



California Prison Industry Authority

It Gave Nearly \$1.3 Million in Unlawful Gifts to
Other State Agencies and Repeatedly Violated
Merit-Based Employment Principles

July 2021

INVESTIGATIVE REPORT I2019-0559





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July 27, 2021
Investigative Report 12019-0559

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

This report details the results of an investigation of the California Prison Industry Authority (CalPIA), which we initiated as the result of multiple whistleblower allegations. As the office that administers the statutory provisions of the California Whistleblower Protection Act, it is the California State Auditor's responsibility to receive, review, and investigate such allegations of state employees committing improper governmental activities within state agencies. When an investigation substantiates improper governmental activities, this office may issue public reports summarizing our investigative work, but we do so only after carefully weighing the interests of the State and our obligation to keep confidential the identities of the whistleblowers and the employees involved.

In this case, we found that, from 2017 through 2018, CalPIA repeatedly violated state laws when it provided other state agencies with nearly \$1.3 million in gifts that did not relate to CalPIA's purpose. Some examples of the improper gifts include more than \$80,000 in artificial turf, \$66,000 in digital cameras, and \$150,000 in furniture.

We also found that, from 2016 through 2019, CalPIA executives improperly directed subordinate staff to hire and promote friends, relatives, and other favored candidates on at least 10 different occasions in violation of the California Constitution, which requires civil service hiring decisions to be based on the principle of merit, not favoritism. In some of these instances, the subordinate staff told us that they followed the executives' directions because they were concerned about possible retaliation.

State agencies such as CalPIA must report to us any corrective or disciplinary action taken in response to our recommendations within 60 days after we notify them of the improper governmental activity and monthly thereafter until corrective action is completed. In June 2021, CalPIA provided its response, which we have summarized herein.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "S. Ramirez-Ridgeaway", is written over a white background.

STEPHANIE RAMIREZ-RIDGEWAY
Chief Counsel

Selected Abbreviations Used in This Report

Conservation Corps	California Conservation Corps
CDCR	California Department of Corrections and Rehabilitation
CalPIA	California Prison Industry Authority

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INTRODUCTION

Results in Brief

The California Prison Industry Authority (CalPIA) is responsible for providing work opportunities for incarcerated individuals under the jurisdiction of the California Department of Corrections and Rehabilitation (CDCR). Because CalPIA is a semiautonomous state agency, it has a certain degree of latitude in its operations, but it must still comply with critical state laws and regulations related to its spending and hiring processes. It repeatedly violated these state laws and regulations when it provided other state agencies with nearly \$1.3 million in gifts that did not relate to CalPIA's purpose and when it hired and promoted favored individuals without regard for merit-based hiring principles. The laws CalPIA violated exist specifically to prevent misuse of public funds and safeguard against favoritism.

From 2017 through 2018, CalPIA improperly provided nearly \$1.3 million in gifts to CDCR and the California Conservation Corps (Conservation Corps). These gifts—which included more than \$80,000 in artificial turf, \$66,000 in digital cameras, and \$150,000 in furniture—did not serve any of the purposes for which CalPIA was established. CalPIA's funding structure is unique in state government, giving it flexibility to use its funds with little oversight. In these instances, CalPIA abused this flexibility by spending its funds in a way that was inconsistent with its mission and purpose. The executive with direct knowledge of these gifts refused to answer our questions about the reasons for them, instead invoking the Fifth Amendment privilege against self-incrimination.

In addition to CalPIA's unlawful spending, its executives repeatedly circumvented merit-based hiring principles from 2016 through 2019.¹ The California Constitution requires CalPIA to base its civil service employment practices on the principle of merit, not favoritism. Nonetheless, CalPIA executives improperly directed subordinate staff to hire and promote friends, relatives, and other favored candidates on at least 10 different occasions. In some of these instances, the subordinate staff stated they followed the executives' directions because they were concerned about possible retaliation.

CalPIA's repeated violations of state laws governing spending and hiring constitute gross misconduct on the part of the responsible individuals. The executives involved disregarded the standards

Investigative Highlights . . .

Our investigation of allegations of improper activity at CalPIA revealed that it repeatedly violated state laws governing spending and hiring.

» *From 2017 through 2018, it improperly provided nearly \$1.3 million in gifts to CDCR and the Conservation Corps.*

- *Such gifts did not serve any of the purposes for which CalPIA was established and included artificial turf, digital cameras, and furniture.*

- *The executive with direct knowledge of these gifts refused to answer our questions, invoking the Fifth Amendment privilege against self-incrimination.*

» *Its executives circumvented merit-based hiring principles by directing subordinate staff to hire and promote friends, relatives, and other favored candidates on at least 10 different occasions.*

» *CalPIA's repeated violations constitute gross misconduct on the part of the individuals involved—executives failed to act in the best interest of CalPIA and harmed prospective job applicants.*

¹ Some of the executives involved in this investigation are no longer employed with CalPIA. However, to protect the identities of the individuals involved, we do not distinguish between current and former executives throughout this report.

of behavior that a state agency should rightfully expect from its employees. In doing so, these executives demonstrated ongoing indifference toward the procedures and protocols that underpin fiscal oversight and help ensure that the most qualified applicants are hired for government positions. Based on the whistleblowers' allegations we received and the verified evidence we analyzed during the course of this investigation, we have concluded that CalPIA executives neglected their duties as stewards of CalPIA funds, failed to act in the best interest of CalPIA, and harmed prospective job applicants.

Background

In 1983 the Legislature established CalPIA as a semiautonomous and self-supporting state agency to operate California's prison industries in a manner similar to private industry. State law outlines CalPIA's threefold purpose:

- Develop and operate manufacturing, agricultural, and service enterprises that provide work opportunities for incarcerated individuals under the jurisdiction of CDCR.
- Create and maintain working conditions within these enterprises that are as much as possible like those that prevail in private industry to provide incarcerated individuals the opportunity to work productively, to earn funds, and to acquire or improve effective work habits or occupational skills.
- Operate work programs for incarcerated individuals that are self-supporting through the generation of sufficient funds from the sale of products and services to pay all of CalPIA's expenses, thereby avoiding the cost of CDCR having to provide alternate inmate programming.

The agency currently employs about 900 people who work primarily on-site at CDCR's 35 adult institutions throughout California, and its programs produce more than 1,400 goods and services such as office furniture, clothing, food products, and printing services. CalPIA's revenue comes from the sale of its products and services to governmental organizations and is accounted for in the Prison Industries Revolving Fund. CalPIA has annual operating revenues of about \$250 million.

When the Legislature created CalPIA, it established the Prison Industry Board to oversee the new agency's operations, much like a corporate board of directors. The 11-member board sets general policy for CalPIA, oversees the performance of existing CalPIA industries, determines which new industries CalPIA will establish,

and appoints and monitors the performance of CalPIA's general manager. The secretary of CDCR serves as the chair of the board. If, at any time, the CalPIA board chair and the director of the Department of Finance agree that CalPIA has more money than it needs to carry out its purposes, they are required to have the excess balance transferred to the State's General Fund.

Although the board is responsible for overseeing the agency, CalPIA's executives, who are generally located at its headquarters in Folsom, are responsible for the day-to-day operations.

Relevant Laws and Regulations

Under the provisions of the California Whistleblower Protection Act, the California State Auditor's Office investigates complaints of improper governmental activities by state agencies and employees. These include, but are not limited to, actions that violate a state or federal law, are economically wasteful, or involve gross misconduct, incompetency, or inefficiency. We have interpreted *gross misconduct* to mean glaringly noticeable mismanagement of governmental responsibilities, usually because of inexcusably bad or objectionable behavior.

State law created CalPIA to accomplish specific goals, and its power to act is limited to those statutory purposes. State law similarly limits CalPIA's use of the money in the Prison Industries Revolving Fund to its purposes, including expenses related to materials, equipment, salaries, construction, and program administration. Additionally, the California Constitution prohibits state agencies such as CalPIA from making gifts of public funds. Courts have ruled that this prohibition means that an expenditure by one agency on behalf of another is not permissible unless it serves the specific public purposes of the donor agency and the recipient agency uses it exclusively for these purposes.

State law also mandates that all agencies base appointments to state jobs on only candidates' knowledge, skills, and abilities to effectively complete a position's duties. This law has been in effect since 1913, and California voters cemented this cornerstone of California's merit-based employment principles with the passage of the Civil Service Act of 1934, which amended the California Constitution and requires that state civil service jobs be open to competition among all qualified candidates.

The State Personnel Board (Personnel Board) and the California Department of Human Resources (CalHR) are responsible for enforcing civil service employment laws. Both entities ensure that agencies comply with the decentralized merit-based selection

system and make *good faith* hiring decisions (appointments). Figure 1 presents some of the elements of a good faith appointment. As part of this investigation, and in accordance with state law, we requested that the Personnel Board staff assist us as subject matter experts.

Figure 1
Both the Employer and Candidate Must Act in Good Faith to Achieve a Valid Appointment



Source: California Code of Regulations, title 2, section 249.

Note: In April 2018, the Personnel Board updated regulations pertaining to good faith appointments. Nonetheless, the regulations cited in this report were those in effect at the time the events occurred.

In contrast, when a successful candidate is *preselected*—that is, when the hiring decision makers have chosen the individual they intend to employ before, or in lieu of, conducting a fair and open competitive selection process—it is considered a *bad faith* appointment.

Another hiring practice that violates the spirit of good faith hiring principles is *nepotism*—the act of appointing relatives to positions in one’s organization without regard for potentially better qualified candidates. During the period the events detailed in this report occurred, there were no state laws specifically prohibiting nepotism. However, the California Constitution requires employment practices to be based on the principle of merit, not familial relationships. Moreover, CalPIA has its own nepotism policy, which extends beyond familial relationships, and advises employees to avoid the hiring of anyone in a relationship that could create conflict between the private interests of the employee and his or her public obligations.

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CHAPTER 1

CalPIA Gave Nearly \$1.3 Million in Unlawful Gifts to Other State Agencies

In 2017 and 2018, CalPIA gave nearly \$1.3 million in goods, services, and its own products to other agencies, including CDCR and the Conservation Corps. We could not determine CalPIA's motives for its actions because a CalPIA executive who had direct knowledge about these gifts invoked the Fifth Amendment privilege against self-incrimination when we questioned him. Nonetheless, our investigation revealed that the gifts were unlawful because they did not serve to advance a CalPIA purpose under state law. Although the goods and services that CalPIA gifted benefitted other state agencies, employees of the recipient agencies stated it was highly unlikely they would have purchased some of the goods and services had CalPIA not provided the gifts. Furthermore, several CalPIA employees believed the agency's actions were improper but did not question them for fear of retaliation from executive management, who did not obtain approval from the Prison Industry Board before providing almost all of these gifts. Figure 2 summarizes the total funds executive management either gifted or attempted to gift.

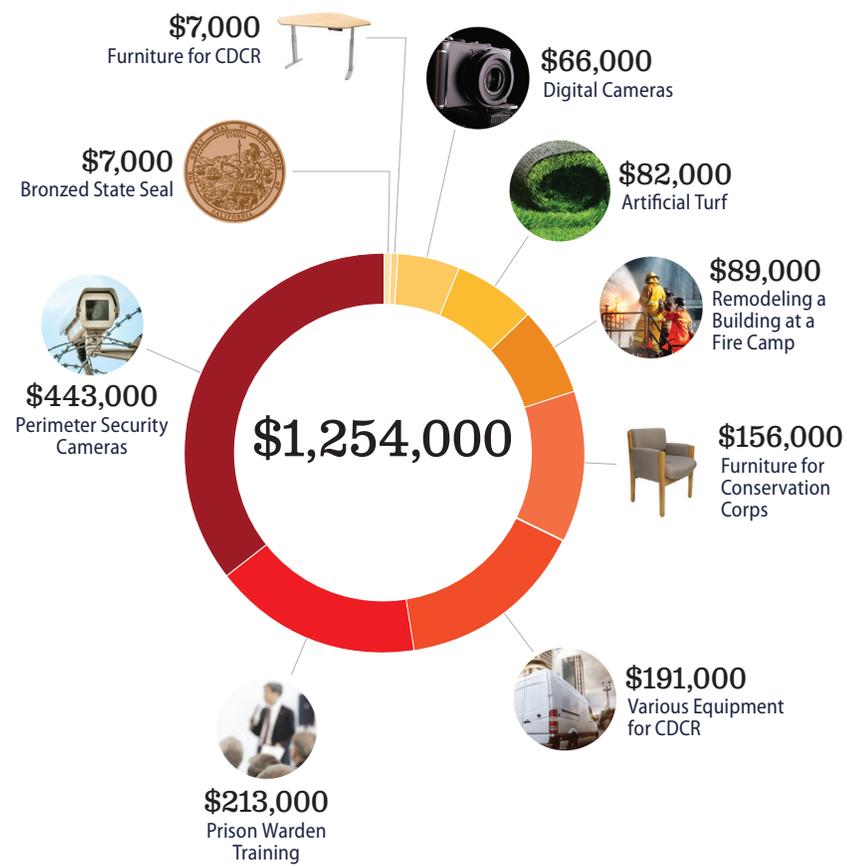
CalPIA Unlawfully Spent Its Funds on Goods and Services for CDCR

In one example of an unlawful expenditure, CalPIA spent more than \$82,000 in 2018 when it purchased artificial turf for one of CDCR's prisons despite the purchase providing no benefit to CalPIA and not furthering CalPIA's mission. Although we found evidence indicating that CalPIA planned for incarcerated individuals to install the turf in the prison's main yard, CalPIA does not offer any training programs that would have provided these individuals with certifications for installing the turf. Therefore, the purchase was not related to a training program or any other CalPIA purpose under state law. Several CalPIA employees informed us that they believed it was improper for CalPIA to purchase the turf for CDCR. Some employees stated that they believed they could not question or disagree with executive management because they were concerned about retaliation if they did so.

In addition to being an unlawful expenditure, purchasing the turf was wasteful: as of March 2021, CDCR had not installed it. CDCR did not install the turf because it did not realize that it would cost more than \$100,000 to do so and that the installation process would require the use of metal stakes that could pose a security risk. A CDCR official informed us that the prison hopes to eventually install the turf, presumably once it determines how to do so in a safe and cost-effective manner. Nevertheless, the

official also acknowledged that CDCR very likely would not have purchased it on its own. If CalPIA had not spent \$82,000 for this turf, it could have saved those funds or used them on a lawful CalPIA project more beneficial to the State.

Figure 2
Costs Associated With CalPIA’s Unlawful Gifts



HALTED PROJECTS

 \$850,000 Security Cameras to Monitor Inmates	 \$150,000 Training Instructor's Salary
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Source: Review of CalPIA’s contract, procurement, and email records.

In 2018 CalPIA unlawfully approved spending more than \$450,000 on executive leadership training that was intended for, and used almost exclusively by, CDCR staff. Based on internal discussions between CalPIA staff, the intent of this program was to train CDCR wardens, not CalPIA employees. In fact, during discussions about implementing this training program, CalPIA employees and an executive consistently referred to the training as the “wardens’ training” and even mentioned that it was specifically developed for wardens. Training records show that during one of the training sessions, all 22 participants were CDCR staff and that during another session, all but two of the 24 participants were from CDCR. As of January 2021, CalPIA had spent about \$213,000 on this training program.²

Because the training did not further the statutory purposes of CalPIA, CalPIA unlawfully spent these funds. Nonetheless, the employee involved with helping execute the contract for this training informed us that he believed a CalPIA executive would have fired him had he refused to carry out the plans. Other executives from CalPIA and CDCR stated that this training should have been funded by CDCR, not CalPIA, or they simply could not explain why CalPIA paid for the training.

CalPIA similarly spent nearly \$443,000 for a perimeter camera system around a CDCR prison without establishing any specific CalPIA purpose. CalPIA has enterprises located at numerous CDCR prisons and, at times, has installed cameras to monitor activities for its enterprises. However, in this circumstance, CalPIA paid to install a camera system to cover an area of the prison where CDCR had concerns about possible illegal activity, but where CalPIA had no specific need. A CDCR official told us that CalPIA has neither access to, nor a need to review, the resulting video footage, which was intended for the prison rather than CalPIA. The CDCR official also stated that he believed the installation of external cameras at that particular prison was a lower priority than at other prisons. After reviewing purchasing documents and interviewing relevant CalPIA employees, we still lack clarity on whether CalPIA used the entire \$443,000 for this perimeter camera system or appropriately used portions of this contract to install other cameras covering CalPIA areas. However, CalPIA staff informed us that, based on the purchasing documents, it appears that most of the costs relate to the perimeter camera system. Accordingly, at least a large portion of this expenditure was, in our view, a gift of public funds.

CalPIA spent nearly \$443,000 for a perimeter camera system around a CDCR prison without establishing any specific CalPIA purpose.

² Included in the \$213,000 is a January 2021 bill CalPIA received for \$5,600 that is pending payment as of June 2021.

In addition to the three unlawful purchases we describe, CalPIA made at least four other unlawful expenditures as we list in the Table.

Table
CalPIA's Additional Unlawful Expenditures

EXPENDITURE	AMOUNT CALPIA SPENT	NOTES
<p>Remodel of a building at a fire camp for CDCR</p> 	\$89,000	A CalPIA executive initially set aside \$500,000 for this project. CalPIA ultimately spent about \$89,000 because another executive halted the project after learning it did not further a CalPIA purpose established by law.
<p>A bronzed state seal for a CDCR prison</p> 	\$7,000	A high-level CDCR official asked one of CalPIA's executives whether CalPIA made these seals. Rather than replying that CalPIA did not, the CalPIA executive offered to use CalPIA funds to purchase the seal for CDCR from a private vendor.
<p>Digital cameras for CDCR</p> 	\$66,000	A CalPIA executive offered to provide a digital camera for every CDCR institution because this executive believed CDCR's existing digital cameras were not adequate.
<p>Various equipment for CDCR, including a van, camera lenses, audio/video equipment, and drones.</p> 	\$191,000	Although CDCR staff told us that CalPIA provided these types of items to CDCR on an annual basis, the estimated amount in this table reflects the costs of the equipment CalPIA purchased for CDCR in 2017 and 2018 only.

Source: Analysis of CalPIA emails, purchasing documents, and employee interviews.

CalPIA executive management approved other unlawful purchases that the agency ultimately canceled because another executive raised questions about the spending. For example, CalPIA management approved spending about \$850,000 on an additional camera system to monitor inmates at a CDCR prison. After an executive who reviewed the project later raised questions about the propriety of this expenditure, CalPIA halted the purchase, and CDCR opted to go through the proper process to pay for the camera system. This same executive similarly stopped executive management's prior decision to spend \$150,000 for an instructor to teach welding at a federal institution—another project that would have served no CalPIA purpose.

We learned from CDCR and CalPIA executives that CalPIA may have paid for expenses for CDCR because CalPIA has more latitude and autonomy over how it spends its funds, whereas CDCR must typically go through a more thorough and lengthier approval process when making purchases. A CDCR manager also stated that CDCR was sometimes unable to provide certain items to its employees because it did not have the budget to do so. However, CalPIA's provision of goods and services for CDCR circumvents the appropriate process CDCR uses to procure goods and services to ensure that those expenditures represent the best use of state funds. In fact, a CDCR executive acknowledged that he thought CalPIA's paying for goods and services for CDCR was direct evidence of circumventing that process.

A CDCR executive acknowledged that he thought CalPIA's paying for goods and services for CDCR was direct evidence of circumventing that process.

CalPIA Unlawfully Gifted Furniture It Built to Other Agencies

Over the course of 2018, CalPIA gifted to the Conservation Corps up to \$156,000 worth of furniture it produced, including desks, chairs, and file cabinets. When asked, a CalPIA executive could not explain why CalPIA gave away the furniture or how it furthered CalPIA's purposes, other than to simply support another agency. This executive, along with others, believed that it was not appropriate to provide this furniture free of charge. An executive from the Conservation Corps informed us that CalPIA provided this furniture at no cost because it had surplus furniture. However, evidence contradicts this claim, instead showing that a CalPIA executive approved providing this furniture for free without knowing whether CalPIA had a surplus of furniture. Furthermore, CalPIA generally does not build furniture until it is ordered.

CalPIA also provided \$7,000 worth of free furniture, consisting primarily of height-adjustable tables, to CDCR executive staff. Given that CalPIA relies on revenue from the sale of its products to

fund its programs, providing furniture at no cost to this degree was not only unlawful, but also led to a reduction in revenue CalPIA needed for its operating expenses.

Recommendations

To remedy the effects of the improper governmental activities this investigation identified and to prevent those activities from recurring, CalPIA should take the following actions:

- Take appropriate disciplinary action against any of the employees responsible for authorizing the unlawful use of funds. If any such individuals are no longer employed by CalPIA, consider placing a notice of this investigation in their personnel files.
- Work with the Prison Industry Board to establish sufficient controls, such as providing training to executive staff to better understand how CalPIA funds and resources should be used, and implement a more thorough approval process to ensure that CalPIA does not gift funds to other state agencies.
- Cancel the executive leadership training contract so that no additional funds are spent from it.

CDCR and the Conservation Corps should implement new, or strengthen existing, controls and procedures to ensure that a gift to the agency from any source, public or private, is appropriately accepted or declined and that sufficient documentation is kept to create a record of it.

CHAPTER 2

CalPIA Repeatedly Circumvented the Civil Service Hiring Process

CalPIA executives influenced personnel actions to preselect desired candidates, including relatives and friends, for jobs and promotions. The agency's email records, personnel files, and witness statements demonstrate the following instances of the executives' failures to follow civil service hiring rules:

- CalPIA violated the law when it circumvented civil service hiring requirements to appoint two individuals into the *special consultant* classification that should have been filled by traditional civil servant positions.
- CalPIA preselected an employee by changing the classification for an ongoing recruitment and then did not re-advertise the position.
- CalPIA precluded open and fair competition and violated the rights and privileges of job applicants when executives improperly influenced or directed subordinate staff to hire four individuals for positions at CalPIA.

Figure 3 shows these 10 bad faith appointments that resulted from the actions of CalPIA employees from 2016 through 2019.

When we interviewed a high-ranking executive regarding these unlawful appointments, the executive refused to answer any questions, invoking the Fifth Amendment privilege against self-incrimination. Although the executive chose not to share his perspective, the evidence we obtained from other sources substantiated the allegations.

CalPIA Misused the Special Consultant Classification for Two Individuals

In 2018 CalPIA hired Employee A and Employee B as special consultants, despite the requirements of the job not meeting the criteria for such a classification. The special consultant classification requires no competitive examination and is used to make temporary appointments to meet short-term needs for highly specialized services that cannot be accommodated within

RELEVANT CRITERIA

State agencies typically employ individuals using civil service classifications and merit-based recruitment and hiring processes; however, to meet highly specialized business needs, an exception allows an agency to appoint an individual to a classification that is outside the realm of regular classifications and the civil service selection process.

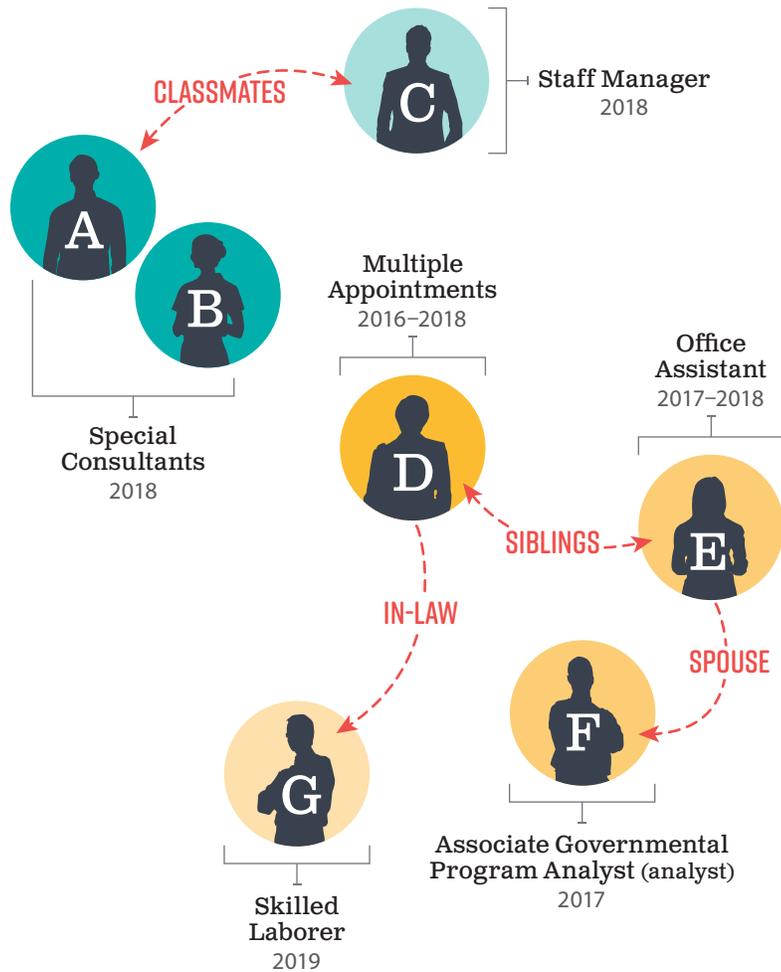
Special consultant is a unique classification that agencies can use if no other existing civil service classification can provide the specialized skills, knowledge, or expertise needed to fulfill a particular business need. The nature of the work must be of an expert, unique, or technical nature, and the candidate must have a professional background that matches the specialized requirements used to justify and describe the special consultant position.

Although a special consultant performs services similar to those necessitating the need of an independent contractor, special consultant differs from an independent contractor in that it is an established civil service classification.

Because this classification does not require recruitment or advertisement, it is especially critical for an agency to differentiate a need for truly specialized expert consultation from a desire to hire a particular individual based on personal preference or relationship.

the regular civil service classification and examining structure. In this instance, individuals in traditional civil service classifications could, and likely should, have executed the duties that CalPIA hired Employees A and B to perform as special consultants.

Figure 3
Bad Faith Appointments CalPIA Executed From 2016 to 2019



Source: CalPIA personnel files.

In May 2018, a CalPIA executive provided Employee A with a general job description of a staff services manager (staff manager) and indicated that this classification would be used to lead a new unit within CalPIA. A few days later, Employee A submitted an application for a special consultant position, and in June 2018, CalPIA appointed her to the unique classification. However, the duties CalPIA asked Employee A to perform as a special consultant

align with the duties of a staff manager, a traditional civil service classification. When we interviewed Employee A, she agreed that CalPIA could have used the staff manager classification to fill the role. In fact, CalPIA hired a staff manager to fill Employee A's position after she left the job.

The executive who hired Employee A had established connections with her through a graduate program they had both recently attended. According to Employee A, the executive was "always talking about" her coming to work at CalPIA, telling her that she would be a great person to have on the team. Employee A acknowledged that although she felt she was hired based on her merits, the executive may have appointed her to the special consultant position to circumvent the traditional hiring process.

Similarly, in October 2018, a CalPIA executive hired Employee B as a special consultant to supervise staff, oversee bill analyses, and perform other duties. These duties not only fell within the realm of a traditional classification, they were nearly identical to those of a previously established staff manager position. Furthermore, when CalPIA sent an email out to all staff, it introduced Employee B as a staff manager, not the special consultant classification into which she was actually hired. Our interviews with Employee B, her supervisor, and a personnel manager all confirmed that CalPIA hired Employee B to replace a vacant staff manager position. The personnel manager stated that the executive directed her to process Employee B's appointment as a special consultant without any prior discussion regarding Employee B's employment at CalPIA. The personnel manager stated that when she brought the issue to her supervisor, her supervisor told her to follow the executive's direction. Fearing retaliation, she processed the appointment.

We determined that CalPIA circumvented the State's merit-based hiring process and violated good faith appointment requirements by improperly classifying Employees A and B as special consultants when the employees' duties constituted the work of a traditional civil service classification. To fill a special consultant position, CalPIA should have demonstrated that the work or project was of an expert, unique, or technical nature and that the specialized skills, knowledge, and experience needed were unavailable within traditional civil service classifications, but CalPIA failed to do so. Instead, it utilized the special consultant classification for these employees because it does not require recruitment or competition. CalPIA's actions prevented other eligible candidates—including existing civil servants with government experience—opportunities to secure employment for the positions into which CalPIA hired Employees A and B.

CalPIA Preselected a Candidate for a Management Position

In October 2018, Employee C and 32 other candidates applied for an information technology supervisor (IT supervisor) position that CalPIA had publicly advertised. The position was in the new unit that CalPIA hired Employee A to manage a few months prior. Like Employee A, Employee C also attended the same graduate program as the aforementioned executive. Email records show that 10 days prior to holding interviews for the position, the executive told an individual from their shared graduate program that he had already hired Employee A and that Employee C would be his next hire. The executive and Employee A interviewed Employee C in early November of 2018. However, a personnel manager later determined that Employee C did not meet the minimum qualifications for the IT supervisor position.

RELEVANT CRITERIA

An agency is not required to re-announce a job vacancy if, in part, an *identical* vacancy was posted within 180 days. However, to be considered identical, the vacancy must have the same classification code.

In response, the personnel manager and Employee A changed the classification of the position from IT supervisor to staff manager and obtained approval from another executive to not re-advertise the position. They justified not re-advertising the position by stating that they already had “an eligible candidate [who could] immediately meet [their] needs.” When we interviewed Employee A, she admitted that they shifted the classification to staff manager solely to make Employee C eligible for hire.

We concluded that CalPIA circumvented the State’s merit-based hiring process and violated good faith appointment requirements through its preselection of Employee C. This action prevented the other 32 candidates who had applied for the IT supervisor position, as well as any candidates who might have applied for a staff manager position, from competing for the position.

CalPIA Influenced or Facilitated Multiple Hiring Decisions for an Executive’s Son

Employee D is the son of a CalPIA executive and the sibling of Employee E. Starting in 2016, CalPIA unlawfully hired or promoted Employee D into several positions of increasing responsibility.

Skilled Laborer

Employee D first came to work at CalPIA as a civil servant in August 2015, in a temporary skilled laborer position. When we interviewed the hiring manager regarding Employee D’s initial appointment, she stated that she did not feel pressured to hire Employee D for this role, as he was the best candidate.

However, the hiring manager told us that a CalPIA executive groomed Employee D, and she believed that this executive wanted Employee D to work at CalPIA.

CalPIA later improperly appointed Employee D to a permanent skilled laborer position. Starting in April 2016, email records show that an executive informed Employee D's parent that CalPIA would be holding an examination for a permanent skilled laborer position before Employee D's limited-term appointment expired, adding, "so he should be good." However, Employee D's score on the examination was not high enough among the candidates to be considered for permanent appointment. Email records show that several CalPIA staff, including an executive, the hiring manager, and a personnel manager, worked together to make Employee D eligible for the appointment: They went through a process to abolish CalPIA's ranked list of eligible candidates and instead used another agency's list for the same classification, on which Employee D ranked higher. CalPIA then appointed Employee D to the position, which it also failed to advertise. Because it manipulated the process to make Employee D eligible and did not allow other eligible candidates to compete for the position, we concluded that when CalPIA appointed Employee D to a permanent skilled laborer position in November 2016, it did so in bad faith.

Industrial Supervisor

Seven months later, in June 2017, CalPIA promoted Employee D by upgrading his position to the industrial supervisor classification without opening the position to fair competition. However, Employee D did not provide complete, factual, and truthful information for the promotion application. Specifically, the industrial supervisor classification requires a candidate to possess two years of production experience. The only qualifying experience Employee D possessed was work he performed helping at his parent's business. In his industrial supervisor application, Employee D claimed to work continuously for the family business from 2009 through April 2017. However, Employee D's job application from an earlier recruitment in 2015 stated that he stopped working for his parent's business in 2012.

When we spoke to Employee D's parent, the parent initially stated that the family stopped operating the business after moving around 2013, though the executive was uncertain of the exact year. However, the parent later claimed to have done side work and Employee D assisted with this work. Although we asked Employee D's parent to provide us with documentation to support these claims, the parent did not do so. Moreover, we were unable to find any evidence of his parent's business when we conducted

Email records show that several CalPIA staff, including an executive, the hiring manager, and a personnel manager, worked together to make an ineligible employee eligible for the appointment.

our own search of state-licensed businesses. We concluded that Employee D acted in bad faith by accepting the promotion to industrial supervisor based on false and incomplete information.

Prison Industries Superintendent II

One year later, in May 2018, the hiring manager improperly promoted Employee D to prison industries superintendent II (superintendent) without opening the position to fair competition. This promotion was unlawful in four key ways. First, the hiring manager stated that an executive came into her office and told her that CalPIA was going to promote Employee D. She told us that the promotion was “absolutely” about fast-tracking and creating a path for Employee D to move up in the agency. In fact, she told us that she found it “almost pointless” to review Employee D’s application because she already knew that he would be getting the promotion based on her previous conversation with the executive who wanted him in the position.

RELEVANT CRITERIA

In some instances, state law allows an agency to promote an employee without going through the State’s regular civil service competitive hiring process. This act is often referred to as a promotion in place. CalHR’s *Human Resources Manual* outlines the conditions under which an agency cannot promote an employee in place. For example, an employee cannot be promoted in place from a rank-and-file classification to a supervisory or managerial classification. Also, a promotion in place cannot involve a change in supervisory relationship. If a promotion does not meet the legal requirements, the agency is required to follow the State’s regular civil service hiring process.

Second, CalPIA promoted Employee D by using a method known as a *promotion in place* that is allowed under narrow circumstances when specific requirements are met, as described in the text box. The promotion from industrial supervisor—a rank-and-file classification—to superintendent—a supervisory classification—violated these requirements. Further, Employee D’s duties increased significantly and resulted in new subordinate relationships. Hence, under state law, CalPIA should have followed the State’s standard competitive civil service hiring process and required Employee D to compete for the promotion. Instead, CalPIA promoted Employee D and labeled his promotion as a promotion in place in his hiring paperwork.

Third, Employee D’s application shows that he lacked the supervisory experience needed to meet the minimum qualifications for his new position. The superintendent classification provides three methods by which a candidate can meet the minimum qualifications. The first two methods required specific state experience that Employee D did not have, leaving the third method as the only remaining path by which he could qualify. The third method requires four years of production experience, two of which must be in a supervising capacity. His submitted application did not identify any relevant supervisory experience, yet a personnel manager approved it, allowing the promotion to proceed. The personnel manager told us that she approved the application with the understanding that Employee D supervised crews while

working at the family business. However, both Employee D and his parent admitted in our interviews that Employee D had not supervised any staff because the parent's business employed only two individuals: Employee D and the parent.

Finally, we found that Employee D again failed to provide complete, factual, and truthful information on his application. The same misrepresentations we noted on his industrial supervisor application regarding the duration of time worked were also present in this application, as well as the misrepresentations of his supervisory experience that we discuss above.

As a result of our investigative findings, we concluded that the actions of the hiring manager, the personnel manager, the executive, and Employee D constitute bad faith on the part of both the employer and the employee. When an employee acts in bad faith, the State can require that employee to return all compensation unlawfully earned. For the nearly four years Employee D held the industrial supervisor and superintendent positions, the State paid Employee D more than \$266,000 in wages alone.

CalPIA Unlawfully Hired an Executive's Child

In September 2017, Employee E—the child of a CalPIA executive—applied for a permanent office assistant position at CalPIA. CalPIA's human resources staff deemed Employee E ineligible for the position because the employee's examination score was not in the top three ranks required for hire. However, the hiring manager for this recruitment stated that an executive directed her to interview Employee E. In response, the hiring manager contacted a personnel manager to inform her that she would like to give Employee E a "courtesy interview."

After the interview, an executive directed the hiring manager to hire Employee E. The hiring manager and a personnel manager then worked together to find a way to hire Employee E. With the personnel manager's approval, the hiring manager switched the position from permanent to a six-month temporary position. CalPIA re-advertised the vacancy two days after Employee E's interview. As fewer candidates are typically interested in temporary state positions, this shift placed Employee E in the third rank and eligible for hire. The hiring manager selected Employee E, and Employee E began working at CalPIA in October 2017. The hiring manager admitted that the only reason she changed the recruitment from permanent to temporary was to facilitate the hiring of Employee E. She added that she felt obligated to do so based on the executive's direction.

RELEVANT CRITERIA

To ensure that every civil service appointment upholds merit-based hiring principles and that the State hires the most competent candidate to perform each job, hiring managers must equally ensure that all candidates for a position meet the minimum qualifications, classifications, and application requirements listed in the advertised job posting. An agency is permitted to hire only candidates who score within the top three ranks of its examinations.

An executive insisted that a CalPIA manager offer an analyst position to a less qualified candidate who was related to a different executive.

The actions of the aforementioned executive, hiring manager, and personnel manager constituted bad faith and prevented the other 175 candidates who applied for both positions from fairly competing in the hiring process. Just three months into Employee E's six-month temporary position, the hiring manager converted that position into a permanent one. The hiring manager informed us that she proactively worked to convert the position because CalPIA had always intended the position to be permanent. Because Employee E's placement in the permanent position was only made possible through CalPIA's bad faith appointment of Employee E to the temporary position, we concluded that CalPIA also made this permanent appointment in bad faith.

CalPIA Unlawfully Hired an Executive's Son-in-Law

In March 2017, Employee F applied for an analyst position at CalPIA. Employee F is the spouse of Employee E, as well as the son-in-law of a CalPIA executive. The hiring manager stated that she was aware during the recruitment that Employee F was related to other CalPIA employees. She asserted that after she conducted interviews, the hiring panel selected another candidate for the position. However, when her supervisor—another executive at CalPIA—discovered whom the hiring panel selected, he overturned the selection and instructed her to instead hire Employee F. The hiring manager stated that she did not want to hire Employee F but that when she asked her supervisor whether she had a choice, he replied that she “absolutely” did not.

The hiring manager stated that she did not feel empowered to raise the issue to anyone else because she assumed the decision to hire Employee F came from higher up in the agency. When we interviewed the supervisor, he stated that Employee F's parent-in-law reached out to him on more than one occasion to mention Employee F's interest in working at CalPIA. However, the supervisor asserted that he did not feel pressured or obligated to hire Employee F. He also claimed that he overturned the hiring panel's decision so he could promote a more diverse workforce: he said that he felt the unit needed more males and that the hiring panel's choice was a female. The supervisor's claim is concerning as it shows that he impermissibly considered factors other than merit and fitness during the selection process for this position. Not only is that another violation of the merit principle, it could also expose the State to liability from other applicants. Notwithstanding, we concluded that the actions of the parent-in-law and supervisor negatively affected the 24 other applicants—in particular the originally selected candidate—and resulted in a bad faith appointment.

We found that Employee F also accepted the appointment in bad faith because he failed to provide complete, factual, and truthful information on his application; further, he did not correct the information when we interviewed him. To meet the minimum qualifications for the analyst classification, Employee F needed at least three years of professional analytical experience. On his application, he claimed that he was a restaurant manager for three years. However, when we contacted his former employer, that employer contradicted his claim and asserted that he performed some managerial duties for only two years. Moreover, his former employer did not support Employee F's assertions that his managerial experience qualified as "professional analytical experience" to the extent he claimed. When we questioned Employee F regarding his managerial experience at the restaurant, he denied that he embellished his qualifications. However, the evidence supports that Employee F did not meet the minimum qualifications for the analyst position and accepted the appointment in bad faith.

If the State were to require the employee to return all compensation unlawfully earned as a result of his bad faith acceptance of the appointment, it would find that during the nearly three years Employee F held the analyst position, he earned more than \$169,000 in wages alone.

Without CalPIA's Knowledge, One Employee Unlawfully Hired His In-Law

During the course of our investigation, we learned that Employee D unlawfully preselected and hired his soon-to-be in-law, Employee G, in October 2019. Although Employee G did not officially become Employee D's in-law until three months later, the two employees shared a familial connection for several years before the hire. Our review found that Employee D screened the applications for the position, made a specific request to human resources that resulted in Employee G's becoming eligible for the position, wrote the interview questions, guided the hiring panel, and selected Employee G as the winning candidate.

Employee D also improperly supervised Employee G until CalPIA discovered the personal relationship a few months later. When Employee D's supervisor learned of the relationship between Employees D and G, she worked with other executives to discipline Employee D. Ultimately, CalPIA chose not to correct Employee G's unlawful appointment. When we asked an executive why Employee G's appointment was not corrected, she stated that it was because CalPIA did not find that Employee G had acted in bad faith despite CalPIA's conclusion that Employee D used his influence to hire his soon-to-be in-law into the position. However,

RELEVANT CRITERIA

When an agency determines that an appointment is unlawful, it can take corrective action up to and including voiding the appointment, provided that the agency takes these actions within one year of the appointment.

given that the appointment had only been in place for a few months when CalPIA discovered it and that other candidates were negatively affected, the agency failed to take appropriate action to correct the appointment. These actions, taken in their entirety, constitute bad faith on the part of Employee D and violate CalPIA's nepotism policy.

Recommendations

To remedy the effects of the improper governmental activities this investigation identified and to prevent those activities from recurring, CalPIA should take the following actions:

- Take disciplinary action against executives who failed to uphold their duty to protect the merit-based system for hiring civil servants. If any of the employees responsible for these appointments are no longer employed by CalPIA, consider placing a notice of this investigation in their personnel files.
- Review all special consultant positions and work with CalHR to determine whether they are properly classified.
- Require all executives, hiring managers, and human resource managers to undergo CalHR or Personnel Board training on the requirements for making good faith appointments.
- In consultation with the Personnel Board, consider voiding appointments and requiring employees who acted in bad faith to return all compensation as the table shows.

EMPLOYEE	CLASSIFICATION	DATE OF APPOINTMENT	VOID	RETURN COMPENSATION
Employee A	Special consultant	June 2018	●	
Employee B	Special consultant	October 2018	●	
Employee C	Staff services manager II	December 2018	●	
Employee D	Skilled laborer	November 2016	●	
	Industrial supervisor	June 2017	●	●
	Prison industries superintendent II	May 2018	●	●
Employee E	Office assistant	October 2017	●	
		January 2018		
Employee F	Associate governmental program analyst	May 2017	●	●
Employee G	Skilled laborer	January 2019	●	

Summary of Agency Responses

CalPIA Response

In June 2021, CalPIA provided us a summary of the actions it has taken, or plans to take, to address the recommendations identified in this report.

In response to our recommendations pertaining to its unauthorized use of agency funds as discussed in Chapter 1, CalPIA informed us that it will place a notice of this investigation in the personnel files of any former employees responsible for the improper use of agency funds. CalPIA indicated that its current employees were not responsible so disciplinary action is not warranted. In addition, CalPIA informed us that it is working with the Prison Industry Board to develop and establish subcommittees, in part, to ensure that CalPIA adheres to appropriate financial controls. CalPIA stated that it would also ensure that it provides training to executive staff on the appropriate use of CalPIA funds and resources to prevent the gifting of funds or resources to other state agencies.

In response to CalPIA's improper spending of funds for CDCR's executive leadership training, CalPIA stated that it will not renew the contract for this training, which was set to expire in June 2021.

In regards to the executives who failed to protect the merit-based system of hiring as described in Chapter 2, CalPIA reported that it would request that CDCR conduct an investigation into these executives' activities and advise CalPIA on appropriate disciplinary action. CalPIA stated that it would place a notice of this investigation in the personnel files of those executives whom CalPIA no longer employs.

CalPIA stated that in an effort to improve its oversight of hiring practices and processes, it recently created a new unit within its human resources branch specializing in classifications and pay. CalPIA stated additionally that it has modified several of its processes to ensure stricter adherence to state hiring requirements and has implemented a new electronic system for completing the hiring process. CalPIA also shared that its human resources branch recently provided training on current hiring practices and the importance of adhering to state policies and guidelines governing the hiring process. Moreover, CalPIA reported that it is adding a mandatory training for all executives, hiring managers, and human resource managers to ensure CalPIA's compliance with the requirements for making good faith appointments.

In response to CalPIA's improper use of the special consultant classification, CalPIA reported that it will work with CalHR to review the special consultant positions it currently employs to perform specialized work to ensure the positions are properly classified.

In response to the recommendation to consider voiding specific appointments and requiring employees who acted in bad faith return all compensation, CalPIA responded that it will work with CalHR to take appropriate action for all employees and their respective positions identified in this report, regardless of their current employment status with CalPIA.

Lastly, CalPIA informed us that it has taken actions to ensure that employees at all levels of the agency are aware of how to report suspected instances of improper activities by incorporating this information in training classes and posting the information in worksites statewide.

CDCR Response

In July 2021, CDCR reported that it would provide us with a corrective action plan detailing how it would implement our recommendation within 60 days. The plan will include actions that CDCR plans to take to mitigate the risks identified in this report and to strengthen existing controls and procedures to ensure the gifts CDCR receives are appropriate and sufficiently documented. CDCR indicated it will include training for executives and employees in its corrective action plan.

Conservation Corps Response

In June 2021, the Conservation Corps reported that it will implement additional, and strengthen existing, controls and procedures to ensure executives and employees follow the appropriate procurement process for goods and services. The Conservation Corps informed us that it will no longer accept any goods or materials from another state entity without the appropriate documentation on file. The Conservation Corps stated that, in the coming weeks, it will incorporate these rules as policies and procedures in its operations manual and provide training to relevant staff.

Respectfully submitted,



STEPHANIE RAMIREZ-RIDGEWAY
Chief Counsel

July 27, 2021