

**Ralph Campbell, Jr.**  
State Auditor

STATE OF NORTH CAROLINA  
**Office of the State Auditor**

2 S. Salisbury Street  
20601 Mail Service Center  
Raleigh, NC 27699-0601  
Telephone: (919) 807-7500  
Fax: (919) 807-7647  
Internet <http://www.osa.state.nc.us>

June 10, 2002

Mr. Lyndo Tippet, Secretary  
North Carolina Department of Transportation  
1 South Wilmington Street  
Raleigh, North Carolina 27611

Dear Secretary Tippet:

We received an allegation through the State Auditor's Hotline that a Division 2 Right of Way Agent II (Agent) was requesting mileage reimbursement that he was not entitled to because he was traveling with two Right of Way trainees (Trainee I and Trainee II) in their personal or state vehicles. Additionally, we received allegations that the Agent was reporting his time incorrectly and using his state cellular phone for personal calls.

We examined time sheets, cellular phone records, mileage reimbursement reports and diary entries for the Agent for the time period of January 2001 through January 2002. We also examined the diaries, mileage reimbursement reports/mileage logs for the two trainees for that same time period.

**Agent's Mileage Reimbursement**

A review of the mileage records revealed that in several instances, the Agent reported the same travel dates and destinations as the trainees. When questioned, the Agent stated he normally met the trainees at a location other than the office and they would travel together to the project site(s). He stated it was not feasible to travel together from the Greenville office because he visited additional sites throughout the day. Both trainees said they would meet the Agent at an agreed upon location and travel together to the project site. However, both trainees stated that on occasion, the Agent would accompany them to the project site(s) from the Greenville office in their personal or state vehicles.

In many cases, the Agent as well as the trainees were unable to recall the driving arrangements due to the length of time that had passed. Therefore, it was necessary to refer to the trainees' daily diaries for confirmation. For example, on January 16, 2001 the Agent reported he drove from Pitt County to Pamlico County at a total of 123 miles. Additionally, on that same date, Trainee I reported he drove from Pitt County to Pamlico County at a total of 141 miles.

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According to Trainee I, he "believed" the Agent accompanied him to Pamlico County from the office. Furthermore, Trainee I's diary stated he traveled to Pamlico County "with" the Agent, contrary to the Agent's mileage reimbursement request.

In most cases, the Trainee I's diary stated that he "met" the Agent. Trainee I stated if his diary indicated he was "with" the Agent and did not specify that they met, then the Agent accompanied him in his personal vehicle.

Additionally, on February 15, 2001, the Agent reported he traveled from Pitt County to Lenoir County/Craven County at a total of 124 miles. Trainee II also stated he traveled from Pitt County to New Bern/Bayboro at a total of 209 miles. Trainee II stated he met the Agent at a convenience store in Kinston (Lenoir County) and the Agent accompanied him in the state vehicle to Bayboro (Craven Co.). Trainee II stated he left the Agent at the convenience store at approximately 4:45 pm. This information was also stated in Trainee II's diary. The mileage from the Greenville office to the convenience store is approximately 33 miles, 66 miles round trip. However, in our opinion the Agent is not entitled to any mileage since it appears he could have traveled with Trainee II to the project site in the state vehicle. Furthermore, if the Agent was traveling in his personal vehicle so that he could depart from his residence in Wilson County, he would not be entitled to the mileage since this would be considered commuting mileage.

General Statute 138-6(1) states,

*.....No reimbursement shall be made for the use of a personal car in commuting from an employee's home to his duty station in connection with the regularly scheduled work hours.*

We concluded that a total of 6,408 miles, totaling \$1,769, were questionable based on the information stated by the trainees and in their diaries. It appears the Agent could have traveled with the trainees to many of the project sites. Furthermore, we found many inconsistencies stated in the Agent's diary such as travel stated, but mileage not claimed, or vice versa. Therefore, we could not use the Agent's diary to support his mileage reimbursement. The Agent stated his diary was not a priority and at times completed weeks later.

### **Agent's Cellular Phone**

An examination of the state cellular phone records revealed the Agent had made personal calls. The Agent stated he did use the state cellular phone for personal calls, but thought the State policy allowed him two personal calls per day. According to his supervisor, the Division Agent, the state cellular phones should only be used for business calls. We were

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unable to determine the cost associated with the personal calls since a flat fee is paid for the cellular phone service.

### **Agent's Abuse of Time**

An examination of the Agent's time sheets revealed that during the week of August 13-17, 2001, the Agent charged 40 hours jury duty. However, according to documentation provided by the Wilson County Clerk of Superior Court, the Agent served two days (16 hours) on jury duty. The Agent stated he was on "stand-by" for the entire week.

### **Recommendation**

We recommend the Agent reimburse DOT \$1,769 for the questionable mileage. We also recommend the Agent discontinue using the state cellular phone for personal use. Additionally, the Agent should deduct 24 hours from his vacation leave balance since it appears he served on jury duty for two days (16 hours) and not the 40 hours he originally claimed.

### **Departmental Mileage Reimbursement Rate**

During the course of our review, it was noted that the Department of Transportation was reimbursing mileage at the rate of 30 cents per mile. Prior to January 2001, the Office of State Budget and Management (OSBM) permitted state agencies to reimburse at the IRS rate when employees chose to use their personal vehicles even if a state vehicle was available. However, on January 26, 2001, OSBM issued a memo to all state agencies stating the following,

*"As a temporary measure to help agencies with the budget shortfall, OSBM has revised the policy for the use of personal vehicles in the Travel Section of the State Budget Manual."*

*"Section 5, Travel Policies and Regulations, indicates the IRS mileage rate is paid when employees choose to use their personal vehicle even when a state vehicle is available. Effective immediately, all departments and agencies may now reimburse state employees the motor fleet rate for mileage when a state-owned vehicle is available, and the employee chooses to use his or her own vehicle. This policy exception is effective until June 30, 2001."*

On June 26, 2001, OSBM issued another memo stating the revision dated January 26, 2001 remained in effect. According to Motor Fleet Management's Assistant Director, the motor fleet rate has been 23 cents per mile since April 1, 1997. Therefore, we questioned why DOT was paying 30 cents per mile. According to DOT's Chief Financial Officer, he was asked to review the options with regards to the mileage reimbursement policy. He said he consulted with OSBM and was advised that each agency has the option of paying the motor fleet rate or any rate between that and the IRS rate, currently 36.5 cents per mile. He also stated he was advised by OSBM to reimburse at the motor fleet rate of 23 cents per mile. However, this was not a requirement. The Chief Financial Officer said DOT's Secretary approved the 30 cents per mile rate effective July 1, 2001.

	Reimbursement Rates Per Mile		
	IRS Rate	DOT Rate	Motor Fleet Management Rate
January 1, 2001 - June 30, 2001	\$ 0.345	\$ 0.23	\$ 0.23
July 1, 2001 - December 31, 2001	0.345	0.30	0.23
January 1, 2002 - May 31, 2002	0.365	0.30	0.23

Shaded area is time period in question.

We received a memo dated May 9, 2002, from the State Budget Officer stating,

*"...Throughout this ongoing budget crisis, the Governor and I have maintained our confidence in the State's Agency heads to manage their respective agencies' fiscal resources conservatively and effectively and stay within their established reversion targets. My guidance memo incorporated this commitment by granting each Agency Head management flexibility to determine whether to pay at the Motor Pool rate or a rate between that rate and the IRS rate of 34.5 cents.\* At no time did this Office compel an agency to adopt a rate inconsistent with the reimbursement rate approved by the Agency Head. I have been advised by Mr. King that all state agencies but one elected to pay at the lower Motor Pool Rate."*

According to DOT's Chief Financial Officer, during the period 1998 to June 30, 2001, DOT was reimbursing employees at 23 cents per mile. Beginning July 1, 2001, DOT began reimbursing employees at 30 cents per mile. DOT has paid employees approximately \$1.6 million in mileage reimbursements from July 1, 2001 until March 30, 2002. Based on the

\* Currently the IRS rate is 36.5 cents per mile

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amounts paid during this nine month time period, we estimate the total expense for the fiscal year ending June 30, 2002 to be approximately \$2.1 million. If DOT had reimbursed at 23 cents per mile instead of the 30 cents per mile, we estimate approximately \$490,000 could have been saved.

### **Recommendation**

We recommend DOT adopt a lower uniform rate as a money saving measure. DOT employees are governed by the same policies and procedures as all other state employees. We see no justification for DOT to pay its employees a higher reimbursement rate particularly given the current budget constraints. Therefore, we recommend DOT reimburse at the motor fleet rate of 23 cents per mile, the same as all other state agencies.

General Statute §147-64.6(c)(12) requires the State Auditor to provide the Governor, the Attorney General, and other appropriate officials with written notice of apparent instances of violations of penal statutes or apparent instances of malfeasance, misfeasance, or nonfeasance by an officer or employee. In accordance with this mandate, and our standard operating practice, we will provide copies of this management letter to the Governor, the Attorney General, the Director of the State Bureau of Investigation, and other appropriate officials.

We are presenting these findings for your review and written response. The purpose of the response is to allow you the opportunity to outline any corrective actions taken or planned. We request the delivery of your written response by June 24, 2002.

If you have any questions or wish to discuss this matter further, please contact us. We appreciate the cooperation of your staff during our review.

Sincerely,

A handwritten signature in black ink that reads "Ralph Campbell, Jr." in a cursive style.

Ralph Campbell, Jr., CFE  
State Auditor

RCjr/mfd

**Management letters and responses receive the same distribution as audit reports.**



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY  
GOVERNOR

1501 MAIL SERVICE CENTER, RALEIGH, N.C. 27699-1501

LYNDO TIPPETT  
SECRETARY

June 24, 2002

The Honorable Ralph Campbell, Jr., CFE  
North Carolina State Auditor  
2 S. Salisbury Street  
20601 Mail Service Center  
Raleigh, North Carolina 27699-0601

Dear Auditor Campbell:

Thank you for the opportunity to respond to the June 10, 2002, special review regarding allegations that a Right of Way Agent II employee in our Greenville Office was requesting mileage reimbursement that he was not entitled to. Also, allegations that the agent was reporting his time incorrectly and using his state cellular phone for personal calls.

The department agrees with your recommendation that the employee reimburse DOT \$1,769 for the 6,408 previously paid travel mileage. In the future, the employee will not be allowed to drive a personal car on state business.

Our review reveals that personal calls were made on the state cellular phone. Department records indicate that at no time did this employee's monthly statement exceed the flat rate charged to the department. There is no request for reimbursement; however, the employee will not be allowed to use a state cellular phone in the future.

We reviewed the employee's time sheets of August 13 thru August 17, 2001. The supervisor and secretary in the Greenville Office both confirm that the employee worked in that office on Wednesday, August 15, 2001. We will deduct 16 hours of annual leave from his leave balance for the time charged to jury duty instead of the recommended 24 hours. The time charged on that date will be corrected to reflect time worked rather than jury duty.

As a result of this review the department has held a pre-disciplinary conference with the employee for unacceptable personal conduct. Final disciplinary action is pending.

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In your management letter you recommended that the Department of Transportation return to its earlier policy of reimbursing employees \$.23 per mile for use of their personal vehicles on state business. As you noted, the DOT had for several years paid this lower rate when it might have paid up to the IRS rate of \$.365. On July 1, 2001 I authorized the payment of \$.30 per mile to our employees who use their personal cars on state business. I considered that policy carefully before implementing it. The policy is well below the maximum rate that the Office of State Budget and Management has set. I believe this policy to be consistent with the OSBM memo dated May 9, 2002, as well as those prior to that date.

You noted in your letter that the payment of the lower rate would have resulted in a savings of \$490,000 for the fiscal year ending June 30, 2002. I disagree that there would have been a "savings." What you describe as a savings would really have been a shifting of cost from the Department to its employees. I am confident that we agree that the cost to own and operate a vehicle is at least \$.30 per mile. Currently, I am asking our employees to work more hours to cover for vacancies resulting from our hiring freeze and to postpone their receipt of raises related to promotions or increased duties. I believe that DOT, not its employees, is directly responsible for costs incurred in providing the transportation infrastructure for the citizens of North Carolina.

Many DOT employees spend a lot of time on the road performing their duties for the traveling public. Most work at duty stations remote from Raleigh. Use of personal vehicles instead of motor pool vehicles is often the most sensible and cost effective solution. I believe our policy of reimbursing employees \$.30 per mile for use of their personal vehicles on state business to be a fair and sound policy and so I will continue to authorize payment at that level.

Please let me know if you have any questions or if I may be of further assistance.

Sincerely,



Lyndo Tippet

LT:jpm

cc: Wayne Stallings, Chief Financial Officer  
John B. Williamson, Jr., Manager, Right of Way Branch