California State Auditor

December 2014

Investigations of Improper Activities by State Agencies and Employees

Theft of State Funds, Waste of Public Resources, Improper Headquarters Designation and Improper Travel Expenses, Dishonesty, Incompatible Activities, and Other Violations of State Law

Report I2014-1

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California State Auditor

Elaine M. Howle State Auditor
Doug Cordiner Chief Deputy

December 23, 2014 Investigative Report I2014-1

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 California State Auditor (state auditor) presents its investigative report summarizing investigations that were completed concerning allegations of improper governmental activities.

This report details 10 substantiated allegations involving several state departments. Through our investigations, we found theft of state funds, waste of public resources, improper headquarters designations and improper travel expenses, and incompatible activities. In one case, we determined that a manager at the State Water Resources Control Board (Water Board) embezzled more than $3,500 in state funds that she received when she recycled surplus state property on behalf of the Water Board. In addition, the California Military Department (Military Department) failed to keep an accurate inventory of state property of its Camp Roberts training facility, which led to a loss of inventory valued at $33,400. Although the Military Department subsequently implemented a corrective action plan intended to prevent further waste, it has not yet completed its effort to ensure accountability for state property more than three years after it provided the state auditor with its plan.

Respectfully submitted,

Elaine M. Howle

ELAINE M. HOWLE, CPA
State Auditor

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Summary

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The California Whistleblower Protection Act (Whistleblower Act) empowers the California State Auditor (state auditor) to investigate and report on improper governmental activities by agencies and employees of the State. Under the Whistleblower Act, an *improper governmental activity* is any action by a state agency or employee related to state government that violates a law, is economically wasteful, or involves gross misconduct, incompetence, or inefficiency.[1]

This report details the results of four particularly significant investigations completed by the state auditor or undertaken jointly by the state auditor and other state agencies. This report also outlines the investigative results from another six investigations that were best suited for other state agencies to investigate on behalf of the state auditor. The following paragraphs briefly summarize the investigations, which are discussed more fully in the individual chapters of this report.

State Water Resources Control Board

A manager at the State Water Resources Control Board (Water Board) embezzled more than $3,500 in state funds that she received when she recycled surplus state property on behalf of the Water Board. The manager embezzled the funds by directing a moving company under contract with the State to take the surplus property to a local recycling center and, contrary to common practice at the Water Board, instructing the movers to obtain payment in cash from the recycling center instead of by check. She then took the cash to her house instead of submitting it to the Water Board's accounting office. After the manager learned about our investigation, she tried to cover up the embezzlement by filing a police report stating that someone had broken into her personal vehicle and stolen the funds. She later repaid more than $2,500 to the Water Board; however, this amount was nearly $1,000 less than she embezzled.

Investigative Highlights . . .

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

- *A manager embezzled $3,500 in state funds when she recycled surplus state property and kept the proceeds.*
- *A state agency failed to keep an accurate inventory of its property at a training facility, which led to the loss of inventory valued at $33,400.*
- *A manager and other employees failed to accurately designate an employee's headquarters and, as a result, reimbursed the employee $26,800 in improper travel payments over a five-year span.*
- *A full-time employee lied to his manager about needing to telecommute, and instead worked a second full-time job without his agency's knowledge.*

[1] For more information about the state auditor's investigations program, please refer to the Appendix.

California Military Department

The California Military Department (Military Department) failed to keep an accurate inventory of state property at its Camp Roberts training facility, which led to a June 2011 loss of inventory valued at $33,400. The Military Department subsequently implemented a corrective action plan intended to prevent further waste. However, more than three years after the Military Department provided the state auditor with its plan, the Military Department still has not completed its effort to ensure accountability for state inventory.

Employment Development Department

A manager at the Employment Development Department (EDD) failed to accurately designate an employee's office headquarters. As a result of the inaccurate designation, the employee's supervisors approved $20,700 in improper travel payments between July 2007 and January 2010 for expenses improperly incurred within 50 miles of her proper headquarters. In addition, when EDD promoted the employee in early 2010, EDD staff again erroneously designated her headquarters, and her supervisor approved another $6,100 in improper travel expenses incurred within 50 miles of her proper headquarters from January 2010 through July 2012. In total, EDD improperly reimbursed the employee $26,800 during the five-year period.

Department of Industrial Relations

A full-time employee at the Department of Industrial Relations (Industrial Relations) lied to his manager about needing to telecommute and took advantage of his manager's neglect of his supervisory duties and Industrial Relations' failure to establish an effective telecommuting program to work a second full-time job, without Industrial Relations' knowledge, that conflicted with his state employment. As a result, the employee performed less work than the average of 40 hours per week that Industrial Relations generally expected him to perform and for which he was being compensated. Although he was not an hourly employee, we estimated that the State may have paid the employee at least $12,200 for time when he was not available to perform his job. Due to the manager's lax supervision of the employee, however, Industrial Relations was unable to determine how much work the employee actually performed.

Other Investigative Results

In addition to the investigations described previously, the state auditor referred numerous investigations to the affected state departments to perform in response to whistleblower complaints that

the departments appeared best suited to investigate. The following investigations substantiated improper governmental activities that have particular significance.

California Department of Water Resources

An employee of the California Department of Water Resources (Water Resources) recycled state property without permission, retained the proceeds of at least $1,300 from the recycling, and was untruthful with Water Resources officials about his actions.

California Department of General Services

The California Department of General Services (General Services) allowed a private security firm's guards to park their personal vehicles in a state-owned garage free of charge, contrary to the provisions of a contract between General Services and the private security firm. This practice, which began in 2007, constituted a gift of public resources prohibited by state law and cost the State at least $12,800 in lost revenue.

Table 1 summarizes the improper governmental activities appearing in this report, the financial impact of the activities, and their status.

Table 1
Issues, Financial Impact, and Status of Recommendations for Cases Described in This Report

				STATUS OF RECOMMENDATIONS			
CHAPTER	DEPARTMENT	ISSUE	COST TO THE STATE AS OF JUNE 30, 2014*	FULLY IMPLEMENTED	PARTIALLY IMPLEMENTED	PENDING	NO ACTION TAKEN
1	State Water Resources Control Board	Theft of state funds	$994		●		
2	California Military Department	Waste of public resources	33,411		●		
3	Employment Development Department	Improper headquarters designation and improper travel expenses	26,847		●		
4	Department of Industrial Relations	Dishonesty, incompatible activities, neglect of duty, and failure to establish a telecommuting program	12,197	●			
5	California Department of Water Resources	Misuse of state resources, dishonesty	1,341	●			
5	California Department of General Services	Gift of public resources	12,825		●		
5	California Department of Motor Vehicles	Falsification of driver's license records	1,200	●			

continued on next page . . .

CHAPTER	DEPARTMENT	ISSUE	COST TO THE STATE AS OF JUNE 30, 2014*	STATUS OF RECOMMENDATIONS			
				FULLY IMPLEMENTED	PARTIALLY IMPLEMENTED	PENDING	NO ACTION TAKEN
5	California Department of Transportation	Misuse of state vehicles	415		●		
5	California Department of Corrections and Rehabilitation	Waste of state resources	NA	●			
5	California Department of Motor Vehicles	Failure to keep state offices open to the public	NA	●			

Source: California State Auditor.

NA = Not applicable because the situation did not involve a dollar amount or because the finding did not allow us to quantify the financial impact.

* We estimated the costs to the State as noted in individual chapters of this report.

Chapter 1

STATE WATER RESOURCES CONTROL BOARD: THEFT OF STATE FUNDS
CASE I2012-0086

Results in Brief

A manager in the administrative division of the State Water Resources Control Board (Water Board) embezzled $3,512 in state funds that she received when she recycled surplus state property on behalf of the Water Board. The manager embezzled the funds by directing a moving company (Wind Dancer Moving Company) under contract with the State to deliver surplus property to a local recycling center and taking the cash the movers received for the property to her house instead of submitting it to the Water Board's accounting office. She put herself in a position to embezzle the proceeds from the recycling by deviating from the Water Board's established practices for recycling, including directing the movers to obtain payment for the property in cash instead of by check. When she became aware of our investigation, the manager unsuccessfully attempted to cover up her embezzlement by filing a police report stating that the cash was stolen from her personal vehicle and later submitting a cashier's check to the Water Board for $2,518 along with some of the recycling receipts. As a result, the Water Board was able to recover most of the money the manager embezzled, but it still has not recovered nearly $1,000.

Background

The Water Board, in partnership with the State's nine regional water quality control boards, is responsible for protecting California's water quality and allocating surface water rights throughout the State. The administrative division of the Water Board is responsible for managing the administrative needs that must be addressed for the Water Board to perform its mission, including personnel management, space management, and asset management. As part of managing the assets of the Water Board, the administrative division oversees disposal of the Water Board's property that has become obsolete, is worn out, or otherwise no longer serves the needs of the Water Board. This property is commonly known as surplus property. Approximately once or twice a year, employees in the Water Board's administrative division oversee the recycling of unusable surplus property at local recycling centers. As required by section 8640 of the *State Administrative Manual*, staff must obtain the approval of the California Department of General Services (General Services) prior to disposing of surplus state property by

completing and submitting a Property Survey Report (property disposal report). Disposing of state property includes recycling such property.

The Water Board does not have any formal policies or procedures governing the recycling of surplus property. However, the common practice of its employees is to engage a moving company under contract with the State to transport the surplus property to a recycling center. The Water Board employee overseeing the recycling provides his or her business card to the movers with instructions to provide the card to the recycling center, so the center's documentation of the transaction will reflect that the transaction was undertaken on behalf of the Water Board by the employee listed on the business card. The employee also instructs the movers to direct the recycling center to issue a check payable to the Water Board for the value of the property being recycled, collect the check from the recycling center, and deliver it to the employee for submission to the Water Board's accounting office.

The accounting office discourages Water Board employees from receiving payments to the Water Board in cash.

The accounting office discourages Water Board employees from receiving payments to the Water Board in cash. However, when cash is received, the accounting office expects employees to bring it to the accounting office as soon as possible so accounting staff can safeguard it by depositing the cash into the appropriate account.

Like all state employees, the Water Board's employees must adhere to state laws regarding the protection and use of state property entrusted to their care. Of particular note, California Penal Code section 504 declares that any state employee entrusted with property who fraudulently appropriates that property for an unauthorized purpose, or hides it with a fraudulent intent to use it for an unauthorized purpose, is guilty of embezzlement. A person embezzles public property whenever the person uses public property, without authorization, in a manner that clearly is inconsistent with the rights of the entity that owns the property and is inconsistent with the nature of the trust placed in the person. Embezzlement does not require the taking of property permanently or even for an extended period of time. All that is required is for a person to appropriate property for some purpose not in the public interest.[2] Embezzlement constitutes a form of theft, as provided by California Penal Code section 484, subdivision (a), and California Penal Code section 490a.

When we received an allegation that a Water Board manager had recycled state property and then retained the recycling proceeds for her personal benefit, we launched an investigation.

[2] *People v. Redondo 19 Cal. App. 4th 1428, 1433.*

Facts and Analysis

Through our investigation we learned that toward the close of 2011 a manager in the administrative division of the Water Board decided to make arrangements for the removal of some old modular furniture being stored in a warehouse used by the Water Board. The reason provided by the manager for removing the old furniture was to make room in the warehouse for the storage of some newer furniture. Because the old modular furniture largely consisted of metal components, the manager determined that instead of just disposing of it, she could have the furniture delivered to a scrap-metal recycler who would pay for its scrap-metal content.

The Manager Deviated From the Water Board's Recycling Practices

After deciding to recycle the old furniture, the manager substantially deviated from the Water Board's common recycling practices, which enabled her to receive $3,512 in cash for recycling the furniture with little documentary evidence of the transaction.

During the previous four years, the task of recycling surplus Water Board assets primarily had been performed by one of the manager's subordinates. In this instance, however, without explanation, the manager chose to perform the task of recycling the furniture herself, even though she had never performed this task before.

When recycling the furniture, the manager was required by *State Administrative Manual* section 8640 to complete a property disposal report describing the property she intended to recycle and specifying her justification for disposing of the property in that manner. She then was required to submit the form to General Services and obtain its approval before recycling the property. However, contrary to this requirement, the manager did none of those things. Instead she proceeded, without receiving the required authorization, to arrange for a moving company under contract with the State to come to the warehouse where the furniture was stored and deliver it to a local recycling center.

Without receiving the required authorization, the manager proceeded to arrange for a moving company under contract with the State to come to the warehouse where the furniture was stored and deliver it to a local recycling center.

In directing the movers to recycle the furniture, the manager did not follow the established practice of the Water Board, which was to provide one of her business cards to the movers so that they could give the card to staff at the recycling center as the person at the Water Board who was arranging for the recycling on the Water Board's behalf. As a result, when the movers delivered the furniture to the recycling center, the center's records reflected only that the moving company was recycling the furniture and not that it was being done by the manager on behalf of the Water Board.

More significantly, contrary to the common practice of the Water Board, the manager instructed the movers to obtain payment for the recycled property in cash, rather than obtaining a check made payable to the Water Board. Following the manager's instructions, the movers made several trips between the warehouse and the recycling center on two different days, Friday, December 23, 2011, and Tuesday, December 27, 2011. In exchange for the furniture delivered to the recycling center, the movers received cash from the center on each of those days. The movers in turn delivered cash payments to the manager four times on Friday, totaling $2,355, and two times on Tuesday, totaling $1,157, for a cumulative total over both days of $3,512.

Although the manager stated during our investigation that she asked the movers to obtain checks from the recycling company, this claim lacks credibility. The movers confirmed that she requested cash, and they did not stand to benefit from lying about the manager's instructions or from obtaining cash instead of checks. In fact, one of the movers stated that he expressed concern to the manager about potentially having to pay taxes on the cash proceeds that he received from the recycling center. Further, by the manager's own account, she continued to accept cash after each of the four trips to the recycling center on Friday and the two trips on Tuesday, despite having plenty of opportunity to object and insist that the movers receive payment from the recycling center by check.

The manager did not deliver the cash payments to the accounting office; instead, she put the cash in her purse and took it to her home at the end of each day.

Most importantly, the manager deviated from the Water Board's common practices by not delivering the cash payments to the accounting office. Instead, she put the cash in her purse and took it to her home at the end of each day. When we asked the manager why she had not delivered the cash to the accounting office, she offered two unrelated explanations. First, she stated that she did not have time to turn it in on the days she received it, so she took it home to safeguard it. She also explained she did not think the Water Board's accounting office accepted cash, so she planned to exchange the cash for a money order and submit the money order to the Water Board. Ultimately, the manager failed to submit either the cash or a money order to the accounting office or to contact the accounting office to find out how to handle the cash, discrediting both of her excuses.

The Manager Embezzled the $3,512 in Cash She Received From Recycling

By directing state property entrusted to her oversight to be recycled without the approval of General Services, bypassing practices that would have ensured the proper documentation and tracking of the recycling transaction, arranging to receive cash for the recycled

state property, and taking the cash home with her rather than surrendering it to the Water Board's accounting office, the manager made unauthorized use of state property that did not serve a state purpose and deprived the State of any benefit from the property. By doing this, she fraudulently appropriated the property for an unauthorized purpose, which constitutes embezzlement.

The manager fraudulently appropriated the property for an unauthorized purpose, which constitutes embezzlement.

After Learning of Our Investigation, the Manager Unsuccessfully Attempted to Cover Up Her Embezzlement

On February 1, 2012, we began questioning witnesses about the manager's recycling transactions, and the manager quickly became aware of our investigation. The manager then took a number of steps in an attempt to cover up her embezzlement. She directed her husband to file a police report in which he claimed that someone had stolen the recycling proceeds from the manager's personal vehicle. We located the police report, which stated that on February 1, 2012—the same day we began questioning witnesses—the manager's husband reported the manager's vehicle, parked outside their residence, had been burglarized on December 28, 2011, and more than $3,000 "from things she had recycled from her work" had been stolen from the vehicle. We asked the manager why, if her vehicle had been burglarized in December 2011 and the cash stolen from the vehicle at that time, she did not arrange for a police report to be filed until more than a month later. The manager did not have an explanation for the delay. The manager also did not have any explanation for why we found no record or witness indicating that she had reported the theft to anyone at the Water Board. The manager stated she might have informed someone at the Water Board, but she could not provide a name. However, Water Board administrators assured us that the manager had not reported the theft to them. In fact, they were unaware that any recycling had taken place until we brought it to their attention.

The manager's additional explanations of her actions were inconsistent and lacked credibility. For instance, in an attempt to justify taking the funds home, and presumably to explain why she had failed to report the alleged burglary to her superiors, the manager changed her story at one point and said that she thought the recycling proceeds belonged to the moving company rather than to the State. However, this explanation lacked credibility because she accepted recycling proceeds from the movers instead of telling them to keep the proceeds. Further, the owner of the moving company said that he had made it clear to the manager that the recycling proceeds belonged to the State when his employees delivered cash to her after the first recycling trip.

After learning of our investigation, in February 2012 the manager repaid some of the funds that she owed to the State, but still owes the Water Board $994 in recycling proceeds.

After learning of our investigation, in February 2012 the manager repaid some of the funds that she owed to the State. However, even in returning these funds, the manager took steps to conceal that she had taken the cash. First, the manager instructed her husband to deliver $2,518 to the Water Board using a generic cashier's check that did not reveal the origin of the funds. Then, to further hide that she had deprived the State of the funds, she directed one of her subordinates to include a copy of the cashier's check and copies of some of the receipts from the recycled surplus property among the paperwork of an unrelated property disposal report. Furthermore, after submitting the cashier's check with the unrelated property disposal report, the manager never mentioned to Water Board administrators that anything unusual had occurred.

As the manager repaid only $2,518 of the $3,512 in cash she received for recycling the furniture, the manager still owes the State $994, and the reason she repaid a reduced amount remains unclear. As discussed previously, the records we obtained from the recycling center showed that it paid $3,512 to the movers on the dates in question. The movers assured us they delivered all of the cash to the manager, who never disputed receiving the entire proceeds after each trip and acknowledged receiving receipts with the cash. However, upon reviewing the police report the manager's husband filed, we found it indicated that only $3,259 of state money was in the manager's purse when it was allegedly stolen from the vehicle, even though the manager told us that she obtained records from the recycling center to determine the amount to include in the police report. Even more puzzling, the manager's husband submitted to the Water Board a cashier's check for only $2,518. The manager could not explain the differences between the amount she paid back, the amount listed in the police report, and the amount of cash she received according to the recycling center's records. Regardless of her reason for repaying a reduced amount, the manager still owes the Water Board $994 in recycling proceeds.

Prior to the completion of our investigation, the manager transferred to another state agency.

Recommendations

To remedy the effects of the improper governmental activity substantiated by this investigation and to prevent similar activities from occurring in the future, we recommend the Water Board take the following actions:

- Make reasonable efforts to recover the outstanding $994 from the manager.

- Contact the state agency that currently employs the manager to coordinate appropriate disciplinary action, to make certain the manager is not in a position to misuse or embezzle additional state funds, and to ensure that the manager's personnel file includes appropriate documentation of her misconduct.

- Refer the matter to the district attorney in the jurisdiction where the embezzlement occurred for potential prosecution.

- Establish a formal policy for recycling its surplus state property. This policy should include a strict prohibition against obtaining cash for recycled state property and a requirement that staff log all recycling activities so that its accounting office can periodically reconcile those activities with accounting receipts. The policy should also include specific instructions regarding who may engage in recycling activities and detailed procedures for carrying out those responsibilities, starting with identifying the need to recycle state property and ending with delivering the recycling proceeds to the accounting office.

Agency Response

The Water Board reported in November 2014 that it agreed with our recommendations and has begun efforts to implement them. In addition, the Water Board stated that it would attempt to recover the outstanding funds first through administrative procedures and then through referral to a collection agency or the Attorney General's Office if necessary. It also stated that it had contacted the state agency where the manager currently works to pursue action consistent with state personnel laws and regulations. The Water Board further reported that it plans to contact the appropriate district attorney's office so it can evaluate the case and decide if it wants to pursue prosecution. Finally, the Water Board stated that it plans to establish a formal internal policy for recycling surplus state property and that it would provide training to the appropriate staff.

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Chapter 2

CALIFORNIA MILITARY DEPARTMENT: WASTE OF PUBLIC RESOURCES
Case I2010-1250

Results in Brief

The California Military Department (Military Department) failed to keep an accurate inventory of state property at the Camp Roberts training facility, which led to a loss of $33,411 worth of state property in June 2011. The Military Department subsequently implemented a corrective action plan intended to prevent further waste. More than three years after the Military Department provided the California State Auditor (state auditor) with its corrective action plan, it still has not completed this effort to ensure accountability for state property.

Background

The Military Department is led by the adjutant general and is made up of the California National Guard and other units that support the Military Department. The California National Guard is further split into the Army National Guard and the Air National Guard. The Army National Guard operates three training facilities. One of the training facilities, Camp Roberts, is located in San Miguel and is the largest military training base in California, spanning approximately 43,000 acres.

The Military Department has had recent inventory problems related to state property. Specifically, the California Department of General Services (General Services) conducted an audit of the Military Department in April 2009. In February 2010 General Services issued audit findings that the Military Department had a number of deficiencies in its practices, including that it was improperly disposing of surplus state property. As a result of that audit, the adjutant general directed the Military Department to conduct a statewide inventory of state property to identify the extent of the problem. From June through September 2010, a team of Military Department staff attempted to perform a statewide inventory at each of its nine locations. The team completed its inventory work at eight locations, with the exception of Camp Roberts, by September 2010 and reported their findings to the Military Department's director of state logistics. However, the team was unable to determine the total value of state property at Camp Roberts because it could not account for the inventory properly. Military Department staff reported that Camp Roberts suffered a

number of inventory failures that caused the team to stop trying to take inventory after just two days. These failures included half of the reusable property, such as wrenches, bolt cutters, and chain saws, not being reflected in inventory records and none of the expendable property, such as screws, nails, and air filters, being accounted for in inventory records. In March 2011 the press reported on these shortcomings.

Staff at Camp Roberts and the Military Department made efforts to locate reusable property that was previously deemed "missing" because it was not reflected in inventory records. The Military Department initially determined in January 2011 that Camp Roberts was missing $268,507 worth of reusable property. Between January 2011 and June 2011, Camp Roberts personnel made additional efforts to locate this missing property. As verified by Military Department staff, once Camp Roberts personnel organized most of the reusable property, they were able to locate all but $33,411 of the missing reusable property. California Government Code section 8547.2, subdivision (c), states that any activity by a state agency or employee that is economically wasteful is an improper governmental activity.

When we received an allegation that the Military Department wasted state property at Camp Roberts due to its failure to keep an accurate inventory, we initiated an investigation.

When we received an allegation that the Military Department wasted state property at Camp Roberts due to its failure to keep an accurate inventory, we initiated an investigation.

Facts and Analysis

Upon beginning our investigation, we learned that after the Military Department realized the deficiencies in its inventory processes and the resulting loss of state property, it implemented a plan in June 2011 to correct and prevent waste of state property at Camp Roberts. Accordingly, we focused our investigation on monitoring the Military Department's efforts to correct the problem by ensuring that the Military Department implemented its plan.

The Military Department Began Implementing Its Corrective Action Plan

The main elements of the Military Department's corrective action plan required Camp Roberts to perform a thorough inventory of reusable and expendable property, organize property that it intended to use, dispose of property that was no longer useful, and add a barcode system to expendable materials to facilitate a complete inventory of the expendable property. Additionally, it included a plan to institute a program whereby Camp Roberts

personnel would perform a monthly inventory of 10 percent of the reusable property to prepare for an annual inventory that would be conducted by Military Department staff. Further, the plan addressed the systemic lack of inventory accountability at Camp Roberts by developing an internal control process to prevent recurrence of the waste that occurred in the past.

The Military Department made progress with its corrective action plan from June through December 2011. As stated in the Background section, by June 2011, Camp Roberts staff organized most of the reusable property. By the end of July 2011, Camp Roberts worked toward organizing its expendable property when staff cleaned out the warehouses and set up shelves, and a contractor installed warehouse racks for organizing and storing expendable property. In September 2011 the Military Department made additional personnel available to assist with organizing and performing an inventory of its expendable property. By December 2011 Camp Roberts staff had completed its inventory of reusable property, giving the Military Department an accurate record of that property. Camp Roberts staff also performed an inventory for half of the expendable property on site.

Despite making steady progress toward completing its corrective action plan, the Military Department's efforts stalled at the end of 2011.

Despite making steady progress toward completing its corrective action plan, the Military Department's efforts stalled at the end of 2011. After seeing that no progress had been made for several months, we raised concerns to the Military Department's leadership in May 2012 that it did not appear to be committed to resolving the problem of waste at Camp Roberts because of the lack of progress for several months. We learned that several factors caused the stalled progress on the corrective action plan. The main factor was a lack of personnel assigned to Camp Roberts to complete inventory of the remaining expendable property. In addition, the state logistics unit, which was responsible for prescribing policy related to state property accountability in accordance with state and local laws, faced competing priorities that pulled its staff away from their duties related to the corrective action plan. Further, both Camp Roberts and the state logistics unit faced transitions in leadership when Camp Roberts' commander was reassigned in December 2011 and the state logistics unit's director retired in March 2012.

In response to our concerns with its progress, in July 2012 the Military Department committed additional personnel to complete the inventory for expendable property, and Camp Roberts staff continued to organize the warehouses to store this property. The new director for state logistics reported that Camp Roberts finished organizing the warehouses used to store expendable property in September 2012 and that Camp Roberts staff completed the inventory for expendable property in October 2012. The Military Department further reported that it developed an internal control

process in December 2012 to manage and provide accountability for the Military Department's state property. Camp Roberts reported that the expendable property that it determined was unneeded had been returned to Sacramento. Additionally, in August 2013, the Military Department adopted its internal control process for state property as a department policy. Reflecting the inventory program envisioned in the 2011 corrective action plan, this policy requires Camp Roberts to complete inventory on 10 percent of its reusable property every month in preparation for the annual inventory performed by Military Department staff. To date, Camp Roberts successfully had completed all monthly inventories on reusable property and reported the results to the Military Department's state logistics division.

Camp Roberts Has Not Completed Its Corrective Action Plan

Status of Key Elements of the California Military Department's Corrective Action Plan

- ✓ Complete inventory of reusable and expendable property.
- ✓ Organize reusable and expendable property.
- ✓ Dispose of property that has outlived its usefulness.
- ✗ Return all excess expendable materials to the State.
- ✗ Implement barcode system for all expendable property.
- ✓ Develop internal control process to ensure individuals understand their responsibilities concerning state property.
- ✓ Complete monthly inventories of reusable property in anticipation of annual inventory by headquarters.
- ✗ Complete inventory of expendable property after barcode system is implemented.

Source: California Military Department's corrective action plan.
✓ Element completed.
✗ Element not completed.

Although the Military Department has made considerable progress to account for the reusable property at Camp Roberts, there is still significant work to do in regard to expendable property as depicted in the text box. In August 2013, we visited Camp Roberts to observe the current state of expendable property at its multiple warehouses. We learned that the excess expendable property that we were told was returned to Sacramento in February 2013 was still located in one of the warehouses.

The Military Department transported some of the excess materials from Camp Roberts to Sacramento two weeks after our visit. Of the 60 pallets of excess expendable property at Camp Roberts, the Military Department returned 38 pallets to headquarters to find a useful purpose for the property. As of May 2014 all but 10 percent of the excess expendable property that we saw in August 2013 had been returned to headquarters. In addition, the Military Department has continued to identify excess expendable property and return it to headquarters. The state property book officer in Sacramento will attempt to find another use for this property elsewhere in the Military Department and will turn in any unused items to General Services for auction.

Even though it has returned a majority of the remaining excess state property to Sacramento, Camp Roberts still does not have a method to ensure that it has an accurate record of the expendable property in its warehouses. While the Military Department

reported that Camp Roberts completed a manual inventory of expendable property in October 2012, it has not implemented a method of maintaining an accurate record of its expendable property. Specifically, Camp Roberts lacks a system to automatically track the increase or decrease in the number of units of each item when items are purchased or used. As a result, Camp Roberts does not have a current and accurate record of the level of inventory for expendable property. In creating its corrective action plan, the Military Department planned to address this concern by using a barcode system, which would facilitate taking a complete inventory of the expendable property by March 2014. However, it has encountered problems in finding a barcode system compatible with its technology. While Camp Roberts continues to search for a compatible system, it continues to perform manual counts of the expendable property.

Recommendations

In order to ensure accountability for state inventory at Camp Roberts, the Military Department should continue its efforts to complete its corrective action plan by doing the following:

- Return to headquarters the remaining excess expendable materials seen in August 2013.
- Identify a barcode system that can be used to inventory expendable state property and implement that system.
- Establish a routine of completing a monthly inventory of expendable state property after the barcode system is implemented.

Agency Response

The Military Department reported that as of December 2014 it had returned 120 pallets of expendable state property to headquarters since August 2013 and that 30 pallets are still at Camp Roberts awaiting return. It stated that it intends to return all remaining pallets by September 2015. In addition, the Military Department stated that it will continue to work on identifying a barcode system that is compatible with its network but feels confident that the internal control processes it adopted in August 2013 will provide for better accountability and management of state property.

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Chapter 3

EMPLOYMENT DEVELOPMENT DEPARTMENT: IMPROPER HEADQUARTERS DESIGNATION AND IMPROPER TRAVEL EXPENSES

Case I2011-0878

Results in Brief

A manager at the Employment Development Department (EDD) failed to accurately designate an employee's office headquarters. Although the employee primarily worked in Paramount, California, the manager designated Sacramento—where the employee lived—as her headquarters. Because of this inappropriate designation, the employee's supervisors approved $20,695 in improper travel payments between July 2007 and January 2010 for expenses the employee incurred within 50 miles of Paramount. Had EDD properly designated the employee's headquarters, the State would not have incurred these travel expenses.

In addition, when EDD promoted the employee in 2010, her supervisor at the time appropriately determined that the position should be headquartered in Paramount. However, EDD's personnel staff erroneously designated Sacramento as her official headquarters. This problem continued when the employee's supervisor consulted EDD's former travel unit supervisor for advice on the employee's headquarters designation and was incorrectly advised to continue identifying the employee's headquarters as Sacramento. Consequently, the employee's supervisor approved an additional $6,152 in improper travel expenses from January 2010 through July 2012. Moreover, throughout the five years that the employee worked in Paramount, EDD's travel unit failed to recognize her obvious travel patterns as indicative of an improper headquarters designation. In total, EDD reimbursed the employee $26,847 in improper travel expenses during this five-year period.

Background

EDD employs nearly 10,000 employees at more than 200 facilities throughout the State. At these facilities, EDD provides an array of employment services and administers the state's unemployment insurance and disability insurance programs. EDD's Office of Facilities Planning and Management (Facilities Office) is responsible for maintaining these facilities, which includes arranging for any necessary alterations, electrical installations, modular furniture installations, office moves, and office reconfigurations. The Facilities Office has three sections that are responsible for the facilities in

their respective regions: one in Northern California, one in Central California, and one in Southern California. Some employees in the Facilities Office are required to travel to fulfill their duties. When these employees travel for state-related business, EDD is directly billed for airfare and rental car expenses, and they submit reimbursement requests for their other travel-related expenses, such as meals and lodging.

A number of state laws govern when an employee should travel and which expenses may be appropriately paid for by the State. California Code of Regulations, title 2, section 599.638.1, requires state employees to submit accurate travel expense claims that identify their home addresses and headquarters. Pursuant to California Code of Regulations, title 2, section 599.615.1, subdivision (a), each state agency is responsible for determining the necessity for its employees to travel and for ensuring their travel is in the best interest of the State. This section also states that if a state official approves payment of expenses incurred for such travel, the state official is certifying that the expenses were incurred in accordance with state laws.

EDD relies on its employees, supervisors, and travel unit staff to ensure compliance with state laws.

EDD relies on its employees, supervisors, and travel unit staff to ensure compliance with these state laws. Supervisors at EDD use the information in an employee's travel claim to determine the necessity and validity of the travel expense claim. After the supervisor signs the claim and thereby certifies that the expenses were incurred in accordance with state laws, EDD's travel unit staff are also expected to review the claim to ensure payment is permissible and to question any potentially inappropriate claims. Once the travel unit approves the travel expenses, the travel unit forwards the claim to the fiscal unit for payment.

Accurately identifying an employee's headquarters is critical to ensuring the appropriateness of his or her travel claims. California Code of Regulations, title 2, section 599.616.1, subdivision (a), defines an employee's headquarters as the place where the employee spends the largest portion of his or her regular workdays or working time. The same section also prohibits the reimbursement of any per diem expenses (such as lodging and meals) at locations within 50 miles of the employee's headquarters. Thus, the location of the employee's headquarters is the basis by which supervisors and travel unit auditors measure the appropriateness of each reimbursement.

Each state agency establishes an employee's headquarters at the point of hire; however, the agency may change this designation if the employee's duties change. EDD requires the supervisor over a vacant position to identify the job specifics—such as job location—on a Request for Position Action form (job creation form). After EDD completes the hiring process and selects a candidate,

personnel staff prepares a Staff Action Request form (personnel form) that identifies the employee's home address, Social Security number, county of employment, and other information necessary to establish the selected candidate as an employee with the State. EDD expects its personnel staff to use the headquarters location on the job position form to determine the county of employment. For example, if a position's headquarters is identified on the job position form as Paramount, personnel staff should list the employee's headquarters as Los Angeles County. Personnel staff then submits the personnel form to EDD's main human resources unit, which enters the information into the California State Controller's Office database. If EDD requires the employee to spend the majority of his or her time in an alternate work location at some point in the future, the employee's supervisor is responsible for initiating a change in the employee's headquarters location.

When we received an allegation that EDD had improperly paid for the travel expenses of one of its employees, we initiated an investigation.

Facts and Analysis

Our investigation found that the State improperly paid for $26,847 in travel expenses incurred by an employee over a five-year period. This occurred because the employee's supervisors and EDD's travel unit did not comply with the requirements of state law when identifying the employee's headquarters. Instead of identifying the employee's headquarters as Paramount, which was the place where she spent a majority of her workdays, they identified her headquarters as Sacramento.

Our investigation found that the State improperly paid for $26,847 in travel expenses incurred by an employee over a five-year period.

Because EDD Supervisors Failed to Correctly Designate the Employee's Headquarters When Transferring Her to Paramount, the Supervisors Improperly Approved $20,695 in Travel Expenses

In August 2006 EDD transferred a Facilities Office employee from its headquarters in Sacramento to its Southern California section office in Paramount. In her new position as an on-site manager, she supervised six support staff and oversaw all maintenance issues related to several of EDD's facilities in Southern California. Her responsibilities included overseeing these facilities' alterations, electrical installations, modular furniture installations, office moves, and office reconfigurations. The employee was also required to be in Sacramento to attend meetings and attend to other job duties, which occurred on a weekly or biweekly basis. Despite her job duties requiring her to spend a majority of her time in Southern California, she maintained her home in Sacramento instead of

moving to Paramount. She then traveled each week from her home in Sacramento to her office in Paramount. Based on the fact that the employee performed some of her duties in Sacramento and had a home in Sacramento, her supervisor at the time, the former facilities chief, designated her headquarters as Sacramento.

As we discussed in the Background section, California Code of Regulations, title 2, section 599.616.1, defines an employee's headquarters as where the employee spends the largest portion of his or her regular workday and prohibits the reimbursement of lodging or meal expenses within 50 miles of the employee's headquarters. When EDD transferred the employee into her new position, the former facilities chief stated that he expected her to be in Paramount "all the time" but that she would need to travel to Sacramento for meetings on occasion. The employee's travel expense claims show that she traveled from Sacramento to Paramount weekly, often spending three or four days in Paramount and one or two days in Sacramento. In total, she spent 460 (69 percent) of the 668 days we reviewed in Southern California, a majority of which time was spent in the Paramount office. Based on the facilities chief's expectations of the amount of time the employee would spend in Paramount, he should have established her headquarters in Paramount when he transferred her. Moreover, when the employee submitted travel expense claims showing that she spent the majority of her time in Paramount, it should have prompted the facilities chief and, later, her new supervisor, the section chief, to change her headquarters location.

When the employee submitted travel expense claims showing that she spent the majority of her time in Paramount, it should have prompted the facilities chief and, later, her new supervisor, the section chief, to change her headquarters location.

Because the facilities chief incorrectly designated the employee's headquarters as Sacramento, he and the employee's subsequent supervisor, the section chief, improperly approved $20,695 in travel expenses, as Table 2 shows. The employee incurred the majority of these costs within 50 miles of Paramount, which, as previously explained, should have been considered her headquarters. These travel costs included daily meals, lodging, and incidental costs. Because state law prohibits the reimbursement of lodging or meal expenses incurred within 50 miles of the employee's headquarters, the State should not have paid for these expenses. Because the employee's headquarters was not accurately designated, the State effectively paid for the employee's daily expenses on a regular basis when she was not traveling for work, but rather merely performing her ordinary job duties.

Table 2
The Employee's Improper Travel Expenses as On-Site Manager
From July 1, 2007, to January 21, 2010

Meals	$12,178
Lodging	6,497
Incidental costs	2,020
Total cost	**$20,695**

Source: California State Auditor's analysis of employee's travel expense claims.

Note: Travel expense claims from August 2006 through June 2007 were not available at the time we conducted our review.

EDD's Personnel Staff Incorrectly Identified the Employee's Headquarters When EDD Promoted Her to Section Chief, and Its Travel Unit Perpetuated the Error

In late 2009 the Southern California section chief position became vacant. Although the previous section chief had his headquarters in Sacramento and rarely traveled to Paramount, the Facilities Office decided that his replacement should spend the majority of the workweek in Paramount and thus should be headquartered there. In the public job posting, EDD advertised that the position would have its headquarters in Paramount. It also held all the job interviews for the position in Paramount.

Ultimately, EDD promoted the employee from her position as an on-site manager to the vacant section chief position in January 2010. However, despite EDD's identification of Paramount as the position's headquarters in the job advertisement and job creation form, one of EDD's personnel staff identified Sacramento as the employee's county of employment instead of Los Angeles when filling out the personnel form. When we spoke to this personnel staff member (who is no longer employed with EDD), she stated that she relied on the employee's home address in Sacramento to determine the county for her headquarters on her personnel form. As a result, despite the Facilities Office management's purposeful effort to designate the employee's headquarters as Paramount for this position, the employee's headquarters remained designated as Sacramento in her official state records.

Eight months after her promotion, the employee prepared her first batch of travel expense claims for reimbursement. Because she was in a new position, she contacted her direct supervisor regarding the location she should list as her headquarters on the claims. Although he had been involved with the hiring process and knew that EDD intended the position's headquarters to be in Paramount,

the supervisor e-mailed the travel unit supervisor (who is no longer employed with EDD) for guidance. At the time of inquiry, the former travel unit supervisor had held her position for more than 13 years and was well versed in the rules regarding travel expenses. The employee's supervisor informed the former travel unit supervisor that EDD had advertised the position as headquartered in Paramount but that the employee maintained a home in Sacramento. The employee's supervisor also stated that the employee "splits her time" between Sacramento and Southern California. The travel unit supervisor responded that the employee's "[Sacramento] address is still her official address with EDD." When we asked the travel unit supervisor about this e-mail exchange, she verified that she represented to the employee's supervisor that since the employee's home was in Sacramento, she should continue to list Sacramento as her headquarters. The travel unit supervisor stated that she was aware that state regulations define an employee's headquarters as the location where the employee spends the majority of his or her workweek. She stated that when she answered the e-mail from the employee's supervisor, she believed that the employee spent 50 percent of her time in Sacramento and 50 percent in Paramount. However, when we asked the travel unit supervisor how she verified this assumption, she stated that she could not recall if she made any efforts to confirm where the employee spent the majority of her time. Instead, she stated that she had seen the employee in Sacramento often. She offered no other explanation of her failure to adequately inquire about the situation. Because she failed to verify this assumption, she did not learn that the employee actually spent a majority of her time in Paramount, which would require her headquarters to be Paramount instead of Sacramento.

As a result of the incorrect guidance provided by the former travel unit supervisor to the employee's supervisor and passed along to the employee, she continued to identify her headquarters as Sacramento on her travel expense claims. Based on that incorrect guidance, her supervisor also improperly approved an additional $6,152 in travel expenses from January 2010 through July 2012, as shown in Table 3. Again, the majority of these expenses involved daily meals, lodging, and incidental costs within 50 miles of Paramount.

Table 3
The Employee's Improper Travel Expenses as Section Chief From January 22, 2010, to July 31, 2012

Meals	$5,174
Lodging	121
Incidental costs	857
Total cost	**$6,152**

Source: California State Auditor's analysis of employee's travel expense claims.

EDD's Travel Unit Auditors Failed to Recognize the Manager's Travel Patterns as an Indication That Her Headquarters Was Improperly Designated

Throughout the five years we reviewed, the employee regularly submitted her travel expense claims for reimbursement in batches. On one day alone, the travel unit received 13 travel expense claims from the employee showing her repeated and regular travel to Paramount from January 2009 through October 2009. According to the current travel unit supervisor, EDD expects its travel unit auditors to raise questions when they notice that an employee spends a significant portion of his or her time in another geographic location. Despite the fact that the employee's claims clearly demonstrated that she was spending the majority of her time in Paramount and not Sacramento, no one from the travel unit raised any concerns regarding the employee's reimbursements. The travel unit's failure to raise questions regarding the employee's travel patterns contributed to the perpetuation of EDD's improper travel expenses and reimbursements. The current travel unit supervisor did not know why staff did not identify the improper headquarters designation.

Due to the travel ban the State instituted as a result of the governor's executive order in April 2011, the employee dramatically reduced her travel and remained in Paramount for several weeks at a time. Specifically, we reviewed the employee's travel expense claims submitted for 15 months following the travel ban. We found that the employee had reduced her travel from an average of 15 days per month in the 15 months prior to the travel ban to an average of 1.8 days per month after the travel ban. The employee subsequently retired from state service in November 2013. Before her retirement, the employee's official records at the California State Controller's Office in October 2013 still indicated that her headquarters was in Sacramento.

Due to the travel ban the State instituted as a result of the governor's executive order in April 2011, the employee dramatically reduced her travel and remained in Paramount for several weeks at a time.

Recommendations

To address the improper travel expenses identified in this investigation and to prevent similar activities from occurring in the future, we make the following recommendations to EDD:

- Provide training regarding headquarters designations and their impact on travel expense claims to all Facilities Office staff who regularly submit travel expense claims.

- Provide training to all Facilities Office supervisors who oversee traveling staff to ensure that they understand how to determine and designate headquarters locations for their employees properly.

- Require all Facilities Office supervisors to evaluate the current headquarters designations for their traveling staff to ensure that the headquarters designations are correct.

- Provide training to the travel unit to ensure that its employees understand the relevant laws and regulations governing headquarters designations.

Agency Response

EDD reported in December 2014 that it agreed with our recommendations and stated that it had made progress to implement each of them. Specifically, in response to our first recommendation, EDD reported that it had instructed all employees of the Facilities Office about the laws and regulations regarding headquarters designations and long-term assignments. In addition, EDD stated that it required staff to review EDD's Travel Handbook and two specific memos issued by EDD that discussed long-term assignments and travel expense claim requirements. Moreover, EDD stated that it had created a training class that all staff who submit travel expense claims must attend. This class will provide information to employees on long-term assignments and how an employee's headquarters designation impacts his or her travel expense claim. EDD stated that it scheduled the training to be held in January 2015.

To address our second recommendation, EDD stated that it is requiring the Facilities Office supervisors to attend the January training mentioned previously to ensure that they understand how to determine and designate headquarters locations for their employees.

Regarding the third recommendation, EDD reported that it had reviewed and validated the headquarters designations for all Facilities Office staff. In addition, EDD stated it had determined that all the current headquarters designations of these employees were appropriate.

In response to our fourth recommendation, EDD stated that it provided training to the travel unit when we expressed concerns regarding EDD's headquarters designation practices during our investigation. As a result of the additional training and increased awareness about headquarters designations, EDD stated that its travel unit has been successful in identifying improper travel expenses.

Finally, EDD reported that it plans to further reiterate its headquarters designation policy by issuing in January 2015 an administrative circular to all managers and supervisors.

Chapter 4

DEPARTMENT OF INDUSTRIAL RELATIONS: DISHONESTY, INCOMPATIBLE ACTIVITIES, NEGLECT OF DUTY, AND FAILURE TO ESTABLISH A TELECOMMUTING PROGRAM

Case I2011-0815

Results in Brief

After lying to his manager about needing to telecommute so that he could care for his ailing mother, a full-time employee at the Department of Industrial Relations (Industrial Relations) took advantage of his manager's neglect of his supervisory duties and Industrial Relations' failure to establish an effective telecommuting program to work a second full-time job, without Industrial Relations' knowledge, that conflicted with his state employment. As a result, the employee performed less work than the 40 hours per week that Industrial Relations generally expected him to perform and for which he was compensated. Due to the manager's lax supervision, Industrial Relations was unable to determine how much work the employee actually performed.

Background

Industrial Relations' Office of Information Services (information services) employs staff throughout the State to maintain its information technology network that serves 51 offices. These employees are responsible for monitoring the functionality of Industrial Relations' e-mail system, Web site, and other electronic systems. Industrial Relations generally requires its information services employees to work regular business hours from 8 a.m. to 5 p.m., Monday through Friday. California Government Code section 19851 states that full-time state employees generally are expected to work an average of 40 hours per week. However, information services employees, who are classified as being exempt from the federal Fair Labor Standards Act (exempt), sometimes are required to work more than the expected 40 hours. The State counts on these exempt employees to work, within reason, as many hours as necessary to fulfill their job responsibilities and to complete work assignments by specific deadlines, even if that means working outside of regular business hours. On such occasions, these exempt employees do not receive any extra compensation for working more than their regularly scheduled duty hours, just as they are not docked in compensation when they work less than 40 hours in a week. Industrial Relations does not require these exempt employees to report the number of hours they actually work. Instead, it requires them only to record on an attendance report when they miss an entire workday.

The California Government Code prohibits every state employee from engaging in any employment, activity, or enterprise that clearly is inconsistent with, incompatible with, in conflict with, or inimical to his or her duties as a state officer or employee.

Like all other state employees, Industrial Relations' employees must follow an array of statutes intended to ensure that the employees are devoted to their work and perform their duties in an impartial manner. Specifically, California Government Code section 19990 prohibits every state employee from engaging in any employment, activity, or enterprise that clearly is inconsistent with, incompatible with, in conflict with, or inimical to his or her duties as a state officer or employee. Section 19990 lists many pursuits that the State considers incompatible activities for the employees of every state agency, regardless of the particular functions of the agency. In particular, section 19990, subdivision (b), lists as an incompatible activity an employee using state-compensated time for private gain or advantage. In addition, section 19990, subdivision (g), lists as an incompatible activity an employee failing to devote his or her full time, attention, and efforts to state employment during hours of duty. This section goes on to require that every state agency adopt a Statement of Incompatible Activities in which the agency describes any additional activities that present incompatibility problems specific to the work that the agency performs. To fulfill this mandate, Industrial Relations adopted a Statement of Incompatible Activities that expressly requires any employee planning to work—or currently working—a second job that reasonably could be construed as being incompatible with his or her duties as a state employee to file a written request with the chief of his or her division for permission to work a second job. To receive such permission, the employee must receive a written determination that the second job is not incompatible with his or her state duties.

California Government Code section 19572 specifies the legal grounds for which a state employee may be disciplined, including but not limited to, dishonesty and inexcusable neglect of duty, as set forth in subdivisions (d) and (f), respectively. The State Personnel Board has defined "inexcusable neglect of duty" as "an intentional or grossly negligent failure to exercise due diligence in the performance of a known official duty."[3] In addition, the *State of California Supervisor's Handbook* imposes on a supervisor the duty to evaluate whether the conduct or performance of his or her subordinate employees is satisfactory.

As a state agency, Industrial Relations is required by California Government Code section 14201 to develop and implement a telecommuting plan as part of its telecommuting program in the department's work areas where telecommuting may be both practical and beneficial to the department. In creating and implementing a telecommuting program, Industrial Relations

[3] *Jack Tolchin (1996) SPB Dec. No. 96-04, page 11, citing Gubser v. Dept. of Employment (1969) 271 Cal.App.2d 240, 242.*

is encouraged by California Government Code section 14201 to operate the program in compliance with policies, procedures, and guidelines developed by the California Department of General Services (General Services) to manage telecommuting by its employees. In addition, the applicable collective bargaining agreement requires any telecommuting plan to conform to those General Services' guidelines.[4]

These policies, procedures, and guidelines, adopted by General Services as a Statewide Telework Model Program (model program), describe both the expectations for telecommuting employees and the responsibilities of their supervisors. Under the model program, if an employee is permitted to telecommute, that employee is responsible for tracking his or her weekly work hours, remaining available by telephone or e-mail during designated work hours, and complying with all other policies and procedures established by his or her department. Moreover, the employee should maintain a working environment that is safe and productive. Accordingly, the model program states that a telecommuting arrangement should not be permitted for the purpose of allowing an employee to provide care for a dependent child or adult.

In setting forth the responsibilities of the supervisor of a telecommuting employee, the model program states that the supervisor is responsible for the following tasks, among others:

- Overseeing the day-to-day performance of the employee as the supervisor would for an on-site employee, including communicating general office updates and related information.
- Ensuring the employee indicates the hours that he or she has worked.
- Providing the employee with specific, measurable, and attainable assignments.
- Defining in writing the employee's work deadlines and expected work performance.

Finally, state agencies and employees are required to exercise prudence in their management of state resources. California Government Code section 8547.2, subdivision (c) therefore expressly provides that any activity by a state agency or employee that is economically wasteful of state resources is an improper governmental activity.

[4] The employee was a member of Bargaining Unit 1.

When we received information that a full-time Industrial Relations employee had worked a second full-time job without his manager knowing about it, we initiated an investigation.

Facts and Analysis

Our investigation revealed that an information services employee at Industrial Relations worked a second full-time job that conflicted with his state employment during a 10-month period.

Our investigation revealed that an information services employee at Industrial Relations worked a second full-time job that conflicted with his state employment during a 10-month period. The employee was able to do this because he did not disclose his second job to Industrial Relations, he was allowed by his manager to work from home based on a claim that he needed to care for his ailing mother, and his manager provided lax supervision of the work he performed. Industrial Relations also facilitated the arrangement by failing to establish a telecommuting policy, which should have required the manager to scrutinize more closely the employee's work habits while away from the office. Although the lack of monitoring of the employee prevented us from obtaining an accurate accounting of the number of hours the employee actually worked for the State, the employee estimated that he spent only 32 to 35 hours per week on his state job, rather than the average of 40 hours generally expected of a full-time state employee. As discussed in a subsequent section, if the employee's claim that he worked 32 to 35 hours at his state job while working 40 hours at his second job is true, he worked 72 to 75 hours a week and conducted all of his state work either before 8:30 a.m. or after 5 p.m. on weekdays, and during all hours on weekends. Nevertheless, based on the employee's estimate, we calculated the potential loss to the State from the employee's dual employment to be at least $12,197 during the 10-month period that he held both jobs.

The Employee Engaged in a Series of Deceptions to Work a Second Job That Was Incompatible With His State Employment

In his position with Industrial Relations' information services, the employee had primary responsibility for maintaining the department's information technology network and overseeing the work of four subordinate information technology staff who performed tasks necessary to keep the network operating properly. In July 2010, after working at Industrial Relations for more than four years, the employee applied for a position at Laguna Honda Hospital and Rehabilitation Center in San Francisco. The position required the employee to work on site at the hospital from 8:30 a.m. to 5 p.m., Monday through Friday. On August 24, 2010, the employee accepted the position at the hospital and signed papers to begin working there in September. On the same day he accepted the hospital position, the employee sent an e-mail to his manager

at Industrial Relations to schedule a meeting. The manager recalled that at the meeting the employee asked for time off in September to care for his ailing mother.[5] The manager agreed that he could take three weeks to one month off, provided he remained available by telephone and e-mail to respond to questions from his subordinates and address any problems with Industrial Relations' information technology network. The employee did not tell the manager that he had accepted a full-time position at the hospital that was scheduled to begin in September. He also did not make a request, as required by Industrial Relations' Statement of Incompatible Activities, for permission from the chief of his division to work a second job during hours that he regularly was scheduled to work for Industrial Relations.

The employee did not tell the manager that he had accepted a full-time position at the hospital that was scheduled to begin in September and worked for the hospital while taking scheduled time off from his job at Industrial Relations.

During September 2010 the employee worked for the hospital while taking scheduled time off from his job at Industrial Relations. However, during this scheduled time off, and while working for the hospital, the employee responded to several calls or e-mails from Industrial Relations to help resolve issues concerning its information technology network. The employee was able to respond to these issues remotely, and the manager was appreciative of the employee's responsiveness. As a result, the manager required the employee to use only 56 hours of leave to cover his absence from work during this period. The manager also agreed that, at the conclusion of the scheduled time off, the employee could maintain a flexible telecommuting schedule so that he would have the flexibility he needed to care for his ailing mother. Under this schedule, however, the manager continued to require the employee to be available to respond to his subordinates and resolve issues regarding the information technology network at all hours. This meant that he needed to be available during the hours that the employee secretly was working at the hospital. Therefore, even with this flexible schedule, the employee's position at the hospital conflicted with the duties of his position with Industrial Relations, in violation of California Government Code section 19990.

During the ensuing months, the employee continued to hold the two conflicting positions without informing Industrial Relations of the conflict. However, in June 2011, the manager and the chief of the division learned that the employee was working a second job. They then demanded that the employee return to working in the office. Instead of returning to work in the office, the employee resigned from Industrial Relations and state service, effective July 2011.

[5] Under best practices, this request should have been referred to Industrial Relations' human resources division so that Industrial Relations could obtain the proper documentation and track the family leave. Had the manager made the referral to the human resources division, the employee's deception might have been either prevented altogether or discovered much earlier.

As a result, the employee's deceptive practices allowed him to engage in conflicting employment for a period of 10 months without Industrial Relations' knowledge.

The Manager Neglected His Duty to Supervise the Employee

As strongly evidenced by the fact that the employee was able to work a second full-time job when he was supposed to be working full-time for the Industrial Relations' manager and the manager remained unaware of the other employment for many months, the manager neglected his duty to supervise the work being performed by the employee. As discussed earlier in this chapter, the manager was required, as a fundamental part of supervising his subordinate employee, to determine whether the employee's conduct or performance on the job was satisfactory. To be able to do that, the manager was required to know what work the employee was performing, how much work he was performing, and the manner in which he was performing the work. However, the manager had very little understanding of what work the employee was performing for Industrial Relations during the period that the employee held two jobs. The manager had no ability to measure the amount of work the employee actually performed for Industrial Relations. The manager also had no knowledge of how the employee was performing his work for Industrial Relations, nor that he was performing the work while on the premises of another employer. The manager simply adopted the position that as long as he received no complaints from anyone about the employee, including from the employee's subordinates, then the employee must be performing well.

The manager had very little understanding of what work the employee was performing for Industrial Relations during the period that the employee held two jobs.

As a result, when we interviewed the manager about the employee's job performance during the 10-month period he was telecommuting, the manager could not identify an average number of hours per week the employee actually worked for Industrial Relations during the period. Yet, when we asked the employee how many hours per week he believed he worked for Industrial Relations during the period, he stated that he averaged only 32 to 35 hours of work per week. Considering the hours that the employee worked at his job at the hospital, he would have worked 72 to 75 hours a week between the two jobs if he actually worked the hours for Industrial Relations he claimed. However, even if we accept the employee's assertion that he worked 32 to 35 hour per week, this means the State paid the employee for at least five to eight hours of work per week that the employee did not perform. Although he was not an hourly employee, we estimated that the State overpaid the employee $12,197 for time he was not available to perform his state job. Of course, because so much of the employee's time was occupied with

performing a full-time job on the premises of the other employer, the employee's estimate that he nonetheless was able to devote up to 35 hours per week working for Industrial Relations may be overly generous and thus may undervalue the actual loss to the State.

Industrial Relations Facilitated the Employee's Ability to Work a Second Job That Conflicted With His State Employment by Failing to Establish and Enforce a Telecommuting Program That Complied With General Services' Guidance, and by Permitting Lax Management

As previously discussed, Industrial Relations is required by California Government Code section 14201 to have a telecommuting plan, and the plan, as it relates to Bargaining Unit I employees, must be consistent with requirements established by General Services. However, Industrial Relations did not have a telecommuting program that was consistent with General Services' guidance to govern the responsibilities of the employee and the manager during the 10 months that the employee was allowed to telecommute. As a result, the employee was allowed to telecommute for an impermissible purpose and without the proper oversight.

If Industrial Relations had adopted a telecommuting program consistent with General Services' guidance, the manager would have been prohibited from allowing the employee to telecommute for the purpose of providing dependent care, as General Services' model program does not allow employees to telecommute to provide dependent care. Similarly, if Industrial Relations had established a telecommuting program consistent with General Services' guidance, the manager would have been required to scrutinize the employee's work habits more closely, which likely would have alerted him to the employee failing to devote his full time, attention, and efforts to his state employment. Specifically, under General Services' guidance in its model program, the manager would have been required to verify the hours the employee was working; provide specific, measurable, and attainable assignments for the employee to complete; define his expectations of the employee in writing; and oversee the employee's day-to-day performance. This amount of scrutiny should have made it apparent to the manager that the employee was not working full-time for Industrial Relations while he was telecommuting.

If Industrial Relations had established a telecommuting program consistent with General Services' guidance, the manager would have been required to scrutinize the employee's work habits more closely.

Recommendations

To remedy the effects of the improper governmental activities described in this chapter and to prevent them from recurring, we made the following recommendations to Industrial Relations, and as its response below indicates it has taken corrective action.

- To address the dishonesty and incompatible activities of the employee, place information in the employee's personnel file regarding his dishonesty and incompatible activities so the information may be considered if the employee seeks future employment with the State.
- To address the neglect of supervisory duties by the manager, take adverse action against the manager.
- To address the failure to adopt a telecommuting program consistent with General Services' guidance, adopt a telecommuting program consistent with General Services' policies, procedures, and guidelines, including the model program, and train staff regarding the requirements of that program.

Agency Response

In September 2013 Industrial Relations reported that it placed a memorandum in the employee's personnel file regarding his involvement with dishonesty and incompatible activities. In addition, Industrial Relations reported that in September 2013 it issued a counseling memorandum to the manager rather than an adverse action because it concluded that an adverse action would be too harsh of a consequence in light of Industrial Relations not having an effective telecommuting policy in place. Finally, Industrial Relations reported that it adopted a telecommuting program, which is consistent with General Services' model program, that became effective January 1, 2014. Prior to implementing the telecommuting program, Industrial Relations provided training to its managers, supervisors, and other employees.

Chapter 5

OTHER INVESTIGATIVE RESULTS

In addition to the investigations reported in the previous chapters, the California State Auditor (state auditor) referred numerous investigations to state departments to perform in response to whistleblower complaints that the departments appeared best suited to investigate. Based on our evaluation of these investigations, six substantiated the occurrence of improper governmental activities by one or more state employees. The following identifies the improper governmental activities substantiated through these investigations.

California Department of Water Resources
Case I2012-0088

An employee of the California Department of Water Resources (Water Resources) recycled state property without permission, retained the proceeds from the recycling, and was untruthful with Water Resources officials about his actions.

Water Resources is responsible for managing and protecting the State's water supply for its residents, farms, and businesses. As part of managing the State's water supply, Water Resources employees—including craftsworkers, technicians, and engineers—perform maintenance, modification, and repair work on structures and flood control systems.

When Water Resources employees perform maintenance, modification, and repair work, they often have scrap materials left over from these projects. Water Resources' administrative manual specifies that "any material created, purchased, or obtained by the department during its business operations is the property of the State." Water Resources employees are expected to dispose of scrap materials such as copper and other metals left over from a project in a proper manner. The proper disposal of scrap materials includes recycling the materials. The administrative manual states that money received from recycling is state property and is to be submitted to the department's headquarters.

Like other state employees, Water Resources employees are prohibited from misusing state resources or being dishonest with their state employer. Pursuant to California Government Code section 8314, a state employee is prohibited from using state resources, including state-compensated time, supplies, and equipment for personal purposes. In addition,

California Government Code section 19572, subdivision (f), states that dishonesty by a state employee is misconduct that constitutes grounds for discipline.

When we received a complaint that a Water Resources craftsworker removed state property from a Northern California maintenance yard and recycled it for personal gain, we asked Water Resources questions related to the complaint. To answer these questions, Water Resources conducted an investigation.

The employee recycled state property worth at least $1,100 and failed to submit the proceeds to Water Resources. Water Resources' investigation determined that the employee recycled state property without permission on several occasions between August 5, 2011, and March 23, 2012. The employee removed scrap copper wire from multiple jobs at the maintenance yard and secretly stored the wire in a locked room at the yard. The employee then retrieved the wire from the locked room after normal business hours and took the wire to a recycling company to obtain cash for it.

Although the maintenance yard did not have a written policy governing the disposal of scrap metal to implement the general requirement of Water Resources' administrative manual that money received from recycling is state property and must be submitted to the department's headquarters, the employee's supervisor stated that employees were given oral instruction regarding the disposal of scrap metal. Specifically, the supervisor stated that employees were told to deposit scrap metal into a special bin placed at the maintenance yard by a recycling company. Once per month, employees were expected to take the scrap metal to the recycling company, Empire Steel, for recycling. However, instead of following this instruction, on several occasions the employee personally removed the copper wire from the locked room at the maintenance yard and took it to Empire Steel, where he exchanged the scrap metal for cash. The employee claimed that upon obtaining the cash from Empire Steel, he hid the cash inside a truck that Water Resources assigned him to use for state business. The employee claimed that he later moved the cash to an unlocked drawer at the yard without surrendering the money to anyone at Water Resources. When a supervisor contacted the employee during Water Resources' investigation into the matter, the employee retrieved $1,100 from the drawer and surrendered it to the supervisor.

During Water Resources' investigation, it obtained five receipts from Empire Steel showing the employee recycled scrap metal on five different occasions and obtained a total of $1,341 in proceeds.

During Water Resources' investigation, it obtained five receipts from Empire Steel showing the employee recycled scrap metal on five different occasions and obtained a total of $1,341 in proceeds. When Water Resources investigators confronted the employee with the receipts, the employee claimed that only three of the

five receipts related to his recycling state property. He admitted that three of the receipts, totaling $1,021, reflected payments he received in exchange for recycling copper wire left over from renovating a Water Resources conference room and an inspection trailer. However, he claimed that the other two receipts, for $97 and $223, respectively, reflected payments he received in exchange for recycling his personal property. He stated that the receipt for $97 was for recycling his home recyclables, such as aluminum cans, plastic, and glass, and the receipt for $223 was for recycling copper wire not belonging to Water Resources, which he had stored at his mother's residence.

As stated earlier, when the employee was contacted by a supervisor about recycling Water Resources' property, the employee surrendered $1,100, which he claimed was the cash he received from the recycling. This prompted Water Resources investigators to ask the employee why he surrendered $1,100 to the supervisor if he only received $1,021, the total of the three receipts, for recycling Water Resources' property. The employee responded that the $1,100 he gave to the supervisor included the $97 he received for recycling his personal recyclables. However, by deducting $97 from the amount the employee surrendered to the supervisor, the amount left, $1,003, was $18 less than the amount of the three receipts. To explain the difference, the employee claimed that the amount he surrendered did not match the total of the three receipts because he removed approximately $18 from the recycling money to purchase plumbing items he used to repair a faucet at the maintenance yard. When asked why he used recycling money to pay for the plumbing items rather than money from the maintenance yard's petty cash fund, which exists for that purpose, the employee answered that obtaining cash from the petty cash fund requires a supervisor's approval and this would have taken too long. When asked whether he had a receipt to support his claim of purchasing plumbing items, the employee said that he did not have a receipt because he mistakenly burned the receipt while burning some personal papers at his home.

The employee was dishonest with Water Resources investigators when questioned about his actions.

The employee was dishonest with Water Resources investigators when questioned about his actions. During the investigation, the employee was asked by Water Resources investigators about an allegation that, in addition to recycling copper wire belonging to Water Resources, the employee also removed a large metal object from the maintenance yard and transported it in his personal vehicle for recycling without obtaining permission from his supervisor. The employee responded that he took a "piece of iron" to be recycled at Empire Steel and received a "couple hundred" for it. However, on the following day, the employee contacted his supervisor to volunteer that he did not recycle the object after all. He admitted that he removed a large metal object, perhaps used

as a counterweight for a crane, from the maintenance yard and transported it in the bed of his pickup truck to Empire Steel to try to recycle it for cash. However, employees at Empire Steel were not able to remove the object from the truck bed and damaged the truck bed when trying unsuccessfully to remove it. The employee therefore left Empire Steel with the object still in the bed of his truck, drove around in the truck for a week and a half with the object still in the bed, and then returned the object to the yard where another employee removed it using a forklift. The investigator confirmed that the object had been returned to the yard and later asked the employee why he claimed that he had recycled the object and received money for it when that was not true. The employee responded that he was nervous during the interview and therefore forgot that he had returned the object to the yard. Water Resources management concluded, however, that the employee was not being truthful when he claimed he recycled the object and again was not being truthful when he claimed he had forgotten that he had not recycled it. Water Resources management reached this conclusion because they felt the events surrounding this attempt at recycling would have been memorable. Specifically, the employee's unsuccessful attempt to recycle the object had occurred only six months earlier, the attempt involved noticeable damage to his vehicle, and his failure to recycle the object caused him to have to keep the object in his vehicle for several days and obtain help from a coworker using a forklift to remove it.

In defending his actions to the Water Resources investigators, the employee claimed that he did not intend to spend the money he received from recycling Water Resources property on himself. He claimed that he intended to use the money to buy a refrigerator for the maintenance yard once he collected about $900. However, in addition to not making this purchase after he collected more than $900, he could not provide any evidence of shopping for refrigerators or doing anything else to demonstrate this purpose. He also could not identify anyone with whom he shared his intention to purchase a refrigerator for the yard.

In light of the results of its investigation, Water Resources terminated the employee effective February 7, 2014, for misuse of state property.

In light of the results of its investigation, Water Resources terminated the employee effective February 7, 2014, for misuse of state property in violation of California Government Code section 8314, and dishonesty in violation of California Government Code section 19572, subdivision (f). The employee appealed his termination to the State Personnel Board, and Water Resources elected to amend its notice of adverse action against the employee from termination to a 20-working-day suspension effective February 7, 2014. In addition, Water Resources stopped allowing its employees at the maintenance yard to take any materials to

Empire Steel for recycling. Instead, Water Resources hired a private vendor to pick up scrap metal and deliver it to the materials recovery facility for the county.

California Department of General Services
Case I2012-0355

Contrary to the provisions of a contract between the California Department of General Services (General Services) and a private security firm, General Services allowed the firm's security guards to park their private vehicles in a state-owned garage free of charge. This practice, which began in 2007, has constituted a gift of public resources prohibited by state law and cost the State at least $12,000 in lost revenue.

We received a complaint that General Services was allowing private security guards to park free of charge in the garage of a state building, while other state employees were required to pay a monthly fee to park there. We therefore asked General Services to investigate the complaint and report to us the results of its investigation. General Services reported that in July 2007, it entered into a contract with Inter-Con Security Systems, Inc. (Inter-Con), a private security firm, to provide 24-hour security services at a state building located in a downtown area. Under this contract, Inter-Con is required to station guards at the building to maintain building security. The number of security guards Inter-Con stationed at the building has varied over the years since 2007, but in 2012 Inter-Con stationed eight to nine security guards during the day shift, three security guards during the swing shift, and two security guards during the graveyard shift. Under an express provision of the contract between General Services and Inter-Con, General Services is not to provide parking for the security guards, and the guards are required "to make their own parking arrangements." Moreover, Inter-Con is charged with the responsibility "to ensure that guards do not park in the facility lot during normal building operating hours."

However, as soon as the contract went into effect in July 2007, Inter-Con's security guards stationed at the building began parking in the building's garage for free. When interviewed during the investigation of this matter, building management reported that it was not aware of the contract provision that required security guards to make their own arrangements for parking and that the contract with Inter-Con prohibited the guards from parking in the building's garage during the building's normal operating hours. The building management stated that it took over managing the building in October 2008, and at that time the security guards already were parking in the building's garage at no charge.

As soon as the contract went into effect in July 2007, Inter-Con's security guards stationed at the building began parking in the building's garage for free.

The building management simply continued this practice and estimated that since October 2008, between three and five security guards working the day shift parked for free in the building's garage at any given time. Building management did not provide an estimate of how many security guards working other shifts had been parking in the garage for free since that time. In contrast, state employees working in the building were required to pay General Services $95 per month to park a personal vehicle in the building's garage.

California Constitution Article XVI, section 6, prohibits state officials from making a gift of public money or any publicly owned thing of value to any individual or corporation. By allowing Inter-Con's security guards to park free of charge in the building's parking garage despite the contract with Inter-Con specifically stating that General Services has no obligation to provide this benefit, the building management provided a gift of a thing of value in violation of the California Constitution.

By allowing the security guards to park in the building's garage for free, the building management caused General Services to forego an opportunity to collect additional revenue for the State.

Additionally, by allowing the security guards to park in the building's garage for free, the building management caused General Services to forego an opportunity to collect additional revenue for the State. Just taking into consideration the minimum of three security guards working the day shift who were allowed to park in the building's garage since October 2008, we calculate that if these security guards had been required to pay the $95 per month for parking that state employees were required to pay, General Services would have received $1,140 annually in parking revenue from each security guard, for a total of $12,825 in lost parking revenue through June 2012.

In June 2012 we alerted General Services that its building management was allowing Inter-Con security guards to park free of charge in the building's parking garage, in violation of the contract with Inter-Con and the California Constitution. General Services directed the building management to stop allowing day shift security guards to park free of charge in the building's parking garage on Monday through Friday. In response to this directive, the building management stopped providing the day shift security guards with free parking as of July 15, 2012. However, General Services and the building management continued to allow Inter-Con security guards working other shifts, including weekend day shifts, to continue parking in the building's garage free of charge.

We therefore recommended that General Services cease providing Inter-Con's evening and weekend security guards with free parking. However, if General Services determines that to protect the safety of the guards working evening and weekend shifts it is necessary

to provide the guards with parking in the building's garage, we recommended that General Services amend its contract with Inter-Con to disclose that it is providing free parking to Inter-Con employees as part of the price of the contract.

General Services reported in November 2014 that to provide assurance for the safety of security guards, it will amend the contract with Inter-Con to allow security guards working evenings and weekends to park in the building's garage without charge.

California Department of Motor Vehicles
Case I2012-0369

A California Department of Motor Vehicles (DMV) field representative at a Fresno field office falsified records that enabled an individual to purchase a commercial driver license without passing the required test.

We received an allegation that a particular individual, who reportedly was not able to pass an examination to obtain a commercial driver license, received a commercial license by paying a DMV field representative to issue the license to him. We informed DMV about the allegation, and it conducted an investigation into the matter. During the investigation, the individual who received the license admitted that he paid $1,200 to a broker to obtain the license and, as a result, DMV confiscated the license. DMV investigators concluded that this incident was related to a case involving the field representative, who already was under federal investigation for receiving money, paid through the broker, in exchange for altering DMV records. As a result of the federal investigation, the field representative was sentenced to five years and one month in federal prison in June 2013 for his involvement in conspiracies to sell California driver licenses.

California Department of Transportation
Case I2011-1622

A California Department of Transportation (Caltrans) civil transportation engineer in San Diego County misused two state vehicles between June 2011 and March 2012 for personal purposes.

Caltrans civil transportation engineers regularly use state vehicles to travel between their headquarters and the job sites where they must perform assignments. They often are assigned a particular state vehicle to travel for work assignments during a period of months or even years. An engineer can use a state vehicle assigned to another engineer, if it is available, when his or her

regular state vehicle is out of service for maintenance or when the nature of an assignment requires the use of a different vehicle from the one regularly assigned. During the period covered by this investigation, some offices did not require a supervisor's approval to use another available state vehicle.

California Government Code section 8314 prohibits any state employee from misusing state resources, which includes making personal use of his or her state-compensated time or making personal use of a state vehicle. If an employee is found to have misused a state vehicle, California Code of Regulations, title 2, section 599.803, states that the employee is liable to the State for the cost of the misuse. Upon receiving an allegation that a Caltrans engineer was using a state vehicle for personal purposes, we asked Caltrans to investigate the allegation.

Caltrans found that between June 2011 and December 2011, the transportation engineer used a passenger vehicle assigned to him and a pickup truck assigned to another engineer to visit a rental property that he owned and was trying to renovate. According to one witness, the transportation engineer used these vehicles to visit the property on at least 18 occasions, with several of the occasions taking place during the transportation engineer's regular work hours. During the visits, the transportation engineer transported paint and other construction materials to his rental property.

Caltrans obtained photographs of the transportation engineer and the state pickup truck being present at the rental property on two separate occasions in December 2011. The photographs were digitally imprinted with a date stamp that indicated the transportation engineer was present at the property during his regular work hours. When shown the photographs, the transportation engineer denied driving the truck to the rental property, but he was unable to provide any explanation for how he or the truck arrived at the property or why the state truck was parked there. Caltrans' investigation also revealed that the other engineer to whom the pickup truck normally was assigned did not know that the transportation engineer was using his vehicle. The other engineer was not using the vehicle during that period, and because the office did not require a supervisor's approval prior to someone using another person's state vehicle, the transportation engineer was able to obtain the keys from an office technician and use the pickup truck without providing anyone with a justification for his use.

The transportation engineer denied driving a state pickup truck to his rental property, but was unable to provide any explanation for how he or the truck arrived at the property or why the state truck was parked there.

The investigation also found that between January and March 2012, the transportation engineer continued using the state passenger vehicle that had been assigned to him to visit job sites even though he was assigned to work exclusively at the office where he was headquartered and therefore had no need to use the vehicle for

state business. State records indicate that during this period, the transportation engineer used his state vehicle on 12 days to travel 747 miles and refueled the vehicle using a state credit card.

At the conclusion of the investigation, Caltrans issued a letter of warning to the transportation engineer in September 2013 for his personal use of the state vehicles and misuse of state time. Additionally, the district director implemented a corrective action plan that requires keys to all Caltrans vehicles be secured in a locked area and requires supervisory approval to use a state vehicle.

However, Caltrans has not sought reimbursement from the transportation engineer for his misuse of one state vehicle. Caltrans determined that the transportation engineer misused his vehicle by driving at least 747 miles when he had no business reason for doing so. Using the State's mileage reimbursement rate to calculate the cost of this misuse of the vehicle, which at the time was $0.555 per mile, the transportation engineer owes the State a repayment of $415 for his misuse of the vehicle. Although Caltrans is allowed to recover these costs pursuant to California Code of Regulations, title 2, section 599.803, Caltrans has not yet sought reimbursement from the engineer for his misuse of the vehicle. We recommend that Caltrans seek reimbursement from the engineer in the amount of $415 to pay for his misuse of the vehicle.

Caltrans reported in November 2014 that it intends to pursue reimbursement of $415 from the transportation engineer for his misuse of the state vehicle.

Caltrans reported in November 2014 that it intends to pursue reimbursement of $415 from the transportation engineer for his misuse of the state vehicle.

California Department of Corrections and Rehabilitation Case I2012-0703

The California Department of Corrections and Rehabilitation (Corrections) underutilized its training staff during a period of decreased training activity at a training center in 2011 and 2012, which resulted in the waste of state resources.

Corrections' Office of Training and Professional Development provides training and development programs for Corrections' employees. Many of these programs, including the basic correctional officer academy and new employee orientation, are administered at the Richard A. McGee Correctional Training Center (training center) in Galt.

We received a complaint alleging that due to a decrease in the amount of training provided at the training center, employees at the training center did not have sufficient work to do to keep them occupied during the workday. In response to the complaint, we

made inquiries at the training center and asked Corrections to respond to a series of questions to try to determine whether the allegation had merit. Corrections responded and informed us that it had performed an internal review.

We learned from the review that with the passage of the Public Safety Realignment Act in April 2011, Corrections anticipated a decrease in its prison inmate population beginning in October 2011. With that anticipated decrease, Corrections projected that it would need fewer correctional officers to supervise the reduced inmate population. So in July 2011 Corrections discontinued hiring new correctional officers and instituted layoffs of some incumbent correctional officers. Because of the decline in new correctional officers needing training, Corrections also reduced the number of training courses it offered at the training center beginning in July 2011 and continuing into 2012.

Corrections found through its review that during the decrease in course offerings at the training center in fiscal year 2011–12, training staff members were not required to perform other activities.

Corrections reported that generally, when course offerings at the training center are decreased, members of the training staff are expected to perform other activities, such as supervising inmates at nearby correctional institutions and revising standard course curricula. However, Corrections found through its review that during the decrease in course offerings at the training center in fiscal year 2011–12, training staff members were not required to perform these other activities. Corrections concluded that this failure to keep staff occupied was attributable to failings by the training center's management team.

To address the findings of its review, Corrections replaced the training center's management team and instituted a process for monitoring the staffing at the training center and the workload of the training staff to try to ensure that staffing at the training center is appropriate for the amount of training Corrections anticipates providing. Corrections also increased the number of courses offered at the training center in response to recruiting and hiring more correctional officers starting in March 2013 to replace correctional officers being lost through retirement.

DMV
Case I2012-0168

DMV failed to serve its customers during normal business hours by turning customers away. California Government Code section 11020 requires that state offices remain open to serve the public Monday through Friday from 8 a.m. to 5 p.m. unless otherwise provided by law. However, we received a complaint that customers waiting in line for service at the DMV field office in Costa Mesa were being directed by employees to leave the office at 4:30 p.m. and either call

for an appointment or come back another day. A DMV employee told us that managers of the office directed employees to turn away customers before 5 p.m. in an attempt to reduce the need for staff to work overtime. We notified DMV about this practice and asked it to take action to ensure that the public was being served at the office at least until its closing time of 5 p.m. In response, DMV reported that it confronted the managers of the office with the allegation, and the managers denied that the office was turning away customers. However, these denials conflicted with statements made to us by several employees of the office, who told us their managers directed them to turn away customers before the office's scheduled closing time. Despite the denials by managers of the office, DMV instructed the managers orally and in writing not to turn away customers and to encourage, but not require, customers to make appointments. We later learned from witnesses that in response to DMV's instructions to the managers, customers in line for service before 5 p.m. at the DMV field office in Costa Mesa no longer were being turned away.

Respectfully submitted,

ELAINE M. HOWLE, CPA
State Auditor

Date:	December 23, 2014
Investigative Staff:	Russ Hayden, CGFM, Manager of Investigations Johnny Barajas Siu-Henh Canimo, CFE Beka Clement, CFE Lane Hendricks, CFE Mark Miller Wesley Opp, JD, CFE Nicole Ricks Michael A. Urso, CFE
Support Staff:	Sema Daniels, Office Technician Hana Medina, Investigative Analyst Jodhvir Sangha, Investigative Analyst Dee Silberstein, Investigative Analyst Deb Sneed, Investigative Analyst
Legal Counsel:	Julie Jacob, Staff Counsel

For questions regarding the contents of this report, please do not contact investigative staff. Contact Margarita Fernández, Chief of Public Affairs, at 916.445.0255.

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Appendix

THE INVESTIGATIONS PROGRAM

The California Whistleblower Protection Act (Whistleblower Act) authorizes the California State Auditor (state auditor) to investigate allegations of improper governmental activities by state agencies and employees. Contained in the California Government Code, beginning with section 8547, 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; violates an executive order of the governor, a California Rule of Court, or any policy or procedure mandated by the *State Administrative Manual* or the *State Contracting Manual*; is economically wasteful; or involves gross misconduct, incompetence, or inefficiency.

To enable state employees and the public to report suspected improper governmental activities, the state auditor maintains a toll-free Whistleblower Hotline (hotline) at (800) 952-5665. The state auditor also accepts reports of improper governmental activities by mail and over the Internet at www.auditor.ca.gov.

The Whistleblower Act provides that the state auditor may independently investigate allegations of improper governmental activities. In addition, the Whistleblower Act specifies that the state auditor may request the assistance of any state entity in conducting an investigation. After a state agency completes its investigation and reports its results to the state auditor, the state auditor's investigative staff analyzes the agency's investigative report and supporting evidence and determines whether it agrees with the agency's conclusions or whether additional work must be done.

Although the state auditor conducts investigations, it does not have enforcement powers. When it substantiates an improper governmental activity, the state auditor reports confidentially the details to the head of the state agency or to the appointing authority responsible for taking corrective action. The Whistleblower Act requires the agency or appointing authority to notify the state auditor of any corrective action taken, including disciplinary action, no later than 60 days after transmittal of the confidential investigative report and monthly thereafter until the corrective action concludes.

The Whistleblower Act authorizes the state auditor to report publicly on substantiated allegations of improper governmental activities as necessary to serve the State's interests. The state auditor may also report improper governmental activities to other authorities, such as law enforcement agencies, when appropriate.

Improper Governmental Activities Identified by the State Auditor

Since 1993, when the state auditor activated the hotline, it has identified improper governmental activities totaling $54.8 million. These improper activities include theft of state property, conflicts of interest, and personal use of state resources. For example, the state auditor reported in December 2012 that a Franchise Tax Board employee, an Office of the Secretary of State employee, and a courier service owner were convicted of bribery and ordered to pay more than $227,000 after they engaged in an elaborate scheme to steal money from the State. As another example, the state auditor reported in March 2014 that the Employment Development Department failed to participate in a key aspect of a federal program that would have allowed it to collect an estimated $516 million owed to the State in unemployment benefit overpayments between February 2011 and September 2014. The investigations have also substantiated improper activities that cannot be quantified in dollars but have had negative social impacts. Examples include violations of fiduciary trust, failure to perform mandated duties, and abuse of authority.

Corrective Actions Taken in Response to Investigations

The chapters of this report describe the corrective actions that departments implemented on individual cases that the state auditor completed recently. Table A summarizes all of the corrective actions that departments took in response to investigations between the time that the state auditor opened the hotline in July 1993 until June 2014. In addition to the corrective actions listed, these investigations have resulted in many departments modifying or reiterating their policies and procedures to prevent future improper activities.

Table A
Corrective Actions
From July 1993 Through June 2014

TYPE OF CORRECTIVE ACTION	TOTALS
Convictions	12
Demotions	21
Job terminations	87
Resignations or retirements while under investigation	12*
Pay reductions	55
Reprimands	323
Suspensions without pay	27
Total	**537**

Source: California State Auditor (state auditor).

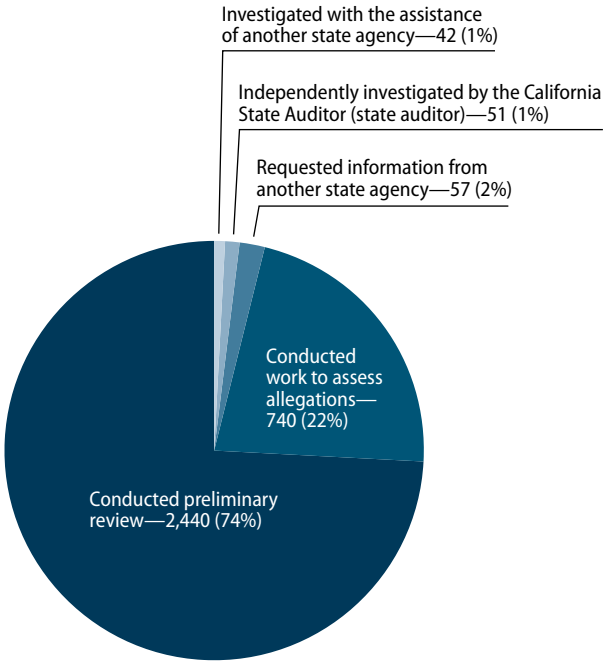
* The number of resignations or retirements consists of those that occurred during investigations that the state auditor has completed since 2007.

The State Auditor's Investigative Work From July 2012 Through June 2014

The state auditor receives allegations of improper governmental activities in several ways. From July 1, 2012, through June 30, 2014, the state auditor received 3,543 calls or inquiries. Of these, 1,202 came through the hotline, 1,196 through the mail, 1,122 through the state auditor's Web site, and the remaining 23 through other means. When the state auditor determined that allegations were outside its jurisdiction, it referred the callers and inquirers to the appropriate federal, local, or state agencies, when possible.

During this 24-month period, the state auditor conducted investigative work on 3,330 cases that it opened either in previous periods or in the current period. As Figure A shows, after conducting a preliminary review of these allegations, the state auditor's staff determined that 2,440 of the 3,330 cases lacked sufficient information for investigation. For another 740 cases, the staff conducted work—such as analyzing available evidence and contacting witnesses—to assess the allegations. In addition, the staff requested that state departments gather information for 57 cases to assist in assessing the validity of the allegations. The state auditor's staff independently investigated 51 cases and investigated 42 cases with assistance from other state agencies.

Figure A
Status of 3,330 Cases
From July 2012 Through June 2014



Source: State auditor.

Of the 51 cases the state auditor independently investigated, it substantiated an improper governmental activity in nine of the investigations it completed during the period and conducted follow-up work for 15 cases it had publicly reported previously. In addition, the state auditor conducted analyses of the 42 investigations that state agencies conducted under its direction. It substantiated an improper governmental activity in 12 of the investigations completed and conducted follow-up work for five cases it had publicly reported previously. Further, the state auditor publicly reported in 2013 and 2014 the results of four investigations with substantiated improper governmental activities. The results of 10 investigations with substantiated improper governmental activities appear in this report.

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