

REPORT BY THE
AUDITOR GENERAL
OF CALIFORNIA

THE CALIFORNIA MARITIME ACADEMY
COMPLIED WITH RECOMMENDATIONS
OF THE OFFICE OF THE AUDITOR GENERAL

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November 28, 1988

F-848

Honorable Bruce Bronzan, Chairman
Members, Joint Legislative
Audit Committee
State Capitol, Room 448
Sacramento, California 95814

Dear Mr. Chairman and Members:

As required by Item 6860-001-001 of the Supplemental Report of the 1988 Budget Act, we are reporting on the actions that the California Maritime Academy (academy) has taken to correct deficiencies noted in the report entitled "A Review of the California Maritime Academy's Interactions With the California Maritime Academy Foundation," issued by the Office of the Auditor General in November 1987. The academy has generally complied with the recommendations in this report.

Background

The academy was established in 1929 to provide instruction in the nautical sciences, marine engineering, and related fields for students wishing to enter the United States Merchant Marine and the maritime industry. The academy offers a four-year program attended by approximately 400 students for 11 months each year, including an annual three-month cruise aboard the Golden Bear, which is a federal training ship. The academy is administered by a seven-member board of governors appointed by the governor of California.

The California Maritime Academy Foundation (foundation) is a private, nonprofit corporation established in 1972 to support the educational programs of the academy through the donation of funds, services, training aids, and professional skills. Sources of foundation revenue include grants from corporate and educational foundations, cash donations, and boats donated to and sold by the foundation. The foundation is governed by a board of trustees that includes the president of the academy. In addition, the deputy president of the academy is the president of the foundation.

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Findings From Our Previous Review

During our previous review, we found that the academy inappropriately used the federal training ship, the Golden Bear, and did not follow state procedures when it contracted with the foundation or when it developed projects for the academy's Department of Continuing Maritime Education.

Scope and Methodology

The purpose of this review was to determine whether the academy implemented the recommendations in our previous report. When we issued our report last year, we requested that the academy periodically report to us on its progress in implementing our recommendations. After reviewing the academy's periodic reports, we interviewed academy officials and reviewed academy policies, procedures, and records to substantiate these reports. Finally, we interviewed federal and state officials to determine whether the academy is now following federal and state law.

The Academy Has Generally Complied With Recommendations For Using the Training Ship

Previously, we reported that the academy had allowed the foundation to use inappropriately the federal training ship, the Golden Bear. The foundation collected fees from 255 unauthorized passengers who took a cruise on the Golden Bear to Expo '86 in Canada, and it retained the profit from those fees. The president of the academy and his deputy, who is also the commanding officer of the training ship, failed to inform federal officials or the academy's board of governors that they intended to take unauthorized passengers on the cruise. According to an opinion of the Legislative Counsel, the foundation, acting through its president, unlawfully used the training ship as a passenger vessel, and as a result, state officials could have been subject to federal and state civil or criminal penalties. In addition, when our previous report was issued, the United States Coast Guard was conducting an investigation to determine if the academy had violated federal maritime law by using the Golden Bear to carry unauthorized passengers.

We recommended that the academy's board of governors do the following:

- Cooperate fully with the investigation that the United States Coast Guard was conducting;

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- Inform the state Attorney General's Office of possible violations of federal and state law by academy officials, and, to ensure that the State's interests are protected, involve the state Attorney General's Office in any negotiations with federal officials; and
- Establish written procedures to keep the board of governors fully informed about the academy's use of the Golden Bear.

The academy has generally complied with these recommendations.

Since our previous review, the board of governors has cooperated with the investigation by the United States Coast Guard (coast guard). The coast guard did not cite or penalize the academy for violations of federal maritime law. However, according to the coast guard, the commanding officer of the training ship has agreed to obtain approval from the coast guard for any new proposed use of the training ship. In addition, according to the commanding officer of the coast guard's Marine Safety Office, should a similar incident with the training ship recur, the appropriate remedy would probably be either a violation report against the academy or an administrative hearing against the commanding officer of the training ship. The president of the academy has stated that, because the coast guard did not cite the academy, the board of governors did not consider it necessary to contact the state Attorney General's Office about possible violations of federal and state laws or to involve the Attorney General's Office in negotiations with federal officials.

According to the president of the academy, in January 1988, the academy's board of governors attempted to establish written procedures requiring the academy to inform the board about the academy's use of the Golden Bear. However, according to the president, through an oversight, the board of directors did not approve the minutes of the meeting during which it voted to establish these procedures; therefore, it did not formally establish procedures. In addition, the recording secretary did not add the procedures to the board's policies and procedures manual. The academy's board of directors approved the minutes in October 1988, after we brought this oversight to the academy's attention. Despite the lack of formal written procedures, the minutes from subsequent meetings of the board of directors of both the academy and the foundation indicate that the academy is informing its board of governors about the Golden Bear's use.

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The Academy Has Generally
Complied With Recommendations
To Improve Controls Over Its
Transactions With the Foundation

Previously, we reported that the academy did not follow state procedures when it contracted with the foundation to have the foundation run the campus store and canteen and to lease a computer to the academy. In addition, the academy did not follow state procedures when its Department of Continuing Education contracted to undertake special projects for representatives of the maritime industry and deposited the receipts from these contracts into the foundation's checking account. Further, the academy did not have written guidelines to ensure that future contracts with the foundation protect the State's interest. The academy has generally complied with our recommendations for correcting these deficiencies.

Campus Store and Canteen Contracts

For the benefit of its students and staff, the academy provides a campus store and canteen. Until November 1986, the academy contracted with an outside vendor to operate the campus store and canteen, selling clothes, textbooks, educational supplies, and food to students and staff. When the academy terminated its contract with this operator, he owed the academy \$6,300 back rent. However, because the academy had not properly monitored the contract with the operator, the academy did not collect this back rent.

After terminating its contract with this operator in November 1986, the academy contracted with the foundation to operate the campus store and canteen. However, the academy did not follow required state contracting procedures when it contracted with the foundation. Specifically, the academy did not solicit competitive bids for the contract or submit the contract to the Department of General Services for review and approval. Also, the contract did not contain provisions to ensure that the foundation reimburse the State for the foundation's use of academy facilities and equipment, as required by the State Administrative Manual, Section 1390.2. Finally, the contract did not follow state requirements for content and format described in the State Administrative Manual, Sections 1212.1 and 1212.2.

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We recommended that the academy's board of governors do the following:

- Direct the academy to collect the \$6,300 in back rent owed by the former operator of the campus store and canteen;
- Direct the academy to obtain competitive bids for the contract for the campus store and canteen and submit the resulting contract to the Department of General Services for approval; and
- Require the academy to charge the foundation for the use of state facilities and equipment.

The academy has generally complied with these recommendations.

The academy is presently attempting to recover the back rent owed by the former operator of the campus store and canteen. In our prior review, we reported that the former operator owed the academy approximately \$6,300 in back rent. After our review, the academy's senior accounting officer determined that the former operator had paid \$1,800 of the \$6,300 to the academy in August 1985. Therefore, the former operator owed the academy only \$4,500. The academy billed the former operator for this amount; however, he did not pay it. In September 1988, the academy turned the case over to a collection company and authorized the collection company to begin litigation against the former operator.

Since our previous review, the academy has negotiated a new lease with the foundation to have the foundation continue to operate the campus store and canteen. The lease period began on July 1, 1988. The academy did not obtain competitive bids for the lease for the campus store and canteen because the State Administrative Manual, Section 1391, exempts the academy from this requirement as long as the exemption is approved by the Department of General Services. The Department of General Services has approved the lease.

The academy has complied with our recommendation to charge the foundation for the use of state facilities and equipment. The foundation now pays for telephone service in the foundation office, campus store, and canteen. In addition, the academy started charging the foundation \$656 a month in January 1988 for the rental of state facilities. In turn, the foundation started charging the academy \$419 a month for the maintenance and insurance of four sailboats used to train midshipmen.

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In July 1988, when the new lease became effective, the academy started charging the foundation \$824 a month for rent. The foundation then started charging the academy \$240 a month for operating the campus store and canteen and for accounting services, in addition to the \$419 for the maintenance and insurance of the four sailboats. Both the rental amounts and offsetting costs were included in the new lease, and the Department of General Services approved the lease.

Computer Rental Contract

In July 1980, the former president of the academy asked the foundation's board of trustees to purchase a computer system for the academy. The academy would then lease the computer system from the foundation with the intention of eventually purchasing it. The foundation agreed to purchase the computer system and received the former president's assurance that, although the State required that the contract last for only one year, the academy would renew the contract annually for a period of not less than five years. The academy's understanding was that it would own the computer system when annual rentals equalled the total cost of the computer system. However, in negotiating the contract for the computer system, the academy did not comply with the requirement of the State Administrative Manual, Sections 5200 through 5221, to solicit competitive bids for the contract.

As of June 1987, the academy had paid, according to contracts, \$208,000 for a computer system that it believed it was purchasing, although the system still belonged to the foundation. As of June 1987, the foundation had paid less than \$205,000, including interest, for the system. If the academy's understanding of the computer-rental contract had been correct, the academy would have received the title to the computer system by June 30, 1987. However, during our 1987 audit, the deputy president of the academy stated that the contract had never included a purchase agreement. He suggested that, if the academy wished to purchase the computer system, it should negotiate a new contract with the foundation. He also developed a purchase proposal showing that the academy owed a balance of \$119,000 at June 30, 1987. The vendor of the computer system estimated that a new computer system, including software, that would provide a higher level of service than the current system owned by the foundation would cost approximately \$72,500.

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We recommended that the board of governors do the following:

- Direct the academy to evaluate the economic benefits of the computer-rental contract for fiscal year 1987-88 and submit this evaluation to the Department of General Services with an accurate and complete justification of the cost; and
- Direct the academy to follow state competitive bidding procedures for the lease or purchase of a computer.

The academy has generally complied with these recommendations.

As of October 1987, the academy had payments of \$56,591 remaining on the computer-rental contract approved by the Department of General Services on November 10, 1987. The academy compared this amount to the \$72,500 estimated cost of a new system from our previous review. Based on this comparison, the academy decided that renewing the contract with the foundation was appropriate. In addition, the academy president said that he believed that the replacement of the academy's current equipment with different equipment would be impractical because the academy has a large investment in the software developed specifically for the academy's purposes and for use with its equipment.

Although the academy did not submit this comparison to the Department of General Services, the academy did include in its computer-rental contract for fiscal year 1987-88 a payment schedule showing when title would transfer to the academy. The Department of General Services approved the contract with this payment schedule attached. According to the president of the academy, the academy will use competitive bidding procedures for future contracts. Based on this information, we believe that the academy sufficiently addressed the recommendations in our previous report.

Contracts for Continuing Education Projects

The academy's Department of Continuing Maritime Education offers special training programs that are outside the scope of regular undergraduate study, and it contracts to work on projects at the request of representatives of the maritime industry.

During our previous review, we found that an authorized academy official had not signed and the Department of General Services had not reviewed or approved contracts and agreements for academy projects

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totaling more than \$122,100. Furthermore, as a result of inadequate monitoring by the academy, over \$101,200 in tuition and contract payments related to the projects was deposited into the foundation checking account instead of into the state treasury. Section 70100 of the California Education Code requires that all money from continuing education programs be deposited into the state treasury.

We recommended that the academy's board of governors instruct the president of the academy to monitor the projects of the Department of Continuing Maritime Education to ensure that the academy follow the required contracting procedures, deposit its money into the state treasury, and properly authorize payments.

Since our previous review, the academy has changed its written contracting procedures so that the director of Continuing Maritime Education can no longer establish contracts without the written approval of the academy president or administrative officer. In addition, to ensure that academy money is deposited into the state treasury, the academy's procedures require that contract payments be delivered to the academy cashier for deposit into the state treasury. As of the end of September 1988, the academy's Department of Continuing Maritime Education had only one contract, which totaled \$6,700. The academy processed the contract and subsequent payment in accordance with its new policy.

General Contracting

In addition to the recommendations that specifically pertain to the academy's campus store and canteen contracts, the computer-rental contract, and the continuing education project contracts, we made a general recommendation that applied to the academy's future contracts with the foundation. We recommended that the academy's board of governors direct the academy to develop written guidelines ensuring that future contracts with the foundation protect the State's interests.

Since our previous review, the academy has added to its administrative manual written guidelines regarding contracting procedures. These guidelines state that "the Academy is concerned with insuring that the best interests of the State . . . are preserved" and "that activities of the Academy are complying with State laws, rules and regulations . . ."

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Conclusion

The academy has generally complied with the recommendations that the Office of the Auditor General made in the report entitled "A Review of the California Maritime Academy's Interactions With the California Maritime Academy Foundation."

We conducted this review under the authority vested in the Auditor General by Section 10500 et seq. of the California Government Code and according to generally accepted governmental auditing standards. We limited our review to those areas specified in the audit scope section of this letter.

Respectfully submitted,



for
THOMAS W. HAYES
Auditor General

California Maritime Academy's response to this report

CALIFORNIA MARITIME ACADEMY

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November 18, 1988

Thomas W. Hayes
Auditor General
660 J Street, Suite 300
Sacramento, CA 95814

Dear Mr. Hayes:

The Academy has received the draft copy of your letter concerning the Academy's compliance with recommendations in the Auditor General's Report #F-759, November 1987.

In reviewing the compliance by the Academy of the original Audit recommendations with respect to the use of the training ship, this draft reports that the "board of governors attempted to establish written procedures requiring the academy to inform the board about the academy's use of the Golden Bear" and "through an oversight, the board of directors did not approve the minutes of the meeting during which it voted to establish this policy; therefore, it did not formally establish these written procedures" and "the recording Secretary did not add the procedures to the board's policy and procedures manual." The facts are that the board did in January establish written procedures for the academy to follow. The board did at its next meeting in March approve the minutes which contain that January action. Those January minutes, through an oversight, were not signed until October 1988 when the oversight was discovered.* The policies established have been and will be carried out. The board's policy and procedures manual is being reprinted in its entirety now to pick up many small changes and policy changes promulgated since its last printing.

With the exception of the comments made above, the Academy concurs with the draft report and conclusion that the Academy has generally complied with the audit recommendations.

Sincerely,

A handwritten signature in dark ink, appearing to read "J. J. Ekelund".

J. J. EKELUND
Rear Admiral, USMS
President

JJE:HWB:mm

* Auditor General's Response

According to Admiral Ekelund, on October 5, 1988, the minutes of March 18, 1988, erroneously stated that the November 1987 minutes were approved. According to Admiral Ekelund, the minutes of March 18, 1988, should have stated that the January 1988 minutes were approved.