

STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF
INVESTIGATION



AGENCY: OHIO DEPARTMENT OF NATURAL RESOURCES
FILE ID NO.: 2024-CA00013
DATE OF REPORT: FEBRUARY 20, 2025

The Office of the Ohio Inspector General ... The State Watchdog

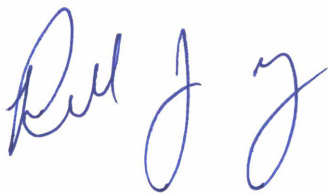
“Safeguarding integrity in state government”

The Office of the Ohio Inspector General is authorized by state law to investigate alleged wrongful acts or omissions committed by state officers or state employees involved in the management and operation of state agencies. We at the Inspector General’s Office recognize that the majority of state employees and public officials are hardworking, honest, and trustworthy individuals. However, we also believe that the responsibilities of this Office are critical in ensuring that state government and those doing or seeking to do business with the State of Ohio act with the highest of standards. It is the commitment of the Inspector General’s Office to fulfill its mission of safeguarding integrity in state government. We strive to restore trust in government by conducting impartial investigations in matters referred for investigation and offering objective conclusions based upon those investigations.

Statutory authority for conducting such investigations is defined in *Ohio Revised Code §121.41* through *121.50*. A *Report of Investigation* is issued based on the findings of the Office, and copies are delivered to the Governor of Ohio and the director of the agency subject to the investigation. At the discretion of the Inspector General, copies of the report may also be forwarded to law enforcement agencies or other state agencies responsible for investigating, auditing, reviewing, or evaluating the management and operation of state agencies. The *Report of Investigation* by the Ohio Inspector General is a public record under *Ohio Revised Code §149.43* and related sections of *Chapter 149*. It is available to the public for a fee that does not exceed the cost of reproducing and delivering the report.

The Office of the Inspector General does not serve as an advocate for either the complainant or the agency involved in a particular case. The role of the Office is to ensure that the process of investigating state agencies is conducted completely, fairly, and impartially. The Inspector General’s Office may or may not find wrongdoing associated with a particular investigation. However, the Office always reserves the right to make administrative recommendations for improving the operation of state government or referring a matter to the appropriate agency for review.

The Inspector General’s Office remains dedicated to the principle that no public servant, regardless of rank or position, is above the law, and the strength of our government is built on the solid character of the individuals who hold the public trust.



Randall J. Meyer
Ohio Inspector General



STATE OF OHIO

OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF INVESTIGATION

FILE ID NUMBER: 2024 - CA00013

SUBJECT NAME: Matthew Westerman

POSITION: Deputy Legal Counsel

AGENCY: Ohio Department of Natural Resources

BASIS FOR INVESTIGATION: Agency Referral

ALLEGATIONS: Misuse or Abuse of State Property, Equipment, or Funds,
Other than Theft or Fraud.
Operating a Business or Private Interest on State Time.

INITIATED: June 26, 2024

DATE OF REPORT: February 20, 2025

INITIAL ALLEGATION AND COMPLAINT SUMMARY

On June 12, 2024, the Ohio Facilities Construction Commission (OFCC) notified the Office of the Ohio Inspector General and the Ohio Ethics Commission of suspected improper activity involving Ohio Department of Natural Resources (ODNR) Deputy Legal Counsel Matthew Westerman. OFCC representatives provided an email Westerman sent to OFCC representatives using his state-issued email address requesting information about an ongoing Ohio Attorney General's Office project. The complaint further alleged Westerman was, "... reportedly employed on a part-time basis by MCS Consultants.¹ This company serves as the owner's agent representing the Ohio Attorney General for the project which was the subject of the email sent to OFCC."

On June 26, 2024, the Office of the Ohio Inspector General opened an investigation to determine whether Westerman used state resources for his secondary employment. This investigation was conducted jointly with the Ohio Ethics Commission.

BACKGROUND

Ohio Department of Natural Resources

The Ohio Department of Natural Resources (ODNR) is charged with overseeing the use, preservation, and conservation of the state's natural resources through a wide variety of recreational and regulatory programs. The department's areas of responsibility include Ohio's wildlife, forests and other natural areas, state parks, inland lakes and waterways, geological and mineral resources, and the Lake Erie coastline. The department also regulates the issuance of hunting and fishing licenses and watercraft registrations and enforces provisions of state law related to natural resources and conservation. Overall, the department is responsible for more than 640,000 acres of land and over 120,000 acres of inland waters.²

Ohio Facilities Construction Commission

The Ohio Facilities Construction Commission (OFCC) manages capital construction projects for state agencies and state-supported universities and community colleges, as well as overseeing

¹ MCS Consultants is also known as MCS Agents and MCS & Associates.

² Source: Biennial budget documents.

Ohio's comprehensive public primary and secondary school construction and renovation program. The commission also administers grants for cultural facilities. ODNR works collaboratively with the OFCC when completing state facility and park construction projects.³

MCS & Associates

According to the Ohio Secretary of State, MCS & Associates, LTD, (MCS) was incorporated on October 15, 2018, and is located in Chillicothe, Ohio. On September 27, 2018, Matthew Westerman filed the Articles of Incorporation with the Ohio Secretary of State and identified himself as the statutory agent for MCS. On January 3, 2019, the MCS statutory agent was updated from Westerman to the current MCS Chief Financial Officer Jason Uhrig. According to the company's website, MCS is a, "... full service construction and project management firm" and provides, "... school districts with the tools necessary to complete their projects in a timely and fiscally responsible manner."⁴ The Statement of Qualifications MCS submitted to OFCC in November 2023 reported that Westerman served as MCS's General Counsel.

Matthew Westerman

ODNR hired Matthew Westerman on January 2, 2022, as deputy chief counsel. According to ODNR, Westerman was responsible for:

- Providing legal counsel and advice to the department's director and assistant directors as well as ODNR's various division chiefs and deputy chiefs (primarily focused on work for the Division of Engineering).⁵
- Advising on legal issues including interpretation and application of laws, rules, court decisions/orders, and procedures affecting daily operations.
- Coordinating in conjunction with the department's chief legal counsel and the Ohio Attorney General's Office related to negotiation, settlement, or litigation of various legal matters.

³ Source: Biennial budget documents.

⁴ Source: www.mcsagents.com

⁵ Counsel and advice included guidance related to applicable rules and laws, policy development, contract creation, review, and enforcement, and implementation of applicable statutory and administrative provisions.

Prior to being hired by ODNR, Westerman was employed by OFCC as an attorney within their Legal Division. Westerman's job responsibilities included, but were not limited to, providing a full range of legal advice and services to OFCC and assisting in the oversight of major claims review process, drafting form agreements and documents reflecting OFCC legal policies, and assisting in the coordination of OFCC representation by the Ohio Attorney General's Office.

APPLICABLE LAWS, RULES, AND POLICIES

The following rules, policies, and procedures were reviewed as part of this investigation:

Misuse of Public Resources

Ohio Revised Code (ORC) §102.03(D) states:

No public official or employee shall use or authorize the use of the authority or influence of office or employment to secure anything of value or the promise or offer of anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties.

One of the core functions of the Ohio Ethics Commission (OEC) is to render advisory opinions with regard to questions concerning the Ohio Ethics Law for public officials and employees under its jurisdiction. The Commission also provides general guidance about the Ohio Ethics Law through telephone calls and email. In 1996, the Commission rendered Formal Opinion Number 96-004, interpreting ORC §102.03(D), which prohibits a public official or employee who engages in private outside employment or business activity from:

- (a) Using public time, facilities, personnel, or resources in conducting a private business or while engaging in private outside employment including, conducting demonstrations for clients using public equipment.

ODNR Policies and Procedures

Employees of the Ohio Department of Natural Resources (ODNR) are required to comply with the following agency policies determined by investigators to be relevant to this investigation:

- **ODNR Ethics Policy**, effective January 27, 2020, states the purpose of this policy was to, “... provide guidance to DNR employees regarding the requirements and standards applicable to them or others under Ohio’s ethics laws.” Section III (B) *Misuse of Official Position* states that,

DNR employees are prohibited from the following:

1. Using or authorizing the use of authority or influence of the employee’s position or office to secure anything of value for the employee or the employee’s family members or business associates. ...
 5. Using the authority or influence of the employee’s position or office to advance the interests of the employee’s private business.
 6. Using DNR time, facilities, or resources for any purpose to promote or conduct activities related to outside employment, personal business, or political activities. ...
 10. Using or authorizing the use of the employee’s title or DNR’s name, logo, or title in a manner that suggests impropriety, favoritism, or bias.
- **ODNR Secondary Employment/Volunteer Policy**, effective January 27, 2020, states the purpose of the policy is to provide ODNR employees, “... who currently have, or desire to have Secondary Employment or who seek to engage in Volunteer activities outside DNR.” Section III (B) *Standards* states that, “... no employee shall accept or engage” in these activities if the Secondary Employment or Volunteer Activity:
 1. Interferes with the employee’s job attendance or performance at DNR.
 2. Is incompatible with the employee’s job at DNR.
 3. Presents a conflict of interest or the appearance of a conflict of interest with the mission of DNR. ...

This section further states, “No employee shall engage in any Secondary Employment or Volunteer Activity while in active work status for DNR, or if there is any federal, state, or local statute, or a DNR directive, prohibiting the Secondary Employment.” Additionally, this section states that ODNR, “... employees shall not use any state-owned or state leased vehicles or any other equipment while engaged in Secondary Employment or Volunteer

activities. No employee shall perform any work related to the secondary employer while on state premises.”

Section III (C) *Prior Approval Required* states that, “... all Secondary Employment must be registered with and approved through DNR’s Office of Human Resources.” The policy further states the ODNR employee:

- “Shall not engage in any Secondary Employment ... unless an application for Secondary Employment or Volunteer Activity has been submitted and approved.”
 - Once the application has been approved, the “Employee must re-submit the application whenever there is a change in his or her state classification... .”
 - “Approved applications are valid for one year and must be renewed annually. Renewal applications must be submitted by January 30 of each year.”
- ***ODNR Technology – Appropriate Use Policy***, effective November 2020, sets “forth the policy for the appropriate use of the Ohio Department of Natural Resources (DNR) owned IT systems and services.” Section III (B.) *Policy* states the agency IT resources are, “... publicly owned and intended to be utilized solely in performing job duties.” Section III (B.)(4) *Privacy* further states that, “... the equipment and services are provided solely to facilitate DNR business.”

Section III (B)(6) *Prohibited Uses of IT Resources* states in Subsection a. that,

Personal use of Department-provided IT resources or Internet is prohibited. Any use of Department-provided IT resources that disrupts or interferes with DNR business, incurs an undue cost to the department, interferes with the productivity of the employee, could potentially embarrass or harm DNR, or has the appearance of impropriety is strictly prohibited which includes, but is not limited to, the following:

- v. Operating a business, directly or indirectly, for personal gain. ...
- xvii. Banking, shopping, web email (State of Ohio web email is permitted)

Section III (B)(11) *Use of Cloud Storage* states, “When using state cloud storage solutions, the following restrictions apply:

- a. Data Storage: Only data related to state business shall be stored in state cloud storage solutions. Personal data shall not be stored in state cloud storage solutions.
- **ODNR Use of State Phones Policy**, effective March 21, 2021, provides “... clarification on the Ohio Department of Natural Resources (DNR) position regarding personal use of state telephones and state wireless phones.” Section III (B)(3) *Limitations on Personal Calls* acknowledges that,
 - ... it may be necessary to make or accept a limited number of personal telephone calls while at work. However, the frequency and duration of such personal calls⁶ must be kept to a minimum and, whenever possible made during lunch hours or authorized breaks.

According to records provided by ODNR, Westerman acknowledged agency policies on the following dates:

Policy Subject(s)	Westerman Acknowledgement Dates
Master Policy ⁷	2/21/22
Technology Use policies – November 2020	1/13/22
Use of State Phone policy – March 2021	1/13/22
IT-04 – Use of Internet, Email and Other IT Resources	7/9/24

According to records provided by ODNR, Westerman completed the following relevant trainings on the following dates:

Training Topic	Westerman Training Dates
Ohio Ethics Law 2020	2/21/22
The Ohio Ethics Law 2023: Following the Right Path	11/24/23
The Ohio Ethics Law 2024: 50 Yrs of Promoting Governmental Ethics	10/10/24

⁶ The policy defines “personal business” is an activity, “... undertaken for profit or gain of any kind, shall not be conducted from a state telephone. Employees are prohibited from circulating their state telephone number as a telephone number at which they can be reached for personal business (personal business cards and materials shall not have a state telephone number listed as the contact number).”

⁷ Records provided by ODNR contained the following statement that Westerman completed on February 21, 2022, which was documented in his training history: “By entering my employee id number, I acknowledge that I am aware that all State of Ohio and ODNR’s policies are available to review on the links below and that failure to comply with State of Ohio and/or ODNR policies may result in discipline.”

INVESTIGATIVE SUMMARY

On June 12, 2024, the Ohio Facilities Construction Commission (OFCC) notified the Office of the Ohio Inspector General and the Ohio Ethics Commission of suspected improper activity involving Ohio Department of Natural Resources (ODNR) Deputy Legal Counsel Matthew Westerman. OFCC representatives expressed concerns Westerman had used his state-issued email address to send an email to OFCC requesting information about an Ohio Attorney General's Office project. OFCC informed investigators that Westerman was, "... reportedly employed on a part-time basis by MCS Consultants." Additionally, OFCC reported that MCS was serving as the owner's agent⁸ representing the Ohio Attorney General on the project.

During the course of the investigation, OFCC representatives notified investigators that Westerman had called an OFCC employee on November 15, 2024, to discuss a project. According to the OFCC representative, Westerman started the conversation by stating that, "MCS was working on a CTC [Career Technical Center] project in Trumbul [sic] County." The OFCC representative further stated Westerman wanted to discuss a recent procurement event for that project with the OFCC representative and to obtain his thoughts about the matter. Investigators obtained a screenshot showing the call occurred using Microsoft Teams ([Exhibit 1](#)). Investigators determined through a review of Westerman's Kronos timekeeping records that he was working for ODNR at the time he called OFCC about the CTC project.

Outside Employment

OFCC had reported in its complaint to the Office of the Ohio Inspector General concerns about Westerman's use of State of Ohio resources for his outside employment at MCS & Associates (MCS). The Office of the Ohio Inspector General requested and obtained from ODNR a copy of Westerman's personnel file including requests and subsequent approval of his outside employment at MCS. Investigators found during the examination of these records that on March 29, 2022, Westerman submitted an Application for Secondary Employment/Volunteer Activities (referred to as an Outside Employment Application). Westerman stated the position would involve him working "up to 10 hours a week" for MCS to provide "project advice on school

⁸ An owner's agent is an organization or individual who is responsible for representing the interests of the owner.

district projects.” The Outside Employment Application was approved by ODNR Chief Legal Counsel and Ethics Officer Damian Sikora and ODNR Assistant Chief Legal Counsel Nicole Koppitch on July 21, 2022. [\(Exhibit 2\)](#)

Investigators obtained and examined certain emails sent and received by Westerman during the period of January 1, 2022, through June 27, 2024, and identified the following email correspondence related to Westerman’s MCS outside employment:

- On March 10, 2022, Westerman emailed Sikora stating he had a question about a secondary employment opportunity. Westerman asked whether Sikora would prefer to discuss the opportunity before completing the Outside Employment Application.
- On March 11, 2022, Westerman received an email response from Ohio Ethics Commission Advisory Attorney Christopher Woeste, who was responding to an email from Westerman requesting guidance for “revolving door restrictions involving a potential part-time outside employment opportunity.” Woeste attached to his email two OEC Staff Advisory Opinions (Hickman 12-02-14 and Wheeler 05-13-15), Information Sheet 5: Post-Employment Restrictions, and the OEC Post Employment Worksheet for Westerman’s consideration as well as instructions on how to request an advisory opinion should he choose to do so.
- On March 14, 2022, Westerman forwarded Woeste’s email and the two OEC advisory opinions to Sikora and stated in the email that after reviewing the two OEC advisory opinions involving OFCC employees,
 ... I was not involved in the award of contracts at OFCC and I did not supervise any employees which limits concerns. I was involved with legal questions on a couple of projects that are currently being administered by the proposed part time employer and I would not be involved in those projects.
- On March 29, 2022, Westerman emailed Koppitch his Outside Employment Application “... to provide legal and project advice on school district projects,” to MCS for up to 10 hours a week. Koppitch forwarded this application to Sikora on March 30, 2022.
- On May 5, 2022, Westerman emailed Sikora asking whether he had any follow-up questions on the Outside Employment Application.

- On June 8, 2022, a meeting between Westerman and Sikora was scheduled, and was held on June 16, 2022, to discuss Westerman's Outside Employment Application.
- On June 16, 2022, Westerman emailed Sikora and Koppitch the two opinions he had received from the Ohio Ethics Commission but stated in his email that neither opinion "is specifically on point."
- On July 19, 2022, Koppitch emailed Sikora stating she had reviewed the opinions and had a few thoughts on Westerman's situations. From her review, Koppitch stated,

... If Matt is working on/consulting on "wholly new projects" that were not initiated during his time with the OFCC it does not appear that work would be prohibited. However, to the extent he could be assigned projects that in which a contract exists with OFCC, he should be cautious that the OEC has broadly interpreted the term "approve" to include the act of negotiating terms of the agreement - so even if he didn't have the final sign of [sic] on a particular contract, it is possible he would still be viewed as having approved the contract.
- On July 19, 2022, Sikora responded to Koppitch asking to discuss Westerman's request the next day.
- On July 21, 2022, Koppitch sent Westerman's Outside Employment Application to Sikora for approval and signature. Koppitch and Sikora approved Westerman's application on this date.
- On July 25, 2022, ODNR Labor Relations Officer Andrew Shuman forwarded the approved Outside Employment Application to Westerman.

During the email review, investigators found that Westerman had told Sikora in a March 14, 2022, email that he was willing to obtain an advisory opinion from the Ohio Ethics Commission. Investigators contacted the Ohio Ethics Commission and learned that Westerman had not requested such an opinion.

On July 25, 2024, investigators interviewed Sikora for his recollection of the events leading up to his approval of Westerman's Outside Employment Application. Sikora recalled that during initial conversations with Koppitch about the request, there were discussions about contacting the Ohio Ethics Commission. However, Sikora told investigators they wanted to obtain more

information about Westerman’s request. Sikora also recalled discussing whether there was a conflict with Westerman’s current duties and asked Koppitch to question Westerman about whether he (Westerman) had looked at revolving door requirements between him and OFCC.

After Westerman sent a May 5, 2022, email asking about the status of his Outside Employment Application, Sikora recalled a meeting was scheduled to discuss the request with Westerman. Sikora recalled that during the June 16, 2022, meeting, Westerman allayed his concerns, stating there would be, “... no involvement um, with anything other than local school district projects.” Sikora further recalled that Westerman stated his role would be to give advice to someone else. Lastly, Sikora stated that at the end of the conversation, it was his understanding from Westerman that, “... the minimal things he [Westerman] was going to provide was guidance to the local school districts on ways they can do this to make it better.” Based on this conversation, Sikora told investigators he became more comfortable about the revolving door issue raised with Westerman’s request for outside employment, since he did not believe that Westerman would appear or add information to the filings between or in front of the OFCC.

On December 2, 2024, Sikora notified investigators that he and Koppitch had a conversation with Westerman on November 19, 2024, and instructed Westerman to, “... immediately cease all outside employment activity.” On November 20, 2024, Westerman sent Sikora and Koppitch the following email:

Damian and Nicole,

I did terminate my employment with my secondary employer last night. Is there anything additional that you need in addition to this email?

Thanks,

Matt

Annual Outside Employment Resubmissions

From their review of ***ODNR Secondary Employment/Volunteer Policy***, investigators learned that Section III (C) *Prior Approval* stated that secondary employment approvals are good for one year and require an annual resubmission by January 30th or when there are changes in their

secondary employment. Additionally, the policy stated employees, "... shall not engage in any Secondary Employment ... unless an application for Secondary Employment or Volunteer Activity has been submitted and approved." Sikora confirmed that the ODNR policy, "... requires the employee to resubmit an Outside Employment Application every year. If they fail to do so and they continue engaging in outside employment, they are doing so in violation of our policy."

During an interview conducted on July 25, 2024, Sikora told investigators that Westerman would have received a notice every year from the agency reminding ODNR staff members that it had been a year, and they needed to update their Outside Employment Application. Sikora acknowledged that for 2024, the annual notice was sent out later than usual because ODNR moved to an online computer system and the department wanted to wait until the system was in place before accepting outside employment updates. Sikora admitted to investigators he had lost track of whether Westerman was still conducting his outside employment since he (Sikora) had not seen any forms.

Sikora provided to investigators for their review two weekly newsletters, dated February 20, 2024, and February 26, 2024, that had been sent by email to ODNR staff members that included the reminder to, "... resubmit their secondary employment statements and informed them of the new electronic system for making requests." Additionally, Sikora stated that, "... members of our Legal and Legislative team are orally reminded of this obligation every January in our weekly Legal and Legislative meetings."

Investigators examined the records provided by ODNR and found no evidence that Westerman had resubmitted his outside employment requests in 2023 or 2024.

AGENCY RESPONSE: Process Changes

On December 13, 2024, ODNR notified investigators of changes made to the application and approval processes for secondary employment. According to ODNR, the Legal Division staff began in 2022 working with the Human Resources and Information Technology divisions to, "... develop an online application process for submitting" the Secondary Employment applications.

ODNR implemented a mobile and web-based application approximately a year later which routes the application to the applicable approvers and notifies the employee whether the application is approved or denied. Additionally, the “Secondary Employment Application database maintains the status of all submitted applications (which includes a note as to whether the application was approved, rejected, or pending) and is searchable.”

In addition, ODNR notified investigators of its “... plans to send a series of reminders to employees this January [2025] reminding them of their obligations to resubmit their secondary employment applications by January 30th.” ODNR stated the reminders will appear in at least three weekly newsletters sent by ODNR to its employees. Similar to past years, ODNR stated the agency division chiefs will be instructed to, “... raise the issue of secondary employment resubmittals with their staff.”

Misuse of State Resources

On June 12, 2024, OFCC representatives notified investigators of concerns that Westerman was using his state-issued email account to solicit information about, “... a project being constructed by the Ohio Attorney General’s Office.” OFCC provided investigators with a copy of a May 28, 2024, email exchange between an OFCC staff member and Westerman about the Rhodes State Office Tower 20th Floor Renovation project being undertaken by the Ohio Attorney General’s Office. [\(Exhibit 3\)](#)

During an interview, Sikora told investigators that he had a conversation with Westerman during the June 16, 2022, meeting about the use of State of Ohio resources for his outside employment. Sikora stated he had the same conversation with Westerman that he did with every ODNR employee and stated that for his outside employment, Westerman, “... can’t do it [outside employment] on state time, use state resources, and you need to pull yourself away when you’re doing it. It needs to be separate ...”

ODNR Ethics Policy, effective January 27, 2020, was issued to, “... provide guidance to DNR employees regarding the requirements and standards applicable to them or others under Ohio’s

ethics laws.” Section III (B) *Misuse of Official Position* states that, “... DNR employees are prohibited from the following:

5. Using the authority or influence of the employee’s position or office to advance the interests of the employee’s private business.
6. Using DNR time, facilities, or resources for any purpose to promote or conduct activities related to outside employment, personal business, or political activities. ...
10. Using or authorizing the use of the employee’s title or DNR’s name, logo, or title in a manner that suggests impropriety, favoritism, or bias.

Additionally, the ***ODNR Secondary Employment/Volunteer Policy***, effective January 27, 2020, Section III (B) *Standards* states, “No employee shall engage in any Secondary Employment or Volunteer Activity while in active work status for DNR” Additionally, this section states that ODNR,

... employees shall not use any state-owned or state leased vehicles or any other equipment while engaged in Secondary Employment or Volunteer activities. No employee shall perform any work related to the secondary employer while on state premises.

Misuse of State Resources – Computer and Email

In the complaint referral, OFCC representatives provided a copy of an email that Westerman had sent from his ODNR email address to OFCC asking questions about a project involving the Ohio Attorney General’s Office. [\(Exhibit 3\)](#) Investigators learned during the investigation that ODNR provided Westerman with an office at ODNR, a state-issued laptop, and that he stored his files either on the laptop or in his ODNR-assigned OneDrive. Furthermore, investigators determined that ODNR did not have any involvement with the project at the Ohio Attorney General’s Office.

ODNR Technology – Appropriate Use Policy was implemented in November 2020, and describes the, “... appropriate use of the Ohio Department of Natural Resources (DNR) owned IT systems and services.” Section III (B.) *Policy* states the agency IT resources are, “... publicly owned and intended to be utilized solely in performing job duties.” Additionally, the policy in,

- Section III (B)(4) *Privacy* provides that, “... the equipment and services are provided solely to facilitate DNR business.”
- Section III (B)(6)(a.) *Prohibited Uses of IT Resources* states that, “Personal use of Department-provided IT resources or Internet is prohibited. ... Any use of Department-provided IT resources that ... has the appearance of impropriety is strictly prohibited which includes, but is not limited to, the following:
 - v. Operating a business, directly or indirectly, for personal gain.”
- Section III (B)(11) *Use of Cloud Storage* states, “When using state cloud storage solutions, the following restrictions apply: a. Data Storage: Only data related to state business shall be stored in state cloud storage solutions. Personal data shall not be stored in state cloud storage solutions.”

The Office of the Ohio Inspector General obtained and analyzed Westerman’s state-issued laptop, files stored in the OneDrive, and his ODNR email account⁹ to evaluate whether Westerman used these resources for MCS activities or other non-ODNR related activities. From their analysis of these records, investigators identified numerous files and/or emails associated with Westerman’s outside employment and personal activities, including bills of sale, family-owned company bank records, and family members’ tax returns. The following chart summarizes the results of this analysis:

Category	Activity Related to				
	MCS & Associates	Great Outdoor Lawn & Landscaping	Private Legal Work	Personal	Total
Number of Files Stored on Westerman's OneDrive or his State-Issued Laptop	29	9	1	107	146
Number of Emails Sent/ Received by Westerman	70	0	2	49	121

⁹ Investigators examined emails determined to be exempt from attorney-client privilege for the period January 12, 2022, through June 27, 2024.

During the analysis of emails that occurred during the period of January 1, 2022, through June 27, 2024, investigators identified the following examples of email exchanges or meetings related to Westerman's work for MCS & Associates¹⁰ unrelated to his ODNR job duties:

- On November 8, 2023, Westerman sent an email from his ODNR email address to OFCC employee Janice Parker requesting information. After Parker responded with the requested information, Westerman forwarded Parker's response to his personal email account.
- On November 10, 2023,¹¹ Westerman used his state email account to request and forward examples of Statements of Qualifications (SOQ) received by state agencies to his personal email account. Investigators determined MCS submitted a Statement of Qualification dated November 14, 2023, to OFCC for the Owner Agent Services list.¹² The SOQ contained a page discussing the services Westerman provided to MCS.
[\(Exhibit 4\)](#)
- Westerman forwarded to his ODNR email from his personal email address eight meeting invitations sent for Teams meetings which had initially been sent to Westerman's MCS email. Investigators compared the scheduled meeting times to Westerman's workday start- and end-times and determined five of the eight meetings were scheduled during Westerman's ODNR workday.
 - For example, on March 20, 2024, MCS representatives sent a Teams meeting invitation to Westerman and representatives from MSA Architects and Motz Engineering for a meeting scheduled on March 22, 2024, from 1:00 p.m. – 1:30 p.m. to discuss the Rhodes State Office Tower 20th Floor Renovation project for the Ohio Attorney General's Office. The meeting invitation showed Westerman accepted this meeting on March 22, 2024, at 1:04 p.m. Investigators determined ODNR paid Westerman for hours worked on that date from 6:50 a.m. to 10:30 a.m. and 11:30 a.m. to 4:30 p.m.
- Westerman sent 43 emails for MCS business during his ODNR workday using either his state-issued email account, his personal email account, or his MCS-issued email account

¹⁰ MCS & Associates is also known as MCS Agents and MCS Consultants.

¹¹ State employees observed Veteran's Day on this date in 2023.

¹² MCS & Associates entered into a contract with the Ohio Attorney General's Office to provide owner agent services in March 2024.

during times he reported working and was compensated by ODNR. From their analysis, investigators determined Westerman engaged in phone calls with MCS representatives during times he reported working for ODNR on the following dates:

Date	Number of Calls	Total Time Spent
11/21/2023	2	0:04:10
11/27/2023	3	1:02:19
1/8/2024	1	0:27:01
3/5/2024	1	0:07:25
3/22/2024	1	0:14:30
3/26/2024	1	0:05:06
3/27/2024	1	0:53:44
5/1/2024	4	0:06:03
5/3/2024	5	0:13:18
5/13/2024	1	0:12:15
5/28/2024	2	0:07:06
5/31/2024	1	0:06:38
6/3/2024	3	0:30:13
6/5/2024	1	0:07:34
6/24/2024	1	0:02:47
	28	4:20:09

Improper Use of State Facilities – Personal Phone Calls

The Office of the Ohio Inspector General issued a subpoena for Westerman’s personal cell phone records for the period of August 1, 2023, through July 17, 2024. Investigators also obtained Westerman’s available desk phone records for the period of April 9, 2024, through June 29, 2024. Investigators examined, compared, and correlated those records to:

- Various sources and websites to identify the owners of the cell phone numbers that were listed on Westerman’s personal cell phone records.
- Issued subpoenas to various cell phone carriers to obtain the subscriber information for the identified phone numbers.
- Westerman’s Kronos timekeeping records identifying when he was working for ODNR at the time of the call.

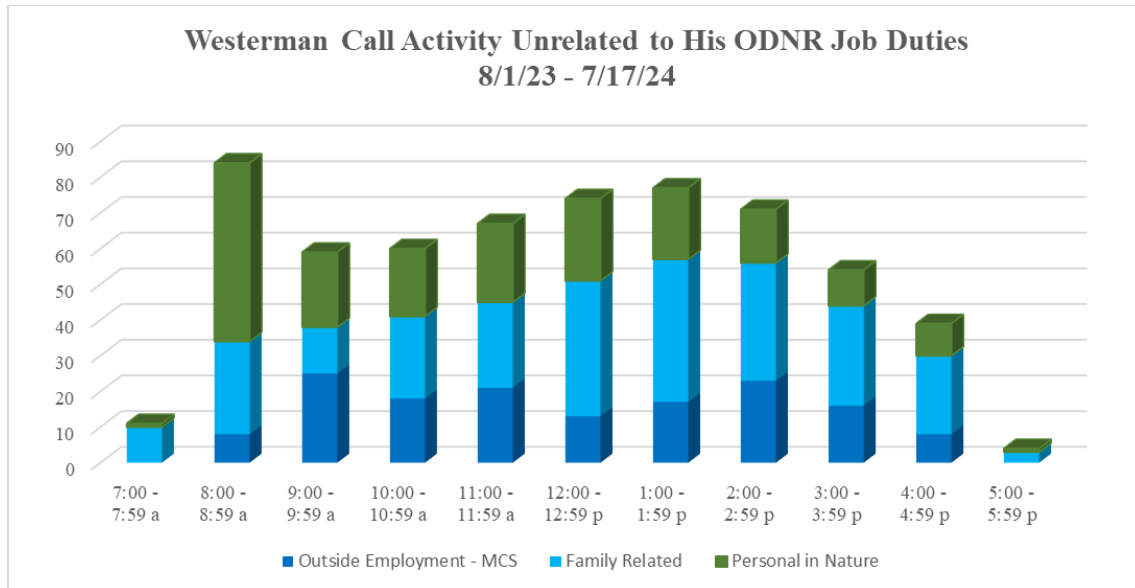
Furthermore, investigators analyzed additional relevant records and conducted interviews and inquiries with representatives from OFCC and ODNR to determine whether the calls were related to Westerman’s ODNR duties.

During the examination of his state-issued desk phone records, investigators determined that of the 82 phone calls occurring between April 9, 2024, and June 29, 2024, Westerman engaged in a total of four calls with family members during his ODNR workday. Westerman spent a total of 54 minutes 14 seconds on his desk phone unrelated to his ODNR job duties. Additionally, investigators determined, as shown in the following table, Westerman accumulatively spent the following total hours engaging in phone calls unrelated to Westerman’s ODNR duties during the period of August 1, 2023, through July 17, 2024:

Category	Total Number of Calls	Hours Spent by Westerman on Calls Related to the identified company:
Westerman's Outside Employer - MCS	148	26:48:49
Family Related	284	24:56:49
Personal in Nature	191	11:32:06
	623	63:17:44

Furthermore, the following chart summarizes the total number of phone calls¹³ investigators determined Westerman made using his personal cell phone for each hour during his reported ODNR workday to phone numbers determined to be unrelated to his ODNR work duties:

¹³ This chart and all subsequent charts involving phone activity include all calls exceeding 10 seconds in duration.



Investigators examined the ***ODNR Time and Attendance Policy***, effective January 5, 2024, and determined that, as an overtime exempt full-time employee, Westerman was, “... expected to take a lunch break each workday, typically no less than fifteen (15) minutes” ODNR representatives explained that when Westerman’s Kronos records were transferred to the Ohio Administrative Knowledge System¹⁴ (OAKS) for payroll processing, that OAKS automatically deducted 30 minutes for lunch from Westerman’s calculated work time.

Section III (B)(3) ***Limitations on Personal Calls ODNR Use of State Phones Policy***, effective March 21, 2021, acknowledges that, “... it may be necessary to make or accept a limited number of personal telephone calls while at work. However, the frequency and duration of such personal calls must be kept to a minimum” Furthermore, ***ODNR Secondary Employment/Volunteer Policy***, Section III (B) ***Standards*** states, “No employee shall perform any work related to the secondary employer while on state premises.”

Investigators determined Westerman made the calls to his outside employer throughout the workday and did not make these calls typically during his morning or afternoon breaks or lunch. Instead, these calls for MCS activity occurred throughout the morning or afternoon of his

¹⁴ The Ohio Administrative Knowledge System (OAKS) is used by the State of Ohio to capture, process, and maintain records supporting wages paid to state employees.

workday and in certain instances, while he was at his ODNR office. The following table shows investigators' calculation¹⁵ of the total amount of time spent and the compensation Westerman received from ODNR while he was using his personal cell phone during his ODNR workdays for his outside employment with MCS, unrelated to his ODNR duties:

Category	Total Number of Calls	Hours Spent by Westerman on Calls Related to the identified company:	Compensation Paid Associated for Time Spent on Personal Cell Phone
Westerman's Outside Employer - MCS	148	26:48:49	\$ 2,182.66

ODNR vs MCS Duties

Investigators learned from ODNR representatives that as deputy legal counsel, Westerman was responsible for providing legal counsel and advice to the department's director and assistant directors as well as ODNR's various division chiefs and deputy chiefs (primarily focused on work for the Division of Engineering).¹⁶ Additionally, Westerman advised ODNR staff on legal issues including interpretation and application of laws, rules, court decisions/orders, and procedures affecting daily operations. Westerman also coordinated with agency staff and the Ohio Attorney General's Office staff in matters involving negotiation, settlement, or litigation of various legal matters.

Investigators determined from a review of the MCS & Associates SOQ submitted on November 14, 2024, to OFCC that Westerman's job duties at MCS included providing [\(Exhibit 4\)](#) :

- Additional insight on schedule-related issues, claim resolution, liens, and litigation or mediation support.
- Assistance in the areas of contract management, contract compliance, insurance and bonding issues, and contractor non-performance.

¹⁵ This calculation consists of Westerman's hourly rate plus the cost of employer-provided benefits for retirement, Medicare, and insurance.

¹⁶ Counsel and advice included guidance related to applicable rules and laws, policy development, contract creation, review, and enforcement, and implementation of applicable statutory and administrative provisions.

In response to an inquiry to ODNR, investigators learned that Westerman failed to notify Sikora or Koppitch that his title for his position at MCS was general counsel. After reviewing Westerman's duties for MCS described in the SOQ submitted to OFCC, Sikora acknowledged the duties performed by Westerman for MCS were similar to his (Westerman's) ODNR duties.

OFCC Employment and MCS & Associates

Investigators searched the Ohio Secretary of State's website for MCS & Associates (MCS) and learned that Westerman had filed the Articles of Incorporation for MCS effective October 15, 2018, and was appointed the statutory agent at that time. Investigators also found on the website that MCS' statutory agent was changed on January 3, 2019, from Westerman to the MCS chief financial officer. Investigators examined Westerman's OAKS/HR2k Employee History Report¹⁷ and found that Westerman was employed by OFCC in 2018 and 2019 and had also been issued a working suspension on January 7, 2019.

Investigators contacted both OFCC and ODAS to obtain available records supporting the issuance of the working suspension to Westerman. ODAS provided investigators with a copy of the January 3, 2019, letter issued to Westerman by OFCC management. The letter stated Westerman was being suspended for three workdays effective January 7, 2019, for violating the "OFCC Work Rule – Not utilize State equipment or property for personal use." OFCC management designated the suspension as a working suspension. [\(Exhibit 5\)](#)

On November 25, 2024, investigators interviewed Westerman's then-OFCC supervisor, former OFCC Chief Legal Counsel/Chief of Staff Jon Walden,¹⁸ about the discipline issued to Westerman. When asked about the January 7, 2019, working suspension served by Westerman, Walden explained Westerman's involvement with MCS was, "... directly related to the working suspension." Investigators asked Walden what led to the discovery of the matter and the issuance of subsequent discipline to Westerman. Walden believed that he had gone into Westerman's OFCC office to either look for or talk about something. To the best of his

¹⁷ This report shows employment actions including hirings, pay rate changes, discipline, and resignation/termination actions.

¹⁸ Walden resigned from OFCC effective June 2023 and started his new position at The Ohio State University on July 3, 2023.

recollection, Walden stated that he saw something on Westerman's computer screen or in Westerman's office related to Michael Mendenhall,¹⁹ and/or the filing of Articles of Incorporation. Walden commented that whatever he had seen caused him to return to his office and search the Ohio Secretary of State's website for MCS.

After reviewing the reasons documented on the working suspension obtained from the OAKS ePar²⁰ system via ODAS, investigators asked Walden to confirm whether the violation was due to Westerman "doing something" involving MCS while at his OFCC office. Walden replied, "Yes." However, Walden was unable to recall to investigators whether or not there was an email sent about this matter, but Walden did recall the issue was related to Mendenhall. Additionally, Walden commented that he specifically told Westerman that he (Westerman) should not be Mendenhall's agent, and that Mendenhall should hire an attorney.

Interview with Matthew Westerman

On December 9, 2024, investigators interviewed Westerman. Westerman confirmed to investigators that he was familiar with the ODNR Secondary Employment/Volunteer; Ethics; Technology Use; and Use of State Phone policies and that he had completed the annual ethics training. When discussing these policies, Westerman stated to investigators that he was:

- Required to obtain supervisory pre-approval for outside employment and had been recently reminded of the annual resubmission requirement.
- "Not supposed to" store non-work related files on his state-issued laptop.
- "Not supposed to" use his state-issued email for non-work related activities.
- "Not supposed to" use his state-issued Teams software for non-work related activities.
- Permitted to use his personal cell phone to make calls on a limited basis, preferably during lunch or break, unless it was a necessity.

Westerman told investigators that MCS representatives approached and offered him a part-time position. Westerman stated that he met with ODNR Chief Legal Counsel and Ethics Officer

¹⁹ Mendenhall was a former OFCC employee and resigned on March 5, 2016, and is the chief executive officer of MCS & Associates..

²⁰ The ePar system is used by the State of Ohio to maintain records supporting all personnel actions including, but not limited to, an employee's hiring, discipline, and separation of employment action.

Damian Sikora to discuss the position which was focused on school district projects. Westerman stated he told Sikora that he would not be performing any work involving state agencies as part of this position. Westerman recalled being notified that his March 29, 2022, Outside Employment Application was approved. Investigators determined this approval occurred on July 21, 2022. Westerman told investigators he did not start working for MCS until after he had received this approval and believed he started at MCS in either August or September 2022.

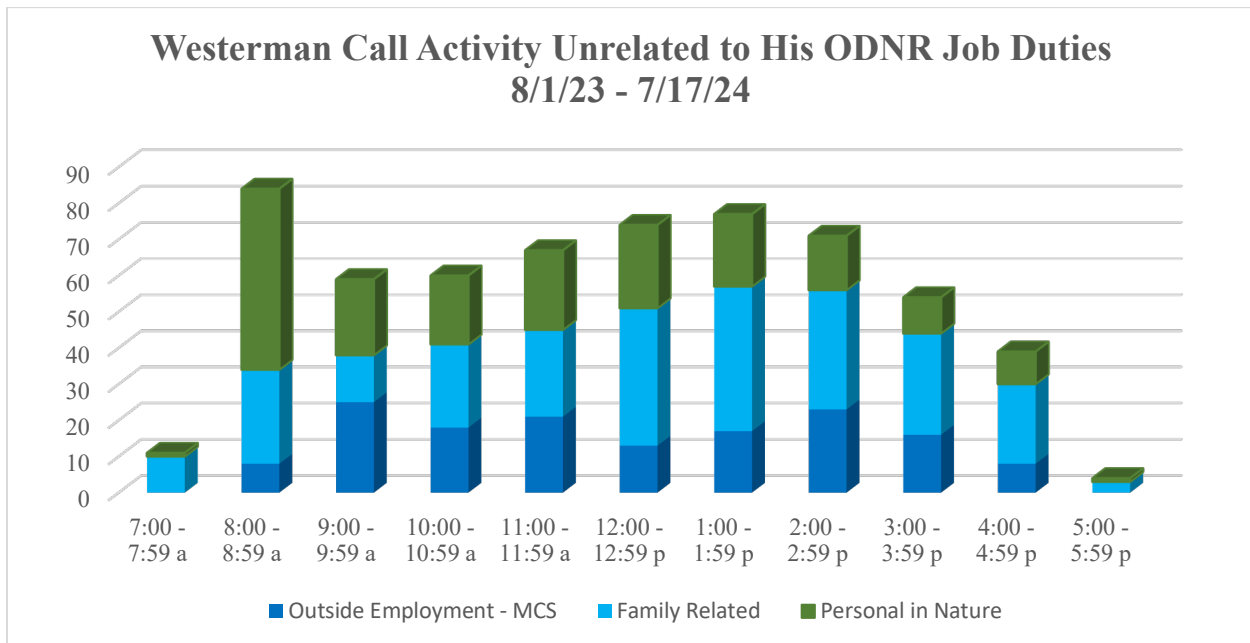
During the interview, Westerman told investigators that he contacted the Ohio Ethics Commission after his initial meeting with Sikora to verify his understanding that he could not be involved in projects that he had worked on while at OFCC. Westerman recalled sharing the opinions provided by the Ohio Ethics Commission with Sikora. Upon further questioning by investigators, Westerman stated that he did not request an advisory opinion from the Ethics Commission and believed that if he followed the guidance in the two previously issued opinions he “would be fine.”

Investigators then discussed the requirements within the ***ODNR Secondary Employment/Volunteer Policy*** which required employees to resubmit their Outside Employment Application each year by the end of January. Westerman told investigators that he had been recently reminded of this requirement by Sikora and that this was the first time he remembered this provision. Westerman explained Sikora had told him that the yearly resubmission of the Outside Employment Application had been discussed in the past at a legal/legislative meeting and that a notice had probably been sent to the employees earlier that year (in 2024). Westerman was unsure if he was at the meeting Sikora mentioned but said he felt that had he heard this resubmission was required, that it would have “kicked in” what he needed to do.

During the interview, Westerman told investigators that he received the “usual spiel” from Sikora during the June 2022 meeting, stating that Westerman could not, “... use state resources for uh, your secondary employment.” Investigators asked Westerman the following series of questions about his use of state time and resources and received the following responses:

Question	Westerman's Response
While being compensated by ODNR, do you feel that you conducted MCS business on state time?	"I do not."
Do you feel you used your personal cell phone to make calls regarding your outside employment at MCS when you were being paid by ODNR?	"I do not."
Did you use your personal cell phone to make personal calls when you were being paid by ODNR?	"Occasionally." These calls were described as "business like and quick."
Do you recall storing files on your state-issued laptop that were not related to ODNR activities?	"Yes, I admit that I did." When asked if the files were for MCS business, Westerman responded, "possibly a couple times."
Do you believe you used your state-issued email account to send emails that were related to MCS activities or were personal in nature?	"a few times."
Did you attend Teams meetings to discuss MCS business while being compensated by ODNR?	"It was not the intention. I was trying to do it on my lunch hour or during my break."

Investigators then showed Westerman spreadsheets identifying calls on his personal cell phone to MCS representatives or vendors associated with MCS business, family members, or those personal in nature throughout the ODNR workday, which are summarized in the following chart:



Investigators asked Westerman how the calls associated with his outside employment at MCS occurring during his ODNR workday were allowable per ODNR policy. Westerman responded, "Nope. It's not. I'll admit that." Westerman further stated that some of these calls would have occurred on "breaks." Investigators reminded Westerman that the **ODNR Ethics Policy** stated

that he could not use a State of Ohio facility when conducting outside employment business. Investigators also noted to Westerman that had he made these phone calls during his “breaks” while at the ODNR facility, he would have violated the ***ODNR Ethics Policy***. Westerman responded, “I guess, I, I didn’t take that into consideration, but I tried to do all of these calls on break time, or some would be shorter”

Investigators provided Westerman with a table summarizing the number of calls and amount of time spent during his ODNR workday exchanging calls that were to or from family members or those deemed to be personal in nature. Investigators directed Westerman to the previously shown chart which showed these types of calls occurred throughout each hour of the workday and questioned him as to whether such conduct including the number of calls, duration, and frequency was within the spirit of the guidance provided by ODNR. After further discussion, Westerman commented that the concern was “fair.”

Investigators then showed Westerman excerpts of file names determined to be related to MCS business, private legal work, or personal activities stored on his state-issued laptop or in his ODNR-assigned OneDrive. During the review of the files, Westerman stated that:

- Some of the files associated with MCS business may have just been passed through, but agreed the files should not have been stored on a state resource.
- He believed he was using the files associated with his son’s business to prepare his taxes.
- He knew that he had some of the files deemed to be personal in nature on his laptop.

When asked whether the storage of these files was allowable per ODNR policy, Westerman replied, “it’s not” or “absolutely not.”

Investigators then showed Westerman a list of a portion of the subject lines for emails found in his state-issued email associated with MCS business, private legal work, and those deemed to be personal in nature. When asked whether he should have sent these emails using his ODNR email account, Westerman replied that these items should not have been sent. Investigators then reviewed emails sent on November 8, 2023, to OFCC staff asking for information; a November 10, 2023, email requesting a SOQ which he then forwarded to his personal email; and a May 28,

2024, email sent to OFCC regarding the Ohio Attorney General's Rhodes State Office Tower 20th Floor Renovation project. When asked, Westerman acknowledged that these emails should not have been sent from his ODNR email account, and noted that specifically for the May 28, 2024, email, he was in "survival mode" and "wasn't making good choices" at that time.

Next, investigators reviewed the eight meeting invitations that Westerman had forwarded to his ODNR email address, of which five of the meetings occurred during the time the Kronos payroll records show Westerman was being compensated by ODNR. Westerman explained that he often sent the meeting invitations to his ODNR email address as a "backup." When asked whether he participated in an MCS meeting while being paid by ODNR, Westerman replied, "I tried to make sure that I was on a lunch hour or break at that time." He further stated that his participation in the meeting could have entailed a combination of a break and lunch for a longer meeting. When asked whether he used his state-issued laptop to attend the Teams meeting, Westerman stated that he was not sure, but he may have used his state-issued laptop, he may have called in, or may have used his personal laptop.

Lastly, investigators discussed a comparison of 43 emails Westerman sent to MCS representatives or vendors and phone calls exchanged with MCS representatives on the same date the emails were sent to MCS representatives. Investigators asked Westerman whether he recalled instances when he would forward a document via email to MCS representatives and would call them later to discuss the document. Westerman replied, "not that many times." He explained that there may have been times he forwarded MCS a document but had not actually worked on the document. Westerman commented later in the interview that this activity was "inappropriate."

Additionally, investigators learned the following from Westerman:

- Westerman did not share that he was serving in the role of general counsel of MCS with his ODNR supervisor during their discussion of his outside employment. Westerman stated this was because he did not know what his title would be at that time. However, Westerman stated that he did disclose he would be serving as an attorney for MCS.

- Westerman did not notify Sikora that MCS was contracted to provide services for the Attorney General’s Office on the Rhodes State Office Tower 20th Floor Renovation project. When asked why, Westerman commented that it was his belief that elected officials were not considered “state agencies” for the purposes of central regulation by the Ohio Department of Administrative Services or OFCC. When this opportunity arose, Westerman stated he believed at that time, “... it’s not a state agency which is what we [he and Sikora] had talked about.” Westerman further commented that based on his current understanding, this was “flawed” thinking.
- Westerman admitted the working suspension he received on January 7, 2019, while employed by OFCC was for his personal use of State of Ohio resources, and believed it was because he directed the Ohio Secretary of State’s Office to send the articles of incorporation for MCS to his OFCC email account. Westerman stated that he did not inform ODNR’s Sikora of this OFCC discipline because, “it was just an isolated issue. It wasn’t employment ... I was helping a friend.”
- Westerman confirmed that his duties at MCS as described in the SOQ submitted [\(Exhibit 4\)](#) to OFCC on November 14, 2023, were similar to the duties he performed for ODNR with the exception that at ODNR he could provide legal advice to ODNR staff.

CONCLUSION

On June 12, 2024, the Ohio Facilities Construction Commission (OFCC) notified the Office of the Ohio Inspector General and the Ohio Ethics Commission of suspected improper activity involving Ohio Department of Natural Resources Deputy Legal Counsel Matthew Westerman. OFCC representatives expressed concerns that Westerman was using his state-issued email address to send an email to OFCC requesting information about an Ohio Attorney General’s Office project. OFCC informed investigators that Westerman was, “... reportedly employed on a part-time basis by MCS Consultants.” Additionally, OFCC reported that MCS was serving as the owner’s agent representing the Ohio Attorney General on the project.

The Office of the Ohio Inspector General received and reviewed and/or analyzed the following records obtained from ODNR:

- ODNR policies

- Westerman's personnel file and payroll records
- Westerman's policy acknowledgements and training history
- Files stored by Westerman on his ODNR state-issued laptop and ODNR-assigned OneDrive
- Westerman's ODNR state-issued email account
- Westerman's ODNR-assigned phone records

In addition, the Office of the Ohio Inspector General issued subpoenas to cell phone providers to obtain Westerman's personal call history information and subscriber information for identified phone numbers. Lastly, investigators sent investigative inquiries to representatives from OFCC and ODNR and conducted interviews with Westerman and current and former ODNR or OFCC employees.

Westerman's Outside Employment

Investigators interviewed Westerman about his outside employment with MCS & Associates (MCS). Westerman said MCS approached him with a part-time employment opportunity. After receiving this opportunity, Westerman stated that he contacted ODNR Chief Legal and Ethics Officer Damian Sikora to discuss the opportunity. Investigators learned through interviews and examining records that Westerman had:

- Sought guidance via email from the Ohio Ethics Commission about the opportunity but did not request an advisory opinion.
- Submitted the required Outside Employment Application to Sikora and ODNR Assistant Chief Legal Counsel Nicole Koppitch on March 29, 2022. This application was subsequently approved by both Sikora and Koppitch on July 21, 2022.
- Started work with MCS after his outside employment request was approved by ODNR.
- Failed to notify Sikora when his duties at MCS expanded beyond assisting school districts, and when Westerman began providing services on behalf of MCS to the Ohio Attorney General's Office for a renovation project.
- Failed to resubmit an annual Outside Employment Application for approval to Sikora and Koppitch for approval of his outside employment for calendar years 2023 and 2024 as required by policy.

On November 20, 2024, Westerman notified ODNR management that he had resigned his position with MCS effective November 19, 2024.

The Office of the Ohio Inspector General concluded Westerman violated ***ODNR Secondary Employment/Volunteer Policy***, Section III(C) *Prior Approval Required* which stated, “approved applications are valid for one year and must be renewed annually.”

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe a wrongful act or omission occurred in this case.

Westerman’s Improper Use of Agency Facilities and State Time

During an interview, ODNR Chief Legal and Ethics Officer Damian Sikora told investigators that he had met with Westerman about his outside employment on June 16, 2022. During this meeting, Sikora stated that he told Westerman that he could not conduct activities for his outside employment on his State of Ohio work time or use state resources and that Westerman needed, “... to pull yourself away when you’re doing it. It needs to be separate.”

The ***ODNR Ethics Policy***, effective January 27, 2020, Section III(B) *Misuse of Official Position* stated that, “DNR employees are prohibited from the following ... 6. Using DNR time, facilities, or resources for any purposes to promote or conduct activities related to outside employment”

The ***ODNR Secondary Employment/Volunteer Policy***, effective January 27, 2020, Section III (B) *Standards* stated that,

... employees shall not use any state-owned or state leased vehicles or any other equipment while engaged in Secondary Employment or Volunteer activities. No employee shall perform any work related to the secondary employer while on state premises.

Furthermore, the Ohio Ethics Commission (OEC) issues advisory opinions which elaborate on the interpretation of the Ohio Revised Code. OEC Advisory Opinion 96-004, interpreting ORC §102.03(D), prohibits a public official or employee who engages in private outside employment or business activity from:

- (a) Using public time, facilities, personnel, or resources in conducting private business or while engaging in private outside employment including ...

During his interview, Westerman told investigators that he did not believe he conducted MCS business or made phone calls using his personal cell phone for MCS business during times he was working for and being compensated by ODNR for his work as deputy legal counsel. Westerman noted to investigators that he could only use his personal cell phone to make calls on his break or lunch, unless it was a necessity. Westerman further noted that he would “occasionally” use his personal cell phone in certain instances to make personal calls while he was being compensated by ODNR for his work time, but stated that these personal calls were, “business like and quick.”

Investigators obtained and examined Westerman’s personal cell phone records and conducted research or issued subpoenas to identify phone number subscribers’ information to determine whether Westerman made or received personal phone calls during his reported work times at ODNR. Investigators compared Westerman’s cell phone activity to records related to his reported ODNR workday start- and end-times from the Kronos payroll record software system maintained by ODNR. From this analysis, investigators determined Westerman made/received the following personal phone calls using his personal cell phone during his reported ODNR workdays:

- Westerman made/received 148 phone calls that were related to his MCS work.
- Westerman made/received 284 phone calls to/from his family members.
- Westerman made/received 191 phone calls which were deemed personal in nature.

According to the ***ODNR Time and Attendance Policy***, effective January 5, 2024, Westerman, as an overtime exempt full-time employee was, “... expected to take a lunch break each workday, typically no less than fifteen (15) minutes” Investigators learned from ODNR

representatives that when Westerman's Kronos records transferred to OAKS for payroll processing, the OAKS' computer system automatically deducted 30 minutes from the calculated work time for Westerman's lunch.

From their analysis of Westerman's personal phone call records, investigators determined Westerman made the calls related to MCS business throughout the workday and did not make these calls typically during his break or lunch. Furthermore, during his interview Westerman admitted that making calls using his personal cell phone for these types of calls were not allowable per ODNR policy, but reiterated that some of the MCS-related calls would have occurred while he was on break or at lunch. Investigators reminded Westerman that the ODNR Ethics policy stated he was not permitted to use a State of Ohio facility when conducting business involving his outside employment. Westerman commented, "I guess, I, I didn't take that into consideration, but I tried to do all of these calls on break time, or some would be shorter"

For the period from August 1, 2023, through July 17, 2024, investigators calculated the total time Westerman spent on the 148 phone calls using his personal cell phone that were related to his MCS activities and occurred concurrently during times he reported working for ODNR. For the 148 calls exchanged, investigators determined Westerman spent 26 hours, 48 minutes, 49 seconds of ODNR work time on these calls and was compensated by ODNR a total of \$2,182.66.

The Office of the Ohio Inspector General concluded Westerman's conduct violated ***ODNR Ethics Policy*** Section III (B)(6) and the ***ODNR Secondary Employment/Volunteer Policy*** Section III(B).

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe a wrongful act or omission occurred in this case.

Improper Use of State Resources

Investigators obtained and examined Westerman's ODNR email box and a copy of files stored on his ODNR state-issued laptop and in his ODNR OneDrive (personal cloud storage). From their analysis of these records, investigators determined Westerman:

- Sent or received, using his ODNR email account, 70 emails associated with MCS business, two emails discussing private legal work, and 49 emails that were personal in nature.
- Stored 29 files associated with MCS business, nine files associated with a family member's business, one file associated with his private legal work, and 107 files determined to be personal in nature on either his state-issued laptop or ODNR assigned OneDrive.

In an interview with investigators, Westerman admitted that sending emails using his ODNR account and storing files that were related to MCS business, his private legal work, and personal activities were not permitted activities per ODNR policies.

The Office of the Ohio Inspector General concluded Westerman's conduct violated ***ODNR Ethics Policy*** Section III (B)(6); the ***ODNR Secondary Employment/Volunteer Policy*** Section III(B); the ***ODNR Technology – Appropriate Use Policy*** Section III (B) (4) *Privacy*, (6) *Prohibited Uses of IT Resources*, and (11) *Use of Cloud Storage*.

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe a wrongful act or omission occurred in this case.

RECOMMENDATION(S)

The Office of the Ohio Inspector General makes the following recommendations and asks the director of the Ohio Department of Natural Resources to respond within 60 days with a plan detailing how these recommendations will be implemented. The Ohio Department of Natural Resources should:

1. Review the conduct of the employee described in this report of investigation and determine if administrative action is warranted.

2. Consider the benefits of developing and implementing a training for those ODNR employees engaged in outside employment to discuss agency guidance and restrictions for the use of State of Ohio resources including equipment, work time, and leave for their outside employment.
3. Consider clarifying existing ODNR policies addressing whether it is acceptable to conduct outside employment activities while on break when being compensated by ODNR or during lunch when you remain in an ODNR facility.
4. Consider the benefit of requiring employees to periodically reacknowledge receipt of the Secondary Employment, Ethics, and Technology – Appropriate Use policies to ensure employees understand their responsibilities and how State of Ohio resources are to be used.
5. Consider the benefit of providing managers with a list of those with approved outside employment and requiring managers to identify potential conflicts with this employment and whether annual follow-ups on the status of such employment should occur based on operational needs and the potential for conflicts.

REFERRAL(S)

The Office of the Ohio Inspector General is forwarding this report of investigation to the Columbus City Attorney's Office, the Franklin County Prosecuting Attorney's Office, the Ohio Auditor of State for consideration, and the Ohio Office of Disciplinary Counsel.



STATE OF OHIO

OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

NAME OF REPORT: Ohio Department of Natural Resources

FILE ID #: 2024-CA00013

KEEPER OF RECORDS CERTIFICATION

This is a true and correct copy of the report which is required to be prepared by the Office of the Ohio Inspector General pursuant to Section 121.42 of the Ohio Revised Code.

Jill Jones
KEEPER OF RECORDS

CERTIFIED
February 20, 2025

MAILING ADDRESS

OFFICE OF THE INSPECTOR GENERAL
JAMES A. RHODES STATE OFFICE TOWER
30 EAST BROAD STREET – SUITE 2940
COLUMBUS, OH 43215-3414

TELEPHONE

(614) 644-9110

IN STATE TOLL- FREE

(800) 686-1525

FAX

(614) 644-9504

EMAIL

WATCHDOG@OIG.OHIO.GOV

INTERNET

WATCHDOG.OHIO.GOV

Calls **Personal**

Search (Ctrl+E)

History **Speed dial**

All **Missed** **Incoming** **Outgoing** **Voicemail**

Westerman, Matthew
MW Incoming
3m 48s 12:30 PM

Speed dial

Westerman, Matthew
Add people to speed dial for quick access.
Add

Type a name or number

1 2 3 DEF
4 5 6 MNO
7 8 9 WXYZ
* 0 #

Call

Don't forward
PC Mic and Speakers

APPLICATION FOR SECONDARY EMPLOYMENT OR VOLUNTEER ACTIVITIES

All DNR personnel must be pre-approved to work in any Secondary Employment or Volunteer Activity. To achieve this requirement, DNR personnel must submit a properly completed Application to their immediate supervisor and receive final approval from the Office of Human Resources.

NAME: Matthew L. Westerman	STATE OF OHIO ID (OAKS ID) #: 10081658
DNR JOB TITLE AND CLASSIFICATION: Deputy Legal Counsel, unclassified	<input checked="" type="checkbox"/> FULL TIME <input type="checkbox"/> PART TIME <input type="checkbox"/> SEASONAL
DIVISION: Legal and Legislative	DNR WORK LOCATION: Fountain Square
DNR SUPERVISOR: Damian Sikora	
SECONDARY EMPLOYER (Including Self-Employment and Volunteer Activity): MCS & Associates, LTD	
SECONDARY EMPLOYER OR ENTITY ADDRESS: 78 North Plaza Blvd, Chillicothe, OH 45601	TELEPHONE #: 740 771-4789
TITLE OF POSITION: Legal Project Consultant	WILL YOU RECEIVE COMPENSATION? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
DUTIES PERFORMED AND ANTICIPATED WORK OR VOLUNTEER HOURS (Provide a Complete and Accurate Description): Provide Legal and Project Advice on school district projects. Up to 10 hours a week.	
DOES THIS SECONDARY EMPLOYER OR ENTITY DO BUSINESS WITH OR RECEIVE GRANTS FROM THE DEPARTMENT OF NATURAL RESOURCES? <input type="checkbox"/> YES, <input checked="" type="checkbox"/> NO IF YES, EXPLAIN:	
IS THIS AN ORIGINAL APPLICATION? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF NO, ARE THERE ANY CHANGES IN THE DUTIES YOU PERFORM AS COMPARED WITH YOUR PREVIOUSLY APPROVED APPLICATION?	

I have read, understand the requirements of this policy, and am requesting review and approval for the Secondary Employment or Volunteer Activity documented above. I understand that significant changes in the above information may require the submission of a new Application. Furthermore, I acknowledge and understand that the use of State of Ohio equipment, property, or time for Secondary Employment or Volunteer Activity is a violation of DNR's Secondary Employment and Volunteer Activity policy and is subject to discipline up to and including termination.

Employee Signature X <i>Matt Westerman</i>	Date 3-29-2022	Comments This constitutes my electronic signature - MLW
Supervisor Signature X	Date	Comments
Division Chief or Designee X	Date	Comments
Deputy Director or Designee X <i>Damian W. Sikora</i>	Date 7/21/22	Comments
Office of Legal Services X <i>Nicole M. Koppitz</i>	Date 7/21/2022	Comments

Please forward completed application to DNR Human Resources Department once ALL signatures have been obtained.

**FOR OFFICIAL USE ONLY
OFFICE OF HUMAN RESOURCES**

COMMENTS		
SIGNATURE X <i>Andrew</i>	DATE 7/25/2022	APPROVAL <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

Damschroder, William

From: Thiell, Ned
Sent: Tuesday, May 28, 2024 10:48 AM
To: Westerman, Matthew
Subject: RE: Rhodes Tower Phase 1

They should reach out to DAS Office of Properties and Facilities.



Ned Thiell
Project Manager
30 West Spring Street, 4th Floor
Columbus, OH 43215

C: 614.565.5416
ned.thiell@ofcc.ohio.gov

Follow Us:    

From: Westerman, Matthew <Matthew.Westerman@dnr.ohio.gov>
Sent: Tuesday, May 28, 2024 10:45 AM
To: Thiell, Ned <Ned.Thiell@ofcc.ohio.gov>
Subject: RE: Rhodes Tower Phase 1

AG is doing a reno to their space on the 20th floor and was wondering if they could just use that document.

From: Thiell, Ned <Ned.Thiell@ofcc.ohio.gov>
Sent: Tuesday, May 28, 2024 10:44 AM
To: Westerman, Matthew <Matthew.Westerman@dnr.ohio.gov>
Subject: RE: Rhodes Tower Phase 1

Absolutely, why do you ask?



Ned Thiell
Project Manager
30 West Spring Street, 4th Floor

Exhibit 3

Page 2 of 2

Columbus, OH 43215

C: 614.565.5416

ned.thiell@ofcc.ohio.gov

Follow Us:    

From: Westerman, Matthew <Matthew.Westerman@dnr.ohio.gov>

Sent: Tuesday, May 28, 2024 9:57 AM

To: Thiell, Ned <Ned.Thiell@ofcc.ohio.gov>

Subject: Rhodes Tower Phase 1

Ned,

The AG is doing a renovation/update to the 20th Floor and I am curious whether there was a Phase 1 done for the window replacement project that you did?

Thanks,

Matt



Matthew L. Westerman

Deputy Legal Counsel

Ohio Department of Natural Resources

2045 Morse Rd. Building D

Columbus, Ohio 43229

office: (614) 265-6823

mobile: (614) 562-4049

other: (614) 265-6877

Matthew.Westerman@dnr.ohio.gov

ohiodnr.gov



Confidentiality Notice: This message is intended for use only by the individual or entity to whom or which it is addressed and may contain information that is privileged, confidential and/or otherwise exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify me immediately by telephone.

H. ADDITIONAL INFORMATION

34. a. PROVIDE ANY ADDITIONAL INFORMATION REQUESTED BY THE CONTRACTING AUTHORITY. ATTACH ADDITIONAL SHEETS AS NEEDED.



MCS & Associates appreciates this opportunity to submit our information for this very important role for future projects. MCS & Associates is an Ohio firm that was established in 2018. For this Owner Agent assignment, our firm will be utilizing Motz Engineering, an EDGE certified firm, as a consultant for estimating, scheduling, OSDM reviews, constructability, and compliance reviews. Our firm is committed to 15% EDGE participation or higher, depending on the individual assignment. Motz Engineering also brings to the team the necessary BIM, and LEED credential experience. MCS & Associates currently has only one licensed professional, Jason Uhrig, a licensed CPA. To date our firm has not been awarded any fees with the contracting authority.

MCS & Associates will serve as the project lead on all projects. Our firm has acquired a vast amount of experience directly, and indirectly with billions of dollars' worth of vertical construction over many years, and our depth of knowledge of Ohio capital project administration processes, affords us the opportunity to provide exceptional guidance and oversight, regarding the most critical lanes of all projects, which are budgets, schedules, and the quality of work. Our experience provides the ability to administer project controls and processes effectively, and to identify and resolve issues decisively. Since the establishment of this firm in 2018, we have provided project management services for 25 school districts, 4 of which are CFAP, 4 are ELPP, and 1 AFAP serving as their Owners Representative. Currently 7 of these projects are pursuing LEED silver, and 1 has received LEED silver certification.

MCS & Associates project management services include, assisting with A/E selection and contract negotiations, establishing POR, assisting project team with all design phases SD, DD, CD, and value engineering. Our firm also assists with selecting the most appropriate construction delivery model, GMP negotiations, attend core team meetings, weekly progress meetings, coordination meetings, and pre-installation meetings. During construction our firm also performs regular site visits, to monitor progress and the quality of workmanship, and report back to the project team.

Our firm also reviews and approves all payment applications and change orders. On co-funded projects these approvals are done through OAKS and DocuSign. We provide budget tracking by setting up project budgets, performing weekly financial tracking, and monthly reconciliation with school district Treasurers. We also provide post occupancy services such as assuring all punch list items have been addressed in a timely manner, securing all O&Ms, maintenance plans, as built drawings, and attend the 11 Month walk through.

As an additional resource, Matt Westerman, serves as General Counsel at MCS & Associates and brings over 20 years of public construction experience to our firm including nine plus years as Assistant Legal Counsel at OFCC. Matt will provide additional insight on schedule related issues, claim resolution, liens, and litigation or mediation support. Finally, Matt has participated in drafting 5 separate versions of the state construction contracts including the current versions and will provide assistance in the areas of contract management, contract compliance, insurance and bonding issues and contractor non-performance.

The team of MCS & Associates and Motz Engineering can provide the OFCC and School Districts, unmatched project management services, that will lead to very successful projects that are on schedule, on budget, and deliver the quality that should be expected on every project.



January 3, 2019

Matthew Westerman
5595 Tangarey Court
Columbus, Ohio 43235

Dear Mr. Westerman:

This letter is to inform you that you are hereby suspended as an Administrative Staff, effective January 7, 2019, for a period of three (3) work days. After reviewing the documentation, it has been determined that just cause exists for this action. You are found to have violated the following work rules:

OFCC Work Rule – Not utilize State equipment or property for personal use

Your suspension has been designated a working suspension. This means that your suspension is simply a notation on your disciplinary record of having received a suspension. While you will not be required to serve the suspension without pay, be advised that this working suspension has the same force and effect as a suspension without pay. However; during your suspension you will be required to work 8 hours a day (not including lunch). You must be on time and productive during your suspension. You are not permitted to flex or use leave time during the suspension.

Future infractions may result in further disciplinary action up to and including termination. The retention period for this discipline shall be extended by a period equal to employee leaves of fourteen (14) consecutive days or longer, except for approved periods of vacation leave.

Respectfully,



David Williamson, Director



PROOF OF DISCIPLINE SERVED

I, Donna Pittman, did serve a 3 day suspension Matthew Westerman
(Person serving discipline) (Employee name)

on January 3, 2019 with a:
(Date)

Check all that applies:

☐ suspension

☒ working suspension (3) day

☐ fine

☐ leave reduction

☐ demotion

☐ termination

Signature

Date

Witness

Date