work-related connection. Specifically, Phillips did not meet with any bridge maintenance crews, and merely stopped at a single bridge located approximately 30 miles from the Syracuse office for

approximately one minute. Despite this momentary interlude of official business, Phillips sought reimbursement for 92 miles of business travel mileage for this date.

Interview of Jonathon Phillips

In January 2009, Phillips was interviewed under oath by the Inspector General. Phillips acknowledged that he is scheduled to work a 7:30 a.m. to 3:30 p.m. shift with a half-hour lunch break. He further confirmed that he is required to record on his electronic timesheets his presence or absence from work on a particular day and to indicate the use of any leave accruals. In addition, Phillips testified that he enters “a code or password . . . attesting to [his] time” when he submits his timesheets to his supervisor. According to Phillips, his recording of this information varied: sometimes he recorded daily and other times he did so at the conclusion of the week. Phillips further conceded he was never authorized to work from home

Regarding travel, Phillips verified that he utilizes his personal vehicle, and not an assigned state vehicle, to travel to and from his home in Cortland, the DOT Syracuse office and various bridge crew work sites, and then submits for mileage reimbursements for his business-related travel. Phillips reported that he records his daily mileage from his odometer onto his desk calendar, and then transfers the mileage accounting to an expense report in the “Expense Anywhere” system once or twice a month. He noted that DOT did not require submission of his odometer readings, the specific purpose of travel each day, or the name/project number of the work site he visited. Phillips testified that he would typically visit with a bridge crew for periods ranging from “a half-hour to an hour . . . could be longer, could be less” and he would “usually” speak with the site foreman while there. However, Phillips added that neither he nor the foreman would document the contact.

The Inspector General reviewed with Phillips the time and attendance record he submitted for December 15, 2008, the date on which he was surveilled. Phillips claimed that on that date he traveled from the DOT Syracuse office to a bridge in Port Byron to inspect repair work. Phillips testified that at the bridge he “got out, looked at the bearings . . . put on a] hard hat, vest” and remained there for approximately “20 minutes to a half-hour.” Phillips testified that he then traveled to Seneca County to investigate a bridge complaint and he remained at that bridge for approximately “20 minutes.” According to Phillips, no work crews were present at either site on this date and he could not recall any other locations to which he travelled. Regarding this day, Phillips testified, “I’m sure I left [the office] probably around noon, went out and looked at these things; by the time I got home it was 7:30 to 3:30.” As evidenced by the surveillance set forth above, Phillips’s testimony about his activities on December 15, 2008 is false.

The Inspector General then confronted Phillips with the photograph of his vehicle parked in the driveway of his residence, date stamped December 15, 2008, at 2:07 p.m. Phillips confirmed that it was his vehicle, which he used for business-related travel, parked in his driveway. Phillips was also shown his time and attendance records which reflect that he claimed he had worked a full workday of 7.5 hours on December 15, 2008.

Lastly, Phillips was informed that he had been observed on December 15 leaving the DOT office and traveling, largely non-stop except for a mere minute of official business, for approximately three hours, before ending his workday at his residence at 2:07 p.m. Although Phillips testified that he had no specific recollection to account for these inaccuracies, he speculated that he might have “worked through lunch” and posited that he “had some time coming [from unofficial compensatory accruals].” Phillips then admitted, “I’m in pretty big trouble, I guess,” and ended the interview in order to seek legal counsel adding that he “put down what I assumed I drove the day before. If there’s a discrepancy it wasn’t something I did purposefully . . . I wasn’t purposefully trying to pad my mileage. Maybe there was a couple days when I did get home a little early [but] I don’t think it ever affected my job performance.”

FINDINGS AND RECOMMENDATIONS

The Inspector General found that DOT Transportation Maintenance Engineer 1/Regional Bridge Maintenance Supervisor Jonathon Phillips submitted falsified time and attendance and vehicle mileage records. Phillips reported that he was supervising work crews at various worksites when, in fact, he was elsewhere. Furthermore, surveillance revealed early departures from work to go home. A single day of surveillance uncovered that Phillips improperly claimed approximately four hours on his time and attendance report and improperly requested reimbursement for vehicle mileage for 92 miles amounting to \$53.82. The Inspector General referred this matter to DOT for appropriate disciplinary action. A copy of this report also is being provided to the Onondaga County District Attorney for his review.

The Department of Transportation advised the Inspector General that it will review Phillips’s conduct and take appropriate disciplinary action.