California State Auditor

BUREAU OF STATE AUDITS

Investigations of Improper Activities by State Employees:

January 2005 Through June 2005

September 2005
I2005-2

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CALIFORNIA STATE AUDITOR

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September 21, 2005

Investigative Report I2005-2

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

Dear Governor and Legislative Leaders:

Pursuant to the California Whistleblower Protection Act, the Bureau of State Audits presents its investigative report summarizing investigations of improper governmental activity completed from January 2005 through June 2005.

Respectfully submitted,

Elaine M. Howle

ELAINE M. HOWLE
State Auditor

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SUMMARY

RESULTS IN BRIEF

The Bureau of State Audits (bureau), in accordance with the California Whistleblower Protection Act (Whistleblower Act) contained in the California Government Code, beginning with Section 8547, receives and investigates complaints of improper governmental activities. The Whistleblower Act defines an "improper governmental activity" as any action by a state agency or employee during the performance of official duties that violates any state or federal law or regulation; that is economically wasteful; or that involves gross misconduct, incompetence, or inefficiency. The Whistleblower Act authorizes the state auditor to investigate allegations of improper governmental activities and to report publicly on substantiated allegations. To enable state employees and the public to report these activities, the bureau maintains the toll-free Whistleblower Hotline: (800) 952-5665 or (866) 293-8729 (TTY).

If the bureau finds reasonable evidence of improper governmental activity, it confidentially reports the details to the head of the employing agency or to the appropriate appointing authority. The Whistleblower Act requires the employer or appointing authority to notify the bureau of any corrective action taken, including disciplinary action, no later than 30 days after transmittal of the confidential investigative report and monthly thereafter until the corrective action concludes.

This report details the results of the 10 investigations that the bureau completed alone or jointly with other state agencies between January 1, 2005, and June 30, 2005, that substantiated complaints. This report also summarizes actions that state entities took as a result of investigations presented here or in earlier bureau reports. Following are examples of the substantiated improper activities and actions the agencies have taken to date.

Investigative Highlights . . .

State employees and departments engaged in improper activities, including the following:

- ☑ ***Embezzled $132,523 in state funds.***
- ☑ ***Authorized holiday pay for a contractor's employees, costing the State $57,788 for services it did not receive.***
- ☑ ***Failed to account for 10,980 hours of union leave time at a cost to the State of $395,256.***
- ☑ ***Improperly received $5,072 in travel-related costs.***
- ☑ ***Incurred over $1,000 in additional flight costs with stopovers that did not involve state business.***
- ☑ ***Directed subordinates to perform work on a personal project while on state time, costing the State nearly $8,000.***

CALIFORNIA MILITARY DEPARTMENT

A supervisor at the California Military Department (Military Department) used Social Security numbers belonging to former military personnel and others to initiate payments to

individuals with names corresponding to those of his family members; he deposited most of these payments into his personal bank account. The supervisor also failed to stop payments to a retired service member who had died and then stole the deceased individual's retirement checks. In total, the supervisor embezzled at least $132,523 in state funds over an eight-year period, including $111,507 from the emergency state active-duty payroll, $12,393 from the Military Department's revolving fund, and $8,623 from the retired state active-duty system.

After we reported our findings to the Military Department, it requested that the California Highway Patrol (CHP) conduct a criminal investigation. The supervisor admitted embezzling state funds when questioned by CHP investigators, who later issued a warrant for the supervisor's arrest.

DEPARTMENT OF HEALTH SERVICES

The Genetic Disease Branch (branch) of the Department of Health Services improperly paid a contractor for holiday time and improperly purchased equipment under contracts for personal services and computer services. The branch authorized payment for 13 holidays to a contractor's workers over a one-year period, costing the State $57,788 for services it did not receive. The branch also circumvented state procurement procedures when it purchased computers, fax machines, and printers totaling $40,698 under service contracts.

DEPARTMENT OF CORRECTIONS

The Department of Corrections (Corrections) failed to adequately account for employee use of union leave time.[1] Corrections charged nearly 56,000 hours against the time bank for hours that union members spent conducting union-related activities between May 2003 and April 2005. However, Corrections did not track the hours available in a time bank composed of leave hours that union members donated. As a result, it released employees to work on union business without knowing whether the time bank had balances sufficient to cover the requests. We identified 10,980 hours, worth $395,256, during the same time period that Corrections failed to charge against the time bank.

[1] After we completed our investigation, Corrections underwent an organizational change and effective July 1, 2005, is now part of the California Department of Corrections and Rehabilitation and is called Adult Operations and Adult Programs.

DEPARTMENT OF FORESTRY AND FIRE PROTECTION

A Department of Forestry and Fire Protection (CDF) conservation camp manager directed sponsors of inmate work projects to deposit over $12,500 in state funds into accounts with local vendors. In addition, although we did not visit all 39 conservation camps, it is our understanding that this is an accepted practice used by 16 of the 18 camps located in CDF's northern region, even though the practice violates state laws prohibiting holding funds outside of the State Treasury. In addition, the manager and, to a lesser extent, a manager of another conservation camp, mismanaged state funds by failing to document project costs and payments adequately.

EMPLOYMENT DEVELOPMENT DEPARTMENT

In violation of state law, a former executive in the Employment Development Department (EDD) used state resources and state employees to assist him in writing a book for personal purposes. While working at EDD, the executive used his subordinates during regular work hours to edit and review a book he authored for personal purposes. The executive also used his state computer to edit the book, send e-mails to his subordinates about editing the book, and send e-mails to outside parties requesting their review and information on possible book publishers. The time that employees in EDD worked on the book represents approximately $7,930 in state wages.

DEPARTMENT OF CORRECTIONS

Following the direction of her supervisor, a Corrections employee changed the location of her headquarters on her travel claims so that she could receive reimbursements for travel expenses she was not entitled to receive.[2] However, the supervisor lacked the authority to make such decisions, and we found no documentation in the employee's personnel file indicating that the change was officially approved. As a result, the employee violated state travel regulations and received $5,072 in commute and other travel-related costs that she was not entitled to receive.

[2] After we completed our investigation, Corrections underwent an organizational change and effective July 1, 2005, is now part of the California Department of Corrections and Rehabilitation and is called Adult Operations and Adult Programs.

UNIVERSITY OF CALIFORNIA, LOS ANGELES

An official at the University of California, Los Angeles (UCLA), arranged seven out-of-state business trips so that she could stop over at locations where she did not have a business purpose. In most instances, the official visited her family residence in the Midwest. Because the official arranged her travel for personal purposes, UCLA paid over $1,000 in additional flight costs that it would not otherwise have incurred. ■

CHAPTER 1

California Military Department: Theft of State Funds

ALLEGATION I2004-0710

We received an allegation under the California Whistleblower Protection Act that a supervisor at the California Military Department (Military Department) embezzled public funds.

RESULTS AND METHOD OF INVESTIGATION

We investigated and substantiated the allegation. The supervisor committed the following acts between 1996 and 2004 to embezzle at least $132,523 from the State's General Fund:

- Fraudulently appropriated state funds under his control by using Social Security numbers belonging to former military personnel and others to initiate payments to individuals with names corresponding to those of his various family members; he deposited most of these payments into his personal bank account.
- Failed to stop payments to a retired service member who had died and then stole the deceased individual's retirement checks.

Over an eight-year period, the supervisor embezzled at least $132,523 as follows: $111,507 from the Military Department's system for processing emergency state active-duty payroll (emergency payroll); $12,393 from the Military Department's revolving fund; and $8,623 from the retired state active-duty system used to process retirement payments. The supervisor fraudulently initiated at least 60 checks in the names of his family members, totaling a gross amount of $123,900.[3] At least 43 of these payments, totaling $87,483, were deposited into his bank accounts. In addition, the supervisor stole at least four retirement payments totaling $8,623 that were payable to an individual who had died.

[3] At least six of these transactions involved payments totaling $12,393 from the Military Department's revolving fund. As this report later discusses, the supervisor initiated other payments through the claim schedule process that were later used to reimburse the revolving fund.

Table 1 shows the disposition of the $132,523 in public funds the supervisor embezzled.

TABLE 1

Sources and Disposition of Embezzled Funds

	Amount	Acquisition	Disposition	Possible Penal Code (PC) Violations*
Emergency State Active-Duty Payroll (Emergency Payroll)				
	$ 87,483	Unauthorized emergency payroll payments to Family Members A through E	Deposited into the supervisor's personal bank accounts	Embezzlement (PC 504), grand theft (PC 487), theft (PC 424), false impersonation (PC 529), forgery (PC 470)
	11,702	Unauthorized emergency payroll payments to Family Member C	May have been deposited into bank accounts belonging to the supervisor's family member	Embezzlement (PC 504), grand theft (PC 487), theft (PC 424), false impersonation (PC 529), forgery (PC 470)
	5,983	Taxes withheld from the unauthorized emergency payroll payments that the supervisor initiated	Taxes withheld from payroll and paid to federal and state authorities	Embezzlement (PC 504)
	5,039	Unauthorized emergency payroll payments to Family Member A	Disposition unknown; checks unavailable	Embezzlement (PC 504), grand theft (PC 487), theft (PC 424), false impersonation (PC 529), forgery (PC 470)
	1,300	Unauthorized emergency payroll payments to Family Member A	Disposition unknown; possibly deposited into Family Member A's bank account†	Embezzlement (PC 504), grand theft (PC 487), theft (PC 424), false impersonation (PC 529), forgery (PC 470)
Emergency Payroll Subtotal	**111,507**			
Military Department's Revolving Fund				
	324	Unauthorized revolving-fund payment to Family Member A	Revolving-fund check may have been deposited into Family Member A's bank account; emergency payroll payment used to reimburse the revolving fund	Embezzlement (PC 504)
	12,069	Unauthorized revolving-fund payments to Family Member E	Revolving-fund checks deposited into the supervisor's personal bank account; emergency payroll payments used to reimburse the revolving fund	Embezzlement (PC 504)
Revolving-Fund Subtotal	**12,393**			
Retired State Active-Duty System Payments				
	8,623	Retirement payments issued to a deceased retiree	Deposited into the supervisor's personal bank accounts	Embezzlement (PC 504), grand theft (PC 487), theft (PC 424), false impersonation (PC 529), forgery (PC 470)
Total	**$132,523**			

* For a more detailed description of the laws discussed in this table, see Appendix B.

† One emergency payroll payment and one revolving-fund check bore the signature reflecting the payee's name and may have been either cashed by Family Member A or deposited into his account.

To conduct this investigation, we reviewed payroll records related to Military Department employees and retirees. We also reviewed the Military Department's payments to its own full-time employees, as well as to individuals on temporary active military duty who work around the State on emergencies such as fires, floods, and security issues. Further, we reviewed some of the supervisor's personal bank records to determine the sources of deposits he made into those accounts but, because of the records' age, we were unable to obtain all of the information. We were, however, able to obtain copies of 54 of 60 checks that the supervisor falsely initiated from the Military Department's revolving fund and the State Controller's Office (controller's office). The controller's office had previously destroyed the remaining six checks among other checks and records that statute no longer required it to retain. Although all of these checks were made out to individuals other than the supervisor, we substantiated that at least 43 of them were deposited into his bank accounts.

BACKGROUND

The Military Department is responsible for the command, leadership, and management of the California Army and Air National Guard, as well as five other related programs (California National Guard). The purpose of the California National Guard is to provide military service supporting this State and the nation.

The adjutant general is the head of the Military Department and is responsible for employing personnel and equipment to support the emergency needs of a civil authority when the governor calls him or her to duty during a domestic emergency or natural disaster. To support civilian authorities, the California National Guard deploys personnel in nine categories, including state active-duty personnel who provide emergency support to state and local agencies. The supervisor was on state active duty.

Under California law, public officials hold public funds in trust and must use them only for authorized purposes.[4] An officer of the State who fraudulently appropriates state funds or property for any unlawful use or purpose is guilty of embezzlement. California law makes the crime of embezzlement by a public officer a felony. We substantiated that, by virtue of his position, the supervisor possessed and controlled various public funds

[4] For a more detailed description of the laws discussed in this chapter, see Appendix B.

The supervisor's position provided him with access and control over the Military Department's payroll systems for both active-duty and retired personnel, as well as its revolving fund.

including the Military Department's payroll system for state active-duty personnel and retired personnel, as well as the department's revolving fund. We also substantiated that he fraudulently appropriated funds from these sources by making checks payable to individuals who were not entitled to these payments. We further determined that a substantial amount of these payments was subsequently deposited into the supervisor's bank accounts, as we will describe in detail. By fraudulently appropriating these funds for unauthorized purposes, the supervisor committed the crime of embezzlement.

In March 2004 we received an allegation that the supervisor was embezzling state funds, and we began an investigation. In May 2004 we met with Military Department executives because we believed that we had sufficient evidence to lead a reasonable person to conclude that the supervisor was, in fact, embezzling funds. Department executives immediately took steps to remove the supervisor from his position and discontinued his computer and system access, thereby removing his ability to process payments of state funds.

In this report, we explain that some of the funds the supervisor embezzled were deposited into the bank accounts of Family Members A and C. The state auditor's authority to investigate and report on improper governmental activities is limited to state employees' improper activities. We describe the possible involvement of family members, who are not state employees, only to the extent that their activities are directly relevant to establishing the facts related to the supervisor's improper activities. We did not investigate nor reach any conclusions concerning what, if any, improper or illegal activities family members may have been involved in.

With the Military Department's help, we reviewed e-mail and other information stored on the supervisor's computer. Also, department representatives interviewed many of the individuals whose names or Social Security numbers the supervisor used in his embezzling activities.

THE SUPERVISOR EMBEZZLED PAYROLL AND REVOLVING-FUND CHECKS

The supervisor had the ability to initiate at least three different types of payments: (1) emergency state active-duty payroll (emergency payroll), (2) retired state active-duty payments, both of

which are paid through the controller's office, and (3) payments from the Military Department's revolving fund. The supervisor embezzled public money by making unauthorized payments from all three of these sources.

The Supervisor Embezzled Emergency Payroll

As we described earlier, the Military Department employs personnel and equipment to support the emergency needs of state and local agencies. Its state active-duty personnel, including the supervisor, provide this emergency support. Among other duties, the supervisor was responsible for initiating payments through the emergency payroll system to service members who worked on emergencies. The supervisor used this process to embezzle funds by using the names and Social Security numbers of at least five individuals to make unauthorized payments in the names of these five and other individuals.

The supervisor had the ability and the authorization to override the Military Department's emergency payroll system controls.

As a control measure, the current emergency payroll system requires that before someone can initiate a payment to an individual, the individual's name and Social Security number must already exist in the militia database, which consists of service members of the Army National Guard, Air National Guard, and the State Military Reserve. However, the supervisor was authorized to override that control measure manually, which allowed him to initiate improper emergency payroll payments. According to the supervisor's superior, this override capability is necessary for unusual circumstances, such as when a new service member has performed work during an emergency and must be paid, despite the fact that the service member's Social Security number is not yet in the militia database.

The Supervisor Initiated Payments in the Names of Family Members

In 1996 the supervisor began fraudulently appropriating state funds by initiating unauthorized emergency payroll payments in the form of checks made payable in the names of family members. We believe the supervisor overrode information in the emergency payroll system to initiate payments for work that each of the payees had allegedly performed on various state emergencies such as fires and floods. We found no evidence

that any of the supervisor's family members are or were state employees. The family members all had last names different than the supervisor's, making it more difficult for anyone at the Military Department to suspect any connection between the family members and the supervisor. We did not interview the family members and do not know whether they were aware of or involved in the supervisor's activities. However, when interviewed by California Highway Patrol (CHP) investigators, the supervisor said that only Family Members A and C had knowledge of checks being made in their names. Table 2 summarizes the gross payment amounts that the supervisor fraudulently initiated in the names of different family members over several years.

TABLE 2

Gross Emergency Payroll Amounts in the Names of Various Family Members by Year

Family Member	1996	1997	1998	2002	Totals
A	$ 8,637	$10,992	$10,889	0	$ 30,518
B	3,410	12,749	4,790	0	20,949
C	0	19,580	11,192	0	30,772
D	0	2,609	6,458	0	9,067
E	0	0	0	$20,201	20,201
Totals by Year	**$12,047**	**$45,930**	**$33,329**	**$20,201**	
Grand Total					**$111,507**

Table 3 shows how much of the money issued in the names of the supervisor's family members during each calendar year actually ended up in the supervisor's personal bank accounts.

TABLE 3

Amounts Issued in Family Members' Names and Proportion Deposited into the Supervisor's Personal Bank Accounts

Year	Family Member	Gross*	Net*	Number of Checks	Totals	Percent of Net Amount
1996	A	$ 8,637	$ 8,393	2†	$2,054	24%
	B	3,410	3,001	2	3,001	100
1997	A	10,992	10,453	5	10,453	100
	B	12,749	11,905	7	11,905	100
	C‡	19,580	18,263	4	6,561	36
	D	2,609	2,451	1	2,451	100
1998	A	10,889	10,236	4	10,236	100
	B	4,790	4,635	2	4,635	100
	C	11,192	10,559	5	10,559	100
	D	6,458	5,956	2	5,956	100
2002	E	20,201	19,672	9	19,672	100
Totals		**$111,507**	**$105,524**	**43**	**$87,483**	**83%**

* The difference between the gross and net amounts shown here is $5,983, which is the amount of federal and state taxes that the Military Department withheld from the unauthorized emergency payroll payments the supervisor initiated. See Table 1.

† Six checks were not available: one was used to reimburse the revolving fund, and two others, including the revolving-fund check, may have been either cashed by Family Member A or deposited into his account.

‡ The supervisor and Family Member C shared a joint account.

Family Member A's Name Matched That of a Former Member of the Army National Guard

In early 1996 the supervisor fraudulently appropriated state funds by initiating unauthorized payments in the name of a former member of the Army National Guard who separated from service in 1994 and who has the same first name, middle initial, and last name as Family Member A. An investigator with the Military Department interviewed the former guardsman in July 2004 and confirmed that he performed no work for the Military Department during the period when the emergency payroll documents in question were issued. Nevertheless, between January 1996 and November 1998, the Military Department issued 20 checks totaling a gross amount of $30,518 in the former guardsman's name and processed them using his Social Security number. Six of the checks are no longer available because the controller's office destroyed them (along with other

aging records) in accordance with record retention law. Based on the bank stamp and endorsement on one of the available checks, along with a fingerprint presumably belonging to the endorser, the evidence we reviewed suggests that Family Member A either cashed that check or deposited it into his own bank account.

Another of the available checks was redeposited by the Military Department to reimburse the revolving fund, indicating that a revolving-fund check was issued previously to the same individual. That revolving-fund check also had a bank stamp and endorsement, along with a fingerprint presumably belonging to the endorser, indicating that check also may have been negotiated by Family Member A. The remaining 11 checks bore a signature reflecting the payee's name, a notation to pay to the supervisor, and a signature in the supervisor's name.[5] Those checks were then deposited into the supervisor's bank accounts.

Family Member B's Name Also Matched That of a Former Service Member

As he had done with Family Member A, the supervisor used the name and Social Security number of a former service member with the same first and last name as Family Member B to appropriate funds fraudulently. This former service member separated from the Army National Guard in 1989; however, between November 1996 and February 1998, the Military Department issued 11 unauthorized checks totaling a gross amount of $20,949 in the former service member's name and processed them using his Social Security number. All 11 of the checks bore a signature reflecting the payee's name, a notation to pay to the supervisor, and a signature in the supervisor's name. These checks were subsequently deposited into the supervisor's bank accounts.

Family Member C's Last Name Matched That of a Former Army National Guardsman

For Family Member C, the supervisor found a former National Guard service member with the same last name but a different first name, an individual who had separated from the Army National Guard in 1989. We believe that the supervisor used his

[5] Although the checks bore signatures on the back in the same name as Family Member A, we did not determine whether those signatures were forgeries. However, in a subsequent interview with CHP investigators, the supervisor admitted that he forged the endorsement signatures on most of the embezzled checks.

The supervisor used the identity of a service member who had separated from the Army National Guard in 1989 to fraudulently initiate 13 checks totaling a gross amount of $30,772.

authority to override data that existed in the emergency payroll system to alter the guardsman's first name. This allowed the supervisor to appropriate state funds fraudulently by initiating 13 checks that the Military Department issued between May 1997 and November 1998 in the name of Family Member C. The gross amount of the 13 checks was $30,772. Four of these checks (gross amount of $12,475) may have been deposited into accounts belonging to Family Member C.[6] Two checks (gross amount of $3,684) bore a signature reflecting the payee's name, a notation to pay to the supervisor, and the supervisor's signature; these were deposited into a joint account that Family Member C and the supervisor shared. Of the remaining seven checks (gross amount of $14,613), three bore a signature reflecting the payee's name, and four simply contained a notation that they were for deposit only; all seven were deposited into the joint account.

Family Member D's Last Name Is That of a Former Service Member

Family Member D also had the same last name but a different first name than a former service member who separated from the Army National Guard in 1993. Between May 1997 and March 1998, the Military Department issued three unauthorized checks totaling a gross amount of $9,067 made payable in the name of Family Member D. We know that the supervisor could override information in the emergency payroll system, thus circumventing a control that should prevent initiation of payments to nonservice members. All three checks bore a signature reflecting the payee's name, a notation to pay to the supervisor, and a signature in the supervisor's name. These checks were subsequently deposited in the supervisor's bank accounts.

Payments to Family Member E Came From Both the Emergency Payroll System and the Revolving Fund

Family Member E's situation differed from most of the others in two ways. First, the supervisor initiated 13 checks in Family Member E's name, totaling a gross amount of $32,270. Eight of these were from the emergency payroll and five were from the Military Department's revolving fund, which we will soon discuss. Second, the Social Security number that the supervisor used to issue payments in Family Member E's name did not

[6] As we discussed earlier, this report does not reach any conclusions concerning what, if any, improper or illegal activities the supervisor's family members may have been involved in.

belong to anyone with a similar first or last name. The Military Department told us it does not believe that the owner of that Social Security number was ever in the militia database, and it subsequently discovered that the individual associated with that Social Security number is deceased.

Family Member E is not a Military Department employee and has never been eligible to be one. However, the supervisor had extensive override capability and apparently entered both Family Member E's name and the Social Security number of the deceased person into the system to appropriate state funds fraudulently by initiating eight emergency payroll payments totaling a gross amount of $20,201 in Family Member E's name between May and December 2002. Four of the eight checks, totaling $7,656, were deposited into the supervisor's bank account. The other four checks, totaling a gross amount of $12,545, were endorsed by the Military Department and deposited to reimburse its revolving fund, from which the supervisor initiated five other payments in Family Member E's name.

The Supervisor Also Embezzled Public Funds by Using the Military Department's Revolving Fund

The supervisor was able to initiate payroll advances from the revolving fund in the name of Family Member E, totaling $12,069, even though Family Member E has never been eligible for military service.

The supervisor also fraudulently appropriated state funds by initiating five payments, totaling $12,069, in Family Member E's name from the revolving fund.[7] Revolving funds are often used to issue travel and payroll advances to employees; the fund is reimbursed after a check is issued through the regular claim schedule or payroll process. To initiate payroll advances from the revolving fund, the supervisor prepared fraudulent documents claiming that Family Member E had not been paid. As we mentioned, Family Member E is not and never has been a Military Department employee; therefore, he was not eligible to receive such payments. The fraudulent documents indicate that the revolving fund would be repaid with the checks that would come back from the controller's office. All five of the revolving-fund checks were deposited into the supervisor's bank account. The supervisor used the emergency payroll process we described earlier to initiate unauthorized payments to reimburse the revolving fund for the amount he stole.

[7] This amount differs from the $12,545 in the previous section that we indicated was used to reimburse the revolving fund in that it does not include taxes withheld from the emergency payroll payments.

THE SUPERVISOR STOLE FUNDS FROM A DECEASED RETIREE

After relieving the supervisor of his duties, the supervisor's superior discovered the retiree's death certificate in a stack of paper on the supervisor's desk.

The supervisor also stole $8,623 in pension checks issued to a retired state active-duty service member. In 2003 the supervisor deposited into his personal bank account four retirement checks (one in March and three in June) totaling $8,623 made out to a former service member.[8] The Military Department issued a check for $2,155 in each of the four months from January through April 2003.[9] Although we learned from county records that the retiree had died in December 2002, when we reviewed the retiree's personnel file we did not find the expected copy of his death certificate. The supervisor's superior later discovered the retiree's death certificate in a stack on the supervisor's desk, along with an associated court document dated February 3, 2003. Regardless of when the supervisor became aware of the death, all four checks that the Military Department issued to the retiree after his death ended up in the supervisor's personal bank accounts, providing sufficient evidence that he stole those funds.

California Government Code, beginning with Section 13400, requires each state agency to establish and maintain a system or systems of internal accounting and administrative controls. It requires that, when detected, weaknesses must be corrected promptly.

The Military Department failed to follow existing controls over retiree payments. Although it has a process for issuing an annual certification to retirees, requesting that they complete and return the form to affirm their continued eligibility, the Military Department does not always follow this process. We found no evidence of current annual certifications in six of the 10 files we reviewed. If it sends out the annual certifications and the retirees or their beneficiaries fail to return them, the Military Department would have an indication that the individual authorized to receive the retirement benefit might be deceased. Without such certifications, the Military Department relies heavily on the next of kin to provide notice of a retiree's death,

[8] The supervisor apparently forged the retiree's signature on one of the four checks and simply wrote "for deposit only" on the other three. Because the supervisor deposited all four checks into automatic teller machines, no bank teller directly questioned him about why he was depositing checks that were made out to the retiree.

[9] Each of the four checks was for $2,155.70, for a total of $8,622.80, which we rounded up to the nearest dollar.

but such reliance is misplaced in cases in which the deceased leaves no survivors or when the family members simply fail to notify the department of such a death.

Also, the Military Department does not always obtain the appropriate documentation confirming the death of a retiree or his or her beneficiary. For example, of the 10 personnel files we reviewed pertaining to individuals who had previously received retirement payments and later died, six did not include copies of death certificates, which would clearly indicate when the deaths occurred.

AGENCY RESPONSE

The Military Department reported that it enacted three internal control measures to prevent further and/or future embezzlement of state funds and to eliminate the fraudulent manipulation of the payroll and payment system. The internal control measures established include the following:

- The number of authorizations required to manually override the emergency payroll system has been increased from one to two.
- Payroll advances from the revolving fund must now be requested from payroll processing staff and approved by either the state personnel programs director or deputy director.
- An Annual Certification of Eligibility of retirees will now be obtained from retirees by the Military Department's State Comptroller Office. Certification will be sent out annually with written follow-up to ensure eligibility and uninterrupted continuation of retirement benefits.

After the Military Department was informed of our findings, the National Guard's Criminal Investigation Division (CID) and the CHP were asked to investigate this case. The CID and the CHP interviewed the supervisor and, after completing their investigation, the CHP referred the case to the Sacramento County District Attorney for prosecution. Subsequently, the supervisor was served with an arrest warrant. ■

CHAPTER 2

Department of Health Services: Improper Contracting Practices

ALLEGATION I2004-0930

The Genetic Disease Branch (branch) of the Department of Health Services (Health Services) improperly paid a contractor for holiday time and improperly purchased equipment using contracts for personal services and computer services. In addition, the branch failed to properly administer the contracts, which did not contain sufficient details or adequate controls to ensure that state funds were spent judiciously.

RESULTS AND METHOD OF INVESTIGATION

We investigated and substantiated the allegation. We found that branch contracts and related invoices lacked specifics, leading to questionable and improper payments for holiday pay and equipment. For example, the branch improperly authorized payment for 13 holidays to a contractor's workers from December 2003 through November 2004, costing the State $57,788 for services it did not receive. Also, the branch circumvented procurement procedures by purchasing computers, fax machines, and printers totaling $40,698 under contracts for services. To investigate the allegation, we reviewed three personal services contracts and one computer services contract totaling $8,633,872. In addition, we reviewed contract payment histories and specific invoices paid against these contracts. We also reviewed relevant state laws, regulations, and Health Services' contracting policies. Finally, we questioned branch employees about the branch's handling of these contracts.

BACKGROUND

The branch works to protect and improve the health of all Californians. Its mission is to serve the people of California by reducing the emotional and financial burden of disability and death caused by genetic and congenital disorders. To fulfill this mission, the branch screens newborns and pregnant women for genetic and congenital disorders. The screening programs provide testing, follow-up, and early diagnosis to prevent adverse

outcomes or minimize the clinical effects of such disorders. To support its mission, Health Services charges fees for the services it provides. Beginning in 2001, new legislation required the branch to bill patients directly rather than billing hospitals for the newborn-screening program. This change created additional work for the branch and led to a backlog of billings. Legislation further directed Health Services to undertake expeditiously all steps necessary to implement the fee collection process, including personnel, contracts, and data processing. That new legislation was the impetus for the three personal services contracts we discuss in this chapter. Table 4 summarizes the three personal services contracts that the branch entered into with Contractor A and the one computer services contract that it entered into with Contractor B.

TABLE 4

Contracts Between the Genetic Disease Branch and Contractors A and B

Contract Term	Contract Amount	Scope of Work
Mar. 1, 2002, to Feb. 28, 2005	$1,498,051	Contractor A to provide accounts receivable services to process insurance claims for revenue payments, necessary insurance billing data, and technical assistance using the Genetic Disease Branch's current accounts receivable software. The contract's one amendment, effective 10/28/02, added $850,000 to the original $648,051 to reflect an increase in the volume of insurance claims for revenue payments and expansion of work projected for the second, third, and fourth years.
Nov. 1, 2003, to June 30, 2006	3,450,003	Contractor A to continue services described above.
Apr. 1, 2004, to Mar. 31, 2007	3,506,466	Contractor A to provide laboratory support services to manage the operations of screening programs.
July 1, 2000, to June 30, 2003	179,352	Contractor B to provide maintenance of computer hardware and software.
Total	**$8,633,872**	

THE BRANCH IMPROPERLY PAID FOR CONTRACT WORKERS' HOLIDAY TIME

Although the contract did not require the branch to do so, the branch authorized payment for 13 holidays to Contractor A's workers from December 2003 through November 2004, costing the State $57,788 for services it did not receive. In fact, the contract

under which the branch made these payments specifies that services shall be provided Monday through Friday, 8 a.m. to 5 p.m., except for official state holidays.

The branch informed us that it had agreed to pay the contractor's workers for holiday time because it believed that it was in the best interest of the State to retain good workers once they were trained in these temporary positions. However, the contractor's workers were paid an hourly rate for the time they worked, and the branch also paid the contractor an overhead rate of approximately 34 percent to 44 percent, which Contractor A could use to retain workers and cover benefits such as holiday pay. Therefore, we believe it was improper for the branch to pay an additional amount to cover contract workers' holidays. The branch also stated that effective January 1, 2004, it amended Contractor A's three contracts to provide for holiday pay. Because we did not find any such amendment with the contract documentation we obtained, we asked the branch to provide us with support showing that the contract had been amended. The branch provided a holiday pay schedule developed and approved by a former branch employee that was never processed through Health Services' contracts section and therefore did not constitute a formal, authorized written amendment to the contract. The branch suggested that its decision to enter into this informal agreement did not require a formal contract amendment because it did not change the scope of work or add money to the contract. However, because the branch decided to pay the contractor's workers for holidays, the State spent an additional $57,778 for personnel costs over a one-year period without receiving any additional services in return.

The branch stated that it amended the contracts in 2004 to allow the branch to pay Contractor A's employees for holidays.

Furthermore, we believe that the branch also may have violated state law prohibiting gifts of public funds by paying contract employees more than they were entitled to receive.[10] Although paying contract employees who provide services for the State serves a public purpose, when such employees receive pay for work not performed, that excess amount serves a purely private purpose and violates the constitutional prohibition against making public funds available for private purposes.

[10] For a more detailed description of the laws, regulations, and policies discussed in this chapter, see Appendix B.

THE BRANCH ALSO CIRCUMVENTED PROCUREMENT PROCEDURES

The branch circumvented state procurement procedures by using services contracts with both Contractor A and Contractor B to purchase computers, fax machines, and laser printers for the branch. The computers cost $35,000, the fax machines $1,845, and the printers $3,853.

The branch circumvented state procurement procedures by using contracts for services to purchase equipment.

The branch's agreement with Contractor B was for the contractor to provide maintenance of computer hardware and software. Nevertheless, the branch circumvented the goals of state law as well as state procurement procedures by using money from this computer services contract to purchase two computers, which the branch said it needed to replace aging equipment. The branch informed us that continuous operation of the computers is essential to support the daily screening of births and pregnancies and that it had concerns about the existing machines surviving an impending move to a new office location. According to the branch, its network manager and Contractor B agreed that the contract should be amended, and they negotiated new contract terms and conditions. However, these new terms and conditions were never put in the form of a written amendment to the contract.

The branch then approved a $15,500 invoice from Contractor B for, as the invoice stated, "time and materials not covered under the terms and conditions of the regular maintenance agreement" but was actually for the cost of two computers. We believe that the information on this invoice was a misleading statement about the true nature of the transaction. Further, it appears that the branch was aware of the true nature of the amount claimed on the invoice when it approved payment, thereby not only circumventing state procurement procedures but also approving and perpetuating misleading information.

The branch also approved a second invoice from Contractor B for $19,500 with the same description of services. The branch told us that this invoice was for the installation of emergency backup computers in Sacramento, something that was necessary as part of the recovery system required for critical public health services. The branch further said that it had approved both invoices under the mistaken impression that the contract had been amended to provide for this equipment.

Not only did the branch fail to obtain bids to ensure it was getting the best price for the equipment it purchased, it paid Contractor A another 10 percent for "additional administrative and accounting expenses."

Similarly, the branch used a personal services contract with Contractor A to purchase fax machines and laser printers. The branch circumvented state procurement procedures requiring departments to obtain price quotes and compare prices. Furthermore, the contractor charged the branch another 10 percent for "additional administrative and accounting expenses."

To make matters worse, we believe that the branch paid much more for this equipment than it would have paid using the State's procurement procedures. For example, it paid a base price of $520 for each of the three fax machines. In just a few minutes on the Internet, we were able to find the same model fax machine from three different vendors for prices ranging from $299 to $332. Although our price comparison was done approximately three months after the contractor's purchase of the fax machines, we do not believe that the prices would have changed significantly during that time. The base price that the branch paid for the laser printers was more competitive; however, by circumventing the State's procurement process, it still paid at least 10 percent more than necessary because of the contractor's fee.

State law requires each agency to establish and maintain a system of internal accounting and administrative controls. Further, state law requires that, when detected, weaknesses must be corrected promptly. In addition, California law states that waste and inefficiency in state government undermine Californians' confidence in government and reduce the state government's ability to address vital public needs adequately. By using personal and computer services contracts to purchase goods, the branch used public funds for an unauthorized purpose.

THE BRANCH FAILED TO SPECIFY SALARY RATES AND WORKERS' QUALIFICATIONS

Although the main purpose of the three personal services contracts with Contractor A was to provide human resources to help the branch accomplish its goals, none of the contracts specified salary rates or pay ranges for any of the positions, nor did they specify the qualifications or number of workers needed. The branch told us that the contractor submitted market-rate pay scales in response to its invitation for quote; however, based on the information in the contracts, it was not possible for the branch to know what it was getting for its money or whether it was paying a reasonable rate for the services that Contractor A

provided. This could also lead to disputes over the contract workers' salary rates and qualifications. The failure to specify salary rates and worker qualifications leaves the branch with no assurance that the billings for contracts totaling more than $8 million are reasonable. In addition, because of this lack of detail in the contracts, we could not always determine whether the salaries that the branch paid were comparable to similar positions within the state civil service system.

None of the personal services contracts with Contractor A specified salary rates or pay ranges for any of the positions.

In one instance in which the branch provided us with sufficient detail to compare with similar positions within the state civil service system, it authorized payments to one of the contractor's workers at a rate of $117.92 per hour, which included 34 percent in overhead paid to Contractor A, even though the civil service classification that the branch identified as comparable to this position had a maximum rate of $45 per hour, which included salary plus state fringe benefits. The contractor's employee worked for the branch for only five months (872 hours) at a cost of $102,826. The salary for the civil service position that the branch identified as comparable for the same five-month period would have been $28,770, or $38,848 with state fringe benefits.

The attachments to these contracts should specify an annual budget with line items for personnel, fringe benefits, operating expenses, equipment, travel, and indirect costs. However, rather than include estimated amounts for each of these categories, the budget indicates that the entire amount for each year is simply "operating expenses." As we explained previously, the main purpose of the contracts was to provide staffing to help the branch accomplish its responsibilities. Therefore, it is reasonable to expect that a large portion of the expenses are more appropriately charged to personnel, fringe benefits, and the contractor's indirect costs. Because of insufficient detail in the contracts pertaining to salary rates, fringe benefits, and overhead, the branch had no way of knowing how much it was paying in indirect costs or whether those costs were reasonable.

THE BRANCH USED QUESTIONABLE JUSTIFICATION FOR CONTRACTS

Because the branch failed to include any specifics pertaining to the number or qualifications of workers and the applicable salary ranges, we cannot know how it was able to conclude that the costs were reasonable and at fair market value.

Because the branch failed to include any specifics pertaining to the number or qualifications of workers and the applicable salary ranges, it is not clear how it was able to conclude that the costs "were reasonable and at fair market value."

On forms it prepared to summarize the proposed personal services contracts, the branch provided information that we believe gave insufficient and inaccurate justification for them. For example, in response to a question about the basis for determining that the price or rate is reasonable, the branch responded simply, "[T]he program has reviewed all costs associated with this contract and deemed these costs to be reasonable and at fair market value for these services." Because the branch failed to include any specifics pertaining to the number or qualifications of workers and the applicable salary ranges, we cannot know how it was able to conclude that the costs were reasonable and at fair market value.

Further, the branch justified contracting out for these services by saying that "[T]he necessary knowledge and experience can only be provided by a contractor who does this type of service. The service is not available through the civil service system." But the branch told us that the positions and salaries were comparable to civil service positions and salary ranges and that it is now planning to recruit and hire civil service employees to fill the positions. Therefore, we believe that the branch's justification for contracting out these services was not sufficient or accurate and that, although these contracts may have been necessary to help the branch achieve its goals, the individuals who approved them did so based on misleading information.

AGENCY RESPONSE

As of the date of this report, Health Services' review was still ongoing. ■

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CHAPTER 3

Department of Corrections: Failure to Account for Employee Use of Union Leave

ALLEGATIONS I2004-0649, I2004-0681, AND I2004-0789

The Department of Corrections (Corrections) failed to properly account for the time that employees used when released from their regular job duties to perform union-related activities.[11]

RESULTS AND METHOD OF INVESTIGATION

We investigated and substantiated the allegation. We determined that Corrections did not track the total number of hours available in a rank-and-file release time bank (time bank) composed of leave hours that union members had donated. As a result, Corrections released employees without knowing whether the time bank had sufficient balances to cover requests for leave. In addition, the management reports that Corrections currently uses to track time-bank use and donations did not capture a significant amount of union leave used. Corrections charged nearly 56,000 hours against the time bank for hours that members of the California Correctional Peace Officers Association (Peace Officers Association) spent conducting union-related activities between May 2003 and April 2005. However, we identified 10,980 additional hours members used that Corrections failed to charge against the time bank. Although Corrections asserts that it has reconciled its time-bank balances, records from the State Controller's Office do not indicate that the 10,980 hours were charged to the time bank through the State's leave-accounting system. Thus, it appears that these hours were paid through regular payroll at a cost to the State of $395,256.

To investigate the allegations, we reviewed records from the State's leave-accounting system and union-leave reports that Corrections derived from that system. These reports identify the amount of union leave that Peace Officers Association

[11] After we completed our investigation, Corrections underwent an organizational change and effective July 1, 2005, is now part of the California Department of Corrections and Rehabilitation and is called Adult Operations and Adult Programs.

members donated and used from May 2003 to April 2005. We also reviewed various union-leave request forms that employee unions completed and forwarded to Corrections when requesting that employees be allowed to perform union-related activities. In addition, we obtained a description of the various scenarios by which Corrections allows its employees to be released to perform union-related activities, as shown in Table 5. Although our investigation focuses on the time bank for rank-and-file Peace Officers Association members, we have included for informational purposes other circumstances whereby Corrections released employees to conduct union-related activities. Furthermore, we interviewed representatives from Corrections and the Department of Personnel Administration (Personnel Administration) regarding relevant union-related issues and Corrections' management of employees whom it releases to perform union-related activities. Finally, we reviewed pertinent state laws and union-leave provisions as outlined in the union contract.

BACKGROUND

In recognition of the right of state employees to join organizations of their own choosing and to be represented by such organizations in their employment relations with the State, the Legislature enacted a state law intended to promote peaceful and full communication between the State and its employees by providing a reasonable method of resolving disputes regarding wages, hours, and other terms and conditions of employment.[12] Generally, state law requires state employers to provide reasonable release time to employee representatives of recognized employee organizations (for example, unions) meeting with the State on employment relations issues. Refusal to provide reasonable release time violates the employer's duty to negotiate in good faith. More specifically, when a contract is not in place, state law requires the State to grant reasonable time off without loss of compensation or other benefits to employee representatives when they are formally meeting and conferring with state representatives on matters regarding wages, hours, and other terms and conditions of employment. Once a labor agreement is in effect, an employee's right to release time for union-related activity is determined in accordance with the provisions of the agreement and other statutory provisions.

When a labor agreement is in place, an employee's right to release time for union-related activity is determined primarily in accordance with the union contract.

[12] For a more detailed description of the laws and employee contract discussed in this chapter, see Appendix B.

The Public Employment Relations Board has found that release time for other purposes, such as for attending conferences for employee organization delegates or time to attend to association business, is negotiable. Thus, an agreement may provide for release time for union activities other than matters relating to wages, hours, and other terms and conditions of employment. Once an agreement is reached between the State and the recognized employee organization on those issues as well as others, both parties must prepare a written memorandum of understanding (contract), which is presented, when appropriate, to the Legislature for approval. The types of leave that Corrections uses to address statutory and contractual requirements are described in Table 5.

TABLE 5

Ways That Corrections Covers Union-Related Activities

Types of Leave Available	Description	Funding Source and Users
Rank-and-file release time bank (time bank)*	The union may request that rank-and-file employee representatives be granted time off to conduct union business using available time-bank hours.	Union members donate personal leave (any type but sick leave); primarily used by the California Correctional Peace Officers Association (Peace Officers Association).
Union paid leave	The affected union may request that employee representatives be granted union-paid leave to conduct union business. The reimbursement rate is equivalent to 135 percent of the employee's salary to cover employee benefits paid by the State.	The union initiating the leave request bears the cost. The California State Employees Association is the primary user; the Peace Officers Association only rarely uses it.
Union activist release time	The union activist release time is used for activities related to collective bargaining. For example, the Peace Officers Association uses it to cover employee attendance at its annual training conference.	The State bears the cost; this is available only to the Peace Officers Association.
Official business	Employees may be granted official business time off to participate in activities such as contract negotiations for the bargaining unit or meeting and conferring with representatives of the State on matters within the scope of representation.	The State bears the cost; various unions use this.
Informal representation	Employee representatives may be granted time off to represent employees for matters such as meetings involving grievances and adverse action hearings.	The State bears the cost; various unions use this.
Personal leave	Subject to a supervisor's approval, an employee may request to use personal leave balances, except for sick leave, to conduct union-related activities.	The employee bears the cost.
Unpaid leave of absence	Subject to a supervisor's approval, an employee may request an unpaid leave of absence to conduct union-related activities.	The employee bears the cost.

* This report focuses on issues concerning Corrections' management of the Peace Officers Association's rank-and-file release time bank. We mention other leave scenarios here, such as instances when Corrections allows employees to go on official business status, for informational purposes only.

In addition to the types of leave described in Table 5, as a result of reopened negotiations, chapter presidents of the Peace Officers Association are now allowed to be released from their normal job duties once a week to assist in maintaining harmonious labor relations and to address grievances. Corrections reported that this provision pertains to as many as 34 employee representatives at an estimated annual cost to Corrections of over $570,000.

CORRECTIONS FAILED TO ACCOUNT FOR TIME-BANK HOURS

Corrections released employees to conduct union-related activities without knowing whether the time bank had sufficient balances to cover the requested leave.

Although it has recently improved its monitoring of Peace Officers Association members' use of the time bank, Corrections still lacks an adequate system of internal accounting and administrative controls over the total number of hours in the time bank. Because Corrections was unable to demonstrate that it had ever established a time-bank balance, it allowed Peace Officers Association members to take release time without Corrections knowing whether the time-bank balance was sufficient to cover the anticipated leave. Corrections indicated that in late 2004 it developed a new automated process for tracking and analyzing time donated and used; however, we reviewed the reports that Corrections uses to track time-bank use and found that it still failed to account for a significant amount of hours used.

State law requires each state agency to establish and maintain a system of internal accounting and administrative controls. Internal controls are necessary for public accountability and are designed to minimize fraud, errors, abuse, and waste of government funds. Elements of a satisfactory system of internal accounting and administrative control must include a system of authorization and record-keeping procedures adequate to provide effective accounting control over assets, liabilities, revenues, and spending.

A provision of the contract between the State and the Peace Officers Association requires each of the parties to be responsible for and keep its own set of records for the time bank and to compare, verify, and adjust its records as necessary. When we initially contacted Corrections about its system for accounting for time-bank balances, it was unable to provide us with information about cumulative time-bank hours. Subsequently, Corrections indicated that it had analyzed time-bank hours used and donated and had determined that 8,653 hours existed in the

time bank as of September 2004. However, Corrections obtained this figure from the Peace Officers Association, and Corrections could not demonstrate that it had established this balance from its own records. After we made further inquiries about how Corrections arrived at this figure, the employee who performed this analysis clarified that it was based on the number of hours donated and used over a specific period of time and did not represent a cumulative time-bank balance. Without establishing and continuing to track cumulative time-bank balances, Corrections cannot be certain that the time bank has sufficient balances to cover leave requests.

In addition, Corrections' failure to establish and track cumulative time-bank balances places an undue amount of reliance on the Peace Officers Association. Corrections indicated it learned in 2004 that time-bank hours were dwindling and in need of employee donations only after the Peace Officers Association made it aware of the situation. We believe that relying on the Peace Officers Association to provide updates on time-bank balances shows insufficient management control. Corrections reported that employee members used nearly 56,000 hours of time-bank resources between May 2003 and April 2005, the equivalent of more than $1.4 million. Thus, the time-bank activity is significant, magnifying the need for adequate controls.

Corrections indicated that in the latter part of 2004, it began generating management reports that included information on time-bank use and donations and that it is analyzing this information to better assess the overall impact of such union-leave activities. Although we acknowledge that Corrections has considerably improved its monitoring of the time bank's activity, it still failed to account for a significant amount of time-bank hours used.

Corrections failed to account for at least 10,980 time-bank hours used by three employee representatives between May 2003 and April 2005.

Specifically, we identified three employee representatives whom Corrections released for a combined total of 10,980 hours between May 2003 and April 2005 to perform duties for the Peace Officers Association and who were supposed to have this time charged against the time bank. Because Corrections was unable to demonstrate it charged these hours against the time bank, it appears that these hours were paid through regular payroll at a cost of $395,256. Representative A was released on time-bank status for the entire two-year period we reviewed. However, Corrections failed to account for 3,524 of these hours that should have been charged against the time bank. Representative B was released on time-bank status from

July 2003 through April 2005 for a total of 3,656 hours, but Corrections failed to account for all of these hours. Although Representative C worked on union business for the entire two-year period we reviewed, Corrections charged only 176 of the 3,976 hours against the time bank.

In addition, a Corrections employee at the facility where Representative C is assigned informed us that over two years ago, Corrections headquarters ordered the facility to release Representative C full-time to work on union-related activities. Departmental correspondence indicates that the former Corrections director made an informal agreement to allow Representative C full-time release. However, we found nothing that gives the former director the authority to enter into informal agreements obligating the State to fund a full-time employee performing union-related activities. In fact, according to an official at Personnel Administration, such release time is considered a mandatory subject of bargaining and therefore is granted in accordance with the terms of the union contract. As we previously mentioned, Corrections' records indicate that it charged the time bank for only one of the 24 months the employee was released full-time to conduct union activities.

Corrections has yet to demonstrate that its current method for accounting for time-bank activity captures all of the time-bank hours used.

In the management reports that it used to assess current time-bank activity, Corrections did not correctly account for the hours that the three representatives used. Such errors underscore the need for Corrections to perform its own accounting to ensure that requests for time-bank use are charged against its balance and are sufficiently funded by employee leave donations.

AGENCY RESPONSE

Corrections reported that it is continually evaluating the impact time-bank activity is having on department operations and plans to discuss such issues during its 2006 contract negotiations with the Peace Officers Association. Further, it reported that it has updated policies and tracking codes pertaining to union leave to more efficiently and effectively capture the time being used by unions. However, Corrections has not demonstrated that it has established and kept track of time-bank balances so that it can be assured that the time bank has sufficient balances to cover leave requests. Further, Corrections has yet to ensure that its current method of accounting for time-bank activity accurately reflects all of the time-bank hours used, which indicates a serious flaw in Corrections' tracking system. ■

CHAPTER 4

Department of Forestry and Fire Protection: Mismanagement, Funds Outside the State Treasury

ALLEGATION I2004-0869

A conservation camp manager of the Department of Forestry and Fire Protection (CDF) mismanaged state funds by directing state, federal, and local government agencies (project sponsors) to establish accounts outside the State Treasury without the approval of the Department of Finance (Finance).

RESULTS AND METHOD OF INVESTIGATION

We investigated and substantiated the allegation as well as other improper activities. Manager A, who oversees operations at Camp A, mismanaged state funds and violated state laws and policies by directing project sponsors to place state funds in vendor accounts outside of the State Treasury without approval from Finance.[13] Official A, who oversees all conservation camps, told us that using state funds in this manner is an accepted CDF practice but added that he could not accurately determine the extent of its use statewide. Although we did not review the records of all 39 conservation camps, a regional manager told us that 16 of the 18 camps in CDF's northern region direct project sponsors to deposit state funds into accounts with vendors; however, a representative for the southern region told us that camps in the southern region no longer follow this practice. Finally, Manager A and, to a lesser extent, Manager B, who oversees Camp B, mismanaged state funds by not adequately documenting project costs and payments.

To investigate the allegation, we researched applicable state laws and policies as well as CDF policies. We reviewed agreements, invoices, and payments for projects that inmate fire crews (inmate crews) performed for two of CDF's 39 conservation camps, Camp A and Camp B. Further, we interviewed CDF officials and conservation camp employees, including Manager A and Manager B.

[13] For a more detailed description of the laws, regulations, and policies discussed in this chapter, see Appendix B.

BACKGROUND

Working in conjunction with the Department of Corrections (Corrections) and the California Department of the Youth Authority (Youth Authority), CDF operates 39 conservation camps statewide, housing nearly 4,000 inmates and wards.[14] When not responding to fires or other emergencies, the inmate crews perform conservation and community service work (work projects) for project sponsors.

California law gives CDF the authority to enter into contracts with public agencies for work projects using inmate crews. The law also allows CDF to seek reimbursements from project sponsors, using a rate determined by the CDF director. In many instances, conservation camps receive cash payments from project sponsors for the work that inmate crews perform; however, CDF policy also allows conservation camps to receive in-kind expenditure recoveries (in-kind recoveries) as an alternative method of payment. The in-kind recoveries policy states that camps are allowed to charge up to $160 per day for each inmate crew; however, they cannot take cash payments and the recoveries must be items directly related to the project operation. For example, according to Official A, camps are allowed to receive fuel and other items such as tires and office supplies from project sponsors in amounts equal to the operation costs incurred for that project. The improper activities that we discuss in this chapter relate to the state funds and in-kind recoveries that project sponsors paid and conservation camps inappropriately received for inmate crews' nonemergency work projects.

MANAGER A DIRECTED PROJECT SPONSORS TO DEPOSIT STATE FUNDS OUTSIDE THE STATE TREASURY

Manager A directed project sponsors to deposit their payments for project work into accounts with at least 10 different vendors.

In some instances, instead of accepting in-kind recoveries from project sponsors, Manager A directed project sponsors to deposit their in-kind recoveries in the form of cash payments into accounts with local vendors. Specifically, over a two-year period, Manager A directed sponsors to deposit more than $12,500 in accounts with at least 10 different local vendors, even though CDF policy for in-kind recoveries does not allow camps to receive cash payments. Camp A employees then obtained items from the vendors, who charged the value of the item against

[14] After we completed our investigation, Corrections underwent an organizational change and effective July 1, 2005, is now part of the California Department of Corrections and Rehabilitation and is called Adult Operations and Adult Programs. Similarly, the Youth Authority is now also part of the California Department of Corrections and Rehabilitation and is now called the Division of Juvenile Justice.

Although Official A stated that directing project payments to vendors is an accepted practice, Official B told us that she advised Official A to discontinue the practice three years ago.

the account balances. Manager A told us that the items Camp A obtained from the vendors were related to project operation; however, because he did not adequately monitor the vendor account balances, we are unable to determine the nature or purpose of the items obtained. Further, because Manager A failed to document the billings and payments for the inmate crews' work adequately, we are unsure of the exact amount of state funds involved. When asked, Official A acknowledged that he was aware that conservation camps allow project sponsors to set up accounts with vendors and stated that this is an accepted CDF practice; however, Official B told us that this is not an accepted practice and that she had informed Official A to discontinue the practice approximately three years before.

State law and administrative policies limit the circumstances under which employees may hold state funds outside the State Treasury. State law requires that all money belonging to the State under the control of any state employee other than the state treasurer shall be deposited under conditions that the director of Finance prescribes. Further, state law also provides that any state employee who deposits state money in any manner not prescribed by the director of Finance may be subject to forfeiture of his or her employment. Furthermore, state administrative policy specifies that in order to open an account outside of the State Treasury, a department must request approval from Finance, justifying the need for such an account.

According to Manager A, the practice of directing project sponsors to make deposits into vendor accounts existed before he began managing Camp A more than seven years ago. He further explained that he used this practice in three cases: (1) when project sponsors were unable to provide or purchase in-kind recoveries, (2) when Camp A had no immediate need for typical reimbursements, or (3) when a project reimbursement amount was so low that Camp A could not purchase a needed item, such as a set of tires or a chainsaw, with it.[15] Once the camp needed an item or when adequate funds accumulated in a vendor account, camp employees would pick up the item, and the vendor would charge the cost against the account. However, because Manager A directed project sponsors to send cash payments to local vendors such as tire stores and saw shops and allowed the vendors to hold these funds outside the State Treasury, he unnecessarily exposed the State to risk, violated state laws and policies, and circumvented the State's

[15] Typical in-kind recoveries include fuel, tires, gloves, safety equipment, chainsaws, and chainsaw equipment.

procurement process. By circumventing the State's procurement process, Manager A could not ensure that Camp A actually received the items charged against vendor account balances, or that Camp A paid fair market rate for those items.

Unlike funds held in the vendor accounts that Manager A used, funds held in the State Treasury are safeguarded, and deposits earn interest. California law provides that the state treasurer is responsible for the safekeeping, management, and disbursement of deposits received and the interest earned on those deposits. California law also provides that the state treasurer shall receive and keep in the vaults of the State Treasury, or deposit in banks or credit unions, all money belonging to the State; and it requires the State Treasury to keep an account of all state money received and disbursed. Further, state law and administrative policies provide safeguards over the disbursement of funds deposited in the State Treasury, making the disbursements subject to audit by the State Controller's Office (controller's office).

MANAGERS A AND B FAILED TO MAINTAIN ADEQUATE RECORDS

In violation of state law and CDF policy, Manager A and, to a lesser degree, Manager B, did not adequately document or monitor project costs and reimbursements. CDF policy requires camps to strictly account for payments from project sponsors. The policy also requires that the rate charged to the sponsor and the type of reimbursement provided be listed on a project request form and be agreed to prior to the beginning of project work.

In one instance, a vendor went out of business, leaving the State with no means to recover $200 held in an account with that vendor.

California law requires each state agency to establish and maintain an adequate system of internal controls including a system of authorization and record-keeping procedures adequate to provide effective accounting control over assets, liabilities, revenues, and spending. Camps A and B lacked such a system.

Manager A acknowledged that he was able to account accurately for only one of the 10 vendor accounts that Camp A used. He also acknowledged that in one instance a vendor went out of business, leaving the State unable to recover $200 held in an account with that vendor. As we stated previously, because Manager A allowed project sponsors to deposit funds outside of the State Treasury and did not monitor these state funds, he could not account for the funds, and CDF could not ensure

that spending against the accounts was appropriate or used for inmate crews' work. In addition, Manager A failed to monitor billings and payments adequately when receiving in-kind recoveries from project sponsors. In many instances, employees at Camp A did not include on the project request form the rate charged to project sponsors or the number of days that inmate crews would require to complete the work. In addition, for virtually all projects that its inmate crews completed, Camp A did not list the reimbursements due to the State on the project request form as required by CDF policy. Further, Manager A acknowledged that in most cases, he could neither demonstrate what specific items the camp received in exchange for the inmate crews' work nor recall when Camp A received those items. He admitted that he did not maintain adequate oversight of work projects.

Although employees at Camp B generally listed on the project request forms the specific items that project sponsors agreed to provide, they did not always document the cost of the work provided or state the value of the items received. Although Manager B told us that a review of internal records would make it possible to determine the cost of providing inmate labor and the value of reimbursements for projects performed by Camp B inmate crews, we found project request forms that failed to list either the project costs or the value of reimbursements. We also discovered that employees did not use project request forms for projects at local fire stations, even though these jobs accounted for approximately 15 percent of the work that Camp B inmate crews performed. Manager B stated that his staff did not complete project request forms for small jobs, such as those at local fire stations, because doing so was impractical. He added that the camp maintains informal agreements for these projects and that in most instances fire station employees would fill the fuel tanks of CDF vehicles used to transport the inmate crews to and from the fire stations as payment for project work.

Official A acknowledged that, prior to our inquiries, he had not communicated his expectation of compliance with state laws to conservation camp managers.

Official A, who oversees CDF's conservation camp program, told us that conservation camps must enter into agreements with project sponsors for each project before beginning any work on the project, regardless of project duration or amount of inmate crew time needed to complete the project. Official A also stated that Camp A did not meet his standards when it did not comply with CDF record-keeping policy. He acknowledged, however, that he had not communicated his expectation of compliance with state laws and CDF policies for work projects to conservation camp managers prior to our inquiry.

CAMPS A AND B RECEIVED ITEMS FROM PROJECT SPONSORS THAT WERE NOT DIRECTLY RELATED TO PROJECT OPERATION

As we stated previously, CDF policy allows camps to take payment from project sponsors for work projects in the form of in-kind recoveries directly related to project operation. The acceptance of such recoveries concerns us because this method of payment circumvents the State's procurement process and excludes any oversight from the State Treasury or the controller's office, giving the State little assurance that items are actually received and appropriate.

Due in part to CDF's inadequate oversight of its conservation camps and in part to the camps' violation of CDF policy, Managers A and B received items not directly related to project costs. Some in-kind recoveries related to already-funded overall camp costs. For example, Camp A received general support items such as postage stamps, office supplies, and the use of office space and training facilities. We also found that for three of the projects that Camp A completed, it received fish to stock a nearby creek where inmates and others fish. Stocking a nearby creek with fish may benefit inmate morale, but we believe that this in-kind recovery does not directly relate to project operation.

Manager B stated that in almost all instances, Camp B received in-kind recoveries directly related to project operation but, in rare instances for smaller projects, Camp B received items not directly related to project costs, such as firefighting training. Manager B added that this type of recovery is important because it relates to Camp B's primary mission, which is to fight fires. Although this training may relate to the camp's primary mission, receiving it as payment for project work is not in accordance with CDF policy. Further, our review of project request forms at Camp B showed that in one instance it received sprinkler components as an in-kind recovery. According to a Camp B employee, the sprinkler components were used to water vegetation at the facility. As with the fish that Camp A received, we do not believe that this recovery related in any way to project operation.

CDF recently informed its field units and camps that the use of outside vendor accounts is illegal and is to be discontinued.

AGENCY RESPONSE

CDF issued a letter to all of its field units and camps, clearly stating that use of vendor accounts is illegal and that it would not allow any CDF camp to follow this practice. CDF also

modified the biannual management review process that it conducts at the camps to include a review of all records and practices pertaining to the reimbursement process. CDF further changed its conservation camps' policy manual to direct camps to discontinue the practice of using vendor accounts and to provide instruction on maintaining records. Finally, CDF reported that it served Manager A with a formal reprimand. ■

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CHAPTER 5

Employment Development Department: Misuse of State Resources

ALLEGATION I2004-0636

A former executive of the Employment Development Department (EDD) used state resources and state employees to assist him in writing a book for personal purposes.

RESULTS AND METHOD OF INVESTIGATION

We asked the Labor and Workforce Development Agency (agency), which oversees EDD, to assist us with the investigation, and it substantiated the allegation. The agency reported that while working at EDD, the executive used his subordinate staff on state time to edit and review portions of a book he wrote for personal purposes. As a result, the executive violated the state law that prohibits the use of state resources such as time and employees for an outside endeavor not related to state business.[16] To investigate the allegation, the agency reviewed information stored on the executive's computer as well as information stored on his staff's computers. It also interviewed EDD staff, executives at the agency, and the executive.

The former executive's inappropriate use of state employees cost nearly $8,000 in state wages.

The agency found that the executive used his state computer to work on the book and that he sent e-mails to employees under his supervision about editing his book. Additionally, the executive used his state computer to send e-mails to outside parties, asking for their review and for information on possible book publishers. Interviews with various high-level employees of EDD and the agency indicate that the executive did not write his book for a state purpose even though EDD employees spent approximately 240 hours to format, review, and edit it. This time represents approximately $7,930 in state wages used for the executive's personal purposes.

[16] For a more detailed description of the law discussed in this chapter, see Appendix B.

Although the executive admitted writing the book while working at EDD, he stated that he wrote it on weekends and holidays and that his use of state resources was minimal. The executive added that a former high-level official at the agency was aware of the book. However, the agency was unable to find any documentation supporting this claim. Further, the agency determined that current executives at both EDD and the agency did not sponsor the book. Additionally, high-ranking officials at both EDD and the agency stated that they were unaware that the executive was writing the book until after he left the department.

The executive claimed that he received no cash advances for this work and that it has not been published, and the agency determined that his use of state time and resources did not result in a gain or advantage for the executive. Although the executive may not have received a financial gain as a result of book sales, he nevertheless used state resources for this outside endeavor by relying on editing services from state employees working on state time.

AGENCY RESPONSE

The executive left state service prior to EDD's investigation. ■

CHAPTER 6

Department of Corrections: Improper Travel Claims

ALLEGATION I2005-0643

An employee of the Department of Corrections (Corrections) inappropriately changed her headquarters from Sacramento to Riverside to be reimbursed for travel costs that she was not entitled to receive.[17]

RESULTS AND METHOD OF INVESTIGATION

We investigated and substantiated the allegation. By misrepresenting the location of her headquarters on her travel claims, the employee gave the appearance of legitimacy to her claims for reimbursement. As a result, the employee received $5,072 in commute and other travel costs that she was not entitled to receive. The employee's supervisor, who knew that the employee would be working in Sacramento for a prolonged period, told her to change her headquarters so that the employee would not have to pay for travel-related costs that she would be incurring while working in Sacramento.

To investigate the allegation, we reviewed the employee's personnel file to determine whether Corrections documented the headquarters change. We also reviewed the employee's travel expense claims from January 2003 through March 2005. In addition, we reviewed pertinent state laws and regulations and travel rules outlined in the employee's bargaining unit contract. Furthermore, we interviewed the employee, her supervisor, the employee's manager, and an administrator who oversees the employee's team.

THE EMPLOYEE LISTED A FALSE HEADQUARTERS LOCATION ON HER TRAVEL CLAIMS

As her supervisor directed, the employee listed a false headquarters location on her travel claims and, as a result, received $5,072 in reimbursement of travel costs to which

[17] After we completed our investigation, Corrections underwent an organizational change and effective July 1, 2005, is now part of the California Department of Corrections and Rehabilitation and is called Adult Operations and Adult Programs.

she was not entitled. The employee is a member of a team headquartered in Sacramento that consults with Corrections facilities throughout California. From April 2003 through October 2004, the employee listed Sacramento as her headquarters on her travel claims. During this period, she typically traveled to various locations throughout the State and was eligible to receive reimbursement for travel expenses incurred when those trips met the criteria for reimbursement in state law.[18]

The employee's supervisor told her to change her designated headquarters because the supervisor did not believe it was fair for the employee to pay for travel expenses between Sacramento and the employee's home.

In November 2004, at her supervisor's direction, the employee changed the headquarters designation on her travel claims from Sacramento to Riverside, despite the fact that she did not move from Sacramento to Riverside. This change coincided with the supervisor's decision to reassign the employee to work for an extended period at a facility in Sacramento rather than to travel throughout the State as she had done previously. Her new assignment was located 26 miles from the Sacramento headquarters. Although the employee's bargaining unit contract permits an employee to receive reimbursement for mileage while on state business, neither state regulations nor the bargaining unit contract allow reimbursement for commute expenses. Consequently, if the employee had maintained Sacramento as the headquarters designation on her travel claims, as was appropriate, she would have been eligible to receive mileage reimbursement only from the Sacramento headquarters to the facility where she was working.

The supervisor admitted that she told the employee to change her headquarters to Riverside because she needed the employee to work in Sacramento for as long as six months and did not believe it was fair for the employee to pay for travel-related expenses while traveling between the facility in Sacramento and her residence, which is located in the central valley over 140 miles away. As Table 6 indicates, this inappropriate designation of Riverside as the employee's headquarters created the appearance that the employee's claims for mileage, per diem, and lodging expenses incurred while traveling from her residence to the Sacramento facility were legitimate when they were not.

[18] For a more detailed description of the laws, regulations, and employee contract discussed in this chapter, see Appendix B.

TABLE 6

The Employee's Improper Travel Costs November 2004 Through March 2005

Expense Type	Amount Claimed	Amount Allowable	Overpayment
Mileage	$3,095	$609	$2,486
Per diem	1,352	0	1,352
Lodging	1,217	0	1,217
Parking	17	0	17
Totals	**$5,681**	**$609**	**$5,072**

In justifying this change, the employee told us that both her supervisor and manager told her to list Riverside as her headquarters because they were planning to reorganize her team, to assign her to Southern California, and to establish Riverside as her headquarters. However, the reorganization did not take place. State regulations require state agencies to appoint headquarters for each employee and defines the term "headquarters" as, among other things, the place where the employee returns on completion of special assignments. According to the administrator in charge of the employee's team, team members typically spend three weeks traveling and one week at headquarters. In April 2003 Corrections officially established Sacramento as the employee's headquarters. However, we found no official documents in the employee's personnel file changing her headquarters to Riverside, even though she listed Riverside as her headquarters on travel claims beginning in November 2004. Therefore, we determined that the headquarters change was unofficial.

The employee's headquarters was never officially changed.

As we previously discussed, the supervisor admitted that she told the employee to list Riverside as her headquarters so that the employee could receive reimbursement for travel-related costs she incurred while working in Sacramento. The supervisor also said that she might have discussed the possibility of a headquarters change with the employee's manager and the administrator of the employee's team, but the headquarters change was informal and not documented in writing. The employee's manager said that he did not instruct the employee to change her headquarters but that the employee's supervisor may have made him aware of the issue. The administrator

said that she was unaware that the employee had changed her headquarters and added that if the employee's headquarters did change, the supervisor should have obtained the administrator's approval and kept documentation of the change.

Corrections should not have allowed the employee to list Riverside as her headquarters because the employee's bargaining unit contract requires state agencies to determine the method of and necessity for travel and to ensure that employees will be reimbursed only for travel that represents the State's best interest. In this case, it was not in the State's best interest to have the employee misrepresent her headquarters as being in Riverside or to reimburse her for travel expenses she was not entitled to receive.

Moreover, by designating Riverside as her headquarters on her travel claim, the employee may have violated a state law that prohibits persons from submitting a false claim for payment to the State. Corrections also may have violated a state law prohibiting gifts of public funds by paying the employee more than she was entitled to receive. Although reimbursing the employee for legitimate travel costs clearly serves a public purpose, any excess amount of reimbursement serves a purely private purpose and violates the constitutional prohibition against making public funds available for private purposes.

AGENCY RESPONSE

As of the date of this report, Corrections has not completed its review. ■

CHAPTER 7

University of California, Los Angeles: Improper Travel Expenses

ALLEGATION I2005-0737

An official with the University of California, Los Angeles (UCLA), incurred improper travel expenses by arranging out-of-state business trips to include stays at locations for purposes other than business.

RESULTS AND METHOD OF INVESTIGATION

We investigated and substantiated the allegation. We determined that from April 2001 through March 2005, the official arranged seven out-of-state business trips so that she could stop over at locations for purposes other than business. In most instances, the official stayed at her family residence in the Midwest. Because the official arranged her travel for personal purposes, UCLA paid over $1,000 in flight costs that it would not otherwise have incurred. To investigate the allegation, we reviewed the official's travel claims and flight records. We also reviewed pertinent state laws and university travel policies. Finally, we interviewed UCLA employees, including the official.

THE OFFICIAL INCURRED IMPROPER TRAVEL EXPENSES RELATED TO HER PERSONAL TRIPS

California law prohibits state officers and employees from using state resources, such as travel or time for personal enjoyment, private gain, or personal advantage or for an outside endeavor not related to state business.[19] In addition, travel policies for UCLA staff state that when a traveler takes an indirect route or interrupts travel by a direct route for reasons other than university business, the traveler shall bear any additional expenses. As shown in Table 7 on the following page, we determined that the university paid an additional $1,010 in flight costs for seven out-of-state trips the official took between April 2001 and March 2005.

[19] For a more detailed description of the laws and policies discussed in this chapter, see Appendix B.

TABLE 7

The Official's Inappropriate Additional Travel Costs April 2001 Through March 2005

Stated Purpose	Dates of Travel	Destination	Flight Cost	Allowable Cost*	Difference
To attend a conference in Atlanta, GA, Apr. 25–27, 2001	Wed., Apr. 25	Los Angeles to Atlanta			
	Fri., Apr. 27	Atlanta to Washington, D.C.			
	Sun., Apr. 29	Washington, D.C. to Los Angeles	$ 362	$ 254	$ 108
To attend a conference in Philadelphia, PA, June 6–8, 2001	Wed., June 6	Los Angeles to Philadelphia			
	Fri., June 8	Philadelphia to Chicago			
	Mon., June 11	Chicago to Los Angeles	334	286	48
To attend a conference in Miami, FL, Mar. 6–8, 2002	Wed., Mar. 6	Los Angeles to Miami			
	Fri., Mar. 8	Miami to Chicago			
	Sun., Mar. 10	Chicago to Los Angeles	310	159	151
To attend a board meeting in Washington, D.C., Aug. 24–25, 2003	Fri., Aug. 22	Los Angeles to Chicago			
	Sun., Aug. 24	Chicago to Washington, D.C.			
	Mon., Aug. 25	Washington, D.C. to Los Angeles	792	582	210
To attend a conference in Tampa, FL, Oct. 8–10, 2003	Wed., Oct. 8	Los Angeles to Chicago			
	Wed., Oct. 8	Chicago to Tampa			
	Fri., Oct. 10	Tampa to Chicago			
	Sun., Oct. 12	Chicago to Los Angeles	576	333	243
To attend a conference in Miami, FL, Jan 7–9, 2004	Wed., Jan. 7	Los Angeles to Miami			
	Fri., Jan. 9	Miami to Orlando			
	Fri., Jan. 9	Orlando to Chicago			
	Sun., Jan. 11	Chicago to Los Angeles	387	258	129
To attend a meeting in Orlando, FL, Mar. 2–4, 2005	Wed., Mar. 2	Los Angeles to Orlando			
	Fri., Mar. 4	Orlando to Chicago			
	Sun., Mar. 6	Chicago to Los Angeles	317	196	121
Totals			**$3,078**	**$2,068**	**$1,010**

* To determine allowable costs, we obtained fare information from the official's flight ticket and estimated the cost of a round-trip flight by taking the cost of the trip between Los Angeles and the business destination as indicated on the flight ticket, then multiplied that figure by two.

The official often began her trips by traveling to legitimate business locations but arranged them to include flights to additional locations unrelated to state business. We determined that because the official arranged her flights for personal reasons, UCLA incurred at least $1,010 in additional flight costs. The official said that her staff had performed an analysis showing that any out-of-state business trips that included

weekend stopovers at locations for purposes other than state business were no more expensive than what she would have paid for round-trip flights to the business destinations in question. We spoke with one of the official's former assistants, who corroborated that she had performed this analysis and that the official's flight costs were equal to or less than the cost of a round-trip flight. However, we were unable to locate any such analysis in the travel documentation we obtained from UCLA's accounting and travel offices, and neither the official nor the former assistant could locate this analysis. In addition, the official's travel claims and related documentation made no reference to her stops at locations for purposes other than business, as university policy requires.

We spoke with a representative from UCLA's travel office about the official's trips. The travel representative explained that most university travelers, including the official, must arrange to book their flights through the UCLA travel office. After the traveler provides the relevant information needed to reserve a flight, the travel office prepares a suggested itinerary. Once the traveler approves the itinerary, the official's office should provide an authorization form that includes information pertaining to the trip and any stopovers, including the traveler's name, destinations, business purpose, and relevant travel dates. However, the approval forms that the travel office produced for our review made no reference to stopovers that the official arranged.

We believe that the travel office had sufficient information to question the official's travel. It had information indicating that the flight it had earlier reserved and was now preparing to issue a ticket for was inconsistent with the business purpose reflected on the authorization form. Further, we believe such oversights were magnified by the fact that the official's travel documents made no reference to her stopovers at locations that were not related to business.

AGENCY RESPONSE

Although UCLA did not conclude that the official intentionally incurred these expenses, the official reimbursed UCLA the $1,010 in improper travel costs that our report identified. UCLA also reported that it modified its travel procedures for senior management by including a separate level of review to ensure that individuals do not inappropriately request reimbursement for personal travel. It also now requires travelers to obtain a

written cost comparison of fares for direct business trips and proposed stops at locations not related to business from UCLA's travel office before approving such trips. ■

CHAPTER 8

Department of Developmental Services: Conflict of Interest

ALLEGATION I2004-0760

A Department of Developmental Services (Developmental Services) employee violated state contracting law prohibiting conflict of interest by providing consulting services for a third-party vendor (vendor) that contracts with a regional center—an entity that is funded by the State—while employed by Developmental Services.

RESULTS AND METHOD OF INVESTIGATION

We asked Developmental Services to assist us with the investigation, and it substantiated the allegation. Developmental Services reported that the employee worked as a consultant for a vendor funded by a regional center that contracts with Developmental Services while also employed by Developmental Services. To investigate the allegation, Developmental Services interviewed management from the community facility, the regional center, and the vendor, as well as the employee.

BACKGROUND

The employee violated state law by working for a vendor funded by the State while he was still employed by the State.

Developmental Services is the agency through which the State provides support services to individuals with developmental disabilities (referred to as consumers). These services are provided at five state-operated developmental centers and two smaller state-operated community facilities, as well as through contracts with 21 nonprofit regional centers. The regional centers help coordinate support services that are provided to consumers by regional centers or by vendors paid by the regional centers. Developmental centers and community facilities provide services to consumers who require programs, training, care, treatment, and supervision in a structured health facility on a 24-hour basis, as determined by the regional centers. The point of entry for support services for an individual with developmental disabilities is the regional center.

THE EMPLOYEE VIOLATED STATE CONTRACTING LAW

State law and Developmental Services' policy prohibit state employees from engaging in activities for which they receive compensation that are funded by any state agency or department. The employee violated these prohibitions by providing psychological consulting services through a vendor under contract with a regional center while he was employed by Developmental Services at a community facility.[20]

The employee was a psychologist at one of Developmental Services' two state-operated community facilities from July 2001 through December 2004. However, he also worked as a psychological consultant for a vendor under contract with one of the regional centers from April 2002 through December 2004. Working approximately three hours per week at a rate of $75 per hour, the employee received approximately $23,100 from this vendor for his consulting services. Additionally, the employee contracted with another vendor in August 2003 and received $500 for providing training to the vendor's employees regarding one of its consumers.

AGENCY RESPONSE

Developmental Services informed the employee that his actions constituted a conflict of interest, and he left state service before Developmental Services completed its investigation. ■

[20] For a more detailed description of the laws discussed in this chapter, see Appendix B.

CHAPTER 9

California State University, Northridge: Misuse of State Resources

ALLEGATION I2005-0683

A California State University, Northridge (CSUN), employee worked on personal projects for CSUN employees on state time and with state equipment.

RESULTS AND METHOD OF INVESTIGATION

We asked CSUN to assist us with the investigation, and it substantiated the allegation. To conduct the investigation, CSUN reviewed correspondence and e-mail records, and it inspected the employee's workplace. CSUN also interviewed faculty and staff, including the employee.

CSUN found that the employee had a history of working for staff on projects unrelated to CSUN business, that on at least two occasions he did so using state resources, and that he continued to defy his superiors' directive to cease such activities in violation of state laws.[21] Specifically, CSUN confirmed that the employee received $870 from a former faculty member to perform carpentry work on a project unrelated to the university, using university time and resources. The employee admitted to having worked on the project for approximately 20 hours using university facilities, which cost the State $511 in lost wages. Because the employee's superiors were already aware of this impropriety, the employee was directed to cease working on the project. However, CSUN found that the employee continued to use its facilities to work on at least one additional personal project: the employee fabricated a trailer for a faculty member from a state truck bed that was going to be disposed of. Although the employee denied using state resources to work on this project, the employee's supervisor and two coworkers said they observed the employee working on this project at his work area. CSUN confirmed that this work occurred after the employee received direction to cease such activities.

[21] For a more detailed description of the laws and regulations discussed in this chapter, see Appendix B.

AGENCY RESPONSE

CSUN concluded that there was insufficient cause for disciplinary sanctions. It also reported that it discussed with staff and faculty who work in the employee's department the state laws prohibiting state employees from using state resources for personal enjoyment, gain, or advantage, and stated that any future violations of these laws will result in serious consequences. Finally, CSUN reported that it implemented a work-order tracking system to facilitate monitoring the work being done by those working in the employee's department. ■

CHAPTER 10

Department of Transportation: Misuse of State Resources

ALLEGATION I2004-0733

A supervisor in the Department of Transportation (Caltrans) inappropriately used state equipment to view racial and sexually explicit material, and he showed sexually explicit material to his subordinates.

RESULTS AND METHOD OF INVESTIGATION

We asked Caltrans to assist us with the investigation, and it substantiated the allegation. Caltrans found that the supervisor used his state computer to access racial and sexually explicit materials and showed sexually explicit material to his subordinates. One employee stated that the supervisor called him to the computer and showed him a sexually graphic picture of a woman on the computer screen. In addition, Caltrans' review of the supervisor's e-mail account indicated many of the e-mails were of a personal nature or contained sexually explicit material. California law prohibits state employees from using state resources for personal purposes.[22] In addition, state laws prohibit discrimination in the workplace on the basis of race or gender (among other things) and require employers to take all reasonable steps to prevent harassment in the workplace. Under certain circumstances, sexually explicit jokes, comments, or other materials may create a discriminatory or hostile work environment. To investigate the allegation, Caltrans examined two computers and e-mail accounts to which the supervisor had access from December 2003 through May 2004. It also reviewed personnel records, department policies, and state laws, and interviewed the supervisor and other employees.

AGENCY RESPONSE

Caltrans gave the employee a corrective interview and put a letter of warning into his personnel file for 12 months. The employee was informed that further behavior of this type would result in additional disciplinary action. ■

[22] For a more detailed description of the laws, rules, and regulations discussed in this chapter, see Appendix B.

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CHAPTER 11

Update of Previously Reported Issues

CHAPTER SUMMARY

The California Whistleblower Protection Act, formerly known as the Reporting of Improper Governmental Activities Act, requires an employing agency or appropriate appointing authority to report to the Bureau of State Audits (bureau) any corrective action, including disciplinary action, that it takes in response to an investigative report not later than 30 days after the bureau issues the report. If it has not completed its corrective action within 30 days, the agency or authority must report to the bureau monthly until it completes that action. This chapter summarizes corrective actions taken on two cases since we last reported them.

DEPARTMENT OF CORRECTIONS CASE I2003-0834

We reported the results of this investigation on March 22, 2005. We found that the Department of Corrections (Corrections) improperly granted registered nurses (nurses) an increase in pay associated with inmate supervision that they were not entitled to receive.[23] Specifically, 25 nurses at four institutions received increased pay associated with inmate supervision even though they either did not supervise inmates for the minimum number of hours required or they lacked sufficient documentation to support their eligibility to receive the increased pay. Between July 1, 2001, and June 30, 2003, Corrections paid these nurses $238,184 more than they were entitled to receive.

Corrections reported that it could not provide documentation to support the pay increase it authorized for 17 of the 25 nurses because the institutions that employed these nurses either had no inmate supervisory hours to report, did not require nurses to track these hours, lacked sufficient documentation to support the hours claimed, or had destroyed all timekeeping records relating to inmate supervision. Although Corrections provided

[23] After we completed our investigation, Corrections underwent an organizational change and effective July 1, 2005, is now part of the California Department of Corrections and Rehabilitation and is called Adult Operations and Adult Programs.

figures showing that the remaining eight nurses did supervise inmates, we found that in most instances these nurses failed to incur the number of supervisory hours required to merit the pay increase. For example, one nurse received approximately $7,983 due to the pay increase over a 16-month period. However, the nurse met the inmate supervisory threshold of 173 hours per month on only two occasions, resulting in an overpayment of $7,030. Of the 25 nurses we reviewed who received this premium pay, we found that $238,184 of the $255,509 in inmate supervisory pay they received was not justified.

Because the issues raised in our report affected several areas including personnel, inmate assignments, labor relations, and business services, Corrections reported that it assigned a team to research the various aspects of the report findings to determine the best approach for correcting the problems we had identified and to determine the extent of the problem throughout the entire department.

Updated Information

As of June 9, 2005, Corrections reported that it initiated plans to collect overpayments for three of the 25 nurses identified in our report but had yet to complete its review of 12 nurses that received the pay increase. In addition, Corrections reported that it recently obtained sufficient documentation to justify the pay increase for the remaining 10 nurses but has not yet provided this documentation to our office for our review. Previously, Corrections had reported that it was unable to provide sufficient documentation to support the premium pay for these 10 nurses.

DEPARTMENT OF HEALTH SERVICES CASE I2003-1067

We reported the results of this investigation on March 22, 2005. An employee with the Department of Health Services (Health Services), whose duties require her to travel regularly throughout the State to monitor and provide training to retail businesses, improperly received $3,068 by submitting false claims for wages and travel costs. We determined that, by misrepresenting her departure and return times on her travel and attendance reports, the employee was paid $1,895 for overtime and regular hours she did not work. We also found that the employee claimed and was paid $1,173 for expenses related to her travel that she either did not incur or was not entitled to receive. Specifically, the employee claimed $253 for parking expenses that she acknowledged to us

she did not incur. The employee also improperly claimed $151 in mileage reimbursements by routinely overstating the distance to and from the airport when conducting state business. Because the employee presented false information on her travel claims, she also received $259 for meal expenses that she was not entitled to receive. Finally, the employee improperly received $510 for travel expenses that she claimed on days she did not work or that otherwise were not allowed.

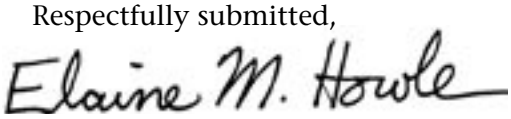
Health Services reported that based on its preliminary review, the employee's supervisor should have identified and denied many of the inappropriate charges on the employee's travel claims. Health Services also reported that it will provide training to all its supervisors working in the employee's branch so they can better understand their responsibilities for reviewing travel claims and overtime requests from those under their supervision.

Updated Information

As of August 31, 2005, Health Services reported that those working in the employee's branch will begin using the State's automated travel claims processing system (processing system). Because the business rules for travel reimbursement are programmed into the processing system, Health Services believes this will greatly reduce the submission of improper travel claims. Health Services also reported that it has prepared a recommendation for disciplinary action for the employee and that the recommendation is currently under review by appropriate Health Services staff.

We conducted this review under the authority vested in the California state auditor by Section 8547 et seq. of the California Government Code and applicable investigative and auditing standards. We limited our review to those areas specified in the results and method of investigation sections of this report.

Respectfully submitted,



ELAINE M. HOWLE
State Auditor

Date: September 21, 2005

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APPENDIX A

Activity Report

The Bureau of State Audits (bureau), headed by the state auditor, has identified improper governmental activities totaling $15.6 million since July 1993, when it reactivated the Whistleblower Hotline (hotline), formerly administered by the Office of the Auditor General. These improper activities include theft of state property, false claims, conflicts of interest, and personal use of state resources. The state auditor's investigations also have substantiated improper activities that cannot be quantified in dollars but that have had a negative social impact. Examples include violations of fiduciary trust, failure to perform mandated duties, and abuse of authority.

Although the bureau investigates improper governmental activities, it does not have enforcement powers. When it substantiates allegations, the bureau reports the details to the head of the state entity or to the appointing authority responsible for taking corrective action. The California Whistleblower Protection Act (Whistleblower Act) also empowers the state auditor to report these activities to other authorities, such as law enforcement agencies or other entities with jurisdiction over the activities, when the state auditor deems it appropriate.

The individual chapters describe the corrective actions that agencies took on cases in this report. Table A summarizes all the corrective actions that agencies have taken since the bureau reactivated the hotline. In addition, dozens of agencies have modified or reiterated their policies and procedures to prevent future improper activities.

TABLE A

Corrective Actions
July 1993 Through June 2005

Type of Corrective Action	Instances
Referrals for criminal prosecution	77
Convictions	9
Job terminations	67
Demotions	13
Pay reductions	47
Suspensions without pay	15
Reprimands	254

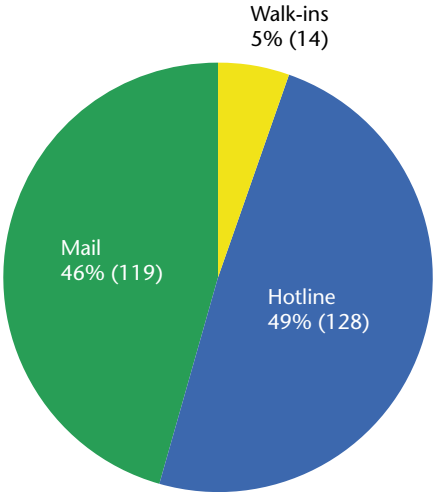
New Cases Opened Between January 2005 and June 2005

From January 1, 2005, through June 30, 2005, the bureau opened 261 new cases.

The bureau receives allegations of improper governmental activities in several ways. Callers to the hotline at (800) 952-5665 or (866) 293-8729 (TTY) reported 128 of our new cases in this time period.[24] The bureau also opened 119 new cases based on complaints it received in the mail and 14 based on complaints from individuals who visited the office. Figure A.1 shows the sources of all the cases opened from January 2005 through June 2005.

FIGURE A.1

Sources of 261 New Cases Opened January 2005 Through June 2005



Work on Investigative Cases January 2005 Through June 2005

In addition to the 261 new cases opened during this six-month period, 57 previous cases awaited review or assignment as of January 1, 2005; another 40 were still under investigation by this office or by other state agencies or were awaiting completion of corrective action. Consequently, 358 cases required some review during this period.

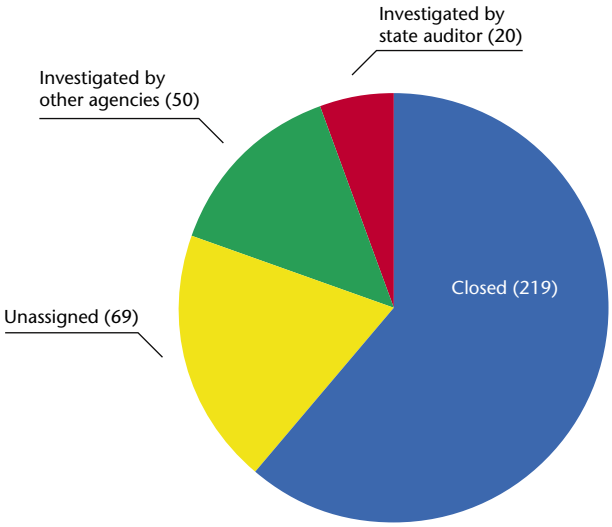
[24] In total, the bureau received 2,479 calls on the hotline from January 2005 through June 2005. However, 1,388 (56 percent) of the calls were about issues outside the bureau's jurisdiction. In these cases, the bureau attempted to refer the caller to the appropriate entity. An additional 892 calls (36 percent) were related to previously established case files.

After examining the information gathered from complainants and preliminary reviews, the bureau concluded that 219 cases did not warrant complete investigation because of lack of evidence.

The Whistleblower Act specifies that the state auditor can request the assistance of any state entity or employee in conducting an investigation. From January 1, 2005, through June 30, 2005, state agencies assisted the bureau in investigating 50 cases and substantiated allegations on seven (24 percent) of the 29 cases completed during the period. In addition, the bureau independently investigated 20 cases and substantiated allegations on six of the 12 completed during the period. Figure A.2 shows the disposition of the 358 cases the bureau worked on from January 2005 through June 2005. As of June 30, 2005, the bureau had 69 cases awaiting review or assignment.

FIGURE A.2

Disposition of 358 Cases
January 2005 Through June 2005



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APPENDIX B

State Laws, Regulations, and Policies

This appendix provides more detailed descriptions of the state laws, regulations, and policies that govern employee conduct and prohibit the types of improper governmental activities described in this report.

CAUSES FOR DISCIPLINING STATE EMPLOYEES

The California Government Code, Section 19572, lists the various causes for disciplining state civil service employees. These causes include incompetence, inefficiency, inexcusable absence without leave or neglect of duty, insubordination, dishonesty, misuse of state property, and other failure of good behavior, either during or outside of duty hours, that is of such a nature that it causes discredit to the appointing authority or the person's employment.

CRITERIA COVERING EMBEZZLEMENT AND FALSE CLAIMS

Chapters 1 and 6 report on theft or false claims.

The California Penal Code, Section 504, states that every officer of the State who fraudulently appropriates to any use or purpose not in the due and lawful execution of that person's trust, any property under his or her control by virtue of his trust, or secretes it with a fraudulent intent to appropriate it for such purpose, is guilty of embezzlement. Section 514 provides that if the embezzlement is of public funds, the offense is a felony and is punishable by imprisonment in the state prison; and the person convicted is ineligible thereafter to any office of honor, trust, or profit in this State.

The California Penal Code, Section 72, states that every person who, with intent to defraud, presents for payment any false or fraudulent claim, bill, account, voucher, or writing, is punishable by imprisonment in the county jail for a period of not more than one year, by a fine not exceeding $1,000, or by imprisonment and a fine, or by imprisonment in the state prison, by a fine not exceeding $10,000, or both imprisonment and a fine.

The California Penal Code, Section 470, states that every person who, with intent to defraud, knowing that he or she has no authority to do so, signs the name of another person or fictitious person on a check, is guilty of forgery. According to Section 473 of the California Penal Code, forgery is punishable by imprisonment in the state prison or the county jail.

Further, the California Penal Code, Section 484, states that every person who fraudulently appropriates property that has been entrusted to him or her and who knowingly, by any false or fraudulent representation or pretense, defrauds any other person of money, is guilty of theft. Moreover, Section 487 states that grand theft includes theft of a value exceeding $400. Section 489 specifies that grand theft is generally punishable by imprisonment in a county jail or in the state prison.

In addition, Section 424 of the California Penal Code provides that public officers or any other persons charged with the receipt, safekeeping, or disbursement of public money who knowingly keep a false account, make a false entry or erasure in any account, use public money for a purpose not authorized by law, or willingly fail to transfer the money as required by law may be disqualified from holding office in the State and are subject to imprisonment for up to four years.

California Penal Code, Section 529, states that falsely personating another may be punishable by a fine not exceeding $10,000, or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment.

California Government Code, Section 6200, states that every officer having custody of any record is punishable by imprisonment in the state prison for two, three, or four years if the officer willfully (a) steals, removes, or secretes; (b) destroys, mutilates, or defaces; (c) alters or falsifies the whole or any part of the record. Section 6201 states that every person not an officer referred to in Section 6200, who is guilty of any of the acts specified in that section, is punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by a fine not exceeding $1,000, or by both such fine and imprisonment.

Section 6203 of the California Government Code states that every officer authorized by law to make or give any certificate or other writing is guilty of a misdemeanor if he makes and delivers as true any certificate or writing containing statements which he knows to be false.

CRITERIA GOVERNING STATE MANAGERS' RESPONSIBILITIES

Chapters 1, 2, 3, 4, and 6 report on weaknesses in management controls.

The Financial Integrity and State Manager's Accountability Act of 1983 (integrity and accountability act) contained in the California Government Code, beginning with Section 13400, requires each state agency to establish and maintain a system or systems of internal accounting and administrative controls. Internal controls are necessary to provide public accountability and are designed to minimize fraud, abuse, and waste of government funds. In addition, by maintaining these controls, agencies gain reasonable assurance that the measures they have adopted protect state assets, provide reliable accounting data, promote operational efficiency, and encourage adherence to managerial policies. The integrity and accountability act also states that the elements of a satisfactory system of internal accounting and administrative controls shall include a system of authorization and record-keeping procedures adequate to provide effective accounting control over assets, liabilities, revenues, and spending. Further, the integrity and accountability act requires that state agencies must act promptly to correct weaknesses when they detect them.

GIFT OF PUBLIC FUNDS

Chapter 2 reports on a potential gift of public funds.

The California Constitution, Section 6, Article XVI, prohibits the giving of any gift of public money or thing of any value to any individual for a private purpose. This constitutional prohibition is designed to ensure that the resources of the State will be devoted to public purposes.

CRITERIA COVERING ACCOUNTING FOR UNION LEAVE

Chapter 3 reports on union leave.

California Government Code, Section 3512, contained within the Meyers-Milias-Brown Act, recognizes state employees' right to join organizations of their own choosing and be represented by those organizations in their employment relations with the State. This section also states the intent of the Meyers-Milias-Brown Act to provide a reasonable method of resolving disputes regarding wages, hours, and other terms and conditions of employment between the State and public

employee organizations. Section 3517.5 states that if an agreement is reached between the governor and the recognized employee organization, a jointly prepared written memorandum of understanding shall be prepared and presented to the Legislature for determination. Section 3518.5 allows a reasonable number of employee representatives of recognized employee organizations reasonable time off without loss of compensation or other benefits when formally meeting and conferring with representatives of the State on matters within the scope of representation only for periods when a memorandum of understanding is not in effect.

Section 10.13 of the State's agreement with bargaining unit 6 (union) representing correctional peace officers establishes a release time bank in which employees may contribute any earned leave credits except sick leave. This agreement requires each party to the agreement to be responsible for and keep its own set of records. Records shall be compared, verified, and adjusted as the parties agree is necessary. The granting of time off shall be subject to the approval of the employee's supervisor, operational needs, emergencies, or other standards limiting use.

Formal decisions adopted by the Public Employment Relations Board (PERB), which interpret the laws that PERB is charged with administering, provide for paid release time for representatives of employee organizations to meet and confer with employer representatives.[25] PERB also determined that release time for other purposes, such as time for employee organization delegates to attend conferences, time for conducting orientation for unit employees to attend district board meetings, or time to attend to association business, is a negotiable subject.[26]

CRITERIA COVERING MANAGEMENT OF STATE FUNDS

Chapter 4 reports on holding funds outside of the State Treasury.

The California Government Code, Section 16509, provides that the state treasurer is responsible for the safekeeping, management, and disbursement of deposits received and the interest earned on those deposits. Section 12320 of the same code generally provides that the state treasurer shall receive and keep in the

[25] PERB Dec. No. 995-S, 17 Public Employee Reporter for California (PERC) ¶ 24091, pp. 241-243.

[26] PERB Dec. No. 790, 14 PERC ¶ 21051, p. 176; PERB Dec. No. 375, 8 PERC ¶ 15021, pp. 138-139; PERB Dec. No. 179, 5 PERC ¶ 12150, p. 667; PERB Dec. No. 177, 5 PERC ¶ 12148, pp. 660-661; PERB Dec. No. 133, 4 PERC ¶ 1117, p. 498.

vaults of the State Treasury or deposit in banks and credit unions all money belonging to the State. Section 12326 requires the state treasurer to keep an account of all money received and disbursed. Section 12410 of the Government Code requires the State Controller's Office (controller's office) to oversee the fiscal concerns of the State and provides the state controller the authority to audit the disbursement of any state money.

The State Administrative Manual, Section 8422, requires state agencies to submit purchase and expense claims on a standard state form to the controller's office for its review before the issuance of warrants and prescribes steps for state agencies to follow to ensure that invoices are properly prepared and comply with the appropriate rules and regulations. Further, Section 12461(b) requires the state controller's annual report to include the receipts, disbursements, and closing balances of each fund in the State Treasury for the preceding fiscal year.

Section 16506 of the California Government Code requires that all money belonging to the State under the control of any state employee other than the state treasurer shall be deposited under conditions that the director of the Department of Finance (Finance) prescribes. Further, Section 16510 provides that any state employee who deposits state money in any manner not prescribed by the director of Finance may be subject to forfeiture of his or her employment. Furthermore, the State Administrative Manual, Section 8002, specifies that in order to open an account outside of the State Treasury, a department must request approval from Finance, justifying the need for such an account.

California Public Resources Code, Section 4953, allows the Department of Forestry and Fire Protection (CDF) to enter into contracts or cooperative agreements with public agencies to perform fire prevention, fire control, and other work of the department by using inmates and wards assigned to the department's conservation camps.

CDF policy related to in-kind recoveries, Section 6531.1.4, states that department conservation camps may receive in-kind expenditure recoveries from state, federal, and local government agencies (project sponsors) in an effort to recover project-related costs. These expenditure recoveries will only be items that are directly related to the project operation or crew availability and will be strictly accounted for. The recoveries and rate will be listed on a project request form and agreed to prior to the beginning of the project by the project sponsor.

CRITERIA COVERING CONTRACTING PROCEDURES

Chapter 2 reports on improper contracting.

Section 100 of the California Public Contract Code states the intent of the Legislature in enacting various provisions of the Public Contract Code. Among other things, those provisions are designed to provide all qualified bidders with a fair opportunity to bid, thereby stimulating competition in a manner conducive to sound fiscal practices.

The State Administrative Manual, Section 5201, requires competitive bidding on all departmental procurements of information technology activities including telecommunications goods and services unless the Department of General Services determines that the required product is available from only one source or must be acquired on an emergency basis. Section 3503 states that where the dollar volume involved is less than $10,000, or where the competitive field is very limited, the Office of Procurement will request informal quotations in lieu of using the more expensive formal method. Informal quotations will also be used to determine whether previous prices are still in effect when dollar amounts are relatively small.

WASTE AND INEFFICIENCY

Chapter 2 reports on waste and inefficiency in state government.

The California Government Code, Section 11813, declares that waste and inefficiency in state government undermine Californians' confidence in government and reduce the state government's ability to address vital public needs adequately.

CRITERIA COVERING TRAVEL EXPENSE REIMBURSEMENTS AND PAYMENT OF COMMUTING EXPENSES

Chapters 6 and 7 report on improper payment of travel or commuting expenses.

The California Code of Regulations, Title 2, Section 599.626, disallows expenses that arise from travel between home or garage and headquarters. When a trip begins or ends at the employee's home, the distance the employee travels shall be computed based on the lesser of the employee's home or headquarters. Section 599.616 requires that headquarters be established for each state officer or employee and defines the term as the place where the officer or employee spends the largest portion or his or her regular workday or work time, or the place to which he or she returns after completion of special assignments.

The State's agreement with bargaining unit 17, Article 12, Section G, requires each state agency to determine the method of and necessity for travel and states that this travel shall be accomplished and reimbursed in accordance with the best interest of the State. For employees who choose and are approved to use an alternate method of transportation, reimbursement will only be for the method that reflects the best interest of the State.

The University of California (UC) Policy and Regulations Governing Travel G-28, Section VII, requires advance approval when a traveler takes an indirect route or interrupts travel by a direct route, for other than UC business. The traveler shall bear any resulting additional expenses. The reimbursement of expenses shall be limited to the actual costs incurred or the charges that would have been incurred through a usually traveled route, whichever is less.

Section XII of UC's travel policy requires the total amount of all expenses and advances pertaining to a particular trip be accounted for when submitting a travel expense voucher. It further states that travel expense vouchers must include the date and time of departure and return to the traveler's headquarters or residence, the origin and destination of the trip, and the route taken. It must also include the purpose for the travel or the nature of the business benefit derived as a result of the travel.

PROHIBITIONS AGAINST CONFLICTS OF INTEREST

Chapter 8 reports on a conflict of interest.

Section 10410 of the California Public Contract Code specifically prohibits a state employee from contracting on his or her own behalf as an independent contractor with any state agency to provide services or goods. Further, it prohibits state employees from engaging in any employment, activity, or enterprise for which they receive compensation or in which they have a financial interest and that is sponsored or funded by any state agency or department through or by a state contract unless the employment, activity, or enterprise is required as a condition of the employee's regular state employment.

The Department of Developmental Services' Administrative Policy Manual, Section 1.4, prohibits officers or employees in the state civil service or other appointed state official from engaging in any employment, activity, or enterprise from which the officer or employee receives compensation or in which the officer or employee has a financial interest and which is sponsored or funded,

or sponsored and funded by a state agency or department through or by a state contract unless the employment, activity, or enterprise is required as a condition of the officer's or employee's regular state employment. This section further prohibits officers or employees from contracting on his or her own behalf as an independent contractor with any state agency to provide services or goods.

INCOMPATIBLE ACTIVITIES DEFINED

Chapters 5 and 9 report on incompatible activities.

Section 19990 of the California Government Code prohibits a state employee from engaging in any employment, activity, or enterprise that is clearly inconsistent, incompatible, in conflict with, or inimical to his or her duties as a state officer or employee. This law specifically identifies certain incompatible activities, including using state time, facilities, equipment, or supplies for private gain or advantage. In addition, Section 19990 requires state employees to devote their full time, attention, and efforts to their state office or employment during their hours of duty as state employees.

PROHIBITIONS AGAINST USING STATE RESOURCES FOR PERSONAL GAIN

Chapters 5, 7, 8, and 10 report on personal use of state resources.

The California Government Code, Section 8314, prohibits state officers and employees from using state resources such as land, equipment, travel, or time for personal enjoyment, private gain, or personal advantage or for an outside endeavor not related to state business. If the use of state resources is substantial enough to result in a gain or advantage to an officer or employee for which a monetary value may be estimated, or a loss to the State for which a monetary value may be estimated, the officer or employee may be liable for a civil penalty not to exceed $1,000 for each day on which a violation occurs plus three times the value of the unlawful use of state resources.

CRITERIA COVERING DISCRIMINATION AND HARASSMENT

Chapter 10 reports on discrimination in the workplace.

The California Fair Employment and Housing Act (employment and housing act), contained in California Government Code, beginning with Section 12900, prohibits an employer, because of race, religious creed, color, national origin, ancestry, physical

disability, mental disability, medical condition, marital status, sex, age, or sexual orientation of any person, to refuse to hire or employ the person or to refuse to select the person for a training purpose from employment or from a training program leading to employment, or to discriminate against the person in compensation or in terms, conditions, or privileges of employment. This act further requires employers to take all reasonable steps necessary to prevent discrimination and harassment from occurring. Under certain circumstances, sexually explicit jokes, comments, or other materials may create a discriminatory or hostile work environment (Ross v. Glickman, 1997, U.S. Appeals Court).

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