

California State Auditor

B U R E A U O F S T A T E A U D I T S

Investigations of Improper Activities by State Employees:

July 2006 Through January 2007



March 2007
I2007-1

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CALIFORNIA STATE AUDITOR

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March 22, 2007

Investigative Report I2007-1

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 July 2006 through January 2007.

Respectfully submitted,

ELAINE M. HOWLE
State Auditor

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SUMMARY

Investigative Highlights . . .

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

- Misused the prestige of his state position and misused state resources.*
- Violated conflict-of-interest laws when he sold his personal vehicle to Cal Expo.*
- Received an inappropriate credit of 241.5 hours of leave balance for compensated time off.*
- Received or made personal phone calls totaling 495 hours, which represents approximately \$15,800 in wages.*
- Viewed pornographic material on his university computer.*
- Misused university-issued phone and e-mail to conduct personal business.*
- Misused state-issued equipment to conduct his outside employment.*
- Misused a state-issued wireless phone to make or receive more than 3,300 personal calls over a 13-month period.*

continued on next page . . .

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 publicly report on substantiated allegations. To enable state employees and the public to report these activities, the bureau maintains the toll-free Whistleblower Hotline (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 nine investigations completed by the bureau or jointly with other state agencies between July 1, 2006, and January 31, 2007, that substantiated complaints. This report also summarizes actions that state entities took as a result of investigations presented here or reported previously by the bureau. The following are examples of the substantiated improper activities and actions the agencies have taken to date.

Some state departments have either taken the following action or failed to act in response to previously reported investigations including:

- The Department of Corrections and Rehabilitation (Corrections) failed to account for 15,340 hours three employees spent conducting union related activities since May 2003 at a cost to the State of \$563,785.*
 - Corrections recovered \$2,000 of a \$25,950 overpayment from a physician.*
 - Corrections failed to stop exempt employees from improperly claiming credit for 268 holiday hours valued at more than \$8,900 over a 19-month period.*
 - Corrections failed to exercise its management controls and continued to allow employees who work 10-hour days to charge less than 10 hours for each day absent at a cost to the State of more than \$21,000.*
 - The Department of Personnel Administration issued a request for proposal to solicit bids for a statewide master agreement of licensed appraisers for state-owned property.*
-

DEPARTMENT OF CONSERVATION

An employee with the Department of Conservation engaged in various activities that were incompatible with his state employment and improperly used state resources to perform work for the benefit of his spouse's employer. In addition, the employee violated financial disclosure requirements of the Political Reform Act of 1974 by failing to disclose his ownership of stock issued by companies his office regulates.

CALIFORNIA EXPOSITION AND STATE FAIR

An official at the California Exposition and State Fair (Cal Expo) violated state conflict-of-interest laws when he participated in a governmental decision that authorized Cal Expo to purchase his personal vehicle. Official A authorized Official B and Manager 1, both of whom work under his direction, to approve this purchase. By making or directing the decision for this state purchase while acting in his official capacity, we believe that Official A violated the Political Reform Act of 1974 and Section 1090 of the Government Code.

DEPARTMENT OF HEALTH SERVICES

An employee with the Department of Health Services (Health Services) failed to subtract his normal round-trip commute time from the total work time he claimed each day during a four-month period he attended a training academy. As a result, the employee received an inappropriate credit to his leave balances of 241.5 hours of compensating time off to which he was not entitled, representing a potential overpayment of \$7,453.

FRANCHISE TAX BOARD

An employee with the Franchise Tax Board (board) made or received personal phone calls totaling 495 hours between January 1, 2003, and June 30, 2006. We estimate that the employee received \$15,765 in salary for those 495 hours. Also, the board reported that for a portion of this period, from June 1, 2005, to June 30, 2006, 71 percent of the employee's phone calls were not work-related.

The board also reported that on three occasions the employee was involved in the administration of examinations in which her son participated in violation of state regulations governing state employment examinations.

CALIFORNIA STATE UNIVERSITY, BAKERSFIELD

An administrator at California State University, Bakersfield (CSU Bakersfield) used his university computer to view Web sites containing pornographic material. Specifically, CSU Bakersfield found that the administrator visited pornographic Web sites on his university computer on at least three days in April and May 2003. CSU Bakersfield was unable to review the administrator's complete Internet usage because he had improperly installed a computer program that erases Internet usage history.

SONOMA STATE UNIVERSITY

An employee of Sonoma State University (Sonoma State) used his university-issued cell phone and e-mail to conduct private business in violation of state law. The employee has two private businesses in addition to his university employment. For one of the private businesses, the employee listed Sonoma State's cell phone number and e-mail address as his primary contact information. Further, the employee listed this same information online to sell a boat, thereby soliciting additional inappropriate contacts.

FRANCHISE TAX BOARD

An employee with the Franchise Tax Board used his state-issued computer, state e-mail, and state telephone to conduct business related to his outside employment. Specifically, the employee sent and received 566 e-mails that were not work-related between April and June 2006, including 23 separate communications related to his outside employment. He also stored 27 documents related to his outside employment on his state-issued computer.

DEPARTMENT OF PARKS AND RECREATION

An employee with the Department of Parks and Recreation (Parks and Recreation) repeatedly misused state resources and failed to adequately perform his duties. The employee made more than 3,300 personal telephone calls over a 13-month period on his state-issued wireless phone. In addition, the employee made hundreds of telephone calls to phone numbers that appeared to be assigned to state employees' wireless phones. However, Parks and Recreation determined that these phone numbers never were issued to state employees, raising questions about the appropriateness of these calls and about the assignment of these wireless phones.

DEPARTMENT OF CONSUMER AFFAIRS

A manager with the Bureau of Automotive Repair failed to monitor adequately the attendance of employees under her supervision, some of whom may have engaged in time and attendance abuse. The Department of Consumer Affairs (Consumer Affairs) reported that the manager was unable to monitor the attendance of her employees adequately because she was frequently out of the office for lengthy periods of time on official business. Consumer Affairs also pointed out that the manager's office was in an area removed from the employees she supervised. Consumer Affairs found that some employees who reported directly to the manager did not always account for their absences, possibly due in part to her lack of supervision.

PREVIOUSLY REPORTED ISSUES

In September 2005 we reported that Health Services' contracts and invoices related to the Genetic Disease Branch lacked specifics and cost the State almost \$58,000 for services it did not receive from contract workers. Health Services reported that 51 branch staff and management involved in contract and procurement activities have completed contracts ethics training.

We also reported that the Department of Corrections and Rehabilitation (Corrections) failed to account for 10,980 hours of union leave time used by three employees from May 2003 through April 2005. Corrections reported that it implemented changes to its tracking of union leave time. In September 2006 we reported that Corrections failed to account for an

additional 4,568 hours of union leave time used by these three employees from May 2005 through June 2006, for a total of 15,548 hours from May 2003 through June 2006.

Since our last report, Corrections has retroactively charged some hours of union leave for one of the three employees. However, State Controller's Office records indicate that Corrections failed to account for 15,340 hours for three of its employees who worked on union activities from May 2003 through December 2006, costing the State a total of \$563,785.

In March 2006 we reported that all state departments that own employee housing may be underreporting or failing to report housing fringe benefits. Also, because departments charged employees rent at rates far below market value, the State may have failed to capture as much as \$8.3 million in potential rental revenue. The Department of Personnel Administration (DPA) is the agency responsible for administering state housing regulations, and state law provides that the director of DPA shall determine the fair and reasonable value of state housing. DPA reported it became aware that some departments had attempted to contract for appraisal services, but received bids that were too costly and not in the best interest of the State. As a result, DPA issued a request for proposal in an effort to solicit bids for a statewide master agreement of licensed appraisers. DPA expects to award the contract on April 1, 2007.

The Department of Fish and Game reported that it began raising rental rates in October 2006. The California Department of Transportation reported that it performed additional analysis to determine the amount of taxable fringe benefits it should have reported in 2003. It determined that an additional \$1,232 for six employees should have been reported to the tax authorities, which it did in April 2006. The Department of Mental Health reported that it updated its special order to require all four of its hospitals to determine fair market rental rates for their properties by March 2007 and to re-assess those rates annually.

We also reported that between January 2002 and May 2005, Corrections failed to exercise its management controls by allowing nine exempt employees at the Sierra Conservation Center (center) to claim holiday credits for holidays that fell on the employee's scheduled days off, resulting in the accrual of 516 hours they were not entitled to receive. In addition, the collective bargaining agreement for nine exempt employees at the center allowed them to work alternate work schedules

consisting of 10-hour days, but required them to charge leave only in eight-hour increments (or their fractional equivalent depending on their time base) for each full day of work missed. Overall, these two issues represented a gift of public funds of \$66,258.

Since we reported this issue, we conducted additional analyses for the time period from June 2005 to December 2006 and determined that the exempt employees continued to earn holiday credits when a holiday falls on their regularly scheduled day off, resulting in an improper accrual of 268 hours of holiday credit and an additional gift of public funds of approximately \$8,900. Furthermore, the center continued to allow the employees to work alternate work schedules consisting of 10-hour days, but still only required them to charge leave in less than 10-hour increments, which resulted in an additional gift of public funds of \$21,161 from June 2005 to December 2006. As a result of Corrections' and the center's continued failure to exercise its management controls, these employees received a gift of public funds of \$30,070, in addition to the \$66,258 we previously reported. ■

CHAPTER 1

Department of Conservation: Misuse of State Resources, Incompatible Activities, and Behavior Causing Discredit to the State

ALLEGATION I2006-0908

An employee with the Department of Conservation (Conservation) engaged in various activities that were incompatible with his state employment including misusing the prestige of his state position and improperly using state resources, including state time, to perform work for the benefit of his spouse's employer, a charitable organization.

RESULTS AND METHOD OF INVESTIGATION

At the request of Conservation, we investigated and substantiated the allegation as well as other improper acts. To conduct the investigation, we analyzed the employee's e-mail records from April 2003 through May 2006. We reviewed state laws and regulations and Conservation's policies and records. Finally, we interviewed Conservation employees, including the employee who is the subject of this report, and his manager.

We found that the employee violated the financial disclosure requirements of the California Political Reform Act of 1974 (act) by failing to disclose his ownership of stock issued by companies his office regulates (regulated companies), including Company A, a company with which he has had extensive regulatory contact.¹ In addition, the employee made regulatory decisions that had the potential to affect the companies in which he held stock, thereby creating the appearance of a conflict of interest. We also found that the employee misused state resources to engage in numerous activities that were incompatible with his state employment, including misusing the prestige of his state position. We believe that the nature and extent of these improper activities caused a discredit to the State. Table 1 on the following page identifies the employee's improper activities.

¹ For a more detailed discussion of the laws discussed in this chapter, see Appendix B.

TABLE 1

The Employee Engaged in Several Improper Activities

Improper Activity	Law or Policy Violated	Possible Consequences
Failed to disclose stock ownership in oil industry companies and regulated companies*	California Political Reform Act of 1974	Possible fine of \$10,000 or three times the amount not disclosed or possible criminal sanctions
Owned stock in a company at the time he issued permits to that company	Common law doctrine against conflicts of interest	Possible legal action challenging the validity of permitting decisions
Use of state time and resources for fundraising	Government Code, Section 8314	Possible fines of up to \$1,000 for each day on which a violation occurs
	Incompatible activities policy	Possible disciplinary action
Solicited charitable contributions from oil industry companies and regulated companies	Incompatible activities policy	Possible disciplinary action
Used his state position to assist a charity	Incompatible activities policy	Possible disciplinary action
Requested and received personal discounts from a state vendor	Incompatible activities policy	Possible disciplinary action
Sent more than 65 e-mails that were insubordinate or of a nature to discredit the State	Government Code, Section 19572	Possible disciplinary action

* The employee is required to disclose his stock ownership in companies regularly engaged in oil and gas exploration and related industries (oil industry companies), which includes regulated companies.

In addition to the employee’s improper activities listed in the table, we question the manager’s ability to adequately monitor and control the employee’s activities. We believe that he either was aware of, or should have been aware of, the employee’s misuse of his state position to solicit charitable donations from companies engaged in oil and gas exploration and related industries (oil industry companies), which includes regulated companies.² Further, we found that the manager also owned stock in seven oil industry companies including one regulated company, Company A. However, the manager failed to disclose these interests on his state disclosure forms as is required by law. Finally, we found that the manager accepted gifts from oil industry and regulated companies, in violation of state law governing incompatible activities.

² Similar to the employee, the manager is required to disclose his interests in oil industry companies, including regulated companies.

BACKGROUND

Conservation provides services and information that promote environmental health, economic vitality, informed land-use decisions, and sound management of California's natural resources. The employee works in Conservation's Division of Oil, Gas & Geothermal Resources (division). The division regulates statewide oil and gas activities and its mission is to oversee the drilling, operation, maintenance, and the plugging and abandonment of oil, natural gas, and geothermal wells through sound engineering practices that protect the environment, prevent pollution, and ensure public safety. As part of his duties to fulfill the division's mission, the employee provides technical supervision of oil, gas, and geothermal resource exploration and development through well permitting and field surveillance. The employee is also the primary contact for the division's vendor for cell phone services, Company B.

THE EMPLOYEE FAILED TO DISCLOSE HIS STOCK OWNERSHIP IN REGULATED COMPANIES

The employee owns or has owned stock in a number of oil industry companies, including at least two regulated companies (Company A and Company J). Moreover, the employee has had extensive regulatory contact with Company A, one of the two regulated companies. However, he failed to disclose his ownership of stock in these companies, in violation of the act. The act requires state agencies to adopt conflict-of-interest codes and requires them to identify positions that involve the making or participating in the making of decisions that may foreseeably have a material effect on any financial interest. The act also requires state agencies to identify, for each position, the specific types of investments, business positions, interests in real property, and sources of income that are reportable. In addition to other potential penalties provided by law, the act states that any person who knowingly or willfully violates any provision of the act is guilty of a misdemeanor and may be required to pay a fine of \$10,000 or three times the amount the person failed to properly report.

As required by the act, Conservation requires the employee and others in his job classification to annually complete statements of economic interests because these employees work in a regulatory capacity and their decisions may have an economic impact on the companies they regulate. Specifically, the employee has the authority to approve permits that allow companies to extract or produce oil or geothermal resources.

Accordingly, the employee, his manager, and others in their job classifications are required to include on their statements of economic interests any investments in, interests in business positions in, and income from any business entity of the type that may be affected by their decisions. This includes but is not limited to stock ownership with a value of \$2,000 or more in businesses that are regularly engaged in the extraction and/or production of oil, gas, or geothermal resources, or providing consulting, research, or other contractual services to companies sponsoring such developments.

We obtained the employee’s statements of economic interests for each year from 2000 to 2005. In each statement the employee certified under penalty of perjury that he had no reportable business interests. However, we found that the employee stored information on his state computer that he later confirmed as accurate where he tracked his stock purchases and the related sales from at least January 1991 to June 2006. Our analysis of the information, as shown in Table 2, indicates that the employee failed to disclose his business interests every year from 2000 to 2005. In particular, we found for those years at least 18 instances where the employee failed to disclose that his stock ownership in various companies exceeded \$2,000 in value. For example, the employee should have disclosed his business interests in 10 companies in 2005 alone.

TABLE 2
Employee Ownership of Stock That He Failed to Disclose

Company	2000	2001	2002	2003	2004	2005
Company A					*	*
Company B	*	*	*	*	*	*
Company C					*	*
Company D						*
Company E						*
Company F						*
Company G					*	*
Company H						*
Company I						*
Company J						*
Company K	†	†				

Source: Bureau of State Audits’ analysis of the employee’s stock purchases and related sales.

* The employee owned at least \$2,000 of stock in this company and was required to disclose his business interest.

† The number of shares of Company K stock owned by the employee varied. Depending on the number of shares he owned during the year, the employee may have needed to disclose his business interests if his stock ownership exceeded \$2,000.

Furthermore, based on our review of the employee's e-mail records, we believe he intentionally and knowingly attempted to conceal his ownership of stock in oil industry and regulated companies. Specifically, when Conservation informed the employee on April 30, 2004, that he had not yet completed his statement of economic interests, which was due on April 1, 2004, he initially questioned whether he was required to complete the statement. He also stated that he believed managers—not employees at his level—were required to complete statements of economic interests and that he should not have to waste time completing his statement without good reason. The employee later complained in an e-mail exchange that completing the statement was a waste of time and that it made no sense because his decisions had no economic impact on the companies he regulates and urged that the reporting requirements be revised. However, he is a designated employee according to Conservation's conflict-of-interest policy and he approves permits for Company A and purchases cell phones and cell phone accessories from Company B in his capacity as a state employee. Therefore, these interests should have been disclosed.

THE EMPLOYEE OWNED STOCK IN COMPANIES A AND B AT THE TIME HE MADE BUSINESS DECISIONS AFFECTING THOSE COMPANIES

We believe the employee conducted himself in a questionable manner when he communicated with—and approved permits for—Company A, a company whose stock he owned at the time he approved its permit requests. Specifically, we believe that in doing so the employee may have violated the common law doctrine (doctrine) against conflicts of interest. Similarly, we believe he also violated the doctrine when he made business decisions affecting Company B while he owned stock in that company. The doctrine provides that a public officer is implicitly bound to exercise the powers conferred on him with disinterested skill, zeal, and diligence and primarily for the benefit of the public. Because he owned stock at the same time he approved permits for Company A and made purchases in his state capacity from Company B, we question whether the employee was able to make these business decisions with disinterested skill for the primary benefit of the State.

The employee conducted himself in a questionable manner when interacting with and approving permits for Company A.

Further, we found that the employee conducted himself in a questionable manner when interacting with and approving permits for Company A and that this conduct was of such a nature as to discredit the State. For example, we found several

e-mail exchanges with Company A that are cause for concern, mostly relating to the employee's approval of 24 permits submitted by Company A over a three-day period. Specifically, the employee stated that he was aware of public concern over potential environmental and legal issues regarding an incident related to well work previously conducted by Company A in a specific geographic region. In an e-mail exchange with a high-level official at Company A, the employee informed the official that he believed Conservation was about to place a hold on permits for the geographic region and that Company A should submit any permit requests for that region before the hold was put in place. The employee said he encouraged Company A to expedite its permit requests because Company A provides jobs and capital investment in an economically depressed location. The employee's manager acknowledged he was aware the employee told Company A to expedite its permit requests. The manager stated that he agreed with this action so Company A would be able to work in the region while the environmental and legal issues were settled. When approving these permits, the employee should have been protecting the State's interests by reviewing the proposed projects for engineering soundness and conformity with state laws. Instead, it appears that he and his manager may have been more concerned with Company A's financial interests.

Because affected local government officials became aware of the employee's apparent attempt to expedite Company A's requests for permits, his actions undermined Conservation's credibility. His actions also complicated Conservation's negotiations with the city, county, and Company A regarding Company A's operations in an oil field near the city's boundaries. Subsequently, a month after the employee approved and issued the 24 permits, Conservation cancelled the permits in an effort to provide local government authorities an opportunity to review current well drilling operations in the geographic region.

THE EMPLOYEE MISUSED STATE RESOURCES TO ASSIST A CHARITABLE ORGANIZATION

We found that the employee misused his state e-mail—as well as other state resources—in a number of ways, and engaged in activities that were incompatible with his state employment while assisting his spouse in securing contributions on behalf of her employer, a charitable organization (Charity 1) in various capacities. These activities include soliciting donations from

regulated companies and using his state position to facilitate Charity 1's potential purchase of a property on which he previously performed regulatory work.

State law prohibits state employees from engaging in activities that are inconsistent, incompatible, in conflict with, or inimical to, their state employment. These activities include using the prestige or influence of the State for one's private gain or advantage or for the private gain of another; using state time, facilities, equipment, or supplies for private gain or advantage; and receiving or accepting, directly or indirectly, any gift, including money or any other thing of value, from anyone who is doing or is seeking to do business of any kind with the employee or his appointing authority under circumstances from which it reasonably could be determined that the gift was intended to influence the employee in his official duties or was intended as a reward for any official actions performed by the employee. State law and Conservation policies also prohibit 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. Finally, Conservation's policy on incompatible activities prohibits its employees from using the names of persons obtained from office records for any purpose other than official business.

The Employee Solicited Donations for Charity 1 From the Companies He Regulates

The employee used his work e-mail account to send or receive more than 340 e-mails involving discussions of Charity 1 activities and events over the three-year period we reviewed. Nearly 80 of these e-mails involved soliciting donations for Charity 1 and in several instances he directly solicited donations from either oil industry or regulated companies. Many of the 340 e-mails indicate that the employee spent considerable state time and resources when serving as co-chair for an annual sponsorship event benefiting Charity 1 by assisting in planning and organizing the event and soliciting sponsorship donations from regulated and other oil industry companies for the event. For example, our review of the employee's e-mail records shows that he used his state computer during regular work hours to proof and edit correspondence and sponsorship information related to Charity 1. By extensively using state resources for these nonwork-related purposes, we believe that the employee

Many of the 340 e-mails the employee sent or received involving Charity 1 indicate he spent considerable state time and resources when serving as co-chair for an annual sponsorship event.

violated state law as well as Conservation policy prohibiting the use of state resources for personal benefit or the personal benefit or gain of another.

State law outlines causes of discipline for state employees, including insubordination, dishonesty, or any conduct of such nature that it would cause a discredit to the State. We believe the employee's actions meet this definition. The employee actively solicited donations from companies over which he has regulatory authority even though he had been admonished for doing so in the past. Specifically, the manager served the employee with an advisory memo in April 2002 for soliciting charitable donations from oil industry and regulated companies for a sponsorship event benefiting Charity 2. In the advisory memo, the manager informed the employee that his efforts to solicit contributions from regulated companies could place the division in a compromised position. The manager further directed the employee to cease these activities. At that time the employee assured the manager that he would not be involved in conducting any fundraising activities involving regulated companies. The manager provided him with a copy of Conservation's policy on incompatible activities, which mirrors the language of the state incompatible activities law we described previously.

The manager served the employee with an advisory memo in April 2002 to cease soliciting charitable donations from oil industry and regulated companies for a sponsorship event benefiting Charity 2.

Because the employee actively solicited donations from oil industry companies and regulated companies, despite being admonished for such activities in the past, we believe his actions constitute insubordination. Further, it appears that the employee was untruthful when he told the manager that he would no longer solicit donations because his e-mail records show he actively did so to the considerable benefit of Charity 1. In particular, e-mail records indicate that Charity 1 received approximately \$36,000 as a result of its 2005 charity event and approximately \$16,000 from another charity event that was initiated by the employee, and also largely sponsored by oil industry representatives. Moreover, in an October 2005 e-mail exchange between a representative from Charity 1 and the employee's spouse that was also sent to the employee, the representative acknowledged the employee's efforts to solicit donations from oil industry companies. Specifically, the representative thanked the employee for being a supporter of Charity 1 and acknowledged that Charity 1 ". . . really benefits

from your contact with the oil community.” The employee’s spouse added that it was the employee’s vision five years earlier that the oil industry should work with Charity 1.

On several occasions the employee sent e-mails to oil industry or regulated companies, directly soliciting their sponsorship for Charity 1’s annual event.

When we spoke with the employee, he acknowledged this was his vision but denied that he had solicited contributions from regulated companies for the annual charity event. However, as previously stated, we found that on several occasions he sent e-mails to oil industry or regulated companies, directly soliciting their sponsorship for the annual event. When confronted with this information, the employee indicated his belief that because he only contacted a few representatives of oil and gas industry companies to participate in the event on a personal basis, and did not solicit sponsorships larger than participation fees, his efforts did not constitute solicitation. However, the employee’s e-mail records contradict his statement, as we found at least six instances in which he solicited contributions from regulated companies larger than participant sponsorships. In addition, even though the employee contends that he contacted oil and gas company representatives on a personal basis, the fact that he sent these requests via his state e-mail gave the appearance that the contacts were more business-related than personal. Furthermore, participation in the 2006 event cost participants or sponsors \$150 per person. Thus, we disagree with the employee’s reasoning and believe that his efforts to obtain sponsors for participants in the annual event are incompatible with his state employment.

Moreover, even though the employee denied he solicited contributions from the six regulated companies that sponsored the event, he acknowledged he was somewhat responsible because he had introduced his spouse to representatives of oil and gas industry companies. We do not question the value of a relationship between regulated companies and charitable organizations, but we do question the employee’s use of the prestige of his state position to facilitate that relationship.

The Employee Misused State Resources to Facilitate Charity 1’s Attempted Land Purchase

The employee also misused his state e-mail and improperly used his state position to facilitate Charity 1’s attempt to purchase property from a private citizen (property owner), with whom he had previously interacted in his regulatory capacity as a state employee. The employee violated state law and Conservation’s

policy prohibiting its employees from using the prestige of their state positions for the gain of themselves or others when he contacted the property owner on behalf of Charity 1.

E-mails and meeting minutes indicate that the employee used his state position to play a key role in Charity 1's attempt to purchase land.

Specifically, the employee misused his state computer and e-mail by sending or receiving 22 e-mails regarding Charity 1's efforts to purchase the property. These e-mails, along with meeting minutes that summarized a meeting attended by the employee, the property owner, and Charity 1 representatives, indicate that the employee used his state position to play a key role in Charity 1's attempt to make the purchase. Specifically, the evidence indicates that the property owner did not respond to Charity 1's initial efforts to purchase the property because she was unfamiliar with Charity 1's representative. The meeting minutes state that the employee would serve as the primary contact person for the purchase because of his previously established professional relationship with the property owner. Additionally, the employee agreed to use his contacts with environmental representatives to assist the property owner in clearing any pending environmental issues related to the property, contacts he apparently made in his capacity as a state employee. By improperly using the prestige of his position to benefit the organization that employs his spouse, the employee violated state law and Conservation's incompatible activities policy.

THE EMPLOYEE USED THE PRESTIGE OF HIS POSITION TO EARN DISCOUNTS ON HIS PERSONAL CELLULAR PHONE PURCHASES

As previously mentioned, the employee serves as the contact for the division's vendor for cell phone services. In this capacity, he has regular dealings with representatives of the cell phone vendor, Company B. In the course of his employment, the employee regularly exchanged e-mails with representatives of Company B regarding personal purchases for himself and his family members. Specifically, the employee exchanged more than 55 e-mails with Company B regarding personal purchases. We believe the large number of e-mails the employee sent and received for his personal purchases constitutes a misuse of his state e-mail account. More significantly, we believe the employee misused the prestige of his position and potentially caused a discredit to the State when on two separate occasions he requested Company B to waive a \$35 fee associated with his personal cell phone purchases. In his e-mail requests, the employee informed Company B that a large number of Conservation offices switched to Company B based on his

recommendations. One could easily surmise from this request that Company B may have felt compelled to provide the discount in exchange for his continued efforts to recommend Company B to other Conservation offices. The employee's e-mail records show that Company B's representative agreed to waive the fee on both occasions.

OTHER INAPPROPRIATE CONDUCT CAUSING DISCREDIT TO THE STATE

The employee sent more than 65 e-mails that were insubordinate or were of such a nature as to discredit the division. The e-mails included harsh criticism of Conservation, the division, and his co-workers.

Our review of the employee's e-mail records also indicates that he regularly misused his state e-mail and engaged in a pattern of behavior that likely could be considered insubordinate or apt to cause a discredit to the State. Specifically, for the three-year period we reviewed, the employee sent or received more than 130 e-mails regarding personal financial matters. Most of these e-mails pertain to the potential value of specific stocks. At least 15 of them involved discussions of potential investments in either the oil industry or oil and gas industry companies. Further, we found that the employee sent more than 65 e-mails to coworkers, superiors, representatives of oil industry and regulated companies, and others that we believe were insubordinate or were of such a nature as to discredit the division. This includes e-mails the employee sent to Company A that included harsh criticism of Conservation, the division, and his co-workers as well as e-mails he sent to Company A touting Company A's stock value. For example, in one of his e-mail exchanges with Company A, the employee stated that he would try to prevent his office from "hitting" Company A with any more "adjective deleted" fines. We believe that the examples above, combined with his overall conduct described previously and other e-mails sent via his state computer, demonstrate a pattern of misconduct that when viewed in its entirety, constitutes conduct that is a discredit to the State.

THE MANAGER FAILED TO ADEQUATELY MONITOR THE EMPLOYEE'S IMPROPER ACTIVITIES AND FAILED TO DISCLOSE HIS OWN INTERESTS IN OIL INDUSTRY AND REGULATED COMPANIES

Even though in 2002 the manager admonished the employee for soliciting donations from oil industry and regulated companies, the manager's actions were inadequate since the employee was allowed to continue to work regularly with oil industry and regulated companies without restrictions or monitoring

of his conduct. The Financial Integrity and State Manager's Accountability Act of 1983 (accountability act), states that each state agency must establish and maintain a system or systems of internal accounting and administrative controls. Further, the accountability act requires that, when detected, weaknesses must be corrected promptly.

As we mentioned previously, the manager served the employee with an advisory memo in April 2002 for soliciting charitable donations from oil industry and regulated companies for a sponsorship event benefiting Charity 2. As part of his efforts to prohibit the employee from continuing to solicit donations from oil industry and regulated companies, the manager changed the employee's area of geographic responsibility. Thus, the employee continued to have regular contact with oil industry and regulated companies, but for a different geographic area within the same district. Because the employee had solicited donations from oil industry and regulated companies in the past, but was still allowed to interact with them on a regular basis, we would expect the manager to exert greater oversight or controls to ensure that the employee's interactions with oil industry and regulated companies were appropriate. However, we found no evidence that the manager initiated additional oversight or controls to monitor the employee's activities.

More significantly, information the employee stored on his state computer indicates that the manager should have known that the employee was involved in charitable functions involving regulated companies and Charity 1. These documents show that the manager participated in the annual charity event in 2005 and 2006 and the employee and a representative of a regulated company were co-chairs of the event in 2006. Additionally, these documents indicate that nine oil industry companies were sponsors for the event. We determined that six of them had previously submitted applications to the manager's district office for approval. Thus, it appears that the manager was aware—or should have been aware—that the employee was again soliciting donations from the regulated companies.

The manager acknowledged that he was aware that the employee's spouse worked for Charity 1 and that he realized regulated companies sponsored the annual charity event. However, he told us he did not believe the employee solicited donations from the sponsors because the employee had told him when the advisory memo was issued in 2002 that he would no longer solicit donations from oil industry companies.

The manager participated in Charity 1's annual event in 2005 and 2006 and the employee and a representative of a regulated company were co-chairs of the event in 2006.

Nonetheless, given the employee's history of soliciting donations from these types of companies, combined with the nature of Charity 1's sponsors for the annual event, the manager should at least have reminded the employee that he was prohibited from soliciting donations from regulated companies.

Moreover, documents stored on the employee's state computer indicate that Company L, a company engaged in an industry related to oil and gas exploration, paid the manager's \$150 entry fee for the annual charity event in 2006. When we questioned the manager, he stated that he was not certain whether Company L paid his entry fee but said he did not pay the fee. The manager added that he also did not pay for his entry into the previous year's event and stated that it was not uncommon for oil industry companies to pay for his entry into similar events. When we reviewed information relating to the annual charity event held in 2005, we found indications that Company M, which has submitted applications to the manager's office for his approval, paid his entry fee for the event. By accepting gifts from companies his office regulates, the manager may have violated conflict-of-interest laws and policies that prohibit a state employee from receiving any gift from anyone seeking to do business of any kind with the employee or his department under circumstances from which it reasonably could be substantiated that the gift was intended to influence the employee or was intended as a reward for official actions performed by the employee.

The manager informed us that he held stock exceeding \$2,000 in value in three oil and gas industry companies in 2004 and four oil and gas industry companies in 2005.

Finally, in the course of our interview, the manager also acknowledged that he has owned stock in a regulated company as well as in other oil and gas industry companies. Specifically, the manager informed us that in 2004 he held stock exceeding \$2,000 in value in three oil and gas industry companies, including Company A, and four oil and gas industry companies in 2005. When we asked why he did not report his ownership of stock in regulated companies on his annual statement of economic interests, the manager responded that he did not believe he owned enough to require him to report them.

AGENCY RESPONSE

Conservation reported that it intends to pursue adverse action against both employees. Further, Conservation stated that it is initiating measures through which it hopes to reinforce the ethical standards governing state employee conduct and reduce the potential for future misconduct, including:

- Directing all Conservation employees to review its policies and requirements on incompatible activities, conflict of interest, and gifts.
- Developing and implementing an ethics seminar and training.
- Establishing an ethics panel to review and update Conservation's conflict-of-interest code and incompatible activities requirements and advise Conservation regarding ethics issues. ■

CHAPTER 2

California Exposition and State Fair: Conflict of Interest

ALLEGATION I2006-0945

An official at the California Exposition and State Fair (Cal Expo) violated conflict-of-interest laws by participating in a state purchasing decision from which he received a personal financial benefit.

RESULTS AND METHOD OF INVESTIGATION

We investigated and substantiated the allegation. We found that Official A violated state conflict-of-interest laws when he made or directed a governmental decision that authorized Cal Expo to purchase his personal vehicle. Official A authorized Official B and Manager 1, both of whom work under his direction, to approve this purchase. By making or directing the decision for this state purchase while acting in his official capacity, we believe that Official A violated the California Political Reform Act of 1974 (act) and Section 1090 of the California Government Code (Section 1090).³

To investigate the allegation, we reviewed relevant conflict-of-interest laws and regulations and Cal Expo policies and procedures. We reviewed records from the Department of Motor Vehicles related to the sale of the vehicle and Cal Expo invoices from May through November 2005. We also interviewed Official B. We decided not to interview Official A for legal reasons.

BACKGROUND

Cal Expo is an independent entity in state government whose policy-making body is its board of directors. Its mission is to create a state fair experience, supported by year-round events, that reflects the industry, agriculture, diversity of people, traditions, and trends shaping the future of California.

³ For a more detailed discussion of the laws discussed in this chapter, see Appendix B.

OFFICIAL A VIOLATED CONFLICT-OF-INTEREST LAWS BY PARTICIPATING IN A PURCHASING DECISION THAT BENEFITED HIM PERSONALLY AND FINANCIALLY

Official A sold his personal vehicle to Cal Expo in July 2005. Because he was involved in the decision to make this purchase while acting in his official capacity and because he derived a personal financial benefit from this transaction, Official A violated the act and Section 1090.

The act is the central conflict-of-interest law governing public officials in California. Under the act, public officials at all levels of state government are prohibited from making, participating in making, or in any way attempting to use their official positions to influence a governmental decision in which they know or have reason to know they have a financial interest. The term “public official” is defined broadly to include every member, officer, employee, or consultant of a state or local government agency.

Under the act, a public official makes a governmental decision when acting within the authority of his or her office or position, and obligates his or her agency to a course of action. A public official has a financial interest in a decision within the meaning of the act if it is reasonably foreseeable that the decision will have a material financial effect on the official, distinguishable from its effect on the public generally. Specifically, if a governmental decision will result in the personal expenses, income, assets, or liabilities of the official increasing or decreasing, the public official must disqualify himself or herself from the decision. A violation of the act may result in administrative sanctions or civil or criminal prosecution and fines as high as \$10,000 or three times the amount received.

As a high-ranking officer at Cal Expo, Official A is subject to the act, and the decision to purchase his personal vehicle for use by Cal Expo was a governmental decision, as that term is defined for purposes of the act. Policies established by Cal Expo’s board of directors make Official A responsible for keeping and maintaining adequate and correct accounts of the property and business transactions of Cal Expo, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, and capital. Thus, he is the official who is ultimately responsible for keeping accounts of Cal Expo business transactions, and it is presumed that those transactions are conducted under his authority.

Official A submitted an invoice to Cal Expo for the sale of his personal vehicle, and Cal Expo paid Official A the next day, with a check that contained Official A's preprinted signature.

Although Official A did not sign the initial purchase order authorizing the transaction, he met with Official B and Manager 1 before the purchase to discuss if Cal Expo should acquire the vehicle. Official A, along with Official B and Manager 1, agreed Cal Expo should purchase the vehicle. Official B, who reports directly to Official A, subsequently approved a purchase order dated July 14, 2005, for the purchase of Official A's personal vehicle. On July 18, 2005, Manager 1, who reports directly to Official B, certified that he received the vehicle. On July 20, 2005, Official A submitted an invoice to Cal Expo for the sale, and Cal Expo paid Official A \$5,900 the next day with a check that contained Official A's preprinted signature and Official B's signature.

We believe that both the nature of Official A's position and his involvement in the activities just described indicate that he made or directed the governmental decision to make this purchase, as those terms are understood for purposes of the act. Finally, Official A clearly benefited from this transaction in a way that was distinguishable from the effect of this decision on the public generally because his personal income increased as a result of the sale.

Section 1090 is the conflict-of-interest law that applies specifically to contracting and purchasing decisions and prohibits a public official, which includes a state officer, from participating in the formation of a contract or making a purchasing decision in which he or she has a financial interest. Section 1090 is triggered when a public official has a direct financial interest in a contracting decision.

Official A is a public official for purposes of this prohibition, and his approval and participation in the decision for Cal Expo to purchase his used vehicle, based on the facts described, constitute a violation of Section 1090.

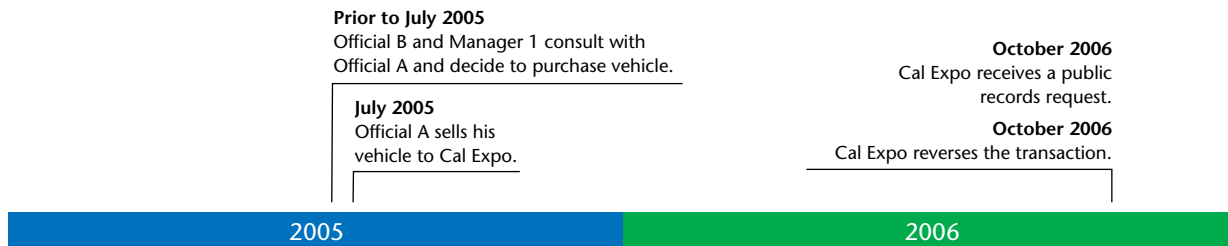
CAL EXPO'S RESPONSE TO THE ILLEGAL TRANSACTION DID NOT ADEQUATELY PROTECT THE STATE'S INTERESTS

More than a year after it purchased the vehicle, Cal Expo became aware that the transaction was potentially a violation of the law and reversed the transaction. Specifically, after we received the allegation of this improper governmental activity, but before we began our investigation, Cal Expo received a request under the

California Public Records Act regarding information related to the sale of the vehicle. Figure 1 illustrates the sequence of events leading up to the transaction and its reversal.

FIGURE 1

Timeline of Purchase and Transaction Reversal



Cal Expo subsequently reversed the transaction by returning the vehicle to Official A and requiring him to pay back the \$5,900. However, Cal Expo’s actions were not consistent with the remedies available under state law. It is a well-accepted principle of law that when a violation of Section 1090 has occurred, the agency is entitled to recover any consideration it paid, without restoring the benefits received under the contract. Thus, Cal Expo was entitled to recover the \$5,900 it paid for the vehicle and to retain the vehicle itself. By simply returning the vehicle to Official A, Cal Expo did not pursue the remedy that would have provided greater protection of the State’s interest.

A violation of Section 1090 may be subject to criminal penalties, and a person convicted of a violation of Section 1090 is barred forever from holding public office. In addition, state law provides that violation of Section 1090 is punishable by a fine not to exceed \$1,000 or imprisonment in state prison. Nonetheless, Cal Expo did not refer the matter for criminal prosecution.

AGENCY RESPONSE

Cal Expo reported that it believes invalidating the transaction and returning the vehicle were appropriate remedies. It also reported that because of Official A’s record, it did not believe that either formal disciplinary action or criminal prosecution was warranted. However, it shares our concern that this serious ethical breach merits further action and plans to implement

additional internal controls, place stricter safeguards and board oversight on contracting, and mandate additional ethics training to prevent future occurrences. ■

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CHAPTER 3

Department of Health Services: Improper Overtime Payments

ALLEGATION I2006-0731

An employee of the Department of Health Services (Health Services) improperly received overtime payments.

RESULTS AND METHOD OF INVESTIGATION

We investigated and substantiated the allegation. The employee, a fraud investigator, failed to subtract his normal round-trip commute time from the total work time he claimed each day during the four-month period he was at a training academy. As a result, the employee received an inappropriate credit to his leave balances of 241.5 hours of compensating time off to which he was not entitled, representing a potential overpayment of \$7,453.

The employee attended a training academy from mid-August 2005 through mid-December 2005. During this period, he claimed three hours of overtime for each day he attended the training academy, which represented the travel time from his residence to the training academy and back to his residence. Although the State's collective bargaining agreement with the California Union of Safety Employees—Statewide Law Enforcement Association (union) allows employees to claim travel time as overtime under certain circumstances, state regulations provide that decisions relating to reimbursement for travel expenses be made based on the best interest of the State. In addition, federal regulations specify that an employer who reimburses an employee for travel expenses related to a special assignment in a different location may subtract the employee's regular commute time from the total time claimed.⁴

To investigate this allegation, we reviewed the State's collective bargaining agreement with the union, reviewed the employee's time sheets from mid-August 2005 through mid-December 2005, and interviewed the employee's supervisor and the employee.

⁴ For a more detailed discussion of the laws, regulations, and collective bargaining agreement discussed in this chapter, see Appendix B.

The employee indicated that he claimed the overtime because other Health Services' investigators told him it was common practice for attendees to receive compensation for all their travel time to and from the training academy.

When we interviewed the employee, he acknowledged claiming three hours of overtime per day while attending the training academy. He indicated that he claimed the overtime because other Health Services' investigators who previously had attended the academy told him that it was common practice for attendees to receive compensation for all their travel time to and from the academy. His supervisor stated that although he was not aware of any law, rule, or regulation permitting investigators attending the academy to claim overtime for their travel time, he claimed that it is standard practice for investigators attending the training academy to claim overtime for their travel time in excess of eight hours plus one hour for lunch. The supervisor also indicated the total amount of overtime the employee claimed was more significant than the supervisor originally thought.

THE EMPLOYEE CLAIMED OVERTIME FOR HIS NORMAL COMMUTE

The employee, while attending a training academy, claimed three hours of overtime on 82 occasions from August 15, 2005, through December 15, 2005, for a total of 243 overtime hours on his time sheets.⁵ Because the hours claimed exceeded the normal workday for the employee, they were compensated at a premium rate of 1.5 hours for each overtime hour claimed. As a result of the premium rate, the employee's leave record indicates that, during the four-month period in which he attended the training academy, he was credited with the equivalent of more than nine weeks of compensating time off, or 364.5 hours.

In all 82 instances the employee claimed overtime for travel, he failed to subtract his normal two-hour round-trip commute time from his daily workday, inconsistent with federal regulations that specify that, "normal travel from home to work is not work time." As a result, a portion of the 364.5 hours of compensating time off the employee was credited with was improper. Specifically, the employee was entitled to only one hour of overtime per day for each day he attended the training academy, or 123 hours of compensating time off. This represents the employee's total workday, less his normal commute time, calculated at the premium rate. Of the 364.5 hours the employee

⁵ A timekeeping error in October 2005 resulted in the employee receiving only 54 overtime hours rather than the 57 overtime hours claimed on his time sheet.

received as compensating time off credited to his personal leave balances, 241.5 hours, representing \$7,453, were improper, as shown in Table 3.

TABLE 3

Improper Hours of Compensating Time Off From August 2005 Through December 2005

Month	Total Hours Credited	Proper Hours Earned	Hours Improperly Credited
August 2005	58.5	19.5	39.0
September 2005	94.5	31.5	63.0
October 2005	81.0	28.5	52.5
November 2005	85.5	28.5	57.0
December 2005	45.0	15.0	30.0
Totals	364.5	123.0	241.5

We also found evidence indicating that investigative support staff at Health Services incorrectly authorized the employee’s compensating time off for all travel to and from the training academy. Although our review revealed that Health Services’ staff may have been unaware that not all travel time is compensable, each department has a responsibility to comply with applicable laws and regulations. In addition, the employee’s supervisor approved the overtime, but should have informed the employee that he could not count the entire portion of each trip as work time. Rather, he must deduct his normal commute time from his calculation of time worked.

AGENCY RESPONSE

Health Services disagrees with the finding of our investigation. It believes we did not consider that the employee is a peace officer, which requires that he respond to urgent or emergency calls outside scheduled working hours. Further, Health Services stated that the employee does not commute to or from a field or headquarters office. Because Health Services does not believe the employee’s activity was improper, it stated that it will not be taking any action against him or his supervisor.

We do not believe that the employee’s status as a peace officer is relevant as to whether the employee may claim compensating time off for the portion of travel time between his home and the training academy that would ordinarily have been noncompensated commute time. Based on signed statements

Contrary to Health Services' assertion that the employee has no regular commute, the employee and his supervisor signed statements indicating that the employee commutes between his home and headquarters when not on a field assignment.

from the employee and his supervisor, the employee commutes between his home and headquarters when not on a field assignment, contrary to Health Services' assertion that the employee has no regular commute. In addition, Health Services asserts that the employee's collective bargaining agreement with the State allows employees to count travel time as overtime or work time. However, the agreement explicitly states that, notwithstanding any other contract provision, departmental policy or practice, the travel time of employees subject to the agreement shall be considered as time worked only if it meets, at a minimum, the definitions and requirements of travel time in federal regulations. As we stated previously, based on these regulations, the employee was entitled to compensating time off only for travel time in excess of his normal commute time. Moreover, we are concerned that Health Services chose not to address this issue, as we believe the actions of the employee and his supervisor were not in the best interest of the State.

Finally, Health Services reported that it will continue to examine its use of overtime in connection to investigator participation in the training academy, and specifically the utilization of overtime in lieu of per diem to ensure that the decision is made in the best interest of the State. This statement concerns us because it appears Health Services is unwilling to consider an option that is allowable under the employee's collective bargaining agreement and is clearly in the State's best interest. Specifically, Health Services can compensate employees who attend the training academy for their travel time to the extent this travel time is longer than their normal commute time. As mentioned previously, had Health Services done so for this employee, the State would have saved over \$7,400. ■

CHAPTER 4

Franchise Tax Board: Misuse of State Resources and Inappropriate Participation in Examinations

ALLEGATION I2006-0815

A manager with the Franchise Tax Board (board) misused state resources by making and receiving an excessive amount of personal phone calls on state time and improperly administering employment examinations in which her son participated.

RESULTS AND METHOD OF INVESTIGATION

We asked the board to assist us in the investigation. We substantiated the allegations as well as other improper acts. To conduct the investigation, the board reviewed the manager's phone records, the manager's and her son's e-mail records, examination records, and the manager's evaluation and probationary reports. The board also interviewed board employees, including the manager and her supervisor.

THE MANAGER MADE AND RECEIVED EXCESSIVE PERSONAL PHONE CALLS

The board found that the manager made and received an excessive number of personal phone calls using her state phone while at work in violation of state law.⁶ The board reported that the manager made or received personal phone calls totaling 495 hours⁷ between January 1, 2003, and June 30, 2006. Based on the manager's salary during this period, we estimate that the manager received \$15,765 for those 495 hours.⁸ Also, the board reported that for a portion of

⁶ For a more detailed discussion of the laws and regulations discussed in this chapter, see Appendix B.

⁷ The board originally reviewed phone records from June 1, 2005, through June 30, 2006. Based on its initial findings, the board reviewed the manager's phone records from January 1, 2003, through May 11, 2005. The board did not review the manager's phone records from May 12, 2005, through May 31, 2005, because it was changing phone systems during this period.

⁸ Our estimation is based on the manager's pay during the time period and assumes she misused her phone an equal amount each month.

this period, from June 1, 2005, to June 30, 2006, 71 percent of the manager's phone calls were not work-related. When questioned about these calls, the manager acknowledged that her personal use of her state phone was excessive.

THE MANAGER ADMINISTERED EXAMINATIONS IN WHICH HER SON PARTICIPATED

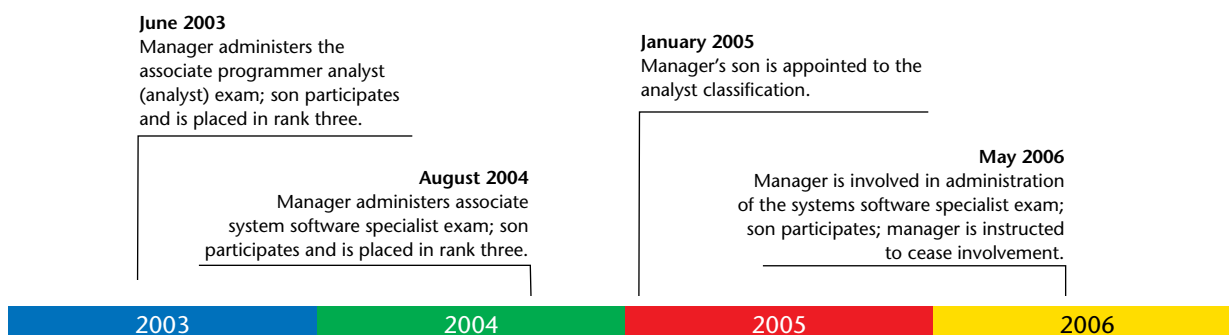
The board reported that on three occasions the manager was involved in the administration of examinations in which her son participated, in violation of state regulations governing state employment examinations.

The manager administered an associate programmer analyst examination for which her son participated.

As depicted in Figure 2, the board reported that in June 2003 the manager administered an associate programmer analyst (analyst) examination. The manager's son participated in that examination and qualified with a score of 85 percent, placing him in rank three. The total scores were entered in pencil and the detailed rating sheets from each rater were not available, so the board could not determine if the manager or anyone else had altered the scores. Later, the manager was involved in the administration of an associate system software specialist examination in August 2004, in which her son also participated. He scored 90 percent on the examination, which placed him in rank three. Ultimately, the board appointed the manager's son to the analyst classification in January 2005. The manager also was involved in a systems software specialist (specialist) examination in May 2006 in which her son participated, until her supervisor instructed her to cease any further involvement. The manager acknowledged she was aware of state policy that prohibits her participation in any examination taken by a blood relative; however, she claimed that her supervisor told her that her involvement in the specialist examination was acceptable as long as she did not review the applications. The supervisor denied that claim. Other staff members admitted that, although they were aware of the situation, they did not bring it to the supervisor's attention. Figure 2 illustrates the sequence of the manager's involvement in administering her son's examinations.

FIGURE 2

Timeline of Manager's Involvement in Administration of Her Son's Examinations



Finally, the board reported that the manager acknowledged that her inappropriate actions impeded her ability to be available to staff and to provide effective leadership for her unit.

THE BOARD FOUND OTHER IMPROPER ACTS

In addition to substantiating the allegations mentioned previously, the board found that the manager also committed these improper acts:

- The manager made inquiries to human resources staff regarding her son's promotion status and attempted to influence the staff to allow an earlier effective date for her son's promotion.
- The manager divulged confidential exam information to her son about an applicant, whom he knew, in an April 2006 e-mail, which resulted in the board accepting the late applicant for the tax technician classification and ultimately hiring the late applicant in June 2006.
- The manager sent confidential performance evaluations from her home e-mail address to work, violating board policy that states that Internet e-mail may not be used to transmit information classified as confidential, sensitive, or personal.

AGENCY RESPONSE

The board demoted the manager and moved her to a position where she will not participate in the examination process. ■

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CHAPTER 5

California State University, Bakersfield: Viewing Inappropriate Web Sites and Misuse of University Equipment

ALLEGATION I2006-0897

An administrator at California State University, Bakersfield (CSU Bakersfield), inappropriately used his university computer to view pornographic Web sites.

RESULTS AND METHOD OF INVESTIGATION

We asked CSU Bakersfield to assist us in the investigation, and we substantiated the allegation. To conduct the investigation, CSU Bakersfield reviewed the administrator's computer hard drive, interviewed university staff, and interviewed the administrator.

In violation of state laws that prohibit employees from using public resources, such as time and equipment, for personal purposes, and that require employees to devote their full time and attention to their duties, the administrator used his CSU Bakersfield computer to view Web sites containing pornographic material.⁹ Specifically, CSU Bakersfield found that the administrator visited pornographic Web sites on his university computer on at least three days in April and May 2003. CSU Bakersfield was unable to review the administrator's complete Internet usage because he had improperly installed a computer program that erases Internet usage history. The administrator claimed that he had intended to use the program only once, but CSU Bakersfield found that the program was running at the time the computer was examined by its experts. As a result, there were large blocks of time for which Internet usage information was missing. CSU Bakersfield reviewed Internet usage history on the computer's hard drive over a period of three years and five months, from March 2003 to August 2006. For that period, it found there were gaps of information totaling 1,183 days, or

⁹ For a more detailed discussion of the laws discussed in this chapter, see Appendix B.

three years and three months. For example, for the period from March 2004 to July 2005, the administrator's computer appeared to show no Internet usage. Considering the administrator's position with CSU Bakersfield, it seems unlikely that he did not use the Internet at all during that time.

AGENCY RESPONSE

When presented with CSU Bakersfield's evidence, the administrator resigned effective September 15, 2006. ■

CHAPTER 6

Sonoma State University: Misuse of University Equipment

ALLEGATION I2005-0907

An employee at Sonoma State University (Sonoma State) misused his Sonoma State-issued cell phone and e-mail to conduct private business.

RESULTS AND METHOD OF INVESTIGATION

We asked the California State University Chancellor's Office (Chancellor's Office) to assist us in conducting the investigation and we substantiated the allegation. To investigate the allegation, the Chancellor's Office reviewed the employee's Sonoma State-issued cell phone records and Sonoma State e-mails, and interviewed the employee and other Sonoma State employees.

The employee used his Sonoma State-issued cell phone and e-mail to conduct private business in violation of state law.¹⁰ The Chancellor's Office reported that the employee has two private businesses in addition to his Sonoma State employment. For one of the private businesses, the employee listed Sonoma State's cell phone number and e-mail address as his primary contact information.¹¹ Further, the employee listed this same information online to sell a boat, thereby soliciting additional improper contacts.

According to the Chancellor's Office, approximately 40 percent of the employee's e-mail messages they reviewed dated between November 2003 and June 2006 were related to his private businesses, the sale of his boat, or were for other personal purposes. Further, the Chancellor's Office determined that the employee made and received approximately 650 calls per month on his Sonoma State-issued cell phone. Other employees interviewed by the Chancellor's Office stated that they heard the employee conduct private business on the phone. However, the Chancellor's Office was unable to quantify the amount of

¹⁰ For a more detailed discussion of the laws discussed in this chapter, see Appendix B.

¹¹ The employee damaged his Sonoma State-issued cell phone and replaced it with his own funds. However, he continued to use the campus number and Sonoma State paid the monthly charges.

The Chancellor's Office determined that the employee frequently used the Sonoma State-issued cell phone and e-mail for his personal gain.

time the employee spent on personal calls because the sources of the incoming calls to his Sonoma State-issued cell phone were not identified. Although state law allows incidental and minimal private use of public resources, the Chancellor's Office determined that the employee frequently used the Sonoma State-issued cell phone and e-mail for his personal gain.

When the Chancellor's Office interviewed the employee, he stated that he listed his contact information at Sonoma State instead of his personal contact information for one of his private businesses because he has the Sonoma State-issued cell phone with him at all times and does not always carry his personal cell phone. Further, the employee stated that he recently changed the service for his Sonoma State-issued cell phone to a personal account and would then bill Sonoma State for all work-related calls.

AGENCY RESPONSE

Sonoma State served the employee with a three-day suspension without pay and counseled the employee about the need to make certain that the cell phone is not used for personal business on university time. Sonoma State also reported that the employee indicated that he no longer wishes to seek reimbursement from Sonoma State for work-related calls. Finally, Sonoma State reported that the employee damaged his original Sonoma State-issued cell phone and replaced it with his own funds in 2004. Nonetheless, we are concerned that Sonoma State and the Chancellor's Office are allowing the employee to continue using his Sonoma State-issued number for personal business. We fail to see how that is an appropriate use of public resources. ■

CHAPTER 7

Franchise Tax Board: Misuse of State Resources

ALLEGATIONS I2006-0625 AND I2006-0729

An employee with the Franchise Tax Board (board) misused state resources to conduct business related to his outside employment.

RESULTS AND METHOD OF INVESTIGATION

We asked the board to assist us in the investigation, and we substantiated the allegations. To conduct the investigation, the board reviewed the employee's outside employment surveys, e-mail records, phone records, and Internet access records. It also examined the employee's state-issued personal computer and interviewed the employee.

The board found that the employee used his state-issued computer, state e-mail, and state telephone to conduct business related to his outside employment in violation of state law.¹² Through its investigation, the board determined that the employee misused state resources by doing the following:

- Sending and receiving 566 e-mails not related to work between April and June 2006, including 23 separate communications related to his outside employment.
- Making or receiving 44 telephone calls related to his outside employment during a 12-month period, totaling 344 minutes.
- Storing 27 documents related to his outside employment on his state-issued computer.
- Failing to indicate on his outside employment surveys for 2005 and 2006, which the employee signed under penalty of perjury, that he had outside employment.

¹² For a more detailed discussion of the laws discussed in this chapter, see Appendix B.

When interviewed, the employee acknowledged he did have outside employment but stated that he did not perform work for his outside employer during state work hours.

AGENCY RESPONSE

The board reported that it served the employee with a 10-day suspension. In addition, it reported that it counseled the employee on incompatible activities and will monitor his performance closely. Also, because of the employee's poor work performance, which became apparent during the investigation, the board removed him from telecommuting and from working an alternate workweek schedule. Furthermore, the board now requires the employee to seek prior approval before he conducts field audits or changes his work hours. ■

CHAPTER 8

Department of Parks and Recreation: Misuse of State Resources and Failure to Adequately Perform Duties

ALLEGATION I2005-1035

An employee with the Department of Parks and Recreation (Parks and Recreation) repeatedly misused state resources and failed to adequately perform his duties.

RESULTS AND METHOD OF INVESTIGATION

We asked Parks and Recreation to assist us in conducting the investigation, and we substantiated the allegation as well as other improprieties. To investigate the allegation, Parks and Recreation obtained time sheets and analyzed telephone records for the section to which the employee was assigned and examined duty assignments for the employee. In addition, Parks and Recreation interviewed the employee, his supervisor, and other Parks and Recreation employees.

Parks and Recreation found that the employee clearly and extensively misused his state-issued wireless phone. An analysis of his telephone records over a 13-month period indicated that the employee made and received a total of 3,316 personal calls using his state-issued wireless telephone, at least 2,090 of which were after regular work hours or on holidays. In addition, several hundred of the employee's personal calls were to or from three telephone numbers ostensibly assigned to state employees' wireless phones. However, when Parks and Recreation investigators contacted the state employees who were supposedly assigned two of the three telephone numbers in question, the employees stated that the phone numbers had never been assigned to them. The employee is a wireless communications representative for Parks and Recreation, and is therefore responsible for the issuance, inventory, and tracking of wireless phones and communications devices. He was unable to reasonably explain how these telephone numbers were in use, given that the employees they were supposedly assigned to were not actually using the numbers. This constitutes a failure to perform duties as outlined in the official duty statement for the employee.

THE EMPLOYEE MADE MANY PERSONAL CALLS USING HIS STATE-ISSUED WIRELESS PHONE

Parks and Recreation investigators examined the telephone records for wireless communication devices issued to employees of the section. Parks and Recreation investigators reviewed call activity details covering a 13-month period from June 2005 through July 2006 for the employee's state-issued wireless telephone number. Investigators identified three telephone numbers reserved for state-issued telephones that had a high volume of calls to or from the employee's state phone number. Parks and Recreation investigators also identified 28 nonstate telephone numbers from which the employee either made or received 30 or more calls on his wireless phone during the 13-month investigation period. The analysis revealed that during the investigation period the employee made and received a total of 1,226 personal calls during work hours and 2,090 personal calls after work hours,¹³ for a total of 3,316 personal calls. This is clearly an ongoing and extensive misuse of state resources.

During the 13-month period reviewed, the employee made and received a total of 1,226 personal calls during work hours and 2,090 personal calls after work hours, for a total of 3,316 personal calls.

State law prohibits state employees from using state resources for personal enjoyment, private gain, or advantage, or for an outside endeavor not related to state business.¹⁴ Further, state law declares that waste and inefficiency in state government undermine Californians' confidence in government and reduces the state government's ability to adequately address vital public needs.

When interviewed, the employee admitted to the daily misuse of state property but offered no reasonable explanation as to the volume and frequency of personal calls on his state-issued wireless phone.

THE EMPLOYEE FAILED TO PERFORM A PRIMARY JOB DUTY BY NOT MAINTAINING ADEQUATE CONTROLS OVER STATE PROPERTY

While performing the analysis of the employee's telephone records, Parks and Recreation investigators noted a large volume of calls involving three telephone numbers that were included in the list of numbers available for assignment to state-issued wireless communication devices.

¹³ Nonwork hours, for the purposes of this investigation, were defined as weekends, holidays, and hours from 6 p.m. to 6 a.m.

¹⁴ For a more detailed discussion of the laws discussed in this chapter, see Appendix B.

As Table 4 shows, Parks and Recreation found 8,236 total calls made to or from the three phone numbers, of which 5,447 (66 percent) occurred after normal work hours and on weekends.¹⁵

TABLE 4

Parks and Recreation Investigators Found a Large Number of Calls To and From Three Telephone Numbers That Had Not Been Assigned to State Employees

Telephone Number	Total Number of Calls	Total Number of Minutes	Number of Nonwork-Hour Calls	Number of Nonwork-Hour Minutes
Telephone 1	4,159	8,455	2,918	5,887
Telephone 2	520	1,451	326	962
Telephone 3	3,557	6,962	2,203	4,243
Totals	8,236	16,868	5,447	11,092

Two of the three numbers were listed as being assigned to Parks and Recreation employees. However, when contacted, the two employees stated that they had never been issued the numbers in question for their state wireless phones. The third number did not appear to be assigned to a state employee. Therefore, it should not have been generating call activity, but it registered 3,557 calls during the investigation period, of which 237 calls were from the employee’s state-issued wireless phone.

When questioned about the call activity for the three state-issued telephone numbers, the employee had no explanation. However, in a subsequent written statement, the employee stated that the three numbers in question were assigned to three state-owned Subscriber Identity Module (SIM) chips. SIM chips are memory chips used for securely storing the electronic key that identifies a mobile subscriber. The employee also asserted that the three telephone numbers in question were never in fact assigned to employees. Instead, the employee claimed that he left the SIM chips in his personal vehicle, where he alleged they were taken by an ex-girlfriend, who used them illicitly.

State law lists the various causes for disciplining state civil service employees. These causes include incompetence, misuse of state property, and other failure of good behavior either during or outside of duty hours that is of such a nature that

¹⁵ The 8,236 calls occurred during different two-month periods that Parks and Recreation investigators reviewed to determine activity for the three telephone numbers.

it causes discredit to the appointing authority or the person's employment. The employee admitted in his written statement the need for better controls in his duty area. Thus, by failing to properly secure the SIM chips, which are state property, the employee did not ensure the integrity, confidentiality, reliability, and appropriate use of Parks and Recreation's information assets, as defined in the employee's official duty statement.

AGENCY RESPONSE

Parks and Recreation reported that it administered a documented corrective interview to the employee. In addition, Parks and Recreation submitted a draft departmental notice updating its policy concerning the use of personal communication devices by its staff. ■

CHAPTER 9

Department of Consumer Affairs: Time and Attendance Abuse

ALLEGATIONS I2005-0764 AND I2005-1026

A manager with the Bureau of Automotive Repair (Automotive Repair) failed to adequately monitor the attendance of employees under her supervision, some of whom may have engaged in time and attendance abuse.

RESULTS AND METHOD OF INVESTIGATION

We asked the Department of Consumer Affairs (Consumer Affairs), the state agency charged with oversight of Automotive Repair, to assist us in conducting the investigation, and we substantiated the allegation. Specifically, due in part to the manager's poor supervision, Consumer Affairs identified three instances when employees called in sick or left early and did not charge leave on their official time sheets. Further, Consumer Affairs found six more instances when Automotive Repair retained documentation indicating the employees called in sick or reported to work late, but did not take leave for the reported absences.

To investigate the allegation, Consumer Affairs reviewed employee time sheets and supporting documentation, and examined entry access card reader reports. In addition, Consumer Affairs reviewed applicable bargaining unit contracts and state and departmental policies as they relate to time and attendance requirements. Finally, Consumer Affairs interviewed Automotive Repair staff, including the manager and her subordinates.

THE MANAGER DID NOT MAINTAIN ADEQUATE ATTENDANCE RECORDS FOR HER STAFF

Consumer Affairs reported that the manager was unable to monitor the attendance of her employees adequately because she frequently is out of the office for lengthy periods of time on official business. Consumer Affairs also noted that the manager's office was in an area removed from the employees she supervises. Consumer Affairs found that some employees who

Consumer Affairs found that some employees who report directly to the manager did not always account for their absences, possibly due in part to her lack of supervision.

report directly to the manager did not always account for their absences, possibly due in part to her lack of supervision. We recognize the challenges facing managers and supervisors who are not in direct contact with their staff, but this does not lessen their obligation to ensure that staff attendance records are accurate and complete.

State regulations require state departments to keep complete and accurate time and attendance records for each employee.¹⁶ Further, state law requires that all levels of management be involved in assessing and strengthening the systems of internal accounting and administrative control to minimize fraud, errors, abuse, and waste of government funds occurring in state agencies. It also provides that systems of internal accounting and administrative control of each state agency must be evaluated on an ongoing basis and, when detected, weaknesses must be corrected promptly.

Consumer Affairs found that leave usage on employee time sheets for the manager's staff did not always agree with internal documentation retained by Automotive Repair. Specifically, they noted nine instances when employees called in sick, left early, or called in and reported to work late, but did not charge leave on their official time sheets.

When interviewed, the manager stated that, as a general policy, she allows her employees to make up missed time informally. However, Consumer Affairs was unable to determine what specific time was missed, or if that time was later made up, because the manager did not maintain adequate and sufficient documentation.

AGENCY RESPONSE

Consumer Affairs reported that the manager was counseled and Automotive Repair plans to request assistance from Consumer Affairs to determine the appropriate course of disciplinary action. Consumer Affairs also reported that Automotive Repair management has taken steps to minimize the frequency of time that the manager is out of the office on official business. In addition, Automotive Repair has relocated the manager's office to an area that is better suited to direct monitoring of her employees, and is implementing a reorganization to add a second level of supervision for the manager's staff. Automotive

¹⁶ For a more detailed discussion of the laws and regulations discussed in this chapter, see Appendix B.

Repair has also redirected some employees previously supervised by the manager to a different manager. Further, Consumer Affairs reported that a leave board was posted in the executive office area of Automotive Repair and employees have been directed to note time off and time out of the office on the board to provide increased accountability. In the manager's absence, staff have been directed to provide notice of tardiness, late arrival, shortened or extended lunch breaks, and other unexpected needs for leave requests directly to the additional supervisor assigned to Automotive Repair's executive office. ■

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CHAPTER 10

Update of Previously Reported Issues

CHAPTER SUMMARY

The California Whistleblower Protection 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 no 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 13 reported cases.

DEPARTMENT OF CORRECTIONS AND REHABILITATION CASE I2003-0834

We reported the results of this investigation on March 22, 2005.

The Department of Corrections and Rehabilitation (Corrections) improperly granted registered nurses (nurses) an increase in pay associated with inmate supervision that they were not entitled to receive. Specifically, 25 nurses at four institutions received increased pay associated with inmate supervision even though they 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 time-keeping records relating to inmate supervision. Although Corrections provided figures showing that the remaining eight nurses did supervise inmates, 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. We found that \$238,184 of the \$255,509 in inmate supervisory pay the 25 nurses received was not justified.

Updated Information

Corrections indicated that it has collected or initiated collection of overpayments from 14 nurses.

Corrections reported that it has completed its analysis and ultimately determined that 14 of the 25 nurses identified in our report were not entitled to the pay increase. Corrections indicated that it has collected or initiated collection of overpayments from these nurses. Corrections also reported that the remaining 11 nurses we identified were entitled to receive the pay increase. However, it was unable to provide documentation to support the premium pay for nine of the 11 nurses, stating that the institution only required the nurses to maintain copies of inmate supervision records for one year. Further, although Corrections provided us with documentation for the two remaining nurses, it showed that each nurse did not meet the threshold for premium pay for nine months during the two-year period. Finally, Corrections reported that none of the 25 nurses identified in our report is currently receiving the pay increase.

DEPARTMENT OF CORRECTIONS AND REHABILITATION CASES I2004-0649, I2004-0681, AND I2004-0789

We reported the results of this investigation on September 21, 2005.

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 these requests. In addition, the management reports that Corrections used 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 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 for Representatives A, B, and C. Although Corrections asserted that it had reconciled its time-bank balances, records from the State Controller's Office did 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.

Updated Information

Since we reported this issue in September 2005, Corrections stated that it could not independently substantiate the 10,980 hours we identified in our report as hours that Representatives A, B, and C did not charge to the union time bank between May 2003 and April 2005. Corrections believes that the State Controller's Office and the Corrections' time accounting system could not provide an accurate way to distinguish the type of union leave used. However, to resolve this issue, it is not important to be able to distinguish the type of union leave used. Our review determined that none of the hours was charged to any union leave categories.

Corrections reported that it has modified and implemented several changes to its tracking system that will allow it to track, report, and seek payment for union leave time. For Representatives B and C, records from the State Controller's Office indicate that Corrections has charged the union time bank for the hours they spent working on union activities from July through December 2006. In addition, it appears that Corrections has retroactively charged the union time bank for the hours that Representative B spent working on union activities from January through June 2006. However, records from the State Controller's Office indicate that Corrections is still not charging the union time bank for the hours Representative A is spending working on union activities. As a result, we question the effectiveness of Corrections' changes to its union leave-tracking system. Table 5 on the following page shows the hours Corrections has still failed to charge against the union time bank for Representatives A, B, and C. In addition to the hours we previously reported, Corrections has failed to charge 936 hours against the union time bank for hours Representative A spent working on union activities from July through December 2006. Overall, from May 2003 through December 2006, Corrections has failed to account for 15,340 hours of union leave at a cost to the State of \$563,785.

Records from the State Controller's Office indicate that Corrections is still not charging the union time bank for the hours Representative A is spending working on union activities.

TABLE 5**Total Hours of Union Leave Time That Corrections Failed to Charge for Representatives A, B, and C From May 2003 Through December 2006**

	Representative A	Representative B	Representative C	Totals
Hours previously identified May 2003 through April 2005	3,524	3,656	3,800	10,980
Hours previously identified May 2005 through June 2006	2,032	2,328	208	4,568
Hours retroactively charged to union leave January 2006 through June 2006	0	(1,040)	0	(1,040)
Additional union leave hours not charged July 2006 through December 2006	936	(96)*	(8)*	832
Totals	6,492	4,848	4,000	15,340

* The State Controller's Office records indicate that from July 2006 through December 2006 Corrections charged more union leave hours than were necessary for Representatives B and C.

DEPARTMENT OF HEALTH SERVICES CASE I2004-0930

We reported the results of this investigation on September 21, 2005.

We found that contracts and related invoices of the Genetic Disease Branch (branch) of the Department of Health Services (Health Services) lacked specifics, leading to questionable and improper payments for holiday pay and equipment. For example, the branch improperly authorized payment to a contractor's workers for 13 holidays 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 that were for services, not equipment.

Updated Information

Health Services reported that 51 branch staff and management involved in contract and procurement activities have completed contracts ethics training. In addition, Health Services stated that it is finalizing paperwork to take disciplinary action against five individuals.

**VICTIM COMPENSATION AND GOVERNMENT CLAIMS
BOARD AND THE DEPARTMENT OF CORRECTIONS
AND REHABILITATION
CASE I2004-0983**

We reported the results of this investigation on March 22, 2006.

Between October 2000 and May 2002 a physician filed multiple claims with the Victim Compensation and Government Claims Board (Victim Compensation) and Corrections, claiming he was entitled to a monthly \$2,700 recruitment and retention bonus given to Corrections employees in the chief psychiatrist classification. Although we believe Victim Compensation had no legal authority to hear the physician's claim, he received payments from both Victim Compensation and Corrections, resulting in duplicate payments of \$25,950. Additionally, although both entities were aware that he was about to receive state funds to which he was not entitled prior to receiving his final payment, they neither adjusted the physician's final claim nor recovered the overpayment.

Updated Information

Victim Compensation reported that it believes it had jurisdiction to hear the physician's claims and stated it did so under state law that allows it to hear claims when no statute or constitutional provision provides for a settlement. However, as previously mentioned, the fact that the physician also filed a grievance for essentially the same claim with Corrections and was awarded relief for that claim clearly demonstrates that statutory relief was available in this case.

Victim Compensation reported that it has changed its procedures to avoid making overpayments in the future. Specifically, Victim Compensation reported that it will not assume authority over claims in those instances in which it is aware that another agency is addressing the claim. Additionally, Victim Compensation reported that it changed its payment process for approved claims to ensure affected state agencies are aware of its actions. Payments are currently made one of two ways—by making the payment from an appropriation in the affected state agency's budget or, if no appropriation exists, through a legislative claims bill. When claims are paid via a legislative claims bill, the affected agency is notified that the claim is designated for payment and can alert Victim Compensation before final payment is made.

Except for a \$2,000 reimbursement, Corrections has been unable to confirm any additional amount the physician has reimbursed the State.

After we informed Corrections of the overpayment, it initiated action to attempt to recover the \$25,950 overpayment from the physician. As of April 2006 Corrections reported it had recovered \$2,000 from the physician. However, except for the \$2,000 reimbursement, Corrections has been unable to confirm any additional amount the physician has reimbursed the State.

DEPARTMENT OF FISH AND GAME CASE I2004-1057

We reported the results of this investigation on March 22, 2006.

The Department of Fish and Game (Fish and Game) allowed several state employees and volunteers to reside in state-owned homes without charging them rent. Consequently, Fish and Game violated the state law prohibiting state officials from providing gifts of public funds. Additionally, Fish and Game deprived taxing authorities of as much as \$1.3 million in revenue because it did not report to the State Controller's Office the taxable fringe benefits its employees receive when they live in state-owned housing at rates below fair market value.

Finally, although Fish and Game was the focus of this report, we discovered that all state departments that own employee housing may be underreporting or failing to report housing fringe benefits totaling as much as \$7.7 million annually. Additionally, because departments charged employees rent at rates far below market value, the State may have failed to capture as much as \$8.3 million in potential annual rental revenue.

In response to our report in March 2006 the Department of Veterans Affairs (Veterans Affairs) reported that it conducted fair market assessments of its properties in September 2005 and that it submitted its corrected housing information to the Department of Personnel Administration (DPA) in October 2005. Veterans Affairs also reported that it established new rental rates based on the assessments and informed its residents that the new rates will go into effect March 1, 2006, and will conduct a fair market assessment of its properties again in 2009 and adjust rental rates accordingly. Further, the Santa Monica Mountains Conservancy reported that it has only six employees, none of whom live on state property. It added that in lieu of rent, it currently allows nonstate employees to reside on eight of its properties to provide and ensure resource protection, site management, facilities security and maintenance, and park visitor services. Finally, the

Department of Food and Agriculture (Food and Agriculture) reported that its employees currently reside on two state properties as a condition of employment. As a result, there is no fringe benefit to report for those residents. Food and Agriculture added that because these properties are located near popular resort areas, fair market values are not comparable to values of homes in surrounding communities.

Updated Information

Fish and Game also reported that it last obtained appraisals approximately 14 years ago and in order for it to report accurate taxable fringe benefit information, it must first obtain current fair market appraisals for its properties.

Fish and Game reported that in August 2006 it began the process of adjusting rental rates to fair market values in accordance with DPA regulations and applicable collective bargaining agreements and began raising rental rates in October 2006. Fish and Game also reported that it last obtained appraisals approximately 14 years ago and in order for it to report accurate taxable fringe benefit information, it must first obtain current fair market appraisals for its properties. Fish and Game added that it has identified funding to obtain fair market appraisals and will do so after DPA establishes the master agreement for appraisers.

DPA reported that it developed a request for proposal (RFP) in October 2006 to establish a list of licensed appraisers; however, none of the bids it received for the RFP complied with the requirements. DPA issued a second RFP in February 2007 and expects to award the contract in April 2007. Once established, departments will be able to enter into agreements with contractors of their choice from the list of appraisers. DPA also reported that in order to ensure departments regularly conduct appraisals and apply rental rate increases as outlined in collective bargaining agreements, it will require departments to submit a copy of each market analysis or desk review annually along with a survey of their properties showing annual rental rate increases. Departments that request discounted rental rate adjustments or propose no annual rent increases will be required to submit their requests to DPA for review and approval. Finally, DPA reported that it plans to amend state regulations to ensure that rental rates are increased to fair market value for those residents who do not work under collective bargaining agreements, when it is determined a home's fair market value is above those rates listed in state regulation.

Corrections, including the Division of Juvenile Justice, reported that DPA is anticipating awarding a contract for state-owned housing appraisal services that can be used by all state agencies.

Corrections stated that it intends to obtain fair market appraisals for its properties through the contract, which is expected to be awarded by April 2007.

The California Department of Transportation (Caltrans) reported that it performed additional analysis to determine what amount of taxable fringe benefits it should have reported for 2003. It determined that the net total of additional income that should have been reported was \$1,232 for six of its employees residing in state homes. Caltrans added that as of April 2006 this amount was reported to the tax authorities.

The Department of Mental Health reported that it updated its special order addressing employee housing in December 2006. This special order requires all four of its hospitals to perform appraisals of fair market rental rates for their properties by March 2007 and to re-assess those rates annually. In addition, the special order requires its hospitals to report accurate taxable fringe benefit information in a timely manner.

The Department of Developmental Services (Developmental Services) reported that it will obtain fair market appraisals once DPA establishes a master agreement of licensed appraisers and has authorized departments to begin contracting for appraisals. Developmental Services also reported that it has evaluated its systems and processes for reporting fringe benefits to ensure it will be in compliance with reporting guidelines once it is able to establish and update its rental rates.

The following departments have not reported any updated information since March 2006:

- Department of Parks and Recreation
- California Conservation Corps
- Department of Forestry and Fire Protection

DEPARTMENT OF CORRECTIONS AND REHABILITATION CASE I2005-0781

We reported the results of this investigation on March 22, 2006.

Between January 2002 and May 2005 Corrections failed to exercise its management controls by allowing nine exempt employees at the Sierra Conservation Center (center) to claim

holiday credits for holidays that fell on the employees' scheduled days off, resulting in the accrual of 516 hours they were not entitled to receive. This improper accrual of hours equated to a gift of public funds totaling \$17,164. In addition, the center allowed them to work alternate work schedules consisting of 10-hour days, but the collective bargaining agreement required them to charge leave only in eight-hour increments (or their fractional equivalent depending on their time bases) for each full day of work missed. The resulting gift of public funds for the discrepancies between leave hours posted and the employee's scheduled work hours totaled \$49,094. Overall, these two issues represented a gift of public funds of \$66,258.

Updated Information

Two of the nine employees we previously reported on are no longer working at the center. Further, one exempt employee joined the center in June 2006, and we included this employee in our analysis. We conducted additional analysis on the remaining employees at the center for the time period from June 2005 to December 2006.¹⁷ We determined that exempt employees continued to earn holiday credits when a holiday fell on their regularly scheduled day off, resulting in an accrual of 268 hours and an additional gift of public funds of \$8,909 for seven employees. In addition, the center continues to allow the employees to work alternate work schedules consisting of 10-hour days, but still requires them to charge leave only in eight-hour, six-hour, and four-hour increments, for employees working full-time, three-quarter time, and half-time schedules. As a result of this practice, the State paid these employees \$21,161 for 620 hours they did not work. As a result of Corrections' and the center's continued failure to exercise management controls, these employees received a gift of public funds of \$30,070, in addition to the \$66,258 we previously reported. In response to our original report, Corrections indicated it viewed this as a labor-relations issue and forwarded the results of our investigation to its Labor Relations Office. On January 25, 2007, the State and the union representing the employees in this case adopted a new collective bargaining agreement. This agreement specifies that exempt employees shall not be charged leave in less than whole-day increments.

As a result of Corrections' and the center's continued failure to exercise management controls, the employees received a gift of public funds of \$30,070, in addition to the \$66,258 we previously reported.

¹⁷ The center did not provide time sheets for one employee in a timely manner. Therefore, this employee is excluded from our analysis.

DEPARTMENT OF FORESTRY AND FIRE PROTECTION CASES I2005-0810, I2005-0874, AND I2005-0929

We reported the results of this investigation on March 22, 2006.

From January 2003 through July 2005 five air operations officers working as pilots received more than \$58,000 for 1,063 overtime hours charged in violation of either department policy or their union agreement. The State's collective bargaining agreement with the firefighters' union provides for around-the-clock compensation when certain employees are assigned to a fire but does not include air operations officers among those eligible for this type of compensation. Rather, air operations officers should be compensated only for actual hours worked instead of all hours assigned to a fire. Further, department policy limits the number of hours per day its pilots are able to work to 14 hours. Because the air operations officers' reported overtime hours involved pilot coverage, these employees were subject to Forestry's 14-hour workday for pilots.

Similar to the air operations officers working as pilots, maintenance officers are also not entitled to claim around-the-clock pay. We questioned 80 hours of overtime for which two air operations officers working in maintenance received nearly \$3,907. Specifically, we found that one air operations officer working in maintenance claimed five consecutive 24-hour workdays and the other maintenance officer claimed three consecutive 24-hour workdays, resulting in 80 total hours of overtime. We questioned these hours because it does not seem reasonable to expect an individual to work three or five consecutive 24-hour workdays without a break for sleep. The supervisor of the air operations officers indicated that he mistakenly believed they were all entitled to around-the-clock pay when assigned to a fire.

In addition, between January 2004 and December 2005, Forestry paid a heavy fire equipment operator approximately \$87,900 for 3,919 overtime hours, of which we identified \$12,588 that is questionable and \$3,445 that is improper. As opposed to the air operations officers we discussed previously, heavy fire equipment operators are entitled to around-the-clock compensation when they are assigned to a fire. The State's collective bargaining agreement with the firefighters' union provides that heavy fire equipment operators working this employee's schedule work a 12-hour day on the last day of their duty week. This employee improperly claimed 120 hours of overtime by reporting 24-hour shifts on the last day of his duty week, despite being counseled

by his supervisor and being specifically told that he should report only 12 hours on the last day of his duty week. As a result, this employee improperly received \$2,769. In addition, this employee improperly claimed 27 hours related to training, receiving \$676 for hours he was not entitled.

We also identified 541 questionable hours valued at \$12,396 where this employee either reported covering the shift of another employee who was also scheduled to work these hours or reported working the shift of another employee who was not scheduled to work. Although this employee's direct supervisor acknowledged that he was not as diligent as he could have been when approving time sheets, he pointed out that when other battalion chiefs approved this employee's time sheets, he did not review those time sheets for accuracy.

Updated Information

Forestry reported that it agrees with our findings about the air operations officers acting as pilots and it has actively started to process the overpayments as receivables as of February 2007.

Forestry reported that it agrees with our findings about the air operations officers acting as pilots and it has actively started to process the overpayments as receivables as of February 2007. It also reported that it has taken steps to inform supervisors and managers of any significant changes to union agreements that would impact rank and file salary, benefits, or classification status.

In regard to the heavy fire equipment operator, Forestry agrees with the finding that the employee was overpaid and it has started to process a receivable for repayment. Further, Forestry is evaluating adverse action for this employee.

DEPARTMENT OF FORESTRY AND FIRE PROTECTION CASE I2006-0663

We reported the results of this investigation on September 21, 2006.

A Forestry employee fraudulently claimed hours he did not work. Between January 2004 and December 2005 the employee, a heavy fire equipment operator, improperly claimed and received \$17,904 in wages for 672 hours he did not work. He submitted nine false claims over this two-year period under a variety of circumstances. Also, by claiming wages for hours he did not work, the employee took advantage of his supervisor's lack of effective oversight and a lack of communication among the various staff with the authority to sign time sheets. The employee's supervisor acknowledged that he had not been as diligent in verifying the authorization and hours worked for

some of his employees as he should have been and that he did not always compare time sheets for heavy fire equipment operators when approving them for payment, even when one employee claimed he was providing vacation coverage for another. We also found that it was Forestry's practice to allow individuals other than an employee's direct supervisor to sign time sheets. In fact, up to nine people had the authority to approve the employee's time sheet, which allowed four individuals other than his direct supervisor to sign a total of eight of the employee's time sheets for the two-year period we reviewed. Thus, the employee was able to claim wages for hours not worked without being detected because he took advantage of a lack of oversight and communication among those with the authority to sign his time sheets. Additionally, it appears the employee may have exploited this relaxed management practice by having supervisors other than his direct supervisor sign his time sheets more often when he claimed hours he did not work.

Updated Information

Forestry agrees that the employee collected wages to which he was not entitled and has conducted its own investigation.

Forestry agrees that the employee collected wages to which he was not entitled and has conducted its own investigation. However, Forestry is still assessing the adequacy of the documentation of its investigation and plans to recover overpayments and determine disciplinary action once this assessment is complete.

It also issued a memo on December 1, 2006, to all stations in the unit in which the employee worked, outlining several steps intended to address the findings in the investigative report. The memo stated that employee time reports may only be signed by supervisors with direct supervisory responsibility over that employee, program managers will compare each employee's work time with the appropriate daily staffing report, and employees requesting time off that is not part of their annual vacation request process will be required to forward their request to a division chief or duty chief for approval per the "Master Schedule" for the unit. The memo also includes a reminder to battalion chiefs to ensure that station log books, which are legal documents used to record and verify personnel transactions at the station level, are complete, accurate, and secure. It further states that management will also have the ability to access the department's personnel database to review staffing and personnel transactions, as well as recorded phone lines and radio transmissions to review conversations related to staffing and personnel decisions. Finally, the memo states that

battalion chiefs will have the primary oversight responsibility for all personnel in their battalions, and that division chiefs will conduct audits to ensure that all policies and procedures are followed and report their findings to the unit chief.

**DEPARTMENT OF CORRECTIONS AND REHABILITATION
CASE I2005-0884**

We reported the results of this investigation on September 21, 2006.

An employee with Corrections improperly submitted for approval two sets of time sheets for the same time period to different supervisors, Supervisor A and Supervisor B. The employee forwarded for payment the time sheet approved by Supervisor B, even though Supervisor B was not her direct supervisor and apparently was not aware of her actual attendance. The employee submitted two inaccurate time sheets in this manner for January 2005 and March 2005. As a result of her actions, the employee submitted false claims and received \$1,373 for 78 hours she did not work.

Updated Information

As of the date of this report, Corrections has not provided any updated information.

We conducted this review under the authority vested in the California State Auditor by Section 8547 et seq. of the California Governmental 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: March 22, 2007

Investigative Staff: Russ Hayden, Manager, CGFM
Siu-Henh Canimo
Lane Hendricks, MPA
Justin McDaid
Michael A. Urso, MPA, CFE

APPENDIX A

Activity Report

The Bureau of State Audits (bureau), headed by the state auditor, has identified improper governmental activities totaling \$23.8 million since July 1993, when it reactivated the Whistleblower Hotline (hotline). 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 departments took on cases included in this report. Table A on the following page summarizes all the corrective actions that departments took between the time the bureau reactivated the hotline in 1993 until June 2002. Table A also summarizes departments' corrective actions since July 2002, when the law changed to require all state departments to annually notify their employees about the bureau's hotline. In addition, dozens of departments have modified or reiterated their policies and procedures to prevent future improper activities.

TABLE A

**Corrective Actions
July 1993 Through January 2007**

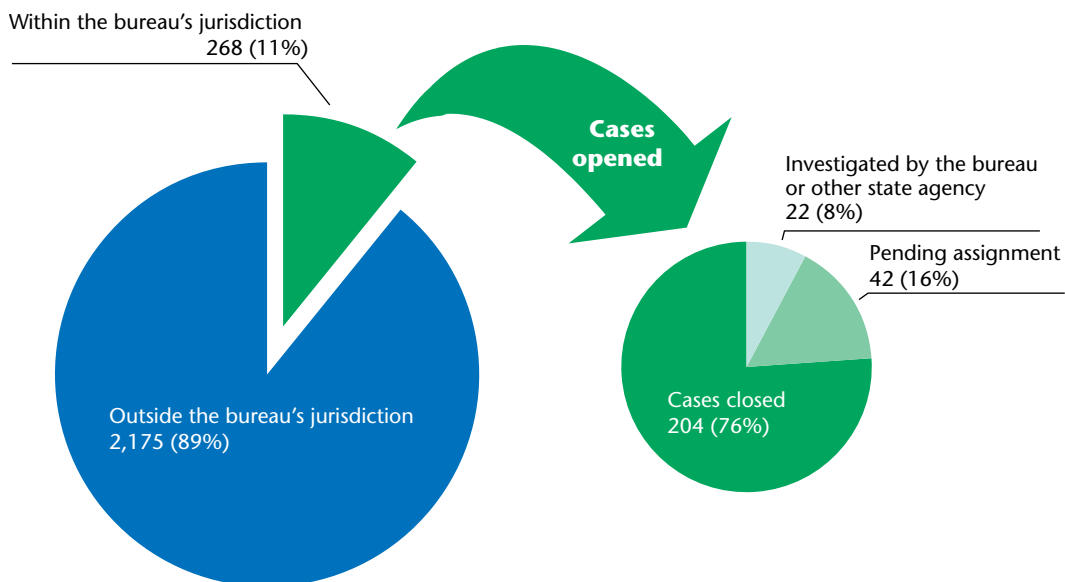
Type of Corrective Action	Number of Incidents July 1993 Through June 2002	Number of Incidents July 2002 Through January 2007	Totals
Referrals for criminal prosecution	73	5	78
Convictions	7	2	9
Job terminations	46	27	73
Demotions	8	6	14
Pay reductions	10	41	51
Suspensions without pay	12	10	22
Reprimands	135	127	262

**New Cases Opened Between
July 2006 and January 2007**

The bureau receives allegations of improper governmental activities in several ways. From July 1, 2006, through January 31, 2007, the bureau received 2,443 allegations from the hotline, mail, its Web site, and from individuals who visited the office. Of these 2,443 allegations, the bureau opened 268 cases as shown in Figure A.1. After careful review, the bureau determined that the remaining 2,175 allegations were outside the bureau’s jurisdiction and, when possible, bureau staff referred those complainants to the appropriate federal, state, or local agencies as explained in Appendix C.

FIGURE A.1

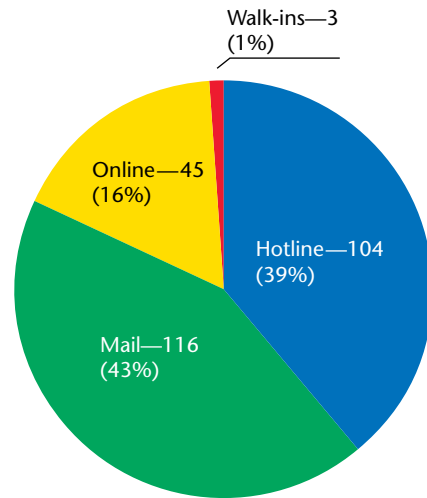
Disposition of Cases Opened Between July 2006 and January 2007



Callers to the hotline at (800) 952-5665 reported 104 of the new cases in this time period.¹⁸ The bureau also opened 116 new cases based on complaints it received in the mail, 45 through its Web site, and three based on complaints from individuals who visited the office. Figure A.2 shows the sources of all the cases opened from July 2006 through January 2007.

FIGURE A.2

**Sources of 268 New Cases Opened
July 2006 Through January 2007**



**Work on Investigative Cases
July 2006 Through January 2007**

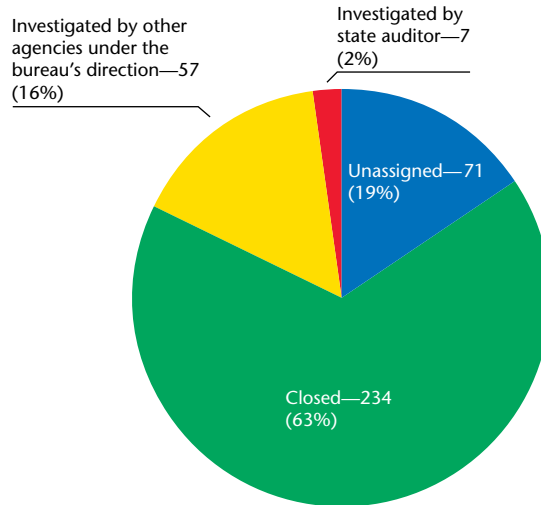
In addition to the 268 new cases opened during this seven-month period, 74 previous cases awaited review or assignment as of June 30, 2006; another 27 were still under investigation by this office or by other state agencies or were awaiting completion of corrective action. Consequently, 369 cases required some review during this period.

After conducting a preliminary review of these cases, which includes analyzing evidence and other corroborating information, and calling witnesses, the bureau determined that 234 cases lacked sufficient information to open an investigation. Figure A.3 on the following page shows the disposition of the 369 cases the bureau worked on from July 2006 through January 2007.

¹⁸ In total, the bureau received 2,185 calls on the hotline from July 2006 through January 2007.

FIGURE A.3

**Disposition of 369 Cases
July 2006 Through January 2007**



The Whistleblower Act specifies that the state auditor can request the assistance of any state entity or employee in conducting an investigation. From July 1, 2006, through January 31, 2007, the bureau independently investigated seven cases and substantiated allegations on three of them. In addition, the bureau conducted investigative analysis on 57 cases and state agencies investigated these under the bureau's direction and substantiated allegations in nine of the 16 cases completed during the period.¹⁹ After a state agency completes its investigation and reports its results to the bureau, the bureau analyzes the agency's investigative report and supporting evidence and determines if it agrees with the agency's conclusions, or if additional work must be performed.

¹⁹ Of those nine, six are reported in this report; of the three others, either they did not rise to the level of an improper governmental activity or we determined that the investigation had already been completed by the time the department received our request to conduct an investigation.

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, 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.

PROHIBITIONS AGAINST CONFLICTS OF INTEREST

Chapters 1 and 2 report violations of conflict-of-interest laws.

Section 87100 of the California Government Code, part of the California Political Reform Act of 1974 (act), states that no public official at any level of state government shall make, participate in making, or in any way attempt to use an official position to influence a governmental decision in which that public official knows or has reason to know he or she has a financial interest. A public official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect on the official, distinguishable from its effect on the public. Section 91000 states that a person who willfully violates the act is guilty of a misdemeanor and may receive a fine of up to the greater of \$10,000 or three times the amount the person failed to properly report or unlawfully contributed, expended, gave or received, upon conviction for each violation.

Section 87300 of the California Government Code requires state and local government agencies to adopt conflict-of-interest codes and Section 87302 of the California Government Code requires them to identify positions that involve the making or

participating in the making of decisions, which may foreseeably have a material effect on any financial matters. This section also requires state agencies to identify for each position, the specific types of investments, business positions, interest in real property, and sources of income that are reportable.

The California Government Code, Section 1090, prohibits state employees from being financially interested in any contract in which they participate in making a decision in their official capacity. According to the California Government Code, Section 1097, any employee who willfully violates this prohibition is punishable by a fine of not more than \$1,000 or by imprisonment in state prison and is forever disqualified from holding any office in the State.

The common law doctrine against conflicts of interest provide that a public officer is bound to exercise the powers conferred on him or her with disinterested skill, zeal, and diligence and primarily for the benefit of the public.

CRITERIA COVERING TRAVEL EXPENSE REIMBURSEMENTS AND PAYMENT OF COMMUTING EXPENSES

Chapter 3 reports 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 an employee begins or ends a trip at home, the distance for which the employee should be reimbursed shall be the lesser of the distance between the employee's home and the destination, and the employee's headquarters and the destination. This section further states that reimbursement will be made only for the method of transportation which is in the best interest of the State, considering both direct expense as well as the employee's time. 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 of his or her regular workday or work time, or the place to which he or she returns after completion of special assignments.

Title 29 of the Code of Federal Regulations, Section 785.35, states that normal travel from home to work is not work time. Section 785.37 further explains that when an employee is assigned to a special assignment that requires travel, the employee's regular home-to-work travel time may be deducted.

Section 7.6A, subsection 1b of the collective bargaining agreement between the State and the California Union of Safety Employees—Statewide Law Enforcement Association states that travel time shall only be considered as time worked if it meets the definitions and requirement of travel as defined in Title 29 of the Code of Federal Regulations, sections 785.34 to 785.41.

OVERPAYMENTS RECOUPED

Chapter 3 reports on payments that can be recovered by the State.

The California Government Code, Section 19838, states that overpayments made by the State to an employee shall be recouped provided that action taken by the State to recover the overpayment is initiated within three years from the date of overpayment.

IMPROPER PARTICIPATION IN EXAMINATIONS

Chapter 4 reports on improper participation in examinations and disclosure of confidential examination information.

The California Code of Regulations, Title 2, Section 197.5, states that anyone directly involved in the development or administration of any phase of an examination who is related to a competitor by blood or adoption, is or was related by marriage, or is or was a cohabitant shall not participate in any phase of the administration of that particular examination. Further, the State Personnel Board Selection Manual, page 3120.5, states that potential test consultants cannot be used for an examination in which a competitor is related to them by blood or by adoption, or by current or former marriage or cohabitation.

The California Government Code, Section 19680, states that it is unlawful for any person to willfully furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person examined, certified, or to be examined or certified under this part or board rule.

INCOMPATIBLE ACTIVITIES DEFINED

Chapters 1, 4, 5, 6, 7, and 8 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.

WASTE AND INEFFICIENCY

Chapters 4, 6, 7, and 8 report 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.

PROHIBITIONS AGAINST USING STATE RESOURCES FOR AN OUTSIDE ENDEAVOR NOT RELATED TO STATE BUSINESS

Chapters 1, 4, 5, 6, 7, and 8 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 ACCURATE TIME REPORTING

Chapter 9 reports on accurate time reporting.

The California Code of Regulations, Title 2, Section 599.665, requires that each appointing power keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction. Such records shall be kept in the form and manner prescribed by the Department of Finance in connection with its powers to devise, install, and supervise a modern and complete accounting system for state agencies.

CRITERIA GOVERNING STATE MANAGERS' RESPONSIBILITIES

Chapters 1 and 9 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 expenditures. Further, the integrity and accountability act requires that weaknesses must be promptly corrected when detected.

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APPENDIX C

State and Federal Referral Numbers

The Bureau of State Audits (bureau) in accordance with the California Whistleblower Protection Act contained in the California Government Code, beginning at Section 8547 et seq., receives and investigates complaints of improper governmental activities by state departments and state employees. To enable state employees and the general public to report these activities, the bureau maintains a toll-free whistleblower hotline (hotline) at (800) 952-5665 or (866) 293-8729 (TTY). Between July 2006 and January 2007, we received 2,185 calls, of which 1,087 were outside of the bureau's jurisdiction. In these instances, the bureau refers callers to various local, state, and federal entities.²⁰ For 1,019 calls, callers either had inquiries not related to the hotline or were wrong numbers. The bureau opened 104 cases from allegations received through the hotline.

Listed in Table C on the following pages are the telephone numbers for the state and federal entities to which the bureau generally refers callers, as well as the issues that these entities can address. In addition, the Department of Technology Services has state information officers at (800) 807-6755 who can direct callers to any state department. The federal government also has a federal information number that can direct callers to, and provide information about, all federal agencies at (800) 688-9889.

²⁰ In addition to referring callers to state and federal entities, the bureau also refers callers to local entities such as local school boards, county controllers, and private businesses such as the Better Business Bureau.

TABLE C

State and Federal Referral Numbers

Telephone Numbers for State Departments		
Aging, Department of	(916) 419-7500 (800) 231-4024	<ul style="list-style-type: none"> • Public information • Long-Term Care Ombudsman—nursing homes, drug treatment facilities, mental facilities, emergency referrals
Air Resources Board	(800) 952-5588 (800) 363-7664	<ul style="list-style-type: none"> • Air pollution violations • Legal information and vehicle emissions
Alcoholic Beverage Control	(916) 263-6882 (562) 402-0659	<ul style="list-style-type: none"> • Northern Division • Southern Division
Attorney General, Office of	(800) 952-5225 (916) 445-2021 (800) 722-0432 (213) 897-8065	<ul style="list-style-type: none"> • Public inquiries and consumer complaints, private sector retaliation, business opportunity scams • Registry of Charitable Trusts (nonprofit organizations) • Bureau of Medi-Cal Fraud and Elder Abuse • Travel fraud
California State Bar	(800) 843-9053	Attorney lists, referrals, and complaints
California State University	(562) 951-4425	Complaints regarding university employees
Chancellor’s Office, Community Colleges	(916) 445-8752	Questions and/or issues related to community colleges
Child Support Services, Department of	(866) 249-0773	Questions about individual child support services cases
Consumer Affairs, Department of	(800) 952-5210 (800) 321-2752 (800) 633-2322 (866) 785-9663	<ul style="list-style-type: none"> • The Consumer Information Center takes complaints about: accountants, appliances, athletics, automobile repairs, barbers, beauty salons, cemeteries, contractors, cosmetologists, dentists and dental hygienists, engineers, funeral directors and embalmers, geologists and geophysicists, hearing aid dispensers, home furnishings, home improvements, landscape architects, marriage/family counselors, nurses, optometrists, pest control operators, pharmacists, private investigators and private patrol operators, repossessioners, veterinarians, and other consumer issues. • Contractors’ State License Board • Medical Board—complaints about physicians, questions about licensing or disciplinary actions • Office of Privacy Protection—identity theft
Controller, Office of the State	(916) 445-2636 (800) 952-5661 (800) 992-4647	<ul style="list-style-type: none"> • Public information • Senior citizen’s property tax postponement • Unclaimed property
Corporations, Department of	(866) 275-2677	Escrow and title companies, finance lenders, mortgage bankers investment counselors
Corrections and Rehabilitation, Department of	(877) 424-3577 (916) 445-6713	<ul style="list-style-type: none"> • Office of Internal Affairs—to report misconduct by employees • Inmate Locator

Telephone Numbers for State Departments

Emergency Services, Office of	(800) 852-7550	Hazardous materials spills
Employment Development Department	(916) 653-0707	• Public information
	(800) 229-6297	• Unemployment and disability insurance fraud
	(800) 528-1783	• Tax or payroll fraud
Energy Commission	(800) 822-6228	Public information
Equalization, Board of	(800) 400-7115	• Customer and Taxpayer Information Center
	(888) 334-3300	• Tax evasion hotline
	(916) 324-1874	• To report improper conduct by department employees
Fair Employment and Housing, Department of	(800) 884-1684	Racial or sexual discrimination in:
	(800) 233-3212	• Employment • Housing
Fair Political Practices Commission	(916) 322-5660	• Public information
	(800) 561-1861	• Violations of ethics and campaign laws
Finance, Department of	(916) 445-3878	• Public information
	(916) 322-2263	• Statistical research—economics, finance, transportation, housing
	(916) 323-4086	• Demographics
Financial Institutions, Department of	(800) 622-0620	State-licensed banks, savings and loans, foreign banks, traveler's checks, industrial loans, credit unions
Fish and Game, Department of	(800) 952-5400	Poaching
Food and Agriculture, Department of	(916) 229-3000	Weights and measures enforcement
Franchise Tax Board	(800) 852-2753	• Public information
	(800) 338-0505	• Fast Tax (refunds and order forms)
	(800) 540-3453	• Tax fraud
	(800) 883-5910	• Taxpayer advocate
Gambling Control Commission	(916) 263-0700	Public information
Governor's Office	(916) 445-2841	Main number
Health Services, Department of	(916) 445-4171	• Hospital licensing
	(800) 554-0354	• Nursing home complaints
	(800) 822-6222	• Medi-Cal fraud
	(916) 445-2684	• Office of Vital Records—birth and death certificates
Housing and Community Development, Department of	(800) 952-5275	• Mobile home complaints
	(800) 952-8356	• Mobile home registration and title information
Industrial Relations, Department of	(415) 703-4810	• Private sector complaints involving discrimination, wages, overtime, and other workplace issues (Labor Commissioner)
	(800) 321-6742	• To report accidents, unsafe working conditions, or safety and health violations (OSHA)
Inspector General, Office of	(800) 700-5952	• To report improper activities within the Department of Corrections and Rehabilitation
	(916) 830-3600	• Main number
Insurance, Department of	(800) 927-4357	Consumer complaints

continued on next page

Telephone Numbers for State Departments

Judicial Council	(415) 865-4200	• Courts
	(866) 865-6400	• Illegal or improper acts by judicial branch employees
Judicial Performance, Commission on	(415) 557-1200	Judicial misconduct and discipline
Lottery Commission	(800) 568-8379	• Public information
	(888) 277-3115	• Problem Gambling Help Line
Managed Health Care, Department of	(888) 466-2219	Health Maintenance Organization (HMO) complaints
Mental Health, Department of	(800) 896-4042	• Public information
	(916) 654-3890	• Medi-Cal Mental Health Services Ombudsman
Motor Vehicles, Department of	(800) 777-0133	• Public information
	(916) 657-8377	• Complaints about automobile dealers
	(866)658-5758	• Drivers Licenses or ID Card theft
Parks and Recreation, Department of	(800) 444-7275	Camping reservations in state parks
Personnel Administration, Department of	(916) 324-0455	Information about state employees' wages and benefits
Personnel Board, State	(916) 653-1705	• Public information
	(916) 653-1403	• Whistleblower retaliation complaints
Public Employees' Retirement System	(916) 795-3829	• Public information
	(888) 225-7377	• Benefits for retired members
Public Utilities Commission	(800) 848-5580	• Public information
	(800) 649-7570	• Complaints about cable, telephone, and utility bills or service
Real Estate, Department of	(916) 227-0864	• Complaints regarding real estate licensees
	(916) 227-0931	• Real estate licensing information
Rehabilitation, Department of	(800) 952-5544	• Client assistance
	(916) 263-8981	• Public affairs
Secretary of State	(916) 657-5448	• Public information
	(916) 653-2318	• Corporate filings
	(916) 653-3595	• Notary public section
	(916) 657-2166	• Fraud and Investigations Unit
Social Services, Department of	(800) 952-5253	• Public inquiry and client assistance
	(800) 344-8477	• Welfare fraud
State Compensation Insurance Fund*	(888) 786-7372	Worker's Compensation Fraud Hotline
Technology Services, Department of	(800) 807-6755	State information officers provide information about state agencies, departments, and employees
University of California	(800) 403-4744	University of California whistleblower hotline
Veterans Affairs, Department of	(800) 952-5626	CalVet loans
Victim Compensation and Government Claims Board	(800) 777-9229	• To file a claim as a victim of a crime
	(800) 955-0045	• To file a claim against the government

* The State Compensation Insurance Fund is a state-operated entity that exists solely to provide workers' compensation insurance on a nonprofit basis. However, it is not a state department.

Telephone Numbers for Federal Departments

Agriculture, Department of (Office of the Inspector General)	(800) 424-9121	To report fraud, waste, and abuse, or health and safety threats to USDA regulated programs and products
Central Intelligence Agency	(703) 482-0623	Public Affairs Office
Citizenship and Immigration Services	(800) 424-5197	Citizenship, residency, asylum general information
Commerce, Department of (Office of the Inspector General)	(800) 424-5197	To report fraud, waste, abuse, or other violations of law
Defense, Department of (Office of the Inspector General)	(800) 424-9098	To report violations of ethical standards and/or the law, including but not limited to fraud, waste, abuse of authority, potential leaks of classified information, or potential acts of terrorism
Environmental Protection Agency	(888) 546-8740 (800) 368-5888	<ul style="list-style-type: none"> • General information or to report fraud, waste, and abuse • Ombudsman for small business disputes
Equal Employment Opportunity Commission	(800) 669-4000	To report employment discrimination
Federal Bureau of Investigation	(202) 324-3444	Washington, D.C. Headquarters—Investigates violations of federal criminal law, espionage activities by foreign governments and terrorist activities
Federal Communications Commission (Office of the Inspector General)	(888) 225-5322 (888) 863-2244	<ul style="list-style-type: none"> • Radio, wire, satellite, cable television, general information • To report fraud, waste, and abuse
Federal Deposit Insurance Corporation	(877) 275-3342	FDIC banks and credit laws
Federal Election Commission	(800) 424-9530	Campaign financing
Federal Emergency Management Agency	(800) 462-9029 (800) 638-6620	<ul style="list-style-type: none"> • Disaster assistance • Flood insurance information
Federal Trade Commission	(877) 382-4357 (877) 438-4338 (877) 987-3728	<ul style="list-style-type: none"> • General consumer complaints • Identity theft • Consumer Advice Center
Government Accountability Office	(800) 424-5454	Fraud, waste, and abuse involving federal employees or contractors
Health and Human Services, Department of	(800) 633-4227 (800) 786-2929	<ul style="list-style-type: none"> • Medicare information or to report Medicare fraud • Runaways can call this number to leave messages for parents
Homeland Security Headquarters	(202) 282-8000	Main number
Housing and Urban Development, Department of	(202) 708-1112	General information
Immigration and Customs Enforcement	(866) 347-2423	Immigration enforcement, border patrol, customs, general information
Internal Revenue Service	(800) 829-1040 (800) 829-0433 (800) 829-3676	<ul style="list-style-type: none"> • Public information • Tax fraud hotline • To order forms and publications
Labor, Department of (Employee Benefits Security Administration)	(415) 975-4600 (626) 229-1000 (800) 475-4020	Information on retirement plans <ul style="list-style-type: none"> • San Francisco regional office • Los Angeles regional office • OSHA violations

continued on next page

Telephone Numbers for Federal Departments

National Aeronautics and Space Administration (NASA)—(Office of the Inspector General)	(800) 424-9183	To report waste, fraud, and abuse by NASA employees and contractors
National Fraud Information Center	(800) 876-7060	Postal and telemarketing fraud
National White Collar Crime Center	(800) 221-4424	For information and research on preventing economic and cyber crime
Secret Service	(202) 406-5708	Counterfeiting and financial crimes involving the banking system
Securities and Exchange Commission	(800) 732-0330	• Investor education and assistance
	(800) 289-9999	• Investor complaint center
Social Security Administration	(800) 269-0271	Identity theft and other fraud
Transportation, Department of	(888) 327-4236	• Vehicle safety hotline
	(800) 424-8802	• National Response Center to report oil and chemical spills
	(800) 424-9071	• Office of the Inspector General to report waste, fraud, and abuse
Treasury, Department of	(800) 842-6929	Regulates all federally chartered and many state-chartered thrift institutions, including savings banks and savings and loan associations

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Department/Agency	Allegation Number	Allegation	Page Number
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