

Memorandum

TO: Cynthia Feland, Assistant State's Attorney
FROM: Jason M. Wahl, CPA, Performance Audit Senior
DATE: November 8, 2007
RE: Information Related to Dave Spencer Leaving

During the performance audit conducted on Workforce Safety and Insurance (WSI), it came to our attention the Chief of Employer Services, Dave Spencer, had left employment with the organization. We had requested WSI at the beginning of the audit to let us know if any management personnel were going to be gone for an extended period of time so we could schedule accordingly. We were not informed of Mr. Spencer leaving in a timely fashion, the Director of WSI was not forthcoming with information regarding his leaving, and additional work was performed due to WSI's uncooperative actions.

In an email on September 8, 2006, I had informed Sandy Blunt, Director, and John Halvorson, Strategic Executive, that I would have questions to ask executive team members the next week (Mr. Spencer was an executive team member). No mention of Mr. Spencer resigning or being gone was provided and I had left Mr. Spencer a voice message which had not been returned.

At a meeting on September 13 with WSI representatives, I noted Mr. Spencer was not in attendance and questioned this. Mr. Blunt informed me Mr. Spencer was "out sick" and had "resigned" as of the 20th of September. When asked when he resigned, Mr. Blunt stated it was the 6th. When asked if he was going to be back in before the 20th, Mr. Blunt stated he could be. When I informed the group of my concern of not being informed of Mr. Spencer's leaving, Mr. Blunt stated he didn't know all resignations had to be reported and apologized, stating there was no intent not to inform us of his leaving. Previously, when the Director of Finance resigned, WSI promptly notified us of his resignation.

While Mr. Blunt apologized initially for not informing us of Mr. Spencer's resignation and that there was no intention of not informing us, it became clear later on in the meeting that this was not the case. Mr. Blunt admitted he knew about Mr. Spencer leaving and determined it wasn't any of my business to know this information. He admitted this was wrong of him to do.

While reviewing information related to the hiring of Mr. Spencer and with this new information of Mr. Spencer leaving WSI, we noted the employment letter sent to Mr. Spencer contained a clause regarding relocation reimbursement. The letter stated the relocation reimbursement paid by WSI would need to be repaid in the event of a voluntary resignation. Based on the fact that we were informed Mr. Spencer had "resigned" and his leaving WSI fell within the time period

noted in the employment letter to repay a portion of the relocation reimbursement, we questioned Mr. Halvorson via email on October 17, 2006. Three questions asked included:

- Has WSI received the repayment?
- If not, has WSI notified Mr. Spencer that he must repay the relocation reimbursement?
- If so could you tell me how much was received or requested?

The email stated if "WSI does not plan to collect the relocation reimbursement from Mr. Spencer please inform me of your rationale."

Mr. Halvorson noted Jodi Bjornson, General Council, would be following up on this issue. Hearing nothing from her, Mr. Halvorson was emailed again on October 20 that we were still waiting for information. Ms. Bjornson replied she would fax a memo to us that day. The memo received contained irrelevant information and cited state law which was not applicable to this issue. Based on this information, we concluded WSI should be attempting to require Mr. Spencer to repay the applicable percentage of his relocation reimbursement. We performed work to support such a conclusion, documented information, and drafted a recommendation in this area.

In a meeting with WSI representatives on October 24, I informed WSI the letter identifies requirements for paying back moving expenses and there will be a recommendation made to take action to recover the approximately \$7,500 owed. Mr. Blunt stated they will not concur due to their legal review which concluded that it will get shoved back up their nose in court and they will spend that much money trying to do this. I informed Mr. Blunt we had discussed the issue with representatives of the Attorney General's Office who agreed with us. This issue was discussed further with no information provided related to an involuntary resignation.

Immediately following the group meeting on October 24, I, Ron Tolstad (Performance Audit Team Member), Mr. Blunt and Ms. Bjornson met. I informed them that I needed a better explanation of Mr. Spencer's leaving as we did not have a very good feeling as to what happened or what took place. I stated I was considering a recommendation regarding Mr. Spencer's use of sick leave. I stated I wanted them to have an opportunity to discuss this issue more. Mr. Blunt now provided new information regarding Mr. Spencer's leaving which should have been provided sooner to us. Mr. Blunt stated he met with Mr. Spencer regarding his people skills and gave him an opportunity to make a choice. Mr. Blunt stated Mr. Spencer went out on sick leave then, Mr. Spencer called in and said emotionally and mentally had to come to grips with it so he had to take some time; and Mr. Spencer turned in a resignation letter. Based on the information Mr. Blunt provided, he made it appear Mr. Spencer's leaving was not completely voluntary – either Mr. Spencer had to choose to leave or Mr. Blunt would make that decision for him. Mr. Blunt specifically stated it was not a voluntary departure.

Due to the new information provided by Mr. Blunt, we determined, in consultation with a representative of the Attorney General's Office, there was not a voluntary resignation so it was determined to drop the recommendation we had drafted.