



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Manuel W. Diaz

Case No. K13-051	Case Name: NBV PAL Grant/Gittner	Date Open: 4/12/13	Date Closed: 6/24/13
Complainant(s): Patrick Franklin	Subject(s): Lisa Gittner		

Allegation(s):

North Bay Village (NBV) Police Officer Lisa Gittner (Gittner), applied for a National PAL Recovery Act Mentoring sub-grant from the National Association of Police Athletic/Activities Leagues, Inc. (the grant).

Gittner submitted for overtime from NBV. The overtime that she requested was to be paid from the grant. Gittner failed to inform NBV and her supervisors that the grant did not reimburse for overtime. Gittner knew, through training that she had received, that the grant did not reimburse NBV for her overtime.

Relevant Ordinances:

Miami Dade County Conflict of Interest and Code of Ethics Ordinance , Sec 2-11.1

(g) Exploitation of official position prohibited.

“No person included in the terms defined in Subsections (b)(1) through (6) and (b)(13) shall use or attempt to use his or her official position to secure special privileges or exemptions for himself or her or others except as may be specifically permitted by other ordinances and resolutions previously ordained or adopted or hereafter to be ordained or adopted by the Board of County Commissioners.”

Investigation:

Interviews

Patrick M. Franklin (Franklin), State of Florida Licensed Private Investigator.

Franklin was employed by NBV to conduct an investigation into an allegation that Gittner inappropriately applied for and received overtime from NBV. Franklin provided the COE with an Affidavit of Probable Cause, based on the findings of his investigation. Franklin provided the COE with supporting documentation that was collected during the investigation. The affidavit is summarized later in this document.

Matthew Schwartz (Schwartz), Former NBV City Manager

Schwartz proffered that he suffered a stroke since leaving NBV, so his recollection of some of the specifics of his tenure with NBV may not be accurate. He did recall that Gittner applied for the grant. He recalled that he discussed the grant with her. The intent of the grant was to supplement her salaried position as a NBV police officer. Schwartz described Gittner a valuable employee and dedicated to the PAL program. He suggested that the current problems between Gittner and NBV may be a result of the police union representing police employees and also in the candidate which Gittner supported in a recent NBV election. Schwartz was unaware of the allegations that Gittner misappropriated grant funds. The allegations came to light after he left his position of City Manager.

Roland Pandolfi (Pandolfi), Former NBV Police Chief (Interviewed via telephone)

While Chief, he was made aware of the grant by Gittner and her supervisor, Sgt. Steven McVay (McVay). When advised of the grant, he instructed Gittner to contact Girard Perri, the NBV Finance Director, to work out the details for reimbursement. According to Pandolfi, Schwartz was aware of the grant and worked directly with Gittner.

Pandolfi advised the COE that Gittner's duties were split between School Resource Officer and her PAL assignment. Gittner was assigned to Patrol duties when needed. Pandolfi conceded that, administratively, the grant was not managed effectively. He left his employment shortly after the grant was awarded.

Pandolfi advised that during his tenure, NBV PAL was a Not-For-Profit with Gittner assigned as Executive Director.

Lisa Gittner, NBV Police Officer/Executive Director NBV PAL.

Gittner responded to a COE contact letter. She advised that she would have to contact her PBA attorney prior to speaking to the COE.

Gerrard Perri (Perri), Former NBV Finance Director (interviewed via telephone on May 30, 2013.)

He advised that he was not involved in the writing of the grant. McVay and Gittner came to him and advised him of the grant. He requested a copy of the grant. Neither McVay nor Gittner ever provided the copy.

According to Perri, NBV PAL was a Florida Not-For-Profit and separate from the Police Department. Gittner was an employee of the NBV Police Department assigned to work in PAL. He was not familiar with the Gittner's other duties. He confirmed that NBV PAL had applied for the grant, not NBV.

According to Perri, the grant award was to be paid to the NBV PAL directly. He did not recall the grant ever being brought to the Village Council for acceptance. To his knowledge, NBV never received any of the grant monies. Any overtime paid to Gittner came from the NBV Police Department's budget.

Robert Daniels (Daniels), NBV Police Chief

Daniels advised that he learned of the allegation that Gittner submitted for overtime that she was not entitled to when he was appointed. As such, he directed that Franklin conduct an investigation into the allegations. He suspended Gittner. The allegations were taken to the Miami-Dade State Attorney's office who declined to prosecute. (Memo in file.)

Daniels advised that Gittner returned to work and has been reassigned. Concerning the grant, Daniels advised that National PAL denied NBV reimbursement for Gittner's overtime. The National PAL cancelled the grant after an audit identified numerous problems. NBV reimbursed the National PAL for Gittner's training and some computer equipment that had been purchased through the grant.

Daniels advised that the application for the grant was made directly from NBV PAL not NBV. He was unable to locate any documentation to reflect that NBV ever accepted the grant.

Mike Dillyhon (Dillyhon), Executive Director of National PAL (interviewed via telephone)

According to Dillyhon, Gittner applied for the grant. She attended training on the administration of the grant. The sub-agreement reimbursement instructions advised that the grant could not pay overtime. The grant was for cost reimbursement. The grant reimbursed NBV for the cost of Gittner's travel to attend the training. The grant also reimbursed NBV for the cost of a computer and other peripherals that were purchased.

National PAL advised NBV that the grant could not reimburse for overtime. According to Dillyhon, the grant could pay the salary of an employee if the employee worked straight time, but the grant specifically prohibited reimbursement of overtime. When National PAL refused that overtime reimbursement, Dillyhon advised that NBV reimbursed National PAL for the cost of Gittner's travel to training, a computer and other peripherals.

Dillyhon advised his organization audited the NBV PAL administration of the grant and discovered record-keeping errors. As a result of the audit, the grant award was cancelled. National PAL requested reimbursement for the items purchased through the grant.

According to Dillyhon, National PAL never reimbursed NBV for Gittner's salary.

Dillyhon provided the COE items that NBV PAL submitted with the grant application.

1. Minutes of NBV Council Minutes for September 24, 2009. The minutes indicate that the PAL police officer's position is funded through the NBV Law Enforcement Trust Fund. There is no mention of the grant.

2. A copy of a memorandum from Schwartz "to whom it may concern." The memo states that the grant will be used to maintain Gittner's position with NBV.

Document/Audio/Video Review:

Probable Cause Affidavit (reviewed 5/13-5/14)

Franklin alleges that:

- Gittner, as the Executive Director of the NBV PAL, failed to properly inform her supervisors as to the conditions of the National PAL Recovery Act Mentoring sub-grant from the National PAL that NBV received.
- Gittner received training and supporting documentation for the operation of the grant including the guidelines. (The guidelines prohibited the use of funds for the overtime.)
- Gittner requested and was paid overtime from NBV attributed to grant activities.

- McVay, Gittner's supervisor, approved the overtime.
- When interviewed by Franklin, McVay stated that Gittner never provided him with a copy of the grant. He never saw the grant documents and was not aware of the conditions of the grant. Gittner never made him aware that the grant would not reimburse NBV for her overtime.
- Other NBV employees interviewed by Franklin (Finance Director, account clerk preparing Gittner's payroll and the police budget coordinator) were never provided with a copy of the grant and were not aware of the conditions of the grant.
- Franklin took a statement from Dillyhon, Executive Director National PAL. Dillyhon stated that the grant was intended to hire someone, reinstate someone or retain someone in their employment. Overtime payments, according to Dillyhon, were prohibited.

Documentation supporting Probable Cause Affidavit, also provided by Franklin, include:

- National PAL Recovery Act Mentoring Program Reimbursement Procedures Ex 1. Under Personnel Note, the following is stated: ***Federal funds cannot be used to pay overtime.***
- Copies of overtime requests submitted by Gittner. The requests indicate that the overtime was for grant activities. The overtime requests were approved by a supervisor.
- Memo from Schwartz advising that grant funds will be used to supplement NBV's budget for the salary of the officer assigned to PAL. There is no mention of overtime.

Summaries of Recorded Interviews:

Michael Dillyllow, Executive Director of National PAL

Was advised by contract staffer Sharon Wagner, that NBV PAL was failing to meet conditions of the grant. Thinks that all sub-grantees were aware that payment of overtime was not allowed through the grant. The purpose of the grant was to hire, rehire, or return to work employee. There were other problems in the recording hours for the grant.

Theresa Weismman, Grants Manager for National PAL

Conducted a site visit and audit of grant. The audit noted that the number of hours reported to PAL did not match with the time sheets. Noted that Gittner had applied for overtime not allowable in the grant. During the audit, Gittner responded that a challenge to the success of

the grant was that she was working as a full-time police officer while administering the grant. According to Weisman, the documents provided to the NBV PAL clearly stated that overtime was not permitted.

Gerrard Perri, NBV Finance Director

Became aware of the grant when he had to set up another payroll code to cover Gittner's overtime. McVay requested that Gittner's overtime be recoded to reflect straight time and not overtime. Gittner may or may not have discussed the grant with Perri. Perri tried to get paperwork for the grant from McVay and Gittner. He never received any paperwork concerning the grant. The City never received any reimbursement from PAL/ National or from NBV PAL for Gittner or anyone else.

Amy Suarez, Police Department Grant Coordinator

Suarez had no information concerning the grant.

Amita Clinton, NBV Account Clerk

Assigned an account code and processed changes in Gittner's payroll from overtime to regular pay. Told by McVay to make the change in Gittner's payroll.

Steve McVay, NBV Sergeant of Police

McVay is Gittner's direct supervisor. He was informed by Gittner that she was working on a grant application. Several days after this conversation, Gittner advised him that the grant was awarded. He and Gittner met with Chief of Police Pandolfi and City Manager Schwartz. Gittner advised him that it was a mentoring grant. He never received a copy of the grant nor did he know the conditions of the grant. McVay had no knowledge as to how Gittner was to be paid from the grant.

After the grant was in place and payments were made to Gittner, Gittner advised McVay that the grant did not provide overtime. McVay contacted the Finance Director with Gittner. After speaking to the Finance Director, he was not involved in any further communication between Gittner and the Finance Director concerning Gittner's compensation.

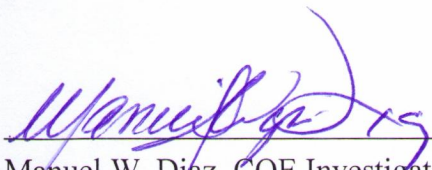
Concerning the approval of Gittner's overtime, McVay advised that Gittner would submit the overtime request and he would approve the request. He advised that he never observed Gittner work the overtime. He relied on her honesty in accounting for the hours that she worked.

Note: Also interviewed were PAL employee Essay Vargas, PAL employee, Mary Joe Masterdinado, Police Department Budget Coordinator, Sergeant Amy Suarez, Patrol Sergeant, Lieutenant Brian Collins and Lt. James McGreedy.

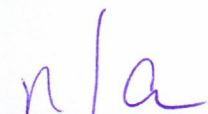
Conclusion:


The instant case is closed without further action as there is insufficient evidence to sustain an allegation of the Miami-Dade Conflict of Interest and Code of Ethics Ordinance.

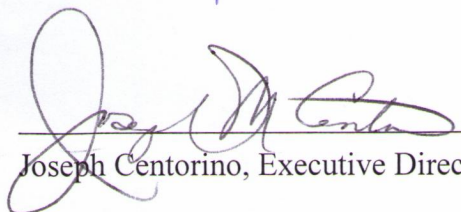
It is noted, however, that administrative action may be appropriate. Evidence suggests that Gittner knew, or should have known, that grant funds could not be used to reimburse for overtime, yet she consistently submitted overtime requests for grant work. It is also important to note that Gittner's supervisor, McVay, consistently signed her overtime requests without educating himself on whether the grant allowed for the payment of overtime. As her direct supervisor, McVay had an obligation to inform himself of the grant's parameters and act accordingly.



Manuel W. Diaz, COE Investigator

Approved by:


Michael Murawski, Advocate


Miriam S. Ramos, Deputy General Counsel


Joseph Centorino, Executive Director


Date