



# STATE OF NORTH CAROLINA

**SPECIAL REVIEW**

**NORTH CAROLINA DEPARTMENT OF TRANSPORTATION  
DIVISION OF HIGHWAYS**

**RESIDENT ENGINEER'S OFFICE**

**MATTHEWS, NORTH CAROLINA**

**AUGUST 2002**

**OFFICE OF THE STATE AUDITOR**

**RALPH CAMPBELL, JR.**

**STATE AUDITOR**

**SPECIAL REVIEW**

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DIVISION OF HIGHWAYS  
RESIDENT ENGINEER'S OFFICE**

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Ralph Campbell, Jr.  
State Auditor

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Office of the State Auditor

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LETTER OF TRANSMITTAL

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August 28, 2002

The Honorable Michael F. Easley, Governor  
Mr. Lyndo Tippet, Secretary  
North Carolina Department of Transportation  
Members of the North Carolina General Assembly

Ladies and Gentlemen:

Pursuant to General Statute §147-64.6(c)(16), we have completed our special review into allegations concerning the Department of Transportation. The results of our review, along with recommendations for corrective actions, are contained in this report.

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 that mandate, and our standard operating practice, we are providing copies of this report to the Governor, the Attorney General and other appropriate officials.

Respectfully submitted,

A handwritten signature in cursive script that reads "Ralph Campbell, Jr.".

Ralph Campbell, Jr., CFE  
State Auditor



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## **INTRODUCTION**

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We received an allegation through the State Auditors Hotline that the Department of Transportation (DOT) Resident Engineer's Office in Matthews, NC contracted with the spouse and niece of the Processing Assistant assigned to the office thereby creating a conflict of interest.

We used the following procedures to conduct our special review:

- Interviews with employees of the Department of Transportation.
- Interviews with individuals outside of the Department of Transportation.
- Examination of internal records from the Purchasing Section of the Department of Transportation.
- Examination of records external to the Department of Transportation.

This report presents the results of our Special Review. This review was conducted pursuant to G.S. §147-64.6(c)(16) rather than a financial audit. The Department of Transportation's annual audit is accomplished through the audit of the State Comprehensive Annual Financial Report.

The North Carolina Department of Transportation employs over 14,000 people across the state. DOT is divided into 11 main divisions with 14 local division offices under the Division of Highways located throughout the state. There are 50 Resident Engineer offices, which are responsible for construction, maintenance and roadside programs. Each Resident Engineer



## **INTRODUCTION (CONCLUDED)**

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reports to a Division Engineer. The expenditures within each Resident Engineer's office are controlled by the project contracts in their jurisdiction.

The Matthews Resident Engineer's office is within the Albemarle Division 10 office of the Division of Highways. The Matthews Resident Engineer's office currently consists of a Resident Engineer, a Transportation Tech and a Processing Assistant.

## **FINDINGS AND RECOMMENDATIONS**

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### **1. A DOT EMPLOYEE OBTAINED SERVICES FROM HER SPOUSE'S COMPANY THEREBY CREATING A CONFLICT OF INTEREST.**

The resident engineer's office in Matthews, NC, along with seven other DOT offices, moved to a new office building in 1994. The processing assistant in the Matthews office said her duties included the maintenance on the new building, and at that time the heating and air conditioning system needed replacing. The processing assistant said the DOT Division 10 office in Albemarle instructed her to contact heating and air conditioning companies in the area to obtain bids. The processing assistant said she asked the Division 10 operations engineer (operations engineer) if her husband, who owns a heating and air conditioning company, could bid on the job. The operations engineer said he could submit a bid.

According to the processing assistant, the requests for bids were mailed to the four companies she located in the phone book as well as her husband's heating and air conditioning company. The processing assistant said her husband was the only representative from a company that attended the pre-bid conference. Consequently, his was the only company that submitted a bid and was awarded the contract. The processing assistant stated that at the time her husband's company was awarded the contract, a DOT employee contacted the other four companies that were solicited to verify that these companies did not submit bids. At the time of this report, that individual is no longer employed with DOT, and we could not locate any documentation that the companies were contacted. The processing assistant said both the resident engineer and the Division 10 engineer were aware her husband's company was awarded the contract.

## **FINDINGS AND RECOMMENDATIONS (CONTINUED)**

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The processing assistant stated her husband's company provides services at other DOT offices as well.

The operations engineer stated he was aware the company awarded the contract was owned by the processing assistant's husband. He said it was difficult to find a reliable heating and air conditioning contractor in that area. He said DOT has continued to use the company because of the quality and cost of the services provided.

A review of the 1994 heating and air conditioning contract revealed the processing assistant's husband's company was paid \$18,380 for his services. An additional review of payments made to the heating and air conditioning company from June 1998 to June 23, 2002 revealed the company has been paid a total of \$5,033 for services provided at the DOT building in Matthews. It appears from the documentation provided by DOT purchasing, that the proper purchasing procedures were followed. However, the director of purchasing stated, "this borders on a conflict of interest."

North Carolina General Statute §14-234, as amended July 1, 2002, states,

*No public officer or employee who is involved in making or administering a contract on behalf of a public agency may derive a direct benefit from the contract except as provided in this section, or a otherwise allowed by law. (G.S. §14-234(a)(1)).*

*A public officer or employee derives a direct benefit from a contract if the person or his or her spouse: (i) has more than a ten percent (10%) ownership or other interest in an entity that is a party to the contract; (ii) derives any income or commission directly from the contract; or (iii) acquires property under the contract. (G.S. §14-234(a1)(4)).*

## **FINDINGS AND RECOMMENDATIONS (CONTINUED)**

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*...(e) Anyone violating this section shall be guilty of a Class 1 misdemeanor...*

Also, the Department of Administration's Purchasing Manual gives the following directives to purchasing officers, which should be applied to all employees that are involved in the procurement process, whether the items being purchased are products or services. The directive states,

*In purchasing, as in all fields, there are values of pride and worth, there are standards and ideals, and there are specifics of conduct and performances, Impediments to the process must be detected early and safeguards provided at all levels. This applies both to purchasing personnel and the vendor community. It becomes imperative, therefore, that all public purchasing personnel be entirely cognizant of the necessity of ethical behavior. It takes only the slightest hint of impropriety to cast doubt on behavior. Sometimes, it may be even more of a perception than an actual event.*

As stated earlier, the processing assistant is responsible for maintenance on the entire DOT building; therefore, when the building requires heating and air conditioning repairs, the processing assistant stated she phones her husband. The processing assistant's involvement in obtaining services from her husband's company is a conflict of interest.

### **RECOMMENDATION**

We recommend DOT implement procedures that formally address the conflict of interest issues. This may be done by identifying relationships among employees that may be viewed by the public as conflicting with public service, and communicating the organization's process for removing employees from any involvement with related vendors.

## **FINDINGS AND RECOMMENDATIONS (CONTINUED)**

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### **2. THE PROCESSING ASSISTANT WAS THE CONTRACT ADMINISTRATOR FOR A RELATIVE'S CONTRACT.**

The processing assistant stated that her niece's janitorial service company contracted with DOT to clean the DOT building in Matthews, NC. The processing assistant said that in March 2001, the current janitorial contract was expiring; therefore, the Division 10 Office in Albemarle prepared a bid package to solicit bids for the new janitorial contract. The processing assistant said her niece, who owns a janitorial service company, asked if she could submit a bid for the contract. The processing assistant said since her husband was permitted to do the heating and air conditioning work at the DOT building, she informed her niece that she could submit a bid. The processing assistant said she contacted and mailed bid packages to three janitorial service companies she located in the phone book, as well as her niece's janitorial service company. The processing assistant said she was responsible for soliciting bids, as well as administering the contract once it was awarded.

The processing assistant said to avoid the appearance of a conflict; she had the assistant resident engineer open the sealed bids. She said her niece's janitorial service company submitted the lowest bid and was awarded the contract. The processing assistant said she was named the contract administrator and was responsible for inspecting the work and submitting approval for payment to her niece's company.

A review of the janitorial contract file revealed that four bid packages were mailed and three bids were received. The bids received were \$63,337.96, \$25,894 and the lowest bid

## **FINDINGS AND RECOMMENDATIONS (CONTINUED)**

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received from the processing assistant's niece, was \$21,889. The term of the contract was for the period of May 1, 2001, through April 30, 2002, with the option of extending the contract for additional periods of one year to a maximum of three years total. According to the DOT's director of purchasing, the contract was renewed for another year.

A review of the payments made to the janitorial service company revealed the company was paid \$21,588 for services provided from May 2001 through April 2002. Additionally, the janitorial service company has received \$4,435.50 for services provided from May 2002 to June 2002.

The processing assistant said she submitted a secondary employment request to work for her niece's company so that she could clean the DOT building. The processing assistant said her request was denied by the Division 10 engineer and she was told this would be a conflict. According to the Division 10 engineer, he denied the secondary employment request and removed the processing assistant as contract administrator once he was aware her niece owned the janitorial service company. The Division 10 engineer stated he did not consider it a conflict of interest if the processing assistant did not administer the contract.

A former employee of the cleaning company stated that on a few occasions she was paid by a personal check from the processing assistant. The processing assistant said she never paid the former employee for cleaning the DOT offices. However, she said the former employee cleaned her personal residence and she may have paid her by personal check for those

## **FINDINGS AND RECOMMENDATIONS (CONCLUDED)**

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services. The processing assistant stated she has never received any compensation from her niece and has no financial involvement with the cleaning company.

The policies referred to in Finding 1 apply to the janitorial contract as well.

### **RECOMMENDATION**

We recommend DOT implement procedures that formally address the conflict of interest issues. This may be done by identifying relationships among employees that may be viewed by the public as conflicting with public service, and communicating the organization's process for removing employees from any involvement with related vendors.

## STATEMENT OF QUESTIONED COSTS

The following schedule represents a quantification of the items examined during our special review. We cannot completely quantify the tangible benefits or detriment, if any, to the Department of Transportation resulting from the findings of our review. We are simply noting areas where managerial oversight should be enhanced, or where, in our judgment questionable activities or practices occurred.

1. Payments to the Processing Assistant Husband's Heating and Air Conditioning Company for Services Provided at the DOT Matthews Office (Finding 1)	\$ 23,413
2. Payments to Processing Assistant's Niece's Janitorial Service Company (Finding 2)	26,024
	<hr/>
	<u>\$ 49,437</u>



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STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY  
GOVERNOR

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

LYNDO TIPPETT  
SECRETARY

August 16, 2002

Mr. Ralph Campbell, Jr., CFE  
State Auditor  
2 S. Salisbury Street  
20601 Mail Service Center  
Raleigh, NC 27699-0601

Dear Mr. Campbell:

Thank you for your letter regarding the special review of the Resident Engineer's office in Matthews. My staff has reviewed the allegations in the draft report and the following comments are provided for your consideration:

1. The first allegation indicated that the Department of Transportation (DOT) Resident Engineer's office contracted with the spouse of the Processing Assistant assigned to that office which created a conflict of interest. The facility that houses the Resident Engineer's office was remodeled in 1994 by DOT Facilities Management. This facility provides space for several DOT offices including Locations and Surveys, Geotechnical Unit, Materials and Tests, the Resident Engineer's office and a conference room. During the remodeling process, quotes were solicited for placing heating and air systems in the facility. The heating and air installation was paid for by Facilities Management. The Processing Assistant's husband's company was awarded the heating and air contract in accordance with proper bid procedures.

When the new and old heating and air systems have needed repair, several companies have been contacted to submit a bid for the work. Again, the work was awarded to the Processing Assistant's husband's company based on proper bidding procedures. Although the Processing Assistant was not the contract administrator, she did process invoices for payment for this contract. Due to the potential conflict of interest, this Resident Engineer's Office will no longer administrator contracts for service and repair to heating and air equipment in this facility.

Mr. Ralph Campbell, Jr., CFE  
August 16, 2002  
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2. The second allegation indicated the Processing Assistant was the contract administrator for a DOT contract awarded to a relative. In March 2002, a bid package was sent to several cleaning companies in the area for janitorial services for this facility. The Processing Assistant's niece's company submitted the low bid. The Processing Assistant asked for secondary employment to work for her niece, but this request was denied by the Division Engineer due to a conflict of interest.

Once the Division Engineer for Division 10 was made aware of these two situations, he met and counseled with the Processing Assistant and thoroughly explained the department's Ethics Policy and issued her another copy of this policy. This policy had previously been provided to all employees in Division 10. The Division Engineer took further action and reassigned the processing of documents and invoices for the contracts for janitorial services and heating and air services for this facility to a Processing Assistant assigned to another office that shares space in this facility.

I am confident that a conflict of interest no longer exists at this location. I believe the Division Engineer has taken the appropriate measures to correct any conflict of interest that existed in this office and to prevent the possibility of this happening again at this location.

The Board of Transportation adopted an "Ethics Policy" several years ago and the latest revision was distributed to all DOT employees by letter dated December 1, 2000. All DOT employees are expected to comply with this policy. DOT managers will be reminded to take opportunities at their staff meetings to reemphasize to all employees the importance of ensuring we comply with the Ethics Policy.

Please let me know if you need additional information in this matter.

Sincerely,



Lyndo Tippett

LT:bp

cc: Len A. Sanderson, P.E., State Highway Administrator  
J. D. Goins, P.E., Chief Engineer – Operations  
Benton G. Payne, P.E., Division Engineer

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## **DISTRIBUTION OF AUDIT REPORT**

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In accordance with G.S. §147-64.5 and G.S. §147-64.6(c)(14), copies of this report have been distributed to the public officials listed below. Additional copies are provided to other legislators, state officials, the press, and the general public upon request.

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### **Other Legislative Officials**

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Majority Leader of the N.C. Senate  
Minority Leader of the N.C. Senate  
Minority Leader of the N.C. House of Representatives  
N. C. House Speaker Pro-Tem  
Director, Fiscal Research Division

August 28, 2002

## ORDERING INFORMATION

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Copies of this report may be obtained by contacting the:

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