

## Department of Finance

### Investigations of Improper Activities by State Employees, July 2008 Through December 2008

#### ALLEGATION I2008-0633 (REPORT I2009-1), APRIL 2009

##### *Department of Finance's response as of April 2009*

Our investigation revealed a sequence of events indicating that the Department of Finance (Finance) improperly kept a vacant position from elimination; thus, it circumvented a state law intended to abolish long-vacant positions.

##### **Finding: Finance circumvented state law and improperly prevented a vacant position from being abolished.**

During the seven month period from June 2006 through January 2007, three Finance employees occupied one position at various times. However, this position was not filled by anyone for a full five-month period from July through November 2006. Had the position remained unfilled through December 31, 2006, it would have been deemed vacant according to California Government Code, Section 12439, and therefore would have been abolished. However, based on our review of employment records from the State Controller's Office (Controller), Finance manually keyed Employee B's transfer into this position on December 21, 2006, and made it effective December 1, 2006. Finance then transferred Employee B to another unit on January 17, 2007. Employee B informed us that he requested the transfer to another unit in January 2007, but he was not aware he had been transferred to the vacant position in December 2006. Finance appointed another employee, Employee C, to the vacant position on January 18, 2007. When Finance manually keyed in Employee B's transfer into this position effective December 1, 2006, for a period of 49 days, it prevented the position from being abolished by the Controller. As a result, Finance circumvented state law governing the abolishment of vacant positions.

To ensure the laws governing vacant positions are followed, we recommended that Finance transfer employees from one position to another only when there is a justified business need.

##### ***Finance's Action: Corrective action taken.***

Finance issued a memoranda to its executive management and its chief of human resources to stress the importance of strict compliance with the law governing vacant positions and to require that any circumvention of this law be reported to its management. Finally, Finance issued a counseling memorandum to the manager who directed staff to move an employee in order to save the vacant position.

##### ***Investigative Highlight . . .***

***The Department of Finance saved a vacant position by transferring an employee from one position to another.***