

**INVESTIGATIVE
REPORT BY THE
STATE AUDITOR
OF CALIFORNIA**

**Investigative Activity Report And Public Reports Of Investigations
Completed By The Bureau Of State Audits
From January 1 Through July 31, 1994**



CALIFORNIA STATE AUDITOR
BUREAU OF STATE AUDITS

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September 14, 1994

I94-2

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

Dear Governor and Legislative Leaders:

Pursuant to the Reporting of Improper Governmental Activities Act, the Bureau of State Audits presents its report concerning its investigative activities. This report provides statistics on calls received on the "whistleblower" hotline and the number of investigations begun and completed from January 1 through July 31, 1994. The report also summarizes the results of 18 completed investigations that substantiated allegations of improper governmental activity. Finally, the report summarizes actions taken by agencies as a result of investigations previously reported by the State Auditor.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Kurt Sjoberg".

KURT R. SJOBERG
State Auditor

Enclosure

I94-2, September 1994

California State Auditor
Bureau of State Audits

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RESULTS IN BRIEF

The Reporting of Improper Governmental Activities Act

The Bureau of State Audits, formerly known as the Office of the Auditor General, reactivated the State's "whistleblower" hotline on July 21, 1993. The hotline enables state employees and the public to report improper governmental activities. The Reporting of Improper Governmental Activities Act (act) is contained in Section 8547 et seq., of the California Government Code. The act defines an improper governmental activity as any activity by a state agency or by a state employee undertaken during the performance of the employee's official duties that violates any state or federal law or regulation, that is economically wasteful, or that involves gross misconduct, incompetence, or inefficiency. The whistleblower hotline number is (800) 952-5665.

This report provides statistics on the complaints received by this office from January 1 through July 31, 1994. In addition, this report summarizes actions we have taken on those complaints and 26 other complaints that were awaiting review or assignment as of December 31, 1993. Further, this report details the results of those investigations that were completed from January 1 through July 31, 1994, and that substantiated complaints. Some of the improper governmental activities we substantiated include the following:

- A program manager at the Employment Development Department violated federal, state, and departmental conflict-of-interest laws, regulations, and standards during the awarding of more than \$770,000 in state contracts to a company in which her husband served as the director of government affairs.
- Two employees of the Department of Transportation falsified travel expense claims totaling \$18,244 in 1989.
- An employee of the Department of Motor Vehicles removed an acquaintance's driver's license revocation from the department's computer records.
- Two employees of the Department of Corrections improperly influenced the ranking of a candidate for employment on a hiring list.

- An employee and his supervisor at the Office of Criminal Justice Planning failed to follow departmental conflict-of-interest policies, allowing the employee to remain in his position and potentially influence the awarding of a grant to a favored adoption agency.
- A manager of one of the Department of Food and Agriculture's agricultural associations did not always properly report her attendance and misused a state vehicle.
- A manager of an Employment Development Department branch office used a state vehicle for personal use, falsified vehicle logs, and misused her authority by requiring subordinate employees to perform personal services for her.
- An employee of the Employment Development Department used a state computer to conduct personal work related to her tax preparation business and made personal long-distance telephone calls at the State's expense.
- The office of the Secretary of State circumvented competitive bid requirements when awarding a consulting contract for the development and implementation of its new History Hall.
- The office of the Secretary of State did not comply with or enforce provisions of its interagency agreements with institutions for the Oral History Program.
- Faculty at the San Jose State University do not consistently report sick leave.
- Management of one of the Department of the Youth Authority's institutions unnecessarily spent more than \$40,000 on an ambulance that the institution is unable to use as an emergency vehicle off site.
- Administrators at San Diego State University, San Francisco State University, and California State University at Long Beach report false data concerning individual faculty member's workloads. However, reports based on the data are seldom used. Moreover, the false data affect only reports on individual faculty, not aggregate data.

- Employees at the Department of Transportation, the Agricultural Labor Relations Board, the Council for Private Postsecondary and Vocational Education, and the Department of Motor Vehicles misused state telephones.

Finally, this report summarizes corrective actions taken by agencies as a result of investigations previously reported by the state auditor.

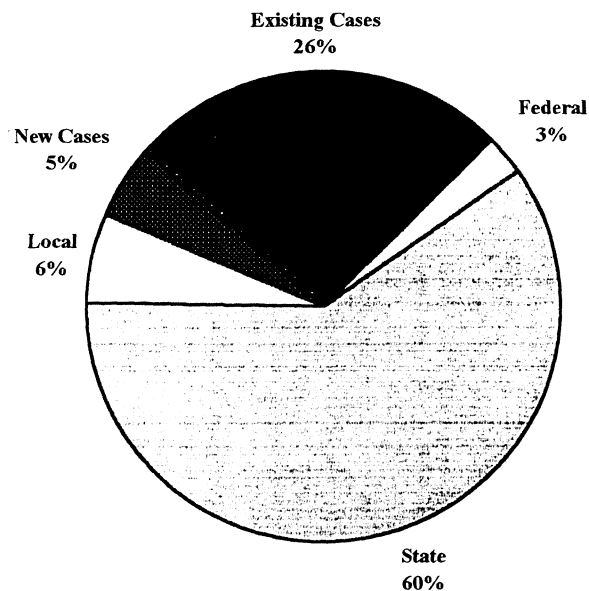
Chapter 1

Activity Report

Complaints Received by the Bureau of State Audits

From January 1 through July 31, 1994, the Investigations Unit received 2,639 calls on the whistleblower hotline. Of these calls, 1,811 (69 percent) were about issues outside the jurisdiction of the Reporting of Improper Governmental Activities Act (act) or were not complaints at all, but requests for information. In these cases, we attempted to give the caller the telephone number of the appropriate entity. Specifically, we referred 1,586 (60 percent) of all calls received to other state agencies, 155 (6 percent) of the calls to local agencies, and 70 (3 percent) of the calls to federal agencies. For 132 (5 percent) of the calls received, we established case files. We had already established case files for 696 (26 percent) of the calls. These calls came from either the original complainants or additional complainants. Chart 1 shows the disposition of calls received over the whistleblower hotline during the first seven months of 1994.

Chart 1 Disposition of Calls to the Whistleblower Hotline



Investigative Cases

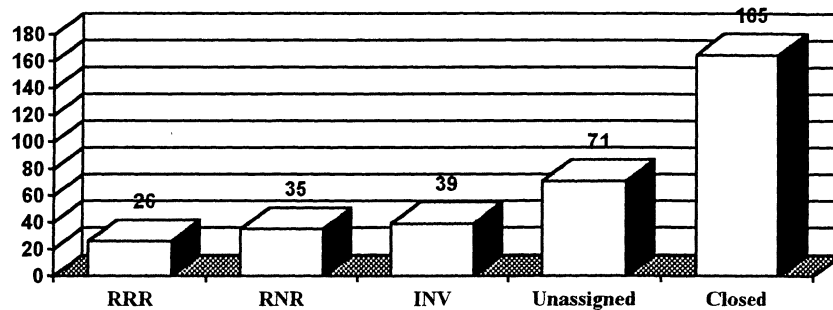
During the period from January 1 through July 31, 1994, we handled a total of 258 cases. In addition to the 132 cases opened based on calls received over the hotline, we opened 49 cases based on complaints received through the mail and 5 cases based on information provided by individuals who visited us at our office, for a total of 186 case files opened from January 1, 1994, through July 31, 1994. Moreover, as of December 31, 1993, there were 26 cases awaiting review or assignment and 42 cases were still under investigation by either this office or other state departments or agencies on our behalf. Furthermore, for 4 other cases, investigations had been completed and publicly reported, but the employing departments had not completed their corrective action. Chapter 4, beginning on page 69, summarizes corrective actions taken since December 31, 1993, on these 4 investigations.

Upon review of the information provided by complainants and preliminary work by investigative staff, we assess whether sufficient evidence of wrongdoing exists to mount an investigation. In 5 cases, we concluded that there was not enough evidence of improper governmental activity for us to mount an investigation, but there was sufficient evidence of activities that may be of concern to the departments. In these 5 cases, we referred the details of the complaints

to the departments for their information, keeping the identity of the complainants confidential. Chart 2 shows action taken on case files during the period from January 1 through July 31, 1994.

Chart 2 Disposition of Cases

RRR	RNR	INV	Unassigned	Closed
26	35	39	71	165



RRR = cases referred to agency, response required.

RNR = cases referred to agency, no response required and closed.

INV = cases assigned to state auditor's investigator.

Unassigned = cases not reviewed or assigned.

Closed = includes all RNR, 21 RRR, 29 INV, and 80 cases closed because there was insufficient evidence of wrongdoing to either initiate an investigation or notify the departments.

During the period January 1 through July 31, 1994, we completed 46 investigations and started investigations on 26 new cases. In 18 of the 46 completed investigations, we substantiated the allegations.

Protection for Whistleblowers

The act protects the identity of individuals who, under the act's provisions, allege improper governmental activities. The act prohibits state employees from intimidating, threatening, coercing, commanding, or attempting to intimidate, threaten, coerce, or command any person for the purpose of interfering with the right of that person to disclose to the state auditor matters within the scope of the act. Moreover, the act specifically prohibits any acts of reprisal, retaliation, threat, coercion, or similar acts against a state employee for having disclosed improper governmental activities.

**Investigations of
Improper
Activities**

The act states that the state auditor may conduct an investigation upon receiving specific information that any employee or state agency has engaged in an improper governmental activity. The act also specifies that the state auditor may request the assistance of any state department, agency, or employee in conducting any investigation. However, it is important to note that both Sections 8545.1 and 8547.6 of the California Government Code prohibit any agency, department, or employee from divulging any information obtained as a result of the request or any information obtained thereafter as a result of further investigation without the permission of the state auditor. These provisions protect the identity of the complainant and the reputations of individuals who have been accused of improper governmental activity should the allegations not be substantiated.

If, after investigating the allegations, the state auditor determines there is reasonable evidence to believe an employee or state agency has engaged in any improper governmental activity, the Bureau of State Audits reports the nature and details of the activity to the head of the employing agency or the appropriate appointing authority. The employing agency or the appointing authority is required to report any corrective action, including disciplinary action, it takes as a result of the report to the state auditor no later than 30 days after the date of the state auditor's report. If the entity has not completed its corrective action within 30 days, it must report to the state auditor monthly until final action has been taken.

All investigative audits must be kept confidential, except that, when the state auditor deems that issuing the report is necessary to serve the interests of the State, the state auditor may publicly issue any report of an investigation that has been substantiated, keeping confidential the identity of the individual or individuals involved.

Chapter 2

Public Reports of Investigations Completed by the Bureau of State Audits From January 1 Through July 31, 1994

Employment Development Department, Allegation I930159

A program manager at one branch office of the Employment Development Department (EDD) allegedly violated federal, state, and departmental conflict-of-interest laws, regulations, and standards during the awarding of state contracts to a company in which she had a financial interest.

Results of Investigation

We investigated and substantiated the allegation. Specifically, we found that a job retraining program, which the employee managed, awarded more than \$770,000 in state contracts to a company in which she had a financial interest through her husband's position and income. As a manager of this program, which received federal funds to aid unemployed workers adversely affected by increasing imports, the employee was in a position to both directly and indirectly influence the awarding of 82 contracts to the company. These 82 contracts were awarded within a period of approximately two months. Although departmental policies required the program manager to disclose her financial interest in this company, we found that she failed to disclose her interest on a timely basis.

To conduct our investigation, we interviewed personnel from the EDD's contracts and fiscal units, the EDD area administrator, the program manager, members of her staff, and her immediate supervisor. We also examined documents related to the awarding of the contracts and various laws, regulations, and policies concerning conflicts of interest. In addition, we obtained and analyzed the telephone records for the program manager's state telephone covering the four months from July through October 1993. Further, we reviewed documents the subject company had submitted to the Council for Private Postsecondary and Vocational Education (council) in its application to gain approval to operate as a private postsecondary institution.

Job Retraining Program Background

The Trade Adjustment Assistance (TAA) program is a federally funded program administered by the U.S. Department of Labor. Under the Trade Act of 1974, the TAA program is designed to provide job retraining and other benefits for workers whose employment is adversely affected by increased imports. The program includes a variety of benefits and reemployment services to help unemployed workers prepare for and obtain suitable employment. One benefit includes weekly trade readjustment allowances (TRA), which may be paid to eligible workers following their exhaustion of unemployment benefits. However, TRA benefits are paid only if an individual is enrolled in or has completed a previously approved training program, unless the training requirement is waived.

To administer this program, states must enter into financial cooperative agreements with the U.S. Department of Labor. In California, the EDD has assumed the responsibility for administering the TAA program. In turn, the EDD has delegated certain responsibilities related to this program to its branch offices, which are located near companies certified by the U.S. Department of Labor as being adversely affected by imports. The staff at these EDD branch offices are responsible for approving the training of TRA-eligible workers. To approve training, the staff must determine if the training is appropriate for the workers and if the workers are qualified to undertake and complete the training. In addition to approving training, staff are responsible for preparing and administering the contracts between the EDD and the companies providing the training.¹ In all cases, the maximum amount of the contract for retraining cannot exceed \$10,000 per worker. After TAA contracts are awarded, staff at the branch offices are responsible for monitoring the progress of the workers' retraining programs with the training facilities. The employee we investigated stated that she assumed the responsibility for managing the program at one of the EDD branch offices in May 1993. As the manager, she supervised staff, reviewed TAA contracts before forwarding the contracts to the branch manager or his designee for his signature, and compiled summary reports of TAA and TRA activities.

As stated above, workers must be enrolled in or have completed an approved training course to receive TRA benefits, except when the training requirement has been waived. According to the EDD Trade

¹ In some cases, the EDD has issued contracts between itself and individual TRA workers; however, these contracts specified that the monies awarded were to be used towards the cost of retraining.

Act Manual, a training plan may provide for classroom training (prevocational/vocational), on-the-job training (OJT), a combination of classroom and OJT, or direct referrals to job openings. However, training obtained without cost is of highest priority. Secondary priority is given to purchased training. Institutional training, which includes public and private schools charging a fee or tuition, may be considered only to the extent funds are available, fees are reasonable when compared with other fees in the area, placement rates or employer reviews of curriculum are favorable, and the council approves the facility. Further, public institutional training should be considered before private institutional training.

Because of the volume of requests for TAA training, the EDD developed a list of schools the council had approved. The council establishes the minimum criteria for the approval of private postsecondary or vocational educational institutions to operate in California and approves those institutions that meet the criteria. A private postsecondary educational institution is defined as any person doing business in California that offers to provide, for a tuition, fee, or other charge, any instruction, training, or education primarily to people who have completed or terminated their secondary education or are beyond the age of compulsory high-school attendance. The EDD believed that a list of such schools could serve an immediate need to assist the staff in the field offices throughout the State. According to the EDD, the list could be used as a guide when approving training and writing TAA contracts.

Federal, State, and Departmental Conflict-of-Interest Criteria

According to the financial cooperative agreement between the EDD and the U.S. Department of Labor, the EDD agreed to comply with applicable federal regulations, including 29 Code of Federal Regulations (CFR) Part 97. This part of 29 CFR, which establishes uniform administrative rules for U.S. Department of Labor grants to and cooperative agreements with state governments, includes conflict-of-interest prohibitions. Specifically, Part 97.36 states that no employee of the grantee, in this case, the EDD, shall participate in the selection, award, or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee has a financial or other interest in the firm selected. A financial interest would include income earned by the employee's spouse.

According to Section 1090 of the California Government Code, state employees shall not be financially interested in any contract made by them in their official capacity. According to previous court interpretations, the purpose of this statute is not only to strike at actual impropriety, but also to strike at the appearance of impropriety. Further, the courts have determined that the meaning of a contract "made" by an officer encompasses preliminary discussions, negotiations, compromises, reasoning, and planning. Moreover, case law has shown that public employees may be in violation of this statute, whether or not they actually participated personally in the execution of the questioned contract, if it is established that they had the opportunity to and did influence execution directly or indirectly to promote their personal interests.

According to the EDD's Incompatible Activities Policy, EDD employees may not engage in any employment, activity, or enterprise that is clearly inconsistent, incompatible, or in conflict with the duties of state employees. Further, this policy requires that employees who are engaging in or plan to engage in any employment, activity, or enterprise that might be inconsistent, incompatible, or in conflict with their duties as state employees must submit a written statement of the circumstances and a request for a ruling to their supervisor.

Further, the EDD's Conflict-of-Interest Code requires that no public officials of the EDD shall make, participate in making, or in any way attempt to use their official position to influence a governmental decision in which they know or have reason to know they have a financial interest. Further, the code specifies that any EDD employee who, in the ordinary course of their duties and responsibilities, are participating in an action or decision that could affect their financial interests are required to disqualify themselves from such action and to submit a Disqualification Statement.

The Program Manager's Conflict of Interest

We believe that the program manager violated federal regulations and state law when the unit under her supervision granted 82 TAA contracts to the company for which her spouse worked. In addition, she violated department policy when she failed to disclose her financial interest in this company on a timely basis. According to California Government Code, Section 82030, an employee may have a financial interest in a company through the income the employee's spouse earns. In this case, the program manager confirmed to us that her husband worked as a consultant for the company for several years before becoming its current

director of government affairs. We found evidence that he was involved with this company since at least July 1993 and that he has been director of government affairs since at least September 9, 1993. As director of government affairs, he oversees the company's unit that is responsible for federal and state programs.

The company for which the program manager's husband worked is a California corporation established in August 1992. This for-profit company applied for council approval as a private postsecondary educational institution in July 1993. In August 1993, the council granted this company temporary approval to provide various computer courses. The company operates two centers where it provides courses in computer software programming and servicing. The length of these courses ranges from 2 weeks at a cost of \$1,750 to 28 weeks at a cost of \$9,995. Although the company stated in its application to the council that it is a computer training school "designed to develop computer competence; not employment placement," the company has stressed in its promotional materials that it targets TRA-eligible workers.

Contracts Approved. The program manager's unit approved a disproportionate number of contracts to her spouse's firm at a significantly higher cost, indicating that the company had received preferential treatment from her unit. Specifically, the TRA program the program manager supervised approved 36 contracts totaling \$323,590 with the company to begin on September 7, 1993, just one month and two days after the council temporarily certified the company to provide computer instruction. Over the next two months, the program approved an additional 46 contracts totaling \$448,090 to the company. Table 1 provides details on the number and dollar amount of TAA contracts the program manager's unit approved with beginning dates of September 7 through November 1, 1993. As the table illustrates, the program manager's unit awarded 82 of the 152 TAA contracts with beginning dates of September 7 through November 1, 1993, to her spouse's firm. The unit awarded the remaining 70 contracts to 37 other public and private organizations and individual workers.

**Table 1: TAA Contracts Awarded by Program Manager's Unit
Beginning Dates of September 7 through November 1, 1993**

	Number of Contracts	Percentage of Total	Amount of Contracts	Percentage of Total
Subject Company	82	53.9%	\$771,680	61.1%
37 Other Organizations or Individuals	70	46.1	490,737	38.9
TOTALS	152	100.0%	\$1,262,417	100.0%

Source: EDD Contracts

During the period reviewed, the program manager's unit did not award more than six contracts to any one organization or individual other than the company in which the program manager had a financial interest.

We also reviewed the number of contracts two other EDD branch offices had awarded to the subject company for the same period. These other EDD branch offices were located near the manager's office. Although these two branch offices did award a high number of contracts to the company, the program manager's unit awarded more contracts to this company than the two branch offices combined. Specifically, one branch office awarded the company 20 (13.7 percent) of the 146 contracts with beginning dates of September 7 through November 1, 1993, while the other branch office awarded 29 (34.5 percent) of the 84 contracts with the same beginning dates. In contrast, the program manager's unit awarded the company 82 (53.9 percent) of 152 contracts beginning during that period. We believe that the high proportion of contracts the program manager's unit awarded to the company demonstrates preferential treatment.

Table 1 also illustrates that, although the subject company received approximately one half (53.9 percent) of the contracts awarded during the period, it received more than 61 percent of the total value of the contracts awarded by the program manager's unit. The EDD guidelines state that priority should be given to low cost and reasonable training. We calculated the average cost of the contracts awarded during this time period and found that this company provided neither low cost nor reasonably priced training. In fact, the average cost of the contracts awarded to all other organizations was \$7,010, whereas for the

company in which the program manager had a financial interest, the average cost of the contracts awarded was \$9,410, or 34 percent more. Moreover, we found that the average costs of TAA contracts awarded, excluding those awarded to the subject company by the two other EDD branch offices, were \$6,523 and \$6,891. Consequently, it appears that the program manager's unit approved TAA contracts to the subject company that cost, on average, significantly more than other TAA contracts. Further, one of the other branch offices found that, in at least one case, a local college was offering the same course the company was offering, but at a substantially lower cost: \$5,995 as opposed to \$8,800.

In addition, the EDD guidelines state that priority should be given to companies with favorable placement rates or favorable curriculum reviews by employers. Given that the council had granted this company temporary approval to teach these courses less than one month before the program manager's unit awarded its first contract and given that the company stated that it was not designed to develop "employment placement," it is apparent that this company could not possibly have established a favorable placement rate or favorable curriculum reviews by employers as an approved private postsecondary educational institution. Moreover, we found evidence that some students who received training from this company were dissatisfied with the training because of the lack of materials and the level of instruction provided.

Employee Influence. The program manager did not actually sign any of the TAA contracts her unit awarded to the company. She stated that she did not even review any of the TAA contracts awarded to the company after September 10, 1993. However, as the supervisor of the TRA program staff, she attempted to directly influence the awarding of TAA contracts by another EDD branch office and she indirectly influenced the awarding of TAA contracts by her staff.

The program manager, in her official capacity as the supervisor of the program, called at least one other EDD branch office on behalf of the company. Specifically, the company was having problems getting its TAA contracts approved by the second EDD branch office. According to documentation related to this incident, the TRA program supervisor at the second EDD branch office received a call on September 3, 1993, from a company representative who was angry because the supervisor had denied the company's requests for training contracts. Minutes after the supervisor at the second EDD branch office spoke to the company representative, she received a call from the program manager. The program manager told the supervisor at the second EDD branch office that she, the program manager, had received a call from the company.

During the conversation between the program manager and the EDD supervisor, which lasted 25 minutes, the program manager related how angry the company was with the second EDD branch office and stated that her office was sending a lot of people to this company for retraining. We believe that this communication was clearly inappropriate given the program manager's financial interest in the company.

To determine if the program manager had attempted to influence her staff in the awarding of the 82 contracts to the company, we interviewed members of her staff at the branch office. The staff claimed that the program manager had not attempted to influence them. We then asked the staff if the program manager had ever questioned them regarding the contracts they were awarding to the company. The staff stated, and the program manager confirmed, that she had not. However, staff did say that the program manager had informed them that her husband did work for the subject company.

Based on our review of this company, we believe that, because the program manager did not make any inquiries, she indirectly influenced the awarding of 82 TAA contracts to her spouse's firm. As the supervisor of the program, she was aware of the risks and the controversy associated with this company. Considering that this company had been approved by the council less than one month before winning its first contract, the high cost of the company's training relative to other training facilities, and the fact that the company itself claimed to not be in the business of "employment placement," we believe a reasonable and prudent supervisor would have questioned the appropriateness of awarding so many contracts to this one company. However, we could not find any evidence that the program manager raised any questions even though her branch office was awarding the majority of its contracts to the company. In contrast, we found that supervisors and staff at other EDD branch offices had been concerned about the company for the reasons discussed earlier in this report and had brought their concerns to the local area administrator. As a result of these widespread concerns, the EDD placed a temporary moratorium against awarding contracts to this company.

Possible Improper Communications With The Company. In addition, we found that the program manager had contacted the company on numerous occasions during the time from when the company applied to the council for approval and her unit was first awarding TAA contracts to the company. Specifically, during the four months from July through October 1993, the program manager made at least 33 long-distance

telephone calls to the company from her state telephone. These calls were made during state time at state expense. Although we confirmed that the program manager's husband was working at the company during those months, we were unable to determine whether the calls were business related or personal in nature. When questioned about these calls, the employee stated that she did not recall the exact nature of all the telephone calls. She stated that she had to call the company on occasions when her staff was having problems with the staff at the company. Given her financial interest in the company and because she was in a position to provide information to the company that could give it an unfair advantage, we believe that it was inappropriate for the program manager to have called this company so frequently in the stated time period.

Employee's Disclosure Was Not Timely. According to the EDD's Conflict-of-Interest Code, the program manager was required to disclose her financial interest in this company. Although the program manager did, in fact, disclose this situation to her supervisors, we believe that the program manager did not fully disclose the extent of her interest in the company. Moreover, we found that her disclosure was not timely in that her unit had already awarded numerous contracts to the company, and she had interacted with the company personally in giving them information about the TRA program.

According to a memorandum to her branch manager dated September 10, 1993, the program manager informed him that her husband was recently hired as a consultant for the company. However, she later told us and signed a statement under penalty of perjury stating that her husband had worked for the company as a consultant for several years. Further, we found documentation proving that her husband had been working with this company since at least July 1993. As the manager of the TRA program since May 1993, she had, on occasion, worked with the company in providing them general information about the TAA program, including the procedures for training contracts. In addition, we found that the program manager had made at least 31 of the 33 telephone calls to the company before her disclosure. Consequently, it appears that the conflict of interest between the program manager and the company had existed for at least two months before her disclosure. Moreover, based on a review of the contracts her unit had awarded to the company, we found that the program manager's disclosure occurred after her unit had already awarded 36 contracts totaling \$323,590 to the company. Given the serious nature of the conflict of interest, the program manager's personal interaction with the company, and the significant amount of contracts

and monies awarded to the company before her disclosure, we believe that the program manager was delinquent in disclosing her financial interest in this company.

After the program manager disclosed her financial interest in the company, the branch manager did not remove the program manager from this position. The branch manager stated that when the program manager informed him of the potential conflict of interest, he instructed her not to review any of the TAA contracts her unit awarded to the company. In addition, he noted that she did not have authority to sign any TAA contracts. He believed that because the program manager did not sign or review any contracts that were awarded to the company, there would be no conflict of interest. However, we believe that because the program manager supervised the staff that approved the training contracts and because her staff knew that her spouse worked for the company, the program manager was still in a position to indirectly influence these contracts. Moreover, case law has stipulated in the past that conflict-of-interest regulations and standards apply not only to direct and actual improprieties but also to indirect and the appearances of improprieties. Consequently, based on the aforementioned federal, state, and departmental criteria, we disagree with the branch manager and believe the program manager should have been removed from this position, notwithstanding the fact that she had no authority to sign or review the contracts awarded to the company in which she had a financial interest.

Conclusion

A program manager at the EDD violated federal, state, and departmental conflict-of-interest laws, regulations, and standards during the awarding of more than \$770,000 in state contracts to a company in which her husband served as the director of government affairs. Although the program manager told her supervisor about her relationship with the company, her disclosure was delinquent in that the unit she supervised had already awarded 36 contracts totaling \$323,590. In addition, her conflict of interest had existed for at least two months before her disclosure. Her supervisor inappropriately failed to remove her from this position after she disclosed her financial interest in the company.

Agency Response

In its first 30-day response, the EDD reported that it had not yet completed its corrective action.

**Department of
Transportation,
Allegation I92096**

Two employees of the Department of Transportation (department) falsified travel expense claims while on long-term assignment to one of the department's district Offices of Right of Way.

Results of Investigation

The department's Audits and Security Division investigated and substantiated the complaint. To investigate the allegation, investigators reviewed the employees' travel expense claims for the pertinent months in 1989. They also reviewed one of the employee's time sheets for calendar year 1989. Finally, the investigators interviewed the two employees, other department employees, and private citizens.

One of the employees falsely claimed reimbursement of \$10,370 for per diem from January 1 through December 31, 1989, while on a long-term assignment to one of the district's Offices of Right of Way. The other employee, also on long-term assignment to the same office, falsely claimed long-term per diem of \$7,874.50 from January 1 through September 30, 1989. The employees falsely claimed that they had rented a room they used during the week at a cost of between \$750 and \$825 per month.

When interviewed by investigators, the two employees claimed that they had paid their rent in cash but had not received receipts. However, they both claimed that they had signed a formal rental agreement. When asked to produce the rental agreement, the employees produced a "Substitution For Original Rental Agreement From January 1, 1989, to December 31, 1989." This document was dated May 1994 and was signed by the two employees and two other individuals. When investigators questioned the other two individuals, they recanted their statement and said that they did not rent a room to the two department employees in 1989 or at any other time.

Investigators determined that the property in which the employees claimed to have rented a room had only one bedroom, one bathroom, a living room, a dining room, and a kitchen. Moreover, the two individuals who resided in the property and who had earlier claimed to have rented a room to the department employees paid rent of only \$350 per month. Although the two department employees insisted that they had rented a room in the house, neither could provide an accurate description of the house, nor could they say how many bedrooms were in the house or whether they shared a bathroom.

Conclusion

Two employees of one of the department's Offices of Right of Way falsified travel expense claims totaling \$18,244.50 in 1989.

Agency Response

The department notified the two individuals that their employment would be terminated effective June 9, 1994. In addition, on May 13, 1994, the department forwarded the investigation results to the State Police for possible criminal prosecution.

**Department of
Motor Vehicles,
Allegation
I930199**

An employee of the Department of Motor Vehicles (department) allegedly removed her boyfriend's conviction of driving under the influence of alcohol from the department's computer records.

Results of Investigation

The director of the department investigated and substantiated the complaint. Based on information we provided, the department determined that, on May 19, 1992, it revoked an individual's driving privilege for a period of two years as a result of the individual's having been arrested for driving under the influence on April 4, 1992. The individual was convicted of the charge on August 5, 1992; however, upon reviewing its computer files, the department found that the revocation had been set aside by a department employee on July 12, 1993.

When the department attempted to locate a file concerning a hearing related to the revocation of the individual's license, it found that the file was missing. The manager of the field office interviewed the employee under investigation, who initially denied knowing the individual whose license revocation had been set aside and denied knowing anything about the missing file. Subsequently, the department's employee admitted to knowing the individual and having delivered the missing file to him. She also admitted using the department's computer system to set aside the license revocation.

Conclusion

An employee of the department set aside an acquaintance's drivers license revocation from the department's computer records.

Agency Response

The department discharged the employee. In addition, the investigator concluded that sufficient facts existed to pursue a criminal complaint against the employee for computer fraud and theft of government documents.

**Department of
Corrections,
Allegation
I940098**

Two employees at a correctional training facility (CTF) of the Department of Corrections improperly influenced a candidate's ranking for employment on a CTF hiring list.

Results of Investigation

The captain of the investigative service unit at the CTF investigated and substantiated the allegation. He found that both employees, a records specialist and a lieutenant, had inappropriately used their influence to elevate a candidate's ranking on a CTF hiring list. Further, he found that the two employees had violated various California Government Code sections pertaining to dishonesty, inexcusable neglect of duty, willful disobedience, and other failures of good behavior. To conduct his investigation, the captain reviewed documentation and interviewed several witnesses, including the two employees in question.

During his investigation, the captain concluded that the records specialist and the lieutenant had an inappropriate conversation regarding a candidate whom the records specialist would be interviewing. Specifically, the records specialist served as the chairperson of a three-member panel, which was conducting hiring interviews for vacant office assistant positions at the CTF. The panel interviewed and ranked 17 individuals. The captain found that during these hiring interviews, the records specialist, the lieutenant, and the candidate in question had a conversation in which the lieutenant introduced the candidate to the records specialist as a personal friend. The records specialist confirmed that the lieutenant then told her, "You need to hire her (the candidate)." The records specialist also confirmed that she and the lieutenant are personal friends. Shortly after this conversation, the candidate interviewed in front of the panel the records specialist chaired.

After completing all the hiring interviews, the three-member panel met to discuss the merits and appropriate rankings of the candidates whom they had interviewed. During these discussions, the panel agreed upon a specific ranking of all the candidates, including the candidate in question. After the panel had reached its decision, the records specialist, as the chairperson of the panel, was responsible for completing the formal paperwork such as interview worksheets and hiring sheets related to the hiring interviews. However, the captain found that the records specialist had ranked the candidate in question

higher than had been agreed upon, without informing the other two panel members.

Conclusion

Two employees at a Department of Corrections CTF used their influence to improperly improve a candidate's ranking for employment.

Agency Response

In its first 30-day response, the department stated that it had not yet completed its corrective action.

**Office of
Criminal Justice
Planning,
Allegation
I930128**

An employee and his supervisor at the Office of Criminal Justice Planning (OCJP) failed to follow the office's conflict-of-interest policies, allowing the employee to remain in his position to potentially influence the awarding of a grant to a favored adoption agency.

Results of Investigation

We conducted an investigation and found that the employee, with the knowledge of his supervisor, had been in a position to potentially and unduly influence the awarding of a grant to an adoption agency with which he had a personal relationship. Specifically, we found that the employee was assigned to rate a grant proposal submitted by the adoption agency where he was a certified foster parent. As a rater of the proposal, the employee was in a position to potentially influence the awarding of the grant, which is in violation of the office's conflict-of-interest policies. Although the employee disclosed some details of this relationship to his supervisor, the supervisor allowed the employee to remain in his position as a rater. In addition, neither the employee nor his supervisor followed OCJP procedures for disclosure of potential conflict-of-interest situations. The OCJP subsequently awarded the adoption agency in question approximately \$100,000 in grant monies. Four months after the OCJP awarded the grant to the adoption agency, the adoption agency placed two children with the employee.

To conduct our investigation, we interviewed personnel from the OCJP, the Department of Social Services, and the adoption agency in question. We also interviewed the employee and the employee's supervisor. We reviewed the OCJP's Incompatibility Statement and Standard of Conduct Policy and documents related to the awarding of the contract, the certification of the employee as a foster parent, and the placement of the two children.

According to the OCJP's Incompatibility Statement and Standard of Conduct Policy, employees must avoid all situations in which prejudice, bias, or opportunity for personal gain is the motivating force in the conduct of state business. The policy states that employees who engage in or plan to engage in any employment, activity, or enterprise that might be incompatible or in conflict with their duties as state employees must submit to their supervisor a written statement that explains the circumstances and requests a ruling before commencing the activities.

The supervisor, in turn, is to prepare a written recommendation to the appropriate deputy director.

The OCJP awards grants based on a competitive process wherein various organizations submit proposals, which OCJP staff then rate and rank. The highest ranking scores receive funding to the extent that funds are available. In October 1992, the adoption agency submitted a grant proposal to receive funding under three separate categories. In November 1992, the employee in question was involved in rating the adoption agency under one of these three categories. The employee was also assigned the responsibility of presenting the grant proposal to a state advisory group for its final approval. The adoption agency subsequently received a grant totaling approximately \$100,000 under that category. Although the responsibility for reviewing the disbursement of funds for the adoption agency's grant had been assigned to a different employee, the employee requested and received permission to serve as the OCJP's contact person for the adoption agency in question.

During our investigation, we found that the employee had an ongoing personal relationship with the adoption agency, even though he was in a position to rate the agency's grant proposal and potentially influence the awarding of the grant. Specifically, in February 1992, the employee approached the adoption agency to begin adoption proceedings. In August 1992, after receiving the necessary clearances from the Department of Social Services, the adoption agency certified the employee as a foster parent. In November 1992, the employee rated the proposal submitted by the adoption agency. Consequently, it appears that the employee was personally involved with the agency for approximately eight months before the rating session. Because the employee was in a position to potentially influence the awarding of a grant, this relationship with the adoption agency appears to have been in conflict with his duties. As such, the employee should have submitted to his supervisor a written statement that described this relationship and requested a ruling. We found no such written statement.

In an interview with the employee's supervisor, the supervisor stated that the employee had disclosed to her his relationship with the adoption agency in a brief five-to-ten minute conversation. Although the supervisor was unable to recall the exact date of this conversation, she stated that she did remember that, based on the information the employee had told her, she decided to allow the employee to remain in his position. Specifically, she concluded that, although there may have been a potential conflict of interest between the employee's professional

and personal involvement with the adoption agency, the employee's ability to influence the rating process was limited. Consequently, she decided not to remove the employee from the team that rated the adoption agency's proposal. The supervisor confirmed that neither she nor the employee documented this conversation or the potential conflict-of-interest situation. The supervisor claimed that she was not familiar with the department's Incompatibility Statement and Standard of Conduct Policy. As a result, she did not require the employee to submit a written statement of the circumstances, nor did she prepare a written recommendation for the appropriate deputy director.

In April 1993, four months after the OCJP awarded the grant to the adoption agency, the adoption agency placed two children with the employee. However, we found no evidence that the adoption agency's decision to place these two children with the employee was influenced by the employee's rating of the agency's grant proposal. In addition, although the employee rated the agency's proposal higher than did the other raters, his rating was not significantly higher than the ratings prepared by other staff members.

Conclusion

The employee and his supervisor violated the OCJP's Incompatibility Statement and Standard of Conduct Policy by failing to document the employee's personal relationship with an adoption agency when he was in a position to potentially influence the awarding of an OCJP grant to the adoption agency. Further, the supervisor, despite being aware of the potential conflict-of-interest relationship between the employee and the adoption agency, failed to remove the employee from his assignment.

Agency Response

In its first 30-day response, the OCJP stated that it had not yet completed its corrective action.

**Department of
Food and
Agriculture,
Allegation
I930154**

The secretary-manager of one of the Department of Food and Agriculture's district agricultural associations (DAA) did not always properly report her attendance and misused a state vehicle.

Results of Investigation

We substantiated the complaint that the secretary-manager did not always properly report her attendance and misused a state vehicle. To verify the accuracy of the complaint, we interviewed the secretary-manager and other employees at the DAA. We also interviewed the president of the DAA's Board of Directors. Further, we reviewed the secretary-manager's leave records, including her personal calendar for 1993 and appointment calendars kept by her secretary from January 1991 through October 1993, to determine her leave accounting. We also reviewed records of the state vehicle assigned to the DAA to determine its usage.

Failure to Properly Report Attendance

We found that the secretary-manager did not regularly and accurately report her time and attendance for the period we investigated. The Department of Personnel Administration's regulations state that employees in classifications such as the secretary-manager classification have a rate of pay that represents full compensation for all time that is required for the employees to perform the duties of the position. Consequently, under most circumstances, such employees do not receive compensation for hours worked beyond the regular 40-hour work week. The regulations also allow an employee in the secretary-manager classification to receive the regular rate of pay without deduction if an absence does not reduce the employee's average work week below 40 hours within the 12 pay periods ending with the pay period in which an absence occurs. Although we noted instances of absence that she did not report, we were unable to determine the extent to which the secretary-manager worked an average of 40 hours per week during a 12-month period.

The Department of Food and Agriculture's policies require that all employees of DAAs, including the secretary-manager, submit time and attendance reports to account for their leave usage. Moreover, the State Administrative Manual requires that a state employee's attendance

reports be certified by the employee's supervisor. Nevertheless, in 1993 the secretary-manager reported her time and attendance only for the months of September, November, and December. She did not submit any reports for the other nine months in 1993. According to the secretary-manager, she believed that she was not required to submit time and attendance reports. However, the secretary-manager admitted that since she did not submit time and attendance reports, there was no clear way her staff would know what and when to record the vacation and sick leave she had taken. Moreover, without complete and accurate attendance records, the State has no assurance it is paying employees only the amounts they are entitled to receive.

In addition, even when the secretary-manager submitted time and attendance reports, they often were completed improperly. Specifically, 8 of the 12 attendance reports she submitted in 1991, 1992, and 1993 had no supervisory signature. Further, the secretary-manager signed and dated 2 of the 8 reports a few weeks before the end of the period covered. Furthermore, in one case, the individual certifying that the time and attendance report was accurate, signed and dated the report in the month before the period covered. Individuals attesting to the accuracy of time and attendance reports should only do so at the end of the period covered, when they can be certain that all attendance for that period is accurately reported.

The secretary-manager also improperly claimed sick leave on her December 1993 time and attendance report. State personnel rules define sick leave as the absence of an employee from work because of illness or injury; for medical appointments with, or treatments by, a licensed physician; or to attend to an ill or injured member of the employee's immediate household. On November 10, 1993, the secretary-manager informed the DAA Board of Directors in a letter that she would resign from the DAA effective December 31, 1993, to accept the position of manager of a county fair. She further stated that her last day in the office would be December 10, 1993, and that she would use accrued leave to account for her absence before the effective date of her resignation. The secretary-manager subsequently claimed a total of 84 hours of sick leave and 36 hours of vacation and personal leave to account for her absence for the period between the actual and effective dates of her resignation in December 1993. However, she should have charged all of her absence to her annual leave balance, not to sick leave. The distinction is important because the State does not pay employees for their unused sick leave. Instead, under the provisions of the California Public Employees' Retirement System (PERS), any unused sick leave of an employee who is a member of the PERS at the time of

retirement may be considered as additional service credit for the purpose of calculating retirement benefits. In addition, unused vacation and annual leave hours are more valuable to the employee and cost the State more money than unused sick leave. Specifically, the State must pay employees for each hour of their unused vacation or annual leave when employees separate from state employment.

Misuse of a State Vehicle

The secretary-manager violated state policies on the use of state vehicles and misused the state vehicle assigned to the DAA. State policies require that state vehicles be used only in the conduct of state business, and commuting in state vehicles is allowed only in compliance with specific guidelines, including obtaining appropriate approval. In addition, state policies prohibit an employee driving a state vehicle from carrying any passengers other than those directly involved with state business, unless permission is obtained in advance for each trip by the employee's supervisor. Moreover, when employees use state vehicles for personal convenience, the use of the vehicle is considered taxable income to the individual and must be reported to the taxation authorities.

We found that the secretary-manager used a state vehicle to commute to and from work daily from her home to her place of work in another city for a period of at least 15 months. According to the president of the DAA Board of Directors, the secretary-manager did not have the Board of Directors' permission to commute to and from work in the state vehicle assigned to the DAA. Further, the president stated that the state vehicle was meant to be used by the secretary-manager and her staff during office hours in the conduct of DAA business.

Besides commuting in the state vehicle, she also used the state vehicle to conduct personal business by driving the state vehicle to her medical and personal appointments. In addition, the secretary-manager admitted that she drove her husband to work and her children to day care with the state vehicle almost every day. The secretary-manager stated that she had received verbal permission from an official at the Department of General Services' Office of Fleet Administration regarding carrying passengers in the state vehicle. However, when we contacted the official, he stated that he did not have the authority to grant permission, nor did he give any verbal permission for her to carry passengers in the state vehicle. Further, we found no evidence that the DAA reported the secretary-manager's personal use of the state vehicle to the taxation

authorities. We did not attempt to determine whether the secretary-manager reported the personal use to the taxation authorities.

Conclusion

The secretary-manager of one of the Department of Food and Agriculture's DAAs failed to properly report her attendance. In addition, she improperly claimed sick leave to account for her absence from work for the period before the effective date of her resignation. Finally, she violated state policies on the use of state vehicles and misused the state vehicle that was assigned to the DAA.

Agency Response

The department counseled the secretary-manager and the DAA's Board of Directors on use of accrued leave credits. In addition, the department corrected the secretary-manager's leave balances, reducing her vacation balance by 84 hours and increasing her sick leave balance by the same amount. The department also counseled the secretary-manager and the Board of Directors regarding the appropriate use of state-owned vehicles and the requirement of reporting personal usage as taxable income.

**Employment
Development
Department,
Allegation
I940039**

A manager of an Employment Development Department (EDD) branch office allegedly used a state vehicle for personal use and falsified the mileage log. In addition, the manager allegedly misused her authority by requiring subordinate employees to perform personal services for her.

Results of Investigation

The EDD's director investigated and substantiated the allegations. To investigate the complaints, the EDD interviewed staff at the branch office and reviewed vehicle logs and other documents relating to the use of the vehicle. The EDD concluded that the manager had used a state vehicle for personal use on several occasions and had falsified the monthly travel log for the vehicle for December 1993 and January 1994. In addition, the EDD concluded that the manager had abused her authority by requiring subordinate employees to perform personal services for her. These personal services included providing the manager with transportation.

Agency Response

The EDD has begun action to discharge the employee.

**Employment
Development
Department,
Allegation
I940072**

An employee of the Employment Development Department allegedly used state equipment to conduct personal work related to her tax preparation business. In addition, she made personal long-distance calls at the State's expense.

Results of Investigation

We investigated and substantiated the allegations. To investigate the allegations, on May 25, 1994, we reviewed the employee's files on her state computer and a computer floppy disk. In addition, we obtained and analyzed records related to the employee's state telephone for December 1993 through March 1994. Furthermore, we obtained the applicable sign-in sheets for January 1994 through May 1994, which show the hours the employee reported for work during each month. Finally, we interviewed the employee.

Use of State Equipment for Personal Gain

State policy prohibits employees from using the State's computers for any purpose unrelated to the State agency's mission. In addition, state policy requires employees to keep the number and length of personal telephone calls to a minimum. However, the employee, who has been a licensed tax preparer since January 1, 1989, confirmed that she used state resources, including her state computer and state telephone, to conduct personal work related to her tax preparation business. The employee claimed that she prepared tax returns for her clients at home on her personal computer during her own time. But the employee conceded that she brought disks containing her client's tax information to work so she could respond to client inquiries while she was at work. To respond to client inquiries, she accessed her client's tax information on computer disks using her state computer. We found no evidence of personal files on the State's computer hard disk. However, we found that the employee accessed computer files relating to her tax preparation business at least 35 times while working at her state job between January 31, 1994, and May 25, 1994. In addition, the employee accessed computer files relating to her personal checking account at least 4 times while working at her state job during May 1994. These instances represented only the most recent time the employee accessed the files. We could not determine exactly how many times the employee accessed the files using her state computer during the period.

While we were able to establish that the employee did, in fact, work on her tax preparation business while in the office using state resources, we were unable to determine the total amount of time she spent working on client files and responding to client inquiries. Nevertheless, there were days when the employee frequently worked on her tax business using state equipment. For example, she accessed ten files relating to her tax preparation business on April 28, 1994. Moreover, the employee accessed five files relating to her tax preparation business on May 25, 1994.

In addition, we were unable to determine the frequency with which her clients called her at her state office or the length of their conversations. However, the employee confirmed that she provided her clients with her state telephone number. Further, we found that the employee listed her state telephone number on her business letterhead, thereby soliciting personal telephone calls related to her private business. She also provided her state telephone number and state fax number to a commercial tax service and requested that it use the state facsimile number to send documents related to her tax preparation business.

Personal Long-Distance Telephone Calls at the State's Expense

State policy governing the use of state telephones also prohibits personal long-distance calls from state telephones, unless the employee bills the calls to another number. During the four months from December 1, 1993, through March 31, 1994, the employee made a total of 181 long-distance telephone calls from her state telephone totaling more than 6 hours. At least 146 (80.7 percent) of the 181 calls made were personal long-distance calls, which totaled more than 4 hours. For example, between January 27, 1994, and March 30, 1994, the employee made 22 personal long-distance calls for a total of more than 59 minutes related to her attempts to buy a house. These calls were to real estate and mortgage companies. In addition, between December 1, 1993, and March 31, 1994, the employee made 100 personal long-distance calls to her residence for a total of more than 2 hours.

Conclusion

An employee of the Employment Development Department used her state computer and state facsimile machine to conduct personal business related to her work as a tax preparer. In addition, the employee gave her state telephone number to clients of her tax preparation business.

Finally, the employee used her state telephone to make personal long-distance telephone calls at the State's expense.

Agency Response

In its first 30-day response, the department stated that it had not yet completed its corrective action.

**Secretary of
State,
Allegation
I930009.1**

The Secretary of State (department) allegedly circumvented competitive bid requirements for a consulting contract for the development and implementation of its new History Hall. Although other firms could have competed for this contract, the department allegedly issued a sole-source contract to one consulting firm.

Results of Investigation

We substantiated the allegation. The department operates the California State Archives, which acquires, indexes, preserves, and provides access to historic and irreplaceable material from a wide range of origins within the State. The State Archives is developing a History Hall. This program will use the State Archives for interpretive exhibits on the State's governmental and political history to educate school children and assist the general public to better understand government issues.

Under Section 10373 of the California Public Contract Code, state agencies should secure at least three competitive bids or proposals for each consulting services contract. Further, the State Administrative Manual states that in those rare instances when three bids or proposals cannot be obtained, a full explanation and justification must accompany the contract. The manual also states that contracts may be awarded without competitive bids or proposals if specific conditions are met. These conditions include obtaining the approval of the Department of General Services.

The department did not obtain competitive bids for the consulting services needed to develop and implement the new History Hall. Instead, on September 15, 1992, the department issued a sole-source contract for the services. Under the terms of the contract, the department agreed to pay the consultant no more than \$230,500. In June 1993, the department and the consultant amended the contract to increase the contract amount by \$123,500, to a total not to exceed \$354,000. According to the department, the additional amount was needed because the scope of the work had expanded and the deliverables had to be accelerated to accommodate the state architects.

The department's state archivist believed that the selected consultant was the only California firm qualified to develop and implement the new History Hall for the State Archives. According to the department, the state archivist contacted several museum professionals to identify other qualified consulting firms. The state archivist stated that the consensus

of these professionals and the department was that the selected consultant was the only consultant in California with the necessary qualifications. However, neither the state archivist nor the department maintained specific written documentation on the number of museum professionals spoken with or when and where these conversations took place. The department reported that the conversations occurred at conferences, workshops, restaurants, and over the telephone. Also, the department stated that it consulted the publication entitled *The Official Museum Products and Services Directory* but found no other qualified firms in or near California.

The department submitted its explanation for entering into a sole-source contract and the consultant's qualifications to the Department of General Services for its approval. The department stated that the selected consultant was the only California firm with the knowledge and skills necessary to plan, coordinate, and implement the History Hall. Based on the documents the department submitted, the Department of General Services approved the sole-source contract with the selected consultant.

However, contrary to the department's finding of only one qualified firm, we found several firms that could have competed for the consulting contract. Further, we believe that competitive bidding would have been appropriate in this situation. We reached this conclusion after reviewing the contract, the contract amendment, and the documents submitted to the Department of General Services. Also, in drawing our conclusion, we reviewed relevant laws and the State Administrative Manual. Further, we reviewed *The Official Museum Products and Services Directory* for 1992. Finally, we interviewed various personnel at the department's office and at several museum consulting firms.

The Official Museum Products and Services Directory lists two different categories of firms that perform the work similar to that of the selected consultant. The first category provides technical information for museum planning. The publication listed five California firms in this category, including the consultant the department selected. The other firms, all located in California, provide services similar to those the selected consultant provides, including museum facility planning and design, feasibility studies, exhibit planning and design, and interpretive planning. Nationwide, the publication listed 72 firms in the museum planning category.

The second category of firms listed in the publication are exhibit design firms. Again, several California firms provide services similar to those the selected sole-source consultant provide, including three California

firms that were also listed under the first category. These firms provide numerous services including full-service design, exhibit design from concept development through implementation, exhibit planning, and strategic planning. Nationwide, there are more than 165 firms in the exhibit design category. Although the selected consultant was not listed under this category, it claimed to provide similar types of services.

When the Department of General Services approved the sole-source contract, it relied on information from the department. Since the department stated that no other firms existed that could perform the work, the Department of General Services based its approval of the sole-source contract on incomplete information.

Conclusion

The sole-source contract for the development and implementation of the History Hall should have been competitively bid, as required by state law and the State Administrative Manual. We found several California firms and numerous firms nationwide that could have competed to perform the services for the department. Without competitive bidding, there is no assurance that the State received the best possible services at the lowest possible price. In addition, the department denied other firms the opportunity to compete for the State's business.

Agency Response

The department strongly disagrees with our conclusions and believes that it was justified in awarding the sole-source contract. Specifically, the assistant secretary of state stated that the Department of General Services did not base its approval of the sole-source contracts solely on the documents submitted by the department, but also on discussions between representatives of the department and a contracts manager of the Department of General Services' Office of Project Development and Management (OPDM). According to the assistant secretary of state, the OPDM's contracts manager stated that it made "good business sense" to enter into an agreement with the firm selected and that by entering into a sole-source contract the State would save money. The assistant secretary of state also reported that the OPDM's contracts manager viewed the timeliness of the History Hall project as a crucial factor in the case for the sole-source contract. However, the OPDM's contracts manager refuted the assistant secretary of state's comments. The contracts manager stated under penalty of perjury that, to the

contrary, he did not believe that a sole-source contract for the development and implementation of the new History Hall was appropriate. Instead, he stated that he advised the department to use a request for proposal, competitive process to select a contractor. Moreover, the OPDM's contract manager has no responsibility for approving sole-source contracts. That responsibility lies with the Department of General Services' Office of Legal Services.

Further, the assistant secretary of state contended that the edition of *The Official Museum Products and Services Directory* we reviewed was not available at the time the department was making the decision. This is not true. In fact, we confirmed with the publisher that the 1992 edition we reviewed was available in October 1991, well in advance of the department's July 1992 request for the sole-source contract.

**Secretary of
State,
Allegation
I930009.2**

The Secretary of State (department) allegedly does not comply with contracting procedures in its contracts with universities for the Oral History Program.

Results of Investigation

We substantiated the complaint. We found that the department used improper procedures for at least some interagency agreements. Specifically, the department did not enforce the terms for 6 of 10 interagency agreements. In addition, the department paid for work universities had not yet performed on 6 of these agreements.

The department operates the California State Archives, which in turn operates an Oral History Program. Through oral histories, the department provides documentation of state policy development in California's legislative and executive history. Interviewees for the oral histories are selected primarily for their contributions and influence on policy making in the State. Interviewees include members of the legislative and executive branches of state government, legislative staff, advocates, members of the media, and others who have played significant roles in specific issue areas. To meet the program objectives, the department has formal agreements with five institutions.

The department pays institutions based on the number of interview hours produced. The rate paid, which ranges from \$710 to \$975 per interview hour, is to cover reimbursement for researching, traveling, interviewing and auditing; editing, transcribing, and compiling oral histories; producing and disseminating final copy; and administrative costs.

To determine whether the department complied with and enforced the terms of its interagency agreements for the Oral History Program, we obtained copies of 10 interagency agreements, interagency agreement status reports, and payment schedules related to the Oral History Program. The following is a summary of the improper procedures we found.

The department did not require the institutions to complete the work on all the interagency agreements within the specified times. Specifically, on 6 of the 10 agreements, the institutions did not complete the work by the end of the term of the agreement. On one interagency agreement,

the department extended the term of the interagency agreement for one year, but the institution was still working on the interagency agreement for more than two years after the extended date. For 3 other interagency agreements, institutions were still working on the oral histories approximately one year after the end of the terms of the interagency agreements.

Each of the interagency agreements specified when the department would pay the institutions. However, the department paid institutions before they had completed tasks as required by the terms of 6 of the 10 interagency agreements. For example, according to the payment schedule and interview status reports, one of the interagency agreements for \$29,230 had been paid in full more than two years before all the work was completed. The department made final payment although the agreement specified that \$11,620 would not be paid until all the work for the project had been completed. In another example, \$7,075 of the interagency agreement for \$17,750 was not to be paid until the institution completed all work on the project. Although the institution had not completed all the work on the project as of September 30, 1992, the department had paid the agreement in full as of December 11, 1989.

Conclusion

The department did not comply with or enforce provisions of its interagency agreements with institutions for the Oral History Program.

Agency Response

The department stated that it has taken corrective action to prevent final payment being made on interagency agreements before all work has been completed. In addition, the department stated that it now carefully monitors the progress of work on interagency agreements to ensure that all requirements are met.

**San Jose State
University,
Allegation
I930274**

Faculty at San Jose State University, (SJSU) consistently fail to report sick leave.

Results of Investigation

We investigated and substantiated the allegation. Section 8534 of the State Administrative Manual requires agencies to report sick leave taken by each employee. In addition, both the California State University (CSU) system and SJSU have written policies requiring faculty to report sick leave if they are unable to perform their normal duties. However, we found that very few faculty at SJSU actually report any sick leave. Moreover, the underreporting of sick leave by faculty has been a problem on several campuses within the CSU system in the past.

To conduct our investigation, we analyzed sick leave reported by 57 faculty members and 57 exempt employees over a five-month period from August through December 1993. Exempt employees are those whose primary duties are executive, professional, or administrative; who receive a salary of at least \$250 per week; and who spend more than one half of their work time frequently exercising discretionary decision making. We also studied CSU and SJSU policies and procedures that govern the use and reporting of sick leave for faculty and exempt employees. Finally, we reviewed an audit report prepared by the CSU internal auditor outlining the problem of underreporting sick leave by faculty.

Specifically, in the Salaries, Wages and Benefits Systemwide Report No. 90-10, the CSU internal auditor determined that more than 76 percent of the faculty in a sample of 322 faculty members from seven campuses took no sick leave during a 21-month period from January 1989 through September 1990. In contrast, only 9 percent of staff in a sample of 160 nonfaculty staff members reported no sick leave during the same period. SJSU was not among the seven campuses the CSU internal auditor reviewed. Although the CSU internal auditor noted that there may be explanations for the differences in sick leave usage, including flexible faculty schedules, he believed that a disparity of this magnitude suggested possible underreporting and recommended that the Chancellor's Office emphasize the need for the consistent reporting of sick leave. The Chancellor's Office concurred with the CSU internal auditor and agreed to implement his recommendation.

During our review of sick leave policies, we found that although the CSU internal auditor noted that flexible faculty schedules may be a reason for the low rate of sick leave reporting, the *SJSU Faculty Reference Book* has specific guidelines on how faculty who do not have a standard five-days-a-week schedule are to report sick leave. The *Reference Book* states that a full-time faculty member shall be charged eight hours sick leave for each day he or she was not available to work because of an absence chargeable to sick leave. Sick leave shall be charged for each day, exclusive of days on which the campus is closed, from the onset of such absence until the employee resumes attendance at the campus or until the employee notifies the appropriate administrator that he or she is available to resume work. For example, faculty members with Tuesday and Thursday teaching schedules who miss Tuesday classes because of illness will also be charged sick leave for Wednesday unless they are able to return to campus on that day. In addition, the *Reference Book* states that sick leave should also be charged for absences chargeable to sick leave that prevent faculty members from meeting instruction-related responsibilities such as office hours, student advising, and service on campus committees. These criteria are also specified in the Memorandum of Understanding between the Board of Trustees of CSU and the California Faculty Association.

We considered the possibility that some degree of disparity over reporting sick leave may be attributed to the fact that faculty members are considered exempt employees. Exempt employees are not required to report sick leave for absences of less than a full day. Accordingly, we compared the total amount of reported sick leave for a sample of 57 faculty against a sample of 57 management level exempt employees at SJSU for the five months from August 1993 through December 1993. Of the 57 faculty members reviewed, only 6 (10.5 percent) reported using any sick leave during the five-month period. In comparison, of the 57 exempt employees, 33 (57.9 percent) reported using some sick leave during the same five-month time period. As for the total number of sick leave hours, the 57 faculty members reported a total of 102 hours whereas the 57 other exempt employees reported 714 hours. These totals do not include the hours reported by 2 individuals, 1 from each sample, who reported catastrophic sick leave at one point during the 5-month period. Assuming that faculty members are not significantly more healthy than other exempt employees, it appears that faculty members are failing to report sick leave.

Underreporting of sick leave can have significant effects since unused sick leave at the time of an individual's retirement may be considered as additional service credit when calculating benefits. According to the Public Employees Retirement System to which most faculty belong, 250 days or 2,000 hours of sick leave credit would result in one full year of service credit. Because faculty accrue eight hours of sick leave credit for each month of employment and there is no limit to the amount of sick leave faculty may accumulate, unused sick leave can significantly increase the number of service years at retirement, thereby resulting in more expensive payouts and retirement benefits.

Conclusion

Despite the Chancellor's Office's agreement to emphasize the need to report sick leave and the existence of written policies, faculty at SJSU do not consistently report sick leave.

Agency Response

SJSU agrees that its faculty are not consistently reporting sick leave. However, regardless of existing CSU and SJSU policies and the bargaining agreement with faculty, the president does not believe it is necessary for faculty to always report sick leave. The president stated that faculty are typically required to work an average of more than 50 hours per week. In addition, he stated that the professional nature of the faculty and their recognized workload makes them exempt from consistently reporting sick leave. Nevertheless, the president stated that SJSU takes attendance reporting seriously and "will continue to perform attendance reporting within all appropriate policies."

**Department of
the Youth
Authority,
Allegation
I940026**

Management of one of the Department of the Youth Authority's (department) institutions unnecessarily spent more than \$33,000 on an ambulance that the center is unable to use off-site. As a result, when the center needs to transport inmates to a hospital off-site, the center must call an independent ambulance company.

Results of Investigation

The department's chief deputy director investigated and substantiated the complaint. The institution purchased the vehicle to replace a damaged van that had been used by its medical services section to transport wards from three facilities to the institution's hospital. The purchase was part of authorized equipment purchased as a result of adding a fourth facility. The new vehicle, which was fully converted as an ambulance, was delivered in December 1992 at a cost of \$40,463.

Although the ambulance enhances the department's capability to provide emergency medical treatment on its grounds, the institution did not research the feasibility of using the ambulance as an emergency vehicle off state property. In addition, after the ambulance was delivered, the institution discovered that it would cost approximately \$75,000 annually, including the cost of training and having additional staff available, to use the ambulance to provide a 24-hour response capability. The department concluded that doing so would not be cost effective because the department estimates that it would cost only approximately \$1,500 per year to pay a local ambulance service to provide the same coverage.

Conclusion

The department unnecessarily spent more than \$40,000 on an ambulance.

Agency Response

The department has consulted the Department of General Services to determine the feasibility of exchanging the ambulance for more than one medically equipped van.

**San Diego State
University,
Allegation
I930202**

Officials at San Diego State University (SDSU) falsify Faculty Assignments by Department (FAD) reports by crediting faculty members for supervising students they did not actually supervise. In addition, faculty members at SDSU are consistently allowed to work reduced workloads.

Results of Investigation

We investigated and substantiated the allegation that officials at SDSU manipulated FAD reports and credited faculty members for supervising students they did not actually supervise. Further, we found that two of three other California State University (CSU) campuses we visited also routinely credit faculty members for supervising students they did not actually supervise. Finally, we found that, on average, full-time faculty at SDSU do not work the normally assigned workload as stipulated in their employment agreement.

To conduct our investigation, we interviewed officials from CSU, including the CSU internal auditor, the CSU special assistant to the vice chancellor of business and finance, and the CSU official responsible for collective bargaining. In addition, we interviewed officials responsible for reporting faculty workload at SDSU and three other CSU campuses. We also reviewed documents associated with allocating and reporting faculty workloads, including the creation and reconciliation of FAD reports.

Background

According to the collective bargaining agreement between the Board of Trustees of CSU and the California Faculty Association, full-time faculty members should normally be assigned an average of 12 weighted units for instruction and 3 weighted units for instruction-related responsibilities per term. The FAD reports, which each campus within the CSU system prepares, document the 12 weighted units, or weighted teaching units (WTUs), for each faculty member of the campus. These 12 WTUs may include units for teaching classes (classroom WTUs), supervising students (supervision WTUs), and performing other duties such as advising students, developing academic curriculum, and conducting research (assigned time WTUs). The FAD reports, which are derived from the Academic Planning Data Base (APDB), list the courses and units faculty members in each department within the campus teach. Each campus forwards a copy of its FAD report to the

Academic Resources Unit at the CSU Chancellor's Office, where these FAD reports are to be used to verify faculty workload. According to SDSU's instruction manual for APDB reports, information from the FAD reports are also to be used to generate reports that describe the utilization of classroom space.

Allegation 1: Data Collected on SDSU's FAD Reports Do Not Accurately Reflect Faculty Workload

At SDSU, the Office of the Vice President for Academic Affairs (office) is responsible for preparing the APDB reports each semester. Under the direction of the assistant vice president of academic services, the office has compiled a manual to assist departments in reporting accurate information. One staff person within the office is responsible for coordinating the submission of FAD data from the various departments, reviewing preliminary FAD reports, and distributing the final FAD reports.

In a letter to us and a memorandum to the SDSU President, the SDSU associate vice president for academic resources (associate vice president) confirmed that the information contained in the FAD reports may not necessarily identify the correct professors who supervised special studies students. For example, he reported that all special studies courses in the College of Business Administration list the respective department chair as the instructor of record, regardless of which faculty members actually supervise students. Midway through the semester, SDSU staff allocate the teaching units associated with these special studies students to faculty who may, for a variety of reasons, have less than 12 WTUs per semester, regardless of whether these faculty are working directly with students in actual special studies courses. The associate vice president did note that in the College of Business Administration, faculty workloads are determined in advance of special studies registration with the understanding that faculty cannot substitute these special studies WTUs for previously agreed upon course teaching load assignments.

In addition, Art Department faculty received unearned WTUs. Specifically, the associate vice president confirmed that in the Art Department, faculty work at least four hours per week per course in art studio courses. However, because of FAD reporting factors, these faculty cannot receive four WTUs per course for this time. Consequently, their WTU workload does not reflect the hours that they actually spend in the studio. Thus, "excess" special studies WTUs are

distributed to those faculty who teach art studio courses in order to raise their WTUs to 12 on the FAD report.

The associate vice president also found discrepancies in the assigning of credit units for certain social science courses. Specifically, these social science courses were one unit statistics laboratory classes supervised by graduate assistants. However, because of FAD rules established years before, graduate assistants cannot be listed as instructors of record. Consequently, one faculty from the department who is generally a statistician is listed as instructor of record. The associate vice president determined that the Office of Academic Affairs will often initiate a trade of WTUs among faculty who are over and under the 12-WTU threshold.

The associate vice president noted that the system of reporting faculty assignment statistics was initially created in 1976, before the widespread use of computers in the classroom and the use of graduate teaching assistants. Because the system was not set up to take these variables into consideration, the departments developed ways to allocate the credits to faculty for those modes of instruction.

According to the SDSU associate vice president and the SDSU assistant vice president of academic services, FAD reports are not used at SDSU for any type of management or budgeting purposes. Although the assistant vice president did note that the FAD reports are used for classroom utilization studies, information regarding classroom utilization can be obtained from other sources. In addition, according to the CSU internal auditor, the CSU special assistant to the vice chancellor of business and finance (CSU special assistant), and the CSU official responsible for negotiating the collective bargaining agreement between CSU and the California Faculty Association, these FAD reports are not used for any systemwide budgeting or management purpose. However, the CSU special assistant has reviewed summary FAD reports of the campuses and has provided information upon request from these summary reports to various groups such as the CSU Board of Trustees and the Legislature.

The CSU special assistant did not believe that the changes SDSU had made to its FAD reports would affect CSU's budget for two main reasons. First, CSU's budget is based on student enrollment numbers, previous years' budgets, and other factors such as faculty-to-student ratios. The faculty-to-student ratio is based on the number of faculty positions and not the faculty workload, which the FAD reports provided. Further, the student enrollment numbers are generated from a

data base that is unique and separate from the APDB, which generates the FAD reports. These two data bases are maintained by separate administrative units within both SDSU and CSU. Second, when the CSU special assistant has provided information to other requesters, this information has been in the form of summary data. Summary data provides aggregate averages. Considering the types of changes SDSU made, in that it did not inflate or generate any additional WTUs and only reallocated WTUs within the reports, the averages are the same. Consequently, the only effect would be if information on an individual faculty member was requested, in which case, the information may be misleading. However, the other requesters have rarely requested information on individual faculty members, according to the CSU special assistant. In addition, the CSU special assistant told us that, because the APDB and the FAD reports are part of a voluntary reporting process and because of the recent restructuring of the CSU Academic Resources Unit, suggestions have been made to discontinue or reassess the entire APDB and FAD reporting system.

Consequently, although the information included on the FAD report is incorrect on a faculty-member level, according to information obtained from CSU and SDSU officials, these FAD reports are not used for any routine budgeting or managing purposes. In addition, SDSU's systematic altering of its FAD reports does not appear to have significantly affected the information provided to requesters or the budgets of CSU or SDSU. However, staff time and resources spent preparing and manipulating these FAD reports is wasted and could be spent more productively, and reports conveying inaccurate information could be misleading if used improperly.

Two of Three Other CSU Campuses Also Report False Data on Their FAD Reports. To determine if other CSU campuses also reported false data on their FAD reports, we selected three campuses with enrollment comparable to that of SDSU. These campuses were CSU Long Beach (CSULB), San Francisco State University (SFSU), and San Jose State University (SJSU). At each of these campuses, we reviewed the FAD reports for three colleges: business, education, and arts.

Based on our review of the three other CSU campuses, we confirmed that two other campuses submitted false data on their FAD reports. Specifically, administrators at SFSU and CSULB routinely credited some faculty members for supervising students they did not actually supervise. We confirmed this finding through reviews of faculty workload and interviews with administrators responsible for preparing FAD reports.

At SFSU, we found 12 instances in two of the three colleges in which faculty members who received credit for supervising special or independent study students were not the actual supervisor. The SFSU administrators in each of the three colleges claimed that they would combine the special and independent study students and then systematically assign the students to faculty members, regardless of whether the faculty members actually supervised the students. However, based on our review of faculty workloads at SFSU, we were unable to determine the system that SFSU administrators used when assigning the WTUs; we were able to conclude only that the supervision WTUs were incorrectly assigned. In fact, because of the way SFSU administrators assigned these supervision WTUs and the fact that actual faculty members did not always sign the source documents such as the grade sheets, in the three colleges we were unable to verify the actual faculty members who supervised students in 12 cases. Although the vice president for academic affairs confirmed this practice of falsifying the FAD reports, she stated that she was confident each of these students had actually been supervised by a faculty member with the appropriate expertise.

Also, during an interview with investigators, an associate vice president at CSULB confirmed that in certain cases when faculty have workloads in excess of 12 WTUs, the excess WTUs would be reported under the chairperson of the respective department. Consequently, the FAD report would not reflect the excess WTUs for the faculty. Furthermore, we found evidence that FAD reports were manipulated in CSULB's College of the Arts and College of Education.

At SDSU, we confirmed SDSU administrators' statements that the FAD reports were falsified. We substantiated the allegation that administrators in all three colleges credited faculty for supervising students they did not supervise by assigning special study students to faculty based on the last name of faculty, regardless of who actually supervised the students. Specifically, we found that the dean of one college would review the list of special study or independent study students and then assign credit to the faculty members, ranked alphabetically by last name, until the faculty member had the maximum allowable workload of 12 WTUs. The dean confirmed that he would continue this method of assignment until each student listed within the special or independent study courses for each department in the college had a faculty member's name listed as supervisor. The dean confirmed that he is aware that this method of assignment bears no relationship to the actual faculty member performing the supervision. We found at

least 51 instances when this manipulation affected the reporting of workloads for our sample of faculty.

At CSULB, SFSU, and SDSU, we found that the apportionment of faculty WTUs was limited to supervision WTUs while classroom WTUs and assigned time WTUs were not affected by this type of wide-scale falsification. Supervision WTUs at these three campuses accounted for a limited number of total faculty workload. We provide further details on the proportion of supervision WTUs relative to the other types of WTUs on pages 57 through 59 of this report.

As we have previously stated on page 54, we could not identify a direct fiscal effect associated with the falsification of these FAD reports. Further, as we pointed out, the indirect effect of these reports is limited. However, the falsification of these reports did not allow us to place any validity on their contents, thereby raising the question of the need for a report that would provide accurate data on faculty workloads. In addition, at SFSU, because of the lack of valid source documentation, we were unable to verify which faculty members actually supervised some special or independent study students. Consequently, if information on these students were ever required, SFSU would not be able to provide accurate information on them.

Allegation 2: SDSU Faculty Members Are Allowed To Work Reduced Workloads

As stated on page 51, the collective bargaining agreement between the CSU's Board of Trustees and the California Faculty Association (agreement) states that full-time faculty members shall normally be assigned 12 WTUs for instruction. Faculty receive classroom WTUs, supervision WTUs, and assigned time WTUs. The allegation we investigated claimed that faculty at SDSU consistently failed to work the standard assigned 12-WTU workload.

To investigate this allegation, we analyzed the workload of full-time faculty at SDSU along with the workloads of full-time faculty at three other CSU campuses with comparable enrollment. These campuses were CSULB, SFSU, and SJSU. At each of these campuses, we reviewed the faculty workload in three colleges: business, education, and arts. Within each of the colleges selected, we then randomly selected a sample of 25 percent of all full-time faculty members employed during the 1993 fall semester.

During our review, we relied on documents and information provided to us by the respective colleges and campuses. The documents included summary reports, such as FAD reports. However, because we had previously confirmed that SDSU falsified its FAD reports, we were unable to rely solely on these summary reports to provide accurate information on faculty workload. Consequently, throughout this review, we verified faculty workloads at all four campuses by reviewing supporting source documents such as grade sheets, supervision reports and student contracts, and assigned time request forms. We also interviewed faculty, staff, and students at the four campuses.

Full-Time Faculty at SDSU Do Not Work the Normally Assigned Workload As Stipulated in Their Employment Agreement. Based on our review of the workload of a sample of full-time faculty in three colleges at each of the four CSU campuses, we found that the faculty at SDSU worked fewer units than faculty at comparable CSU campuses. Table 2 illustrates the results of our review.

Table 2 Average Workload of Full-Time Faculty in the Colleges of Business, Education, and Arts at Four CSU Campuses

Campus	Assigned			Total WTUs
	Classroom WTUs	Supervision WTUs	Time WTUs	
SDSU (n = 75)	8.62	0.64	2.30	11.56
CSULB (n = 45)	10.17	1.00	1.20	12.37
SFSU (n = 61)	10.08	0.40 ²	1.19	11.67
SJSU (n = 59)	9.94	1.30	1.42	12.66

n = Number of faculty reviewed.

As Table 2 shows, faculty at SDSU worked an average of 11.56 WTUs, which is significantly less than the standard workload of 12 WTUs outlined in the collective bargaining agreement. The difference between the number of units the agreement states full-time faculty should be assigned and the total number of WTUs full-time faculty at SDSU worked is approximately 0.44 WTUs less, which is statistically significant with a 95 percent level of confidence.

² This average does not include a total of 38.64 supervision WTUs we were unable to verify.

In comparison with the faculty at the three other CSU campuses, we found that the average workloads at the four campuses were significantly higher on average than those of faculty at SDSU. Specifically, SDSU faculty had fewer WTUs (11.56) than did faculty at CSULB (12.37 WTUs), SFSU (11.67 WTUs), and SJSU (12.66 WTUs). As Table 2 shows, the faculty at two of these campuses, CSULB and SJSU, were, in fact, working more than the standard 12 WTUs stipulated in their agreement. As for SFSU, although we found that the workload was higher than at SDSU but still less than the 12 WTUs stipulated in the agreement, the difference was not statistically significant. Consequently, we could not conclude that the observed difference, 0.33 WTUs, was not due to sampling anomalies.

Determinants of Faculty Workload. To determine the workloads of the faculty members we reviewed, we examined the separate categories of WTUs: classroom, supervision, and assigned time WTUs. Classroom WTUs comprise the major portion of faculty workload overall. To determine classroom WTUs, we counted only those WTUs associated with instructing students in classes and did not count any WTUs associated with supervision classes. For classroom WTUs, we verified the faculty member and the number of students enrolled. As Table 2 illustrates, faculty at SDSU had the lowest number of direct classroom units among the faculty at the four CSU campuses.

Supervision WTUs are based on the number of students and type of supervision faculty members provide in special supervision or independent study classes. In some of the courses, faculty and student were required to complete contracts stipulating the extent of work the student required and the type of supervision the faculty member would provide. Examples of these types of classes include supervising students preparing their theses or research projects and students participating in internships. In other classes, no contract is required because, although the class is classified as a supervision course, the students are required to attend and participate in a class. Examples of these types of classes include supervising student teachers at off-site teaching locations and participating in seminars. In those circumstances in which a contract was required, we reviewed the contract to verify the name of the student, the type of independent study or work required, the name of the actual faculty member supervising the student, and the type of supervision required. In addition, in certain cases, we contacted selected students and faculty members to verify the information provided by the campuses. Supervision WTUs comprise only a small proportion of the WTUs that make up faculty workload. For example,

at SDSU, faculty received an average of 0.64 WTUs for supervision out of the average of 11.56 total WTUs.

According to current CSU policy, assigned time may be allowed for conducting research, performing additional administrative duties such as serving on committees, developing academic curriculum, and teaching classes with excess enrollment. Each campus has discretion in the amount of assigned time faculty members may receive. In every case in which faculty received WTUs for assigned time, we verified that the proper authorizations had been obtained and that the assigned time was spent on activities within CSU guidelines. Table 3 provides details on the type of assigned time each campus credited to its faculty in our sample.

As Table 3 illustrates, SDSU faculty received an average of 2.30 WTUs for assigned time. However, as Table 3 shows, the majority of these units were for additional administrative duties such as functioning as the chair or advisor of programs and conducting instructionally related research. The assignment of these WTUs is within the current CSU guidelines.

Table 3 Average Assigned Time WTUs Per Faculty in Three Colleges at Four CSU Campuses

Campus	Assigned Time WTUs				Total
	Administrative Duties	Research	Curriculum Development	Excess Enrollment	
SDSU	0.98	1.00	0.12	0.20	2.30
CSULB	0.33	0.40	0.33	0.14	1.20
SFSU	0.80	0.05	0.20	0.14	1.19
SJSU	0.71	0.51	0.05	0.15	1.42

Although the collective bargaining agreement stipulates that full-time faculty should normally be assigned 12 WTUs, individual campuses have a great deal of flexibility in assigning and ensuring that faculty members meet this workload guideline. For example, under the provisions for professional development opportunities, professors may be assigned a reduced workload or other work responsibilities to pursue scholarly activities or receive training or retraining of benefit to CSU. However, according to CSU's Educational Programs and Resources Memorandum 76-36 "Faculty Workload: Policies and Procedures," assigned time may be granted to faculty members as long as the assignments are not used in

such a way as to cause widespread or across-the-board deviation from or reduction of normal instructional workloads.

Despite this flexibility in assigning faculty workloads, there are many possible effects associated with the allegation that faculty members are not teaching their full workload. Foremost is the possibility that if faculty members do not teach their full workload, the number of classes the campus can offer may decrease. A decreased number of classes could result in more students enrolling in the classes that are offered. The resulting larger class sizes may adversely affect the quality of education offered.

To determine the validity of this potential effect, we reviewed other quantifiable variables in addition to faculty workload. Some of these variables included the number and sizes of the classes offered by each campus. Table 4 reveals the results of our review.

Table 4 Classroom Statistics Based on the Sample of Faculty Reviewed

Campus	Number of Classes Offered	Range of Class Sizes	Average Class Size
SDSU (n = 75)	220	1-162	37.96
CSULB (n = 45)	163	1-144	28.18
SFSU (n = 61)	196	1-671	30.00
SJSU (n = 59)	183	1-144	28.32

n = Number of faculty reviewed

Based on Table 4, SDSU does appear to have the largest average class size of the four campuses reviewed. Although the sizes of classes may be influenced by many factors, it would be reasonable to conclude that if faculty at SDSU did teach more classes, the number of classes would increase and the size of the classes may decrease. However, because of the aforementioned flexibility in assigning workloads, we are unable to provide a qualified estimate of the additional classes SDSU may offer and any possible benefits associated with such an increase.

Conclusion

We substantiated that administrators at SDSU as well as at two other CSU campuses report false data on FAD reports. However, CSU contends that the effect of false data on these reports is limited because the reports are seldom used and that the changes made to data affect

only individual faculty, not aggregate data. We also substantiated the allegation that, on average, faculty at SDSU do not work the normally assigned workload as stipulated in their employment agreement. Specifically, we found that full-time faculty at SDSU work an average of 11.56 WTUs, which is statistically less than the 12 WTUs stipulated in their collective bargaining agreement with CSU.

Agency Response

CSU has informed all of its campuses of the results of our review and has directed them to carefully review their procedures for reporting faculty workload for independent study and supervision courses and has directed the campuses to ensure that all individual faculty workload reports are complete and accurate. SDSU, SFSU, and CSULB have all taken action to revise their procedures to ensure that all faculty workload is accurately reported beginning with the fall 1994 semester. In addition, although the SDSU believes that its full-time faculty workload is not significantly less than 12 WTUs, it has agreed that beginning in fall 1994, it will review the workload of full-time faculty more systematically and rigorously to ensure that individual faculty are working and reporting 12 WTUs annually.

**Department of
Motor Vehicles,
Allegation
I930196**

It was alleged that two employees of the Department of Motor Vehicles (department) were improperly granted compensatory time off.

Results of Investigation

The chief of the department's Division of Headquarters Operations investigated the alleged misconduct and substantiated the allegation. Specifically, the employee's supervisor retroactively approved 79 hours of overtime worked by each of the two individuals while they were on an assignment out of state. They each subsequently received compensatory time off. However, based on established practices within the work unit, the division's chief concluded that only 35.5 overtime hours should have been granted.

Agency Response

The department reduced compensatory time off allowed to each of the two employees to 35.5 hours. In addition, the department counseled the employees' supervisor. Finally, the management of the Division of Headquarters Operations will assure that all divisional supervisory personnel are aware of existing practices and guidelines for approving extra hours and that they will be applied consistently.

**Department of
Motor Vehicles,
Allegation
I940004**

An employee in one of the Department of Motor Vehicle's (department) field offices allegedly came to work under the influence of alcohol.

Results of Investigation

The department investigated the complaint and substantiated the allegation. Ten employees within the field office stated that they had observed the employee at work when he appeared to be intoxicated. They stated that they concluded that he was intoxicated because of his slurred speech, flushed face, bloodshot eyes, uncombed hair, wrinkled clothes, louder than normal speech, and boisterous behavior. Although the employee admitted that he sometimes drinks alcohol at lunch and returns to the office, he denied that he came to work intoxicated.

Agency Response

The region manager stated that she would make the employee aware that others sometimes perceive that he is impaired by alcohol and will remind him of the Employee Assistance Program. In addition, the region manager stated that she would visit the field office more frequently.

Chapter 3

Misuse of State Telephones

The State's policies covering the use of state telephones prohibit employees from making personal long-distance calls on state telephones unless the employees bill their calls to other numbers. In addition, the policies require state employees to keep the number and length of personal calls to a minimum. The State employs more than 400,000 individuals. Although the cost to the State of one individual misusing a state telephone can be minimal, the cost of the misuse of state telephones statewide is likely to be extremely high. Such costs include not only the actual charges paid for personal calls, but also the cost of time spent on personal business while employees should be working. During the period from January 1 through July 31, 1994, we completed five investigations that substantiated allegations that state employees misused state telephones. One of the five cases is reported in Chapter 2 on pages 35 through 37. Table 5 summarizes two other investigations that substantiated allegations that state employees made personal long-distance calls at the State's expense.

Table 5 Personal Long-Distance Telephone Calls

Department	Period Investigated	Number of Calls	Length of Calls
Department of Transportation, I930278	September through November 1993	87	5 hours, 52 minutes
Agricultural Labor Relations Board, I940034	November 1993 through March 1994	25	43 minutes

The Department of Transportation obtained reimbursement from its employee for his long-distance telephone calls and issued the employee a letter of warning. The Agricultural Labor Relations Board has instituted a procedure to obtain reimbursement from employees who make personal long-distance telephone calls.

In addition, we substantiated one allegation that employees made excessive numbers of personal local calls, and two cases of employees listing their state telephones in advertisements. When employees list their state telephone numbers in advertisements, they are soliciting as many personal calls as possible. Moreover, in some cases, they are placing co-workers in the position of fielding personal calls on their behalf. Table 6 summarizes these investigations.

Table 6 Instances of Excessive Local Calls and Listing State Telephone Numbers in Advertisements

Department	Employees Making Excessive Local Calls	Employees Listing State Telephone Numbers in Advertisements
Agricultural Labor Relations Board, I940034	✓	
Council for Private Postsecondary and Vocational Education, I940063		✓
Motor Vehicles, Department of, I940084		✓

The Agricultural Labor Relations Board has issued a policy prohibiting personal use of state telephones. The Council for Private Postsecondary and Vocational Education is drafting a departmental policy on the use of state telephones. The Department of Motor Vehicles has not completed its corrective action.

Chapter 4

Corrective Action Taken on Previously Reported Investigations

As stated on page 8, an employing agency or appropriate appointing authority is required to report to the state auditor any corrective action, including disciplinary action, it takes as a result of a state auditor's investigative report no later than 30 days after the date of the investigative report. If the entity has not completed its corrective action within 30 days, it must report to the state auditor monthly until final action has been taken. This chapter summarizes corrective action taken by state departments and agencies since we reported the investigative findings publicly.

University of California, San Diego, Allegation I930108

We reported the investigative findings on this allegation on January 11, 1994, in report I930108. We reported that at least two employees of the University of California, San Diego (UCSD) conspired to file falsified payroll documents. The employees, who served as the director and the administrative assistant of an outreach program for high-risk students, were responsible for the fiscal and administrative control of the program. In addition to conspiring to file falsified payroll documents, the two employees misappropriated more than \$12,680 in state and local funds for their personal profit and participated in other improper activities such as conspiring to submit false mileage reimbursement claims. In addition, the director engaged in conflict-of-interest practices, established a secret, unauthorized bank account, and used money from the outreach program for nonprogram-related expenses. As a result of our investigation of the allegation, we identified more than \$40,000 in costs associated with these improper activities. Both employees resigned from the UCSD during our investigation. In addition, we referred the results of our investigation to the attorney general for possible prosecution.

Corrective Action

UCSD's internal auditors completed the audit they undertook to identify any areas of operation that were beyond the scope of our investigation. In response to that audit, UCSD's management has taken the following actions:

Mileage Reimbursement Claims

UCSD now requires all claims for mileage reimbursement to be accompanied by specific information supporting the date, time, business purpose, contact name, and number of miles traveled. In addition, UCSD has limited the circumstances under which students will be reimbursed for mileage.

Payroll Advances and Other Payments to Students

UCSD notified all its employees that advancing students money outside the UCSD payroll system was not legal and would not be continued. In addition, UCSD improved procedures for monitoring student work hours and has taken action to standardize pay rates for all student employees.

Also, UCSD stated that it will send letters to student staff notifying them that the W-2 forms from UCSD may not be accurate and that any monies received outside the UCSD payroll system may be subject to federal and state taxes.

Secret, Unauthorized Bank Account

The UCSD obtained custody of the account.

**Department of
Forestry and Fire
Protection,
Allegation
I930061**

We reported the investigative findings on this allegation on February 2, 1994, in report I94-1. We reported that an employee of the Department of Forestry and Fire Protection's (department) Baseline Conservation Camp wasted \$4,789 in state funds for unnecessary trips to other conservation camps. Also, this employee authorized the construction of a barbecue area for the conservation camp at an excessive cost. Finally, the employee's camp has inadequate accounting and administrative controls over its purchasing procedures.

Corrective Action

The department reported that it has established a supervisory review and approval process for all proposed trips. The department also reported that it has corrected the inadequate accounting and administrative controls. However, the department disagrees with our conclusion that it constructed the barbecue area at an excessive cost. The department contends that the Baseline Conservation Camp is wholly dependent on commercial electric power and experiences frequent power outages. When there are power outages, the camp is unable to cook meals for inmates.

**Department of
Corrections,
Allegation
I930023**

We reported the investigative findings on this allegation on February 2, 1994, in report I94-1. We reported that a Department of Corrections (department) employee used state time and telephones for her private massage business.

Corrective Action

The department conducted a follow-up investigation and concluded that the employee also violated departmental policy by not reporting her outside business to the department for determination of whether her outside business constituted an incompatible activity. The department then gave the employee a letter of instruction in which it directed the employee to immediately stop conducting any outside business activity until she had submitted a written notice to the department and obtained the department's determination. The department also notified the employee that she cannot, under any circumstances, use state property, telephones, equipment, or time to conduct any outside business activity.

**Department of
Transportation,
Allegation
I930001**

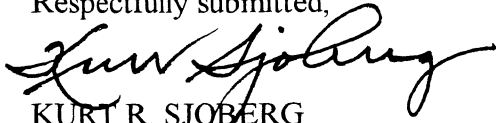
We reported the investigative findings on this allegation on February 2, 1994, in report I94-1. We reported that, at least on one occasion, a manager in a maintenance yard improperly disposed of confidential documents by placing them in the trash.

Corrective Action

The Department of Transportation conducted a corrective interview with the manager regarding appropriate disposal procedures for sensitive and confidential documents. In addition, the manager ordered a document shredder for the region, increased security measures for documents storage, and familiarized staff with the Privacy Act and appropriate disposal practices for sensitive and confidential documents.

We conducted these investigations under the authority vested in the state auditor by Section 8547 of the California Government Code and in compliance with applicable investigative and auditing standards. We limited our review to those areas specified in the scope sections of this report.

Respectfully submitted,



KURT R. SJOBERG
State Auditor

Date: September 14, 1994

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Assembly Office of Research
Senate Office of Research
Assembly Majority/Minority Consultants
Senate Majority/Minority Consultants
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