

Investigative Report
Misappropriation of Public Funds,
False Claims, and Gross Mismanagement
by Employees of the Department of
Education

September 1996
I940262

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CALIFORNIA STATE AUDITOR

September 9, 1996

Investigative Report I940262

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

Dear Governor and Legislative Leaders:

The Bureau of State Audits presents its investigative report concerning misappropriation of public funds, false claims, and gross mismanagement by employees of the California Department of Education.

Sincerely,

KURT R. SJOBERG
State Auditor

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Summary

We received an allegation under the Reporting of Improper Governmental Activities Act that a manager of the California Department of Education (department) improperly managed the funds of a statewide student vocational club under the department's jurisdiction and the funds of a charitable corporation that received payments from departmental contracts. It was also alleged that he had a conflict of interest relating to his position as a monitor of departmental contracts and his position as an officer of the charitable corporation.

We investigated and substantiated these and other improper governmental activities. Specifically, we found the following illegal or improper activities by the manager:

- He illegally paid over \$44,100 of his personal expenses, including a trip to the Bahamas, out of the California Association of Vocational Industrial Clubs of America Leadership Foundation (foundation) and the California Association of Vocational Industrial Clubs of America (CAVICA) funds.
- He submitted false claims that resulted in improper payments totaling over \$17,745 for his travel expenses.
- He illegally exchanged at least \$4,100 in airline tickets purchased with federal funds for other tickets, which he used to take personal trips, including one to the Virgin Islands.
- He appears to have influenced decisions by the department's fiscal agents to do business with his business associate, who was also a close personal friend, and her corporation resulting in payments totaling more than \$26,300. The manager had financial interests totaling over \$41,000 in his friend and her corporation.
- He failed to report over \$30,000 in income he received from another corporation in which he was a corporate officer and a shareholder, and all his other business positions and financial interests.

- He was able to gain the above personal benefit at least in part because he used his various roles to improperly divert more than \$95,900 from a number of sources into the foundation account.

We also found that by using a community college district (Los Rios Community College District), a university auxiliary organization (University Auxiliary Services at California State University, Los Angeles), and the foundation as fiscal agents, department employees circumvented state policies and controls. As a result, both the manager and the department made the following additional improper expenditures of state and federal funds:

- Paid \$37,480 for services not received.
- Purchased more than \$76,000 in services and computer equipment without obtaining competitive bids.
- Paid over \$13,500 for travel expenses not allowed by state regulations and policies.

Further, the following improper activities occurred:

- Another employee misappropriated \$1,800 of state funds.
- The manager made an improper political contribution.
- Other department employees engaged in improper cash handling practices.

Finally, the department may have violated limits on the amount of federal grants that can be spent for administrative expenses and the State's budgetary controls.

The department has taken the following corrective actions:

- Strengthened controls over program operations to ensure compliance with laws and regulations.
- Replaced the chain of command responsible for vocational service organizations.

In addition, the department reports that it will take the following action:

- Pursue criminal prosecution of the manager, who retired on August 8, 1996.
- Discipline other employees who abused the system.

Introduction

Allegation I940262

We received an allegation that a manager of the California Department of Education (department) improperly managed the funds of a statewide student vocational club under the department's jurisdiction and the funds of a charitable corporation that received payments from departmental contracts. It was also alleged that he had a conflict of interest relating to his position as a monitor of departmental contracts and his position as executive director of the charitable corporation.

Background

In accordance with the California Business and Professions Code, Section 19632, the department provides state funding to maintain and strengthen secondary (high school) and postsecondary vocational student organizations in agriculture, business, home economics, and industrial education. This section of the law states that the funding shall be used, among other things, to conduct leadership development programs for students, provide in-service training to teachers who advise student organizations, and train students to develop and participate in vocational fairs. The State funds these activities through contracts between the department and the postsecondary educational institutions that the students attend.

The Vocational Industrial Clubs of America (VICA) is a national organization that serves secondary and postsecondary vocational and technical students by developing their skills and leadership qualities. The national VICA is divided into state and territorial associations, including California's state association—California Association of Vocational Industrial Clubs of America (CAVICA).

In order to manage and coordinate its vocational education program with student organizations such as VICA and CAVICA, the State funds two positions. The CAVICA advisor position was initially paid for with federal funds through a department contract with University Auxiliary Services, Inc. (UAS), an auxiliary organization serving California State University, Los Angeles. The CAVICA advisor became a department

employee in March 1995. In addition, a manager of the department oversees the CAVICA advisor and provides overall guidance to the CAVICA program. The manager also serves as the liaison between VICA and CAVICA.

CAVICA

Legally, CAVICA is a branch of VICA, a national, nonprofit charitable trust incorporated in 1965 under Section 501(c)(3) of the Internal Revenue Code. Section 501(c)(3) organizations include corporations, community chests, funds, or foundations organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes. The annual receipts and expenses of CAVICA are reported each year to VICA, which incorporates the amounts into a group tax return. VICA is administered from its national office located near Washington, D.C.

CAVICA's annual receipts consist mostly of student membership dues and student conference fees. For fiscal years 1992-93 through 1994-95, the three years we examined, CAVICA received a total of \$234,097 from students.¹ These receipts consisted of approximately \$17,723 in state dues, \$180,924 in state conference fees, \$26,120 in national conference fees, and \$9,330 in skill olympics fees. Additional receipts, including funds from the sale of state pins, totaled approximately \$9,222.

CAVICA also received reimbursements for expenses from various entities. For example, in fiscal year 1992-93, it received approximately \$5,600 from the CAVICA Leadership Foundation as a reimbursement for computer equipment initially purchased by CAVICA. We discuss this foundation in the following section. As another example, CAVICA received \$10,737 in federal funds from the Los Rios Community College District (community college district) as reimbursement for various expenses in fiscal year 1994-95. These funds came from contracts between the community college district and the department as well as a contract between the community college district and the Chancellor's Office of the California Community Colleges (chancellor's office). The following table shows the sources of all funds deposited to CAVICA's account during the three-year period we reviewed.

¹CAVICA's fiscal year runs from September 1 through August 31.

Table 1

***Sources of Funds Deposited to CAVICA
September 1, 1992 Through August 31, 1995***

Source of Funds	Amount	Percent of Total
State Conference Fees	\$180,924	67.5%
National Conference Fees	26,120	9.8
State Dues	17,723	6.6
Skill Olympics	9,332	3.5
Foundation	13,827	5.2
Community College District	10,737	4.0
Other Sources	9,222	3.4
Total	\$267,885	100.0%

The CAVICA Leadership Foundation

The California Association of Vocational Industrial Clubs of America Leadership Foundation (foundation) was a separate, nonprofit corporation incorporated in 1976 as a nonprofit charitable trust under Section 501(c)(3) of the Internal Revenue Code. Although the purpose of the foundation was to promote the educational programs and goals of CAVICA, the foundation was a separate legal entity. The foundation was dissolved in February 1996.

Although the foundation was incorporated to receive charitable donations from businesses and private donors, only a small percent of its receipts were actually charitable contributions. During fiscal years 1992-93 through 1994-95, only \$25,145 (11 percent) of the \$234,600 deposited in the foundation account was from charitable donations. Most of the remaining deposits consisted of expense reimbursements from various entities. The majority of these came from the community college district and the UAS. Together, using state and federal funds received from contracts with the department and the chancellor's office, these two entities reimbursed the foundation approximately \$141,000, or 60 percent of its total receipts for the three years. Another \$25,000 (11 percent) came from other federal funds through the Employment Training Panel (ETP). Table 2 shows the sources of funds deposited to the foundation account.

Table 2

***Sources of Funds Deposited to the Foundation
September 1, 1992 Through August 31, 1995***

Source of Funds	Amount	Percent of Total
Community College District	\$122,445	52.2%
CAVICA	35,303	15.0
ETP Contract	25,000	10.7
Charitable Contributions	25,145	10.7
University Auxiliary Services, Inc.	18,504	7.9
Reimbursement of Advances	8,217	3.5
Total	\$234,614	100.0%

Neither the foundation nor CAVICA kept the reimbursements from the UAS and the community college district in bank accounts separate from receipts from other sources; therefore, the federal and state funds were commingled with all other receipts. As a result, it was impossible for us to determine which expenses paid out of the foundation and CAVICA were paid with federal or state funds.

Officers of the Foundation

The foundation's by-laws stated that it should be administered by a board of directors consisting of 15 members. An executive director was to direct the affairs of the foundation, subject to the approval of the board of directors. The officers of the foundation were to be elected by the board of directors. We found no minutes of meetings or other documents showing that the foundation elected officers, yet the foundation had three officers.

Its officers had other roles and responsibilities in addition to those performed for the foundation. For example, during the period of our review, the foundation's primary officer was also the department's manager who had responsibility for overseeing the CAVICA advisor. In fact, it appears that the manager held his position as an officer of the foundation as a result of his position at the department. When we asked him how he became a foundation officer, he stated that when he

assumed his position at the department, his supervisor told him serving as primary officer of the foundation was one of the duties. The manager also regulated CAVICA's finances and had signatory authority over both the foundation's and CAVICA's bank accounts. In his role as a manager at the department, he oversaw the CAVICA advisor, as discussed earlier, and monitored various contracts with the community college district and the UAS. One of these contracts with the UAS funded the CAVICA advisor's position before she became a state employee.

During the same period, the second officer of the foundation was a vocational instructor at the Sacramento County Office of Education. This vocational instructor also had signatory authority over both the foundation's and CAVICA's bank accounts and served as bookkeeper for both entities.

The foundation's third officer during this period was an administrator at American River College, which is part of the community college district mentioned earlier. The administrator also had signatory authority over both the foundation's and CAVICA's bank accounts. In addition, the administrator approved payments from the community college district's contracts with the department and the chancellor's office.

Scope and Methodology

To investigate the allegation, we examined the available accounting records, bank records, and supporting documentation for CAVICA and the foundation for the period September 1, 1992, through August 31, 1995. In addition, we reviewed the general ledgers for CAVICA and the foundation from September 1, 1995, through December 31, 1995. We also reviewed records of payments from the community college district and UAS to CAVICA, the foundation, and the bookkeeper. We examined travel reimbursements paid to the manager and other department employees by the community college district, UAS, auxiliary organizations from other state universities, county education offices, and some private businesses.

We interviewed the manager, other department employees, and the bookkeeper for the foundation and CAVICA. We also reviewed the personal bank documents of the manager and examined documents relating to a contract between a private contractor and the State's ETP. Although we requested all of the invoices and documentation to support all the expenditures of CAVICA and the foundation from September 1, 1992, through August 31, 1995, we received documentation for only 42 percent of these. Payments to cash, the department

manager, hotels, airlines, etc., were frequently unsupported by any documents showing the reason for the expenditure. As a result, the dollar amounts of our findings, and possibly the scope of our investigation, were limited by this lack of documentation.

Finally, after we determined that department employees had engaged in illegal activities, we reported our investigative findings to the Department of Justice, the Internal Revenue Service, the Franchise Tax Board, and the Fair Political Practices Commission.

Chapter 1

A Department Manager Illegally Benefited From His Position

The manager illegally used foundation and CAVICA funds to pay \$44,100 of personal expenses and submitted false claims for over \$17,745.

A manager for the California Department of Education (department) abused his position with the State to obtain over \$65,900 in personal benefits in violation of state laws.³ Specifically, the manager illegally paid more than \$44,100 of his personal expenses, including a trip to the Bahamas, out of California Association of Vocational Industrial Clubs of America Leadership Foundation (foundation) and California Association of Vocational Industrial Clubs of America (CAVICA) funds. Because most of the funds in the foundation and some of the funds in CAVICA were state and federal funds, the manager violated a number of prohibitions against using the funds for personal benefit.ⁱ He submitted false claims that resulted in improper payments totaling over \$17,745 for additional personal travel expenses.ⁱⁱ The manager also improperly exchanged at least \$4,100 in airline tickets purchased with federal funds for other tickets, which he used to take personal trips, including one to the Virgin Islands.



The manager also used his position to obtain over \$41,130 in personal benefits from various undisclosed financial and personal connections that violate state law.ⁱⁱⁱ For example, he appears to have influenced decisions by the department's fiscal agents to do business with his own business associate, who was also a close personal friend, and her corporation, resulting in payments to her and her corporation totaling more than \$26,300. In addition, the manager had financial relationships with and interests in both his friend and her corporation. Specifically, he received over \$15,000 in personal loans from her and obtained \$4,330 from a school district in South Carolina where she worked as an administrator. Moreover, he was able to write checks to himself totaling \$21,800 out of her corporation's accounts.

The manager violated state law when he failed to report over \$30,000 in income he received from another corporation in which he was a corporate officer and a shareholder, along with his other business positions and financial interests.

³ Summaries of the various laws and regulations referred to in this report can be located in the end notes located at the end of each chapter. End note references are indicated by lower-case Roman numerals.

The Manager Used the Foundation and CAVICA To Pay His Personal Expenses

At the manager's direction, the foundation and CAVICA improperly paid over \$44,100 of his personal expenses. As described in the background section of this report, through his position at the department, the manager served as an officer of the foundation and a financial manager of CAVICA. In these capacities, he used funds from the foundation's and CAVICA's accounts to pay for his personal airline tickets, hotels, cars, and telephone calls. He also used these funds to pay for travel expenses that would not otherwise be eligible for reimbursement by the State. Although the foundation and CAVICA were private corporations, they received monies from contracts funded by the state and federal governments and should have used these funds in accordance with state and federal requirements.


Foundation funds paid for personal trips to the Bahamas and South Carolina, for restaurants, flowers, leather goods, and department store purchases.




From August 1, 1994, through July 7, 1995, the manager used foundation checks to pay over \$26,500 in expenses charged to an American Express credit card he obtained through the department. Of this amount, \$15,888 was for personal expenses. For example, personal airline tickets, hotels, and cars for weekends or periods marked as vacation on his time sheets added up to \$5,138. One of these charges was his airfare for a personal trip to the Bahamas. The manager also improperly charged \$2,400 for airline tickets, including airfare for a trip to the Bahamas, for a close personal friend and business associate. Other personal charges on the credit card included \$1,760 for his travel to South Carolina where his close personal friend lives, \$2,513 to various restaurants, \$389 to Nordstrom, \$573 for leather goods, \$270 for flowers, and \$530 paid to hotel gift shops.

The manager charged the remaining \$10,612 to his American Express credit card while he was on trips related to state business. Due to a lack of documentation, we were not able to determine the details of some of these charges. However, we verified that \$1,300 of the charges were for personal expenses. For example, he charged \$179 for hotel gift shop purchases, \$30 for concierges, \$80 for phone calls to his close personal friend, and \$400 on food and bar charges.⁴

⁴ Although both the state and federal governments reimburse certain meal expenses, the manager received other travel reimbursements for periods covered by these charges. He was not entitled to travel and meal reimbursements for the same expenses from more than one source.

The manager also used foundation funds to pay for travel expenses that were not eligible for reimbursement by the State. Specifically, in March 1995, he stayed two nights at the San Francisco Marriott at a cost of \$185 per night. For in-state travel, the State only allows reimbursement for lodging at a rate of \$79 per night plus tax, and many hotels offer this rate to state employees.^{iv} Because the foundation paid the entire credit card bill, the manager received \$490 in personal benefits.

Further, the manager wrote foundation checks totaling \$4,100 for expenses related to trips taken on behalf of other entities. For example, he wrote a foundation check of \$1,517 in January 1994 to cover the cost of an airline ticket to Columbia, South Carolina. Although the foundation paid for this bill, the manager was traveling to present a speech on behalf of a school district in South Carolina. This school district also paid for the manager's travel expenses plus an honorarium. Because the trips included in the \$4,100 were taken on behalf of other entities who reimbursed the same travel expenses, we consider the foundation's payments to be for the manager's personal benefit. Also, state law prohibits employees from traveling out of state on behalf of the State without obtaining specific approval, which the manager failed to do.^v




The manager used foundation funds to travel first class and stay in hotel rooms exceeding allowable state rates.


In addition, the manager wrote himself foundation checks, presigned by the foundation's bookkeeper, totaling \$33,600 between September 1992 and June 1995, presumably as reimbursement for foundation expenses paid by him. However, \$4,100 of this was for expenses that should not have been paid according to state regulations and policies. For example, in November 1992, the manager reimbursed himself \$860 for a first class airline ticket to Nashville, Tennessee. The State will only pay for first class travel in rare circumstances, and only when the proper approval is obtained in advance.^{vi} In addition, the manager reimbursed himself for hotel charges in excess of lodging limits established by the State, such as \$139 per night for rooms in Monterey and \$157 for a room at Harrah's Casino in Lake Tahoe for one Saturday night. Improper food charges included \$50 for food and \$75 for liquor charged at a social-athletic club in December 1992. Because he would not have been eligible for these reimbursements under state regulations, we consider the payments for these expenses to be for his personal benefit.

We could find no evidence that the manager personally paid for \$13,980 (42 percent) of the \$33,600 in reimbursements he received from the foundation over the three-year period. For example, he stated that he paid \$2,100 to register six people at a conference in Scottsdale, Arizona, held between January 14 and January 17, 1993. As proof of his payment of the expense,

he included a magazine page that advertised the conference. At the bottom of the advertisement, he simply wrote "6 x 350 = \$2,100." He also used foundation funds to give himself \$5,450 in travel advances but provided documentation for only \$828. Consequently, we conclude that \$4,622 of the advances were for his personal benefit. Because there was no evidence that the manager had ever paid for these expenses or the conference fees, we conclude that these payments from the foundation were for his personal benefit and, thus, in violation of the law.

The manager also used foundation and CAVICA funds to pay his home and cellular telephone bills. Between September 1992 and August 1995, the foundation and CAVICA paid \$9,900 for two cellular telephones and his home telephone.⁵


*The manager placed
personal telephone calls
totaling \$4,249.*


At least \$4,249 of the calls paid by CAVICA and the foundation were for personal purposes. For example, the manager placed 1,010 calls, costing \$3,080, to his close personal friend and business associate in South Carolina. Because she was a professional associate, some of the calls were undoubtedly business related, as the manager stated to us. However, 406 (40 percent) of these calls were made on weekends or very late at night, sometimes as late as 3:37 a.m. Additionally, as will be described later in this report, much of the business relationship between the manager and his personal friend was not related to state business.⁶

According to the Internal Revenue Service, any personal expense paid for an employee is considered taxable income to the employee. However, neither the foundation nor CAVICA issued any notice to the taxation authorities concerning the personal expenses it paid for the manager. As a result, the manager may not have paid income tax on all of his personal income—another personal benefit and violation of law.

As stated in the summary, 60 percent of the \$234,600 deposited into the foundation accounts from September 1992 through August 1995 came from state and federal funds, while

⁵ Due to the lack of supporting documentation for a number of expenses, we were unable to locate or examine telephone bills for October, November, or December 1993.

⁶ In addition to the personal calls paid for by the foundation and CAVICA, we obtained records of the manager's calls from his state office stationary telephone from September 5 through December 19, 1995, and from the State's cellular telephone issued to him from November 7, 1995, through April 23, 1996. The department paid a total of \$160 for the manager's personal toll calls during these time periods.

4 percent of the \$268,000 deposited into the CAVICA account came from federal funds. Although the foundation and CAVICA are private corporations, both acted as fiscal agents when they paid the expense first and then applied for reimbursement from contracts funded with federal and state funds. All funds in the foundation's and CAVICA's accounts were commingled. As a result, all of the funds should have been spent in accordance with state and federal requirements.⁷

◆

The manager violated his fiduciary duty.

◆

Because the foundation and CAVICA were either a nonprofit corporation or part of one, the manager had a fiduciary duty to spend their funds in accordance with their purposes.^{vii} As the primary officer of the foundation and the financial manager of CAVICA, he violated this duty by using their funds for his own personal gain. Table 3 summarizes the personal expenses paid for the manager by the foundation and CAVICA.

Table 3

***Personal Expenses Paid by
the Foundation and CAVICA***

Type of Expense	Amount
Credit card charges for weekend and vacation travel	\$15,888
Credit card charges for personal purposes while on state business	1,300
Credit card charges for other travel expenses not eligible for state reimbursement	490
Checks for trips taken on behalf of other entities	4,100
Checks for other travel expenses not eligible for state reimbursement	4,100
Checks to reimburse costs for which there was no documentation	13,980
Checks for personal telephone calls	4,249
Total	\$44,107

⁷ In Chapter 2, we will discuss how the manager circumvented controls to improperly funnel state and federal funds into the foundation and CAVICA.

***The Manager Filed False
Travel Claims***

The manager violated other laws to his personal benefit.^{viii} Specifically, in 47 instances, he submitted requests for duplicate, triplicate, or quadruplicate travel expense reimbursements totaling approximately \$16,500. With some exceptions, the foundation initially paid for the manager's travel expenses. Subsequently, he submitted travel expense claims for some of the same expenses to the department and a variety of educational entities. He also sometimes wrote himself checks for these travel expenses out of the corporation owned by his close personal friend. We believe the high volume of these claims for duplicate, triplicate, or quadruplicate travel payments demonstrates the manager's intent to file false claims. Table 4 shows how much was paid by each entity for the manager's travel expenses that had already been paid by another entity.

Table 4

Duplicate Payments for the Manager's Travel

Entities That Made Duplicate Travel Reimbursements	Amount
California Department of Education	\$ 2,219
University Auxiliary Services, California State University, Los Angeles	8,581
Alameda County Office of Education	2,421
CAVICA Leadership Foundation	311
Personal Friend's Corporation	2,965
Total	\$16,497

For example, four organizations paid at least some of the manager's travel expenses for a trip to Los Angeles in April 1995. During a nine-day period, the manager accumulated a \$1,164 hotel bill of which he paid \$700 personally and charged the remaining \$464 to the foundation. He requested lodging reimbursement for \$1,013 from the University Auxiliary Services (UAS) at California State University, Los Angeles. In addition, he reimbursed himself \$1,067 for the lodging costs from his friend's corporation. On

the travel claim submitted to UAS, he stated he was in Los Angeles from April 6 to April 14, 1995. However, on the claim he submitted to the department, the manager indicated he was in Los Angeles only from April 6 to April 10, and again from April 12 to April 15, 1995. As a result, he claimed \$175 for lodging from the department, charging \$24.99 per night for seven nights commercial lodging without a receipt.^{ix}

In all, the manager received \$4,471 from the various entities for this nine-day trip. Since he personally paid only \$1,083 for his expenses, he received \$3,388 in excess of his expenses by submitting travel claims to three different entities. The manager signed all of the claims submitted to the department and UAS, certifying the information on them was a true statement of expenses incurred in accordance with state regulations and all the items shown were for the State's official business. Table 5 illustrates how much each entity paid and how much excess reimbursement the manager received from this trip.



Table 5

***Excess Reimbursement Received
by Manager for Travel
From April 6 Through April 15, 1995***

Payor	Hotel	Food and Incidentals	Car Rental	Airfare	Gas, Parking, and Mileage	Total	Amounts Paid to Manager
UAS	\$1,013.43	\$328.00	\$265.47		\$ 124.71	\$1,731.61	\$1,731.61
Department	174.93	230.00		\$ 503.00	58.80	966.73	463.73
Corporation	1,066.68	252.00	266.00	691.00		2,275.68	2,275.68
Foundation	463.84	9.50	265.47			738.81	
Close personal friend					15.11	15.11	
Entities paid	2,718.88	819.50	796.94	1,194.00	198.62	5,727.94	4,471.02
Less amounts the manager paid	(700.00)	(230.00)			(152.80)	(1,082.80)	(1,082.80)
Excess payments	\$2,018.88	\$589.50	\$796.94	\$1,194.00	\$ 45.82	\$4,645.14	\$3,388.22

The manager received \$1,732 from UAS for the trip to Los Angeles.⁸ However, during an interview on May 6, 1996, he told us the money he received for this trip was actually for

⁸ The manager received \$1,205 of the \$1,732 as a travel advance. He submitted his reimbursement claim to justify the advance and claim additional expenses.


*The manager kept \$1,732
intended for his close
personal friend.*


his close personal friend, who was performing a third-party evaluation of a technology education center at California State University, Los Angeles. The manager claimed UAS paid him for her travel because, for some unexplained reason, it could not write a travel advance to this friend for her expenses. He said he gave his friend the money in cash so she could pay her expenses. However, the close personal friend told us she had no recollection of receiving money from the manager for this trip. After we interviewed the manager, he sent his personal check for \$1,732 to UAS. It is not clear to us why he would do so if he had, in fact, given his friend the money. UAS told us that the manager's check to them was the return of a travel reimbursement it had issued to the manager—not an advance for his friend.

The manager's close personal friend could not explain why he reimbursed himself from her corporation for the travel expenses on this trip because she thought all the expenses, except for a gas charge, were paid by UAS. Although the close personal friend received no reimbursement from UAS, she is now being asked by a UAS administrator, who approved the advance to the manager, to sign a \$1,750 travel voucher for the advance paid to the manager. This trip is discussed further in the next section.

The Manager Misrepresented Location and Times on Travel Claims

The department manager misrepresented his location and the times of departure or arrival on some of his claims, thereby improperly receiving \$1,248 in travel reimbursements to which he was not entitled. Again, we believe the volume of the manager's misrepresentations demonstrated his intent to file false claims.

For example, the manager improperly received \$320 from UAS by claiming to be in Los Angeles on April 10, 11, and 12, 1995, when he was actually in Sacramento. As mentioned previously, the manager stated on a claim submitted to UAS that he was in Los Angeles for nine days from April 6 to April 14, 1995. On another claim paid by the department, he said he was in Los Angeles from April 6 to 10, returned to Sacramento at 9 a.m. on April 10 and departed on his second trip to Los Angeles on April 12 at 2 p.m., where he remained until April 15.

The manager's telephone records show that he placed telephone calls from Sacramento between 3:30 p.m. on April 10 and 3:30 p.m. on April 12. Additionally, his airline tickets show that he returned to Sacramento on April 10 and left Sacramento for Los Angeles on April 12. The following calendar sections show the manager's location based on the various documents.

APRIL 1995 Based on Claim Submitted to University Auxiliary Services						
S	M	T	W	T	F	S
2	3	4	5	6 Depart Sacramento at 5:30 a.m.	7 Los Angeles	8 Los Angeles
9 Los Angeles	10 Los Angeles	11 Los Angeles	12 Los Angeles	13 Los Angeles	14 Arrive Sacramento 7 p.m.	15

APRIL 1995 Based on Claim Submitted to The Department of Education						
S	M	T	W	T	F	S
2	3	4	5	6 Depart Sacramento 6 p.m.	7 Los Angeles	8 Los Angeles
9 Los Angeles	10 Arrive Sacramento 9 a.m.	11 Sacramento	12 Depart Sacramento 2 p.m.	13 Los Angeles	14 Los Angeles	15 Arrive Sacramento 10 a.m.

APRIL 1995 Based on Telephone Records						
S	M	T	W	T	F	S
2	3	4	5	6 Sacramento at 3:57 p.m.	7 Los Angeles at 8:47 a.m.	8
9	10 Sacramento at 3:30 p.m.	11 Sacramento	12 Sacramento at 3:30 p.m.	13	14	15 Sacramento at 5:10 p.m.

The Manager Used Other State Funds To Make Personal Trips



The manager also exchanged airplane tickets purchased for him by UAS and illegally used at least some of these tickets, worth \$4,100, for personal trips. In April 1994, UAS, using federal funds, purchased plane tickets worth \$9,500 for the manager,

presumably for 14 business trips to Atlanta, Georgia, and Washington, D.C. The manager, who was the monitor over the contract between the department and UAS that paid for these tickets, exchanged all of the tickets for other destinations and times. With the help of the airline company, we were able to trace \$5,650 of the replacement tickets and determined that the manager used tickets valued at \$4,100 for personal trips to St. Thomas, Virgin Islands; Phoenix, Arizona; and Columbia, South Carolina. Another of the personal tickets was used for a long weekend in Panama City, Florida, together with his close personal friend and business associate, to examine conference sites on behalf of her corporation. All of the tickets for personal travel were first class fares, including the ticket to Florida for \$1,740.

The Manager Benefited From Other Personal and Financial Interests

The manager also improperly benefited from the State's payments to his close personal friend and business associate from South Carolina.

The manager appears to have violated state laws by influencing payments to his close personal friend and accepting payments totaling approximately \$41,130 from her, her employer, and her corporation.^x Beginning in April 1994 through 1995, the close personal friend and business associate received over \$26,300 from various educational entities in California, CAVICA, and the foundation. The sources of at least some of these funds were contracts that the manager monitored in his role for the department.^{xi} Specifically, she received \$13,480 from UAS in 1995 for her professional educational services. The manager monitored contracts that paid \$4,310 of this amount. An additional \$9,170 came from a contract meant to pay the salary for the CAVICA advisor he supervised. His close personal friend also received \$9,100 from the community college district in 1994. The manager monitored the contract that paid \$4,500 of the \$9,100.


In his department capacity, the manager monitored contracts benefiting his close personal friend.


Although the manager claimed he did not participate in decisions that led to these payments, we believe he influenced them. As a monitor of departmental contracts, he had the responsibility of safeguarding the funds distributed from these contracts. This responsibility includes ensuring that the funds in the contract are spent appropriately and according to the purpose of the project. The contract monitor also has the power to recommend for or against future continued funding of a contract. This gives the monitor considerable influence. If the

monitor suggests that an expenditure is appropriate to the purpose of the contract, the contracting entity may perceive that it is in its best interest to comply with the suggestion to ensure continued funding.

In addition, the foundation paid \$410 for an airline ticket used by the close personal friend and \$315 for a computer printer she purchased in South Carolina in May 1994. The manager signed both of these checks. When we asked why the foundation paid for the printer, the manager admitted that it had been a mistake. Subsequently, he wrote a personal check to CAVICA for this expense and for \$32 the foundation had paid his friend for a dinner in May 1994. The manager paid CAVICA rather than the foundation for these expenses because the foundation had been dissolved in February 1996.

The manager paid his close personal friend \$3,000 for a 45-minute speech.

Further, using a CAVICA check, the manager paid his close personal friend and business associate \$3,000 in honorarium and expenses for a 45-minute speech she made at the CAVICA state conference in April 1995. This check was payable to both the close personal friend and her private corporation in South Carolina.

Because of his relationship with his friend and her corporation, the manager had a financial interest in the payments made to her. Specifically, he was an officer and agent of her private corporation. His friend also made personal loans to the manager totaling at least \$15,000. Furthermore, he received \$4,330 as honorarium and travel reimbursements from a school district in South Carolina for presentations he made there in January and June 1994. The manager's close personal friend and business associate was an administrator of the school district that paid him. This same school district paid her corporation \$5,000 for consulting services the manager provided on behalf of her corporation.



The manager also had the authority to sign checks for his friend's corporation. Between January 31, 1995, and February 26, 1996, he wrote himself corporate checks of \$21,800 for expense reimbursements. However, some of these were not legitimate expenses, and consequently, he personally benefited from them.

The Manager Did Not Disclose His Financial Interests

The California Government Code, Sections 87200, 87203, and 87500, require certain state employees to complete a Statement of Economic Interest form annually. These forms are required to

identify potential conflicts of interest on the part of state employees. The department also specifies that employees at the manager's level shall report investments, business positions in, and income from entities engaged in the performance of educational, research, or professional consulting services; or entities that publish, manufacture, or sell supplies, books, machines, equipment, food commodities, or other items purchased by the department. According to those instructions, the manager was required to report investments; income including loans, gifts, travel payments, and reimbursements; and business positions.

However, the manager did not disclose his financial interests as required by the State. Specifically, he is part owner of a private computer software company that specializes in education and training software. According to the manager, he purchased shares in this corporation in 1992. Although he told us under penalty of perjury that he was not active in the daily management of the company, we determined that the manager has been vice president of operations at least since January 1994. According to the corporation's records on file with the Secretary of State, the manager was an officer and director of the corporation as of August 1995.


The manager did not disclose his investment in and cash distributions from a company specializing in educational and training computer software.


The manager also received substantial income from the computer software company. We confirmed that the corporation made cash distributions to him totaling \$30,100 from July 1993 through September 1994. The manager told us his tax liability from his investment in the corporation was \$34,128 in 1992, \$16,902 in 1993, \$8,659 in 1994, and \$1,768 in 1995; thus, he may have received substantially more than \$30,100. Nevertheless, the manager did not disclose his investment in and distributions from the computer software corporation to the State. He also failed to disclose his consulting revenue from the school district in South Carolina. Furthermore, he did not disclose that he was an officer of his close personal friend's corporation, nor did he disclose income from his travel advances or reimbursements, including those from his close personal friend's corporation. Finally, although the department was apparently aware that he was an officer of the foundation, he did not disclose that position.

Under penalty of perjury, the manager certified that he had no reportable interests or income on his 1993, 1994, and 1995 Statement of Economic Interest forms. He signed his 1995 form on April 15, 1996, 12 days after we first questioned him regarding his shares and position in the computer software

corporation. In a second interview, he claimed that he did not report his income on the required schedules because he thought the form was for political appointees only.

Endnotes

i California Penal Code Section 503 defines embezzlement as the fraudulent appropriation of property by a person to whom it has been entrusted. Further, Penal Code Section 504 states that every officer of this state or director of any corporation, who fraudulently appropriates property for any purpose not in the lawful execution of his trust, is guilty of embezzlement. In the State of California, embezzlement is generally punishable by imprisonment for six months to one year.

ii California Penal Code Section 72 states that every person who, with intent to defraud, presents any false claim or bill to any state board or officer is punishable either by imprisonment in the county jail or state prison, by fine, or both.

In addition, Section 8314 of the California Government Code prohibits state employees from using state resources for personal advantage or for an endeavor not related to state business. If such use results in a gain or advantage to the individual or a loss to the State for which a monetary value can be estimated, the individual may be liable for a civil penalty not to exceed \$1,000 for each day on which a violation occurs, plus three times the value of the unlawful use. For the purposes of Section 8314, the definition of state resources includes any state payment for travel.

iii Conflicts of interest are prohibited by statute and the common law to ensure that the best interests of the State are served. A public officer is bound to exercise the powers conferred on him with disinterested skill, zeal and diligence, and primarily for the benefit of the public. When a public officer serves more than one interest, the officer may not have the independence necessary to ensure that the best interests of the State are protected.

Under California Government Code Section 87100, state employees are disqualified from participating in government decisions in which they have a financial interest. Further, Section 19990 of the same code specifies that any employment, activity, or enterprise that is clearly in conflict with a state employee's duties is an incompatible activity. Prohibited activities under Section 19990 include using the prestige or influence of the State's office for the employee's private gain or the private gain of another, or the use of state time and facilities for private gain or advantage. Further, Section 19990 prohibits state employees from performing any act in other than their capacity as state employees, knowing that the act may later be subject, directly or indirectly, to the control, inspection, review, or audit by the employees. The same section prohibits state employees from accepting anything of value from anyone who is doing or is seeking to do business of any kind with the employee's department under circumstances from which it reasonably could be

substantiated that the gift was intended to influence the employee in his official duties or was intended as a reward for any official actions performed by the employee.

- iv Section 599.619 of Title 2 of the California Code of Regulations, states that employees can be reimbursed for the actual cost of commercial lodging up to \$79 per night. With the proper approval, employees can receive reimbursement in excess of \$79 per night, but only under certain conditions.
- v California Government Code Section 11033 states that no employee shall travel on behalf of the State without obtaining prior approval from the governor and the director of finance, except when the absence is for less than five consecutive working days' duration and involves only travel into states bordering upon this state. Additionally, Section 11032 states that actual and necessary travel expenses shall be allowed state employees when such travel has been approved by the governor and the director of finance. These controls exist to ensure that the expenditure of state funds is prudent and in the best interest of the State.
- vi California Code of Regulations, Title 2, Section 599.68 states that airline fare reimbursements shall be allowed at the lowest fare available. Higher fares may be allowed if there is an official necessity. However, the State Administrative Manual requires travelers to submit their requests for approval of exceptions in advance of the trip.
- vii California Probate Code Section 10640 requires that trust funds be administered with the care, skill, prudence, and diligence that a prudent person acting in a like capacity would exercise to accomplish the purposes of the trust. Diligent administration includes maintaining required accounting documents, such as documented support of expenses. Additionally, writing checks to oneself violates good internal control procedures which are part of prudent administration. Every violation by a trustee, whether willful and fraudulent, done through negligence, or arising through mere oversight and forgetfulness, is a breach of trust. A breach of trust includes the wrongful misappropriation by the trustee of any funds or property that had been lawfully committed to him in a fiduciary manner. Further, Probate Code, Section 16004, states that the trustee of a foundation has a duty not to use or deal with trust property for the trustee's own profit or for any other purpose unconnected with the trust.
- viii California Penal Code Section 72 states that every person who, with intent to defraud, presents any false claim or bill to any state board or officer is punishable either by imprisonment in the county jail or state prison, by fine, or both.


In addition, Section 8314 of the California Government Code prohibits state employees from using state resources for personal advantage or for an endeavor not related to state business. If such use results in a gain or advantage to the individual or a loss to the


State for which a monetary value can be estimated, the individual may be liable for a civil penalty not to exceed \$1,000 for each day on which a violation occurs, plus three times the value of the unlawful use. For the purposes of Section 8314, the definition of state resources includes any state payment for travel.

- ix The California Code of Regulations, Title 2, Section 599.619 states that employees who choose to stay in noncommercial lodging may claim \$24 per day for meals and incidentals and \$23 per day for lodging expenses.
- x California Government Code Section 19990 specifies that any employment, activity, or enterprise that is clearly in conflict with a state employee's duties is an incompatible activity. Prohibited activities under Section 19990 include using the prestige or influence of the State's office for the employee's private gain or the private gain of another, or the use of state time and facilities for private gain or advantage. Further, Section 19990 prohibits state employees from performing any act in other than their capacity as state employees, knowing that the act may later be subject, directly or indirectly, to the control, inspection, review, or audit by the employees. The same section prohibits state employees from accepting anything of value from anyone who is doing or is seeking to do business of any kind with the employees' department under circumstances from which it reasonably could be substantiated that the gift was intended to influence the employee in his official duties or was intended as a reward for any official actions performed by the employee.
- xi California Government Code Section 87100 specifies that state employees are disqualified from participating in government decisions in which they have a financial interest.

Chapter 2

The Manager Used His Influence and the Department's Fiscal Agents To Circumvent State Controls


*The manager illegally or
improperly diverted over
\$95,000 from various
sources into the
foundation's account.*



The manager's various roles and his use of the California Department of Education's (department) fiscal agents allowed him to inappropriately circumvent controls over expenditures. He was able to authorize improper or illegal payments and divert more than \$95,900 from various sources into the California Association Vocational Industrial Clubs of America Leadership Foundation's (foundation) account. All of these actions substantially increased the amount of funds available from this account. Because of his role in the foundation, the manager was then able to use these funds for his personal benefit.

Specifically, the manager improperly used his role in the department to enter into a contract with a private firm. Although he signed this contract on behalf of the department, he diverted its proceeds of \$25,000 into the foundation's account. In the course of doing this, the manager violated other state laws by using department resources for this contract and by improperly issuing certificates in the department's name.

The manager used his influence with the department's fiscal agents and others to improperly generate a flow of funds into the foundation. He did this by submitting invoices to the Los Rios Community College District (community college district) and University Auxiliary Services, Inc. (UAS) at California State University, Los Angeles. However, at least \$41,379 of these invoices requested reimbursements to the foundation and the California Association of Vocational Industrial Clubs of America (CAVICA) for expenses that were not legitimate. The expenses had already been reimbursed by other sources, and in at least one instance, no evidence existed that the expenses had even been incurred. The manager also violated conflict-of-interest prohibitions when he issued these bogus invoices because he monitored the contracts used by the community college district and UAS to make the payments.¹


The manager used his influence with the community college district to have it pay for the foundation's and CAVICA's bookkeeping services. Although these payments did not result

in additional funds being deposited to the foundation's account, the foundation did not have to pay for the services. Therefore, there were more funds in this account available to him.

The manager used his various roles to cause \$29,530 to be deposited into the foundation's account that should have been deposited into CAVICA's account, thus avoiding review by CAVICA's national corporation.

Once the funds were in the foundation's account, the manager, as the primary officer, was able to spend them for his personal benefit without outside scrutiny. As reported in Chapter 1, the manager paid for over \$44,100 of his personal expenses out of the foundation's and CAVICA's accounts.

***The Manager Improperly Deposited
Department Funds Into
the Foundation's Account***

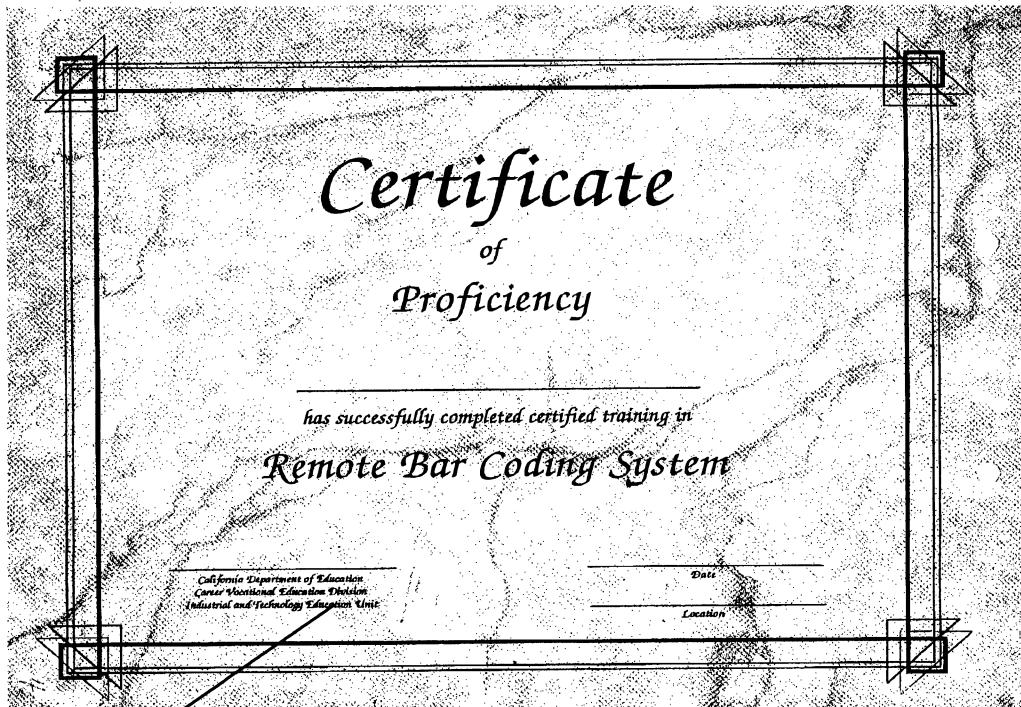

*The manager did not
have the authority to
enter into a contract on
behalf of the department.*

In April 1992, the State's Employment Training Panel (ETP) contracted with a private engineering firm (firm) to train economically disadvantaged adults in California. The firm subsequently contracted with several subcontractors to provide administration and training for this contract. One of the subcontractors was the department unit supervised by the manager. He signed the contract on behalf of the department on April 24, 1992, and was listed as the department's representative. He was able to do this at least in part because his role as a monitor for the department's contracts created the perception that he was authorized to enter into contracts on behalf of the department. Under the terms of the contract, the unit was to provide in-service training for the teachers and on-site monitoring of the training provided to the students. The amount of this subcontract was \$64,000, although only \$25,000 was ultimately paid.

However, the manager did not have the authority to enter into a contract on behalf of the department. Nevertheless, he had employees of his unit monitor the training given to economically disadvantaged adults in Oakland and San Diego. He also directed the state CAVICA advisor, who was then working out of the UAS office in Los Angeles, to issue Certificates of Proficiency to the adults who successfully completed the training. An example of the proficiency certificate is shown on the following page. The certificates were issued in the name of the department and prepared by the Technical Education Center at California State University, Los Angeles. However, the manager did not have the authority to issue these certificates in the name of the department.

Figure 1

Certificate of Proficiency




*California Department of Education
Career Vocational Education Division
Industrial and Technology Education Unit*

For the services provided by the department's employees, the firm issued a check for \$25,000, which was made payable to the department. However, on November 5, 1992, the bookkeeper, at the manager's direction, deposited the \$25,000 check into the foundation's account.ⁱⁱ

It is clear that the manager intended to benefit personally by depositing this check into the foundation's account. On November 9, 1992, he wrote a foundation check to himself for \$2,453. Of this amount, \$85 was for personal cellular telephone bills, \$59 was for hotel gift shop purchases in Monterey, California, and Nashville, Tennessee, and \$157 was for the hotel room at Harrah's in Lake Tahoe, Nevada, mentioned in Chapter 1. A total of \$1,289, including the Lake Tahoe hotel charge and the gift shop purchase in Nashville, was apparently for unapproved out-of-state travel. When the manager sent the supporting documents for this check to the bookkeeper, he wrote, "I hope that the \$25,000 check is in our bank account because I will write another \$1,000 this week."

On November 13, 1992, the manager wrote a foundation check to himself for \$4,621. Included in the support for this check was a \$34 hotel gift shop purchase and \$471 in food and beverage charges during a three-day trip to San Diego. The support also included the magazine page that supposedly proved he had paid \$2,100 in registration fees for six unnamed people for a conference in Scottsdale, Arizona. This expense was discussed in Chapter 1.

The Manager Improperly Directed State and Federal Funds to the Foundation


At least \$41,379 of expenses paid by the community college district and UAS were either improper or inappropriate.

The manager used his influence to funnel other state and federal funds to the foundation as well. Under his direction and influence, the community college district and UAS paid approximately \$151,700 to the foundation and CAVICA. At least \$41,379 (27 percent) of these expenses were either improper or inappropriate. Again, at the manager's direction, the community college district improperly paid the bookkeeper for the foundation and CAVICA. The manager also redirected \$29,530 that should have been deposited into CAVICA's account into the foundation's account. This action allowed him to avoid the scrutiny of CAVICA's national corporation. The responsibilities of a contract monitor are described in Chapter 1.

As a monitor of departmental contracts, the manager has the responsibility of safeguarding the funds distributed from these contracts. This responsibility includes ensuring that the funds in the contract are spent appropriately and for the purpose of the project. Although he did not sign any of the department's contracts with the community college district and UAS, as the monitor he was in a position to influence payments to the foundation or CAVICA. For example, the contract monitor has the power to recommend for or against future continued funding of a contract. This gives the monitor considerable influence. If the monitor suggests that an expenditure is appropriate to the purpose of the contract, the contracting entity may perceive that it is in its best interest to comply with the suggestion made by the contract monitor to receive continued funding.

The Manager Requested Improper Reimbursements From the Community College District

Between September 1, 1992, and August 31, 1995, the community college district paid reimbursements totaling approximately \$133,200 to the foundation and CAVICA. However, \$27,900 (21 percent) were not for legitimate expenses. These improper reimbursements were all deposited to the foundation's account.

The foundation and CAVICA requested reimbursements of \$27,900 for expenses that were not legitimate.



The foundation and CAVICA incurred various types of expenses for conferences, travel, materials, and equipment. After incurring these expenses, they often requested reimbursement from the community college district. According to the manager, the three officers of the foundation would jointly determine which of the contracts between the community college district and the department or the Chancellor's Office of the California Community Colleges (chancellor's office) could appropriately reimburse the foundation for specific expenses. The foundation's officer who was also a community college administrator, or his designee, would then, on behalf of the college, complete a community college district requisition, attach a foundation or CAVICA invoice prepared by the bookkeeper and copies of foundation and CAVICA checks, and then forward the documents to the community college district's accounting office for payment. However, some of these payments were not appropriate.

For example, in September 1993, the foundation invoiced the community college district \$8,700 for "meeting room rentals" for meetings organized by CAVICA. While the foundation initially paid the expense, CAVICA had already reimbursed it on May 26, 1993, for the full amount of the room rental. CAVICA had collected fees from the students who attended the state conference and these fees covered all conference expenses. Therefore, both CAVICA and the foundation had already been paid for these room rentals and were not entitled to additional reimbursement.

The community college district paid \$10,944 for Disneyland tickets that were already paid for by students.

In another example, CAVICA collected \$24 from each student who wanted to visit Disneyland while attending the state CAVICA conference in April 1994. It used these fees to pay Disneyland \$10,944. Nevertheless, the bookkeeper invoiced the community college district for this cost, requesting reimbursements of \$2,400 to the foundation and \$8,544 to CAVICA even though CAVICA had collected the money to cover the cost and paid the expenditure. The community college district reimbursed both of these requests to the

foundation and the foundation deposited them into its account. In September 1995, after an audit team from the Bureau of State Audits questioned the community college district's \$8,544 expenditure during an earlier audit, CAVICA repaid the community college district, even though the foundation had deposited the funds. On November 29, 1995, after the community college district disallowed a number of reimbursements it had made to CAVICA and the foundation, the foundation repaid \$2,400 and other disallowed amounts to the community college district.




The manger directed the community college district to pay the foundation bookkeeper.


Another method used by the manager to increase the amount of funds available in the foundation's account was to direct the community college district to pay the bookkeeper for his services to the foundation and CAVICA. Although these payments went to the bookkeeper and not the foundation or CAVICA, by having another entity pay this expense, the foundation and CAVICA had more funds available in their accounts.

Specifically, between November 1, 1992, and June 15, 1995, the community college district paid \$50,520 directly to the bookkeeper for the services he provided to the foundation and CAVICA. Many of these payments were made from contracts monitored by the manager. According to the bookkeeper, the manager authorized the payments from the community college district for these reimbursements. The bookkeeper generally submitted invoices to the district every two weeks. These personal invoices listed the number of hours he worked multiplied by a fee of \$20 per hour. Although some of the contracts used to pay the bookkeeper allowed the community college district to pay CAVICA's accounting costs, the bookkeeper's bills did not identify services provided separately to CAVICA or the foundation. None of the contracts used to pay the bookkeeper allowed for payment of the foundation's accounting costs.

The Manager Requested Improper Reimbursements From UAS

UAS also improperly reimbursed the foundation. Specifically, \$13,479 (73 percent) of the \$18,500 in reimbursements UAS paid to the foundation between September 1992 and March 1995 was improper.


*The foundation issued
bogus invoices totaling
\$13,479 to UAS.*


The foundation submitted bogus invoices to the CAVICA advisor located at California State University, Los Angeles, who filled out the appropriate requisitions and forwarded them to UAS for payment. As stated earlier, the department manager supervised the CAVICA advisor and monitored the contract with UAS that paid for her salary at the time.

For example, on May 12, 1993, the foundation requested \$3,554 from UAS for "the 1992-1993 Leadership Curriculum design and preparations. Services provided included development and dissemination of draft and final copy of curriculum to 100 chapters." However, we could find no evidence that the foundation incurred this expense. Specifically, no checks from fiscal year 1992-93 paid people or companies for the development or dissemination of the curriculum; and we fail to see how this responsibility could have been fulfilled by the foundation, a private nonprofit corporation with no employees.

Another bogus invoice requested UAS to pay \$7,000 to the foundation for "development of conference program, state contest write-ups and scoring program." The state CAVICA advisor told us that the invoice was for an outside consultant who produced a user manual for CAVICA programs, competitions, contest scoring, etc. However, the foundation never paid the consultant for any services. As described in Chapter 3 of this report, services rendered by this consultant to CAVICA were paid directly by the community college district, not the foundation.

The Manager Redirected Funds From CAVICA to the Foundation

Yet another apparent method used by the manager to increase foundation funds was to direct the reimbursements paid to CAVICA by the community college district into the foundation bank account. The distinction between CAVICA and the foundation as separate corporations did not seem very clear to the foundation officers. For instance, the bookkeeper did not issue separate invoices for the foundation and CAVICA, listing checks paid by both on one invoice. Further confusion was caused by the community college district, which also did not differentiate between CAVICA and the foundation. One invoice, dated April 15, 1993, for \$13,681 requested that the community college district reimburse CAVICA. However, the community college district made the check payable to the "VICA Leadership Foundation."

Ultimately, it did not seem to matter which organization initially paid the expense or which was the payee on the community college district checks because, with one exception, the manager had all of these checks deposited into the foundation account. The manager directed \$29,530 of the reimbursements that should have gone to CAVICA to the foundation's bank account. Since the foundation and CAVICA are two separate corporations, the manager wrongfully allowed the diversion of \$29,530 from CAVICA for the benefit of the foundation. As stated earlier, CAVICA is a branch of VICA, a national nonprofit corporation. As a result, expenditures for the manager's personal benefit could have come under additional scrutiny if he had made them from CAVICA's account. It was to the manager's advantage to deposit CAVICA's funds into the foundation's account.

Endnotes

- i California Government Code Section 19990 prohibits state employees from performing any act in other than their capacity as state employees, knowing that the act may later be subject, directly or indirectly, to the control, inspection, review, or audit by the employees.
- ii California Government Code Section 1090 states that employees shall not be financially interested in any contract made by them in their official capacity.

In addition, California Government Code Section 8314 prohibits state employees from using state resources for personal advantage or for an endeavor not related to state business. If such use results in a gain or advantage to the individual or a loss to the State for which a monetary value can be estimated, the individual may be liable for a civil penalty not to exceed \$1,000 for each day on which a violation occurs, plus three times the value of the unlawful use.

California Government Code Section 19990 prohibits state employees from using the prestige or influence of their state office for their private gain or advantage or the private gain of another. The same section further prohibits state employees from using state time, facilities, equipment, or supplies for private gain or advantage.

Chapter 3



Gross Mismanagement Occurred in the Department of Education

*Both the manager and the
department improperly
spent state and federal
funds.*

By using Los Rios Community College District (community college district), University Auxiliary Services, Inc. (UAS) at California State University, Los Angeles, and the California Association of Vocational Industrial Clubs of America Leadership Foundation (foundation) as fiscal agents, the California Department of Education (department) circumvented state policies and controls. As a result, both the manager and the department made improper expenditures of state and federal funds in addition to those cited in Chapters 1 and 2. These included payments of approximately \$37,480 for services not received, more than \$76,000 for services and computer equipment purchased without competitive bids, and over \$13,500 for excessive and unauthorized travel by department employees. The circumvention of controls also allowed one employee to misappropriate state funds, the manager to make an illegal political contribution out of the foundation's account, and some department employees to engage in improper cash handling practices. Further, because it used fiscal agents to pay for other than program expenses, the department may have violated federal limits on the amount of federal grants that can be spent for administrative expenses. Finally, the department violated budgetary controls by using fiscal agents to pay for state office rent, equipment, and other administrative costs.

State law requires state agency heads to establish and maintain a system of controls to protect the State's resources, funds, and property by preventing errors, irregularities, and illegal acts.ⁱ As a result, compliance with state policies, procedures, and legal requirements are essential for effective and efficient management. Internal control generally describes policies within an individual agency; however, it also includes control exerted over the funds that flow out from an agency in the form of contracts with other entities. It is up to the agency to exert sufficient control over the funds entrusted to them to ensure that the funds are spent according to the purposes specified for the funds.

***The State Paid for Services
Not Received***


The bookkeeper received \$37,480 more than he was entitled to receive for his services.


As stated earlier in the report, a bookkeeper, with the manager's approval, billed the community college district for services he provided to the foundation and the California Association of Vocational Industrial Clubs of America (CAVICA) from September 1, 1992, through July 9, 1995. The community college district paid the bookkeeper a total of \$50,520 for these services. However, the community college district paid the bookkeeper \$33,080 more than he was entitled to receive based on our estimate of how long it should have taken him to complete his work. The foundation and CAVICA paid the bookkeeper an additional \$4,400 he was not entitled to receive.

The bookkeeper stated that his services to the foundation and CAVICA consisted of receiving receipts, making bank deposits, reconciling bank statements, printing monthly financial statements, preparing checks, preparing annual tax returns, and handling correspondence with the Vocational Industrial Clubs of America (VICA) national organization. Using the number of receipts the bookkeeper received, the number of bank deposits he made, and the number of checks he wrote for each entity from September 1, 1992, through July 9, 1995, we estimated the number of hours it should have taken to perform these services. We were generous in our estimation of time used for each task. Table 6 shows the schedule of services the bookkeeper provided and our estimates of time, in minutes, needed to complete each bookkeeping task.

It should not have taken the bookkeeper more than 870 hours to perform his work for CAVICA and the foundation from September 1, 1992, through July 9, 1995. However, during this period the bookkeeper billed the community college district for 2,524 hours of work—1,654 more hours than we estimate it should have taken him. Based on the \$20 hourly fee the bookkeeper charged for his services, we determined that he received approximately \$33,080 more than he was entitled to during this period. While \$33,080 may not be the exact amount of overpayment from the district to the bookkeeper for his services to CAVICA and the foundation, it is our opinion that the bookkeeper was grossly overpaid for the services he provided to the two entities. Although the manager monitored at least some of the contracts used to pay the bookkeeper and he was the primary officer of the foundation, he apparently did not ensure that the number of hours the bookkeeper billed conformed to the number of hours worked. As a result, he did not ensure that funds expended out of contracts he monitored were properly spent.

Table 6***Estimated Time To Complete Bookkeeping Tasks
September 1, 1992 Through July 9, 1995***

Organization Receiving Services	Type of Transaction	Number of Transactions	Estimated Minutes Needed for Each Transaction	Estimated Total Minutes for Period
CAVICA	Cash receipts	930	10	9,300
CAVICA	Bank deposits	55	60	3,300
CAVICA	Cash disbursements	315	10	3,150
CAVICA	Bank reconciliation	35	60	2,100
CAVICA	Financial statements	35	180	6,300
CAVICA	Correspondence	35	60	2,100
Foundation	Cash receipts	442	10	4,420
Foundation	Bank deposits	70	60	4,200
Foundation	Cash disbursements	319	10	3,190
Foundation	Bank reconciliation	35	60	2,100
Foundation	Financial statements	35	180	6,300
Foundation	Tax return	3	1,200	3,600
Foundation	Correspondence	35	60	2,100
Total Minutes				52,160
Total Hours				870

After the community college district stopped paying the bookkeeper, the manager paid him \$4,920 from the foundation and \$1,280 from CAVICA for his services from July 10, 1995, through December 15, 1995. As stated earlier, 4 percent of CAVICA's funds and 60 percent of the foundation's funds came from the state and federal governments. By counting the number of items the bookkeeper handled for the foundation and CAVICA between July 10, 1995, and December 15, 1995, and assigning the same time value to each transaction as estimated in Table 6, we determined the bookkeeper should have billed 90 hours. Based on his hourly rate, the bookkeeper received payment for 310 hours. Therefore, the foundation and CAVICA paid the bookkeeper \$4,400 that he was not entitled to. Again, the manager did not ensure that the foundation and

CAVICA received the services for which they paid. If the department intended to pay for the foundation and CAVICA's bookkeeping services, it should have ensured that payments were made from an appropriate source of funds and that it only paid for services received.

***The Department Did Not Obtain
Competitive Bids for
Services and Equipment***

State laws governing the awarding of contracts are intended to eliminate favoritism, fraud, and corruption. To ensure this, state laws and policies require departments to solicit competitive bids when contracting for services or when procuring computer equipment.ⁱⁱ

Because the department used fiscal agents to pay for bookkeeping services, computer consulting, and computer equipment, it circumvented those competitive bidding requirements. As a result, the State has no assurance that the best possible services and goods were acquired at the best possible price. Moreover, the department denied other service providers and vendors the opportunity to compete for the State's business.

***The Manager Improperly Procured
Bookkeeping Services***

In addition to paying for bookkeeping services not received, the manager did not seek competitive bids or proposals for these services, and the State has no assurance that the bookkeeper was the most qualified to perform those duties. In fact, if it actually took the bookkeeper as long as he said it took to complete his work for the foundation and CAVICA, he was clearly not the most qualified person to perform the work. The significant lack of documentation maintained by the bookkeeper also indicates that his services were not of the highest quality. If the department intended to pay for CAVICA's and the foundation's bookkeeping services, it should have gone through a competitive process governed by the State's system of controls.

The Manager Improperly Procured Computer Consulting Services

The manager circumvented state contracting requirements to hire the wife of a department employee.

The manager again circumvented the State's requirements for competitive contracting by hiring the wife of an employee in his unit to perform computer consulting services for CAVICA. The computer consultant received \$16,141 from the community college district in 1993, \$34,264 in 1994, and \$11,058 in 1995, for a total of \$61,463. These amounts include reimbursement for supplies, telephone, and travel expenses. According to the state CAVICA advisor, the manager selected the consultant because she was both accepted by the people in the industrial and technical education field and computer literate.

The computer consultant maintained a database for CAVICA, including the information from student contests and student memberships. She also maintained a database for the department. This database is used by the computer consultant, the department, and California State University, Los Angeles. However, the community college district paid the computer consultant for these services provided to the other entities.

According to the consultant, she received directions on her duties for both CAVICA and the department from the manager. However, we could not determine why the community college district, located in Sacramento, paid for consulting services rendered to the department and California State University, Los Angeles. The community college district did not benefit from the computer consultant's services in any way and could not ensure that the services for which it paid had been performed. We found no evidence that the department or the manager reviewed or approved her invoices either. While we do not suggest the computer consultant received fees for services she did not perform, this is an example of the lack of control when using fiscal agents to pay for services rendered to the department.

Although it has its own computer staff, the department used the consultant, who lives in Fresno, to solve computer problems and install software at department headquarters in Sacramento. UAS reimbursed the consultant for the travel expenses incurred in providing this service to the department. For example, it paid her \$143 in meal allowances and \$106 for mileage in 1995 to cover her travel from Fresno to Sacramento to move the computers from headquarters to a temporary location for the manager's unit.

Finally, as discussed in the next section of this report, the fiscal agent, UAS, purchased computer equipment for the consultant so she could perform her work for the department. We believe that if the department had gone through a competitive contracting process as required by the State, it could have found a consultant who already had the equipment necessary to do the job. The department's action also denied other consultants the opportunity to compete for this work.

The Manager Improperly Purchased Computer Equipment

At the manager's direction, CAVICA purchased \$6,200 of computer equipment for use by the computer consultant in 1994, including nearly \$6,000 for a color notebook computer with fax modem and docking station with CD-ROM. The community college district reimbursed the foundation, not CAVICA, for this equipment. The foundation also purchased \$597 in equipment for the consultant, which included a pocket fax modem, an internal modem, and a Super VGA monitor.⁹ UAS paid an additional \$3,612 for a notebook computer and accessories for the consultant's use for work related to CAVICA.

The department denied vendors the right to compete for the State's business.

The State also paid for computer equipment purchased by the consultant for use by the department and the technical center in Los Angeles. For instance, UAS paid \$2,350 for three copies of a dBASE program used by the department, the consultant, and the technical center in Los Angeles. UAS also reimbursed the consultant \$1,455 for a variety of software, memory modules, and fax modems for use in department computers. The foundation purchased a \$708 printer in July 1993, which is used in the manager's unit at the department. By not making these purchases through a competitive process, neither the department nor the State has assurance that it paid the best possible price for the best possible merchandise. Moreover, the department denied other vendors the opportunity to compete for the State's business.



⁹ The foundation paid the consultant twice for the same internal modem. The actual cost of one modem was \$162.

The Department and Its Fiscal Agents Allowed Employees To Claim Improper Travel Expenses

The department also circumvented state controls when it used fiscal agents to pay over \$10,000 for out-of-state travel. Specifically, department employees were able to travel out of state without obtaining proper approval. In addition, employees were able to spend state and federal funds on unnecessary and excessively expensive conferences and staff meetings held at facilities throughout the State. Further, employees were able to receive duplicate payments for travel expenses and obtain reimbursement for expenses not permitted by state policies. Finally, the department did not adequately review travel expense claims to ensure that it only paid for expenses in accordance with the State's policies. As a result, two employees received over \$3,500 more than they were entitled to receive.

The Department Incurred Unapproved and Excessive Out-of-State Travel

State law prohibits employees from traveling out of state on behalf of the State without first obtaining the approval of the governor and the director of finance.ⁱⁱⁱ We were not able to locate any documents approving out-of-state travel for most of the department employees whose claims we examined. In fact, both the manager and another employee told us the department encouraged them to use fiscal agents to pay for out-of-state travel because the State imposed too many restrictions.



By using fiscal agents to pay for out-of-state travel, department employees avoided state restrictions.


Because the department allowed fiscal agents to pay for out-of-state travel, it did not adequately review the expenses to ensure that they were prudent and necessary and complied with state laws and policies. Fiscal agents paid at least \$10,385 for out-of-state travel during the three fiscal years reviewed. For example, UAS used funds from its contracts with the department to pay \$1,900 for the registration fees of ten people who attended a four-day conference in Nashville, Tennessee, in July 1994. Six of the ten people registered were department employees and one was the state CAVICA advisor. For the same conference, the community college district used federal funds to pay \$3,723 in airfare, hotel, and per diem expenses, including the rental fees for two cars, for two of the department employees. It is unknown who paid the expenses for the remaining four department employees. However, if the department paid for these expenses through other fiscal agents, the estimated cost to the State to send six department employees


to Nashville, Tennessee, for four days would be \$10,300, plus registration fees. None of these employees had prior approval for out-of-state travel; however, the employees were able to travel out of state because fiscal agents paid for the travel.

UAS also used funds from its contracts with the department to pay \$1,000 to register four department employees and the state CAVICA advisor at a conference in Washington, D.C., in August 1994. For the same conference the community college district paid \$2,400 in airfare for five department employees and \$1,362 in hotel charges and per diem for two department employees. We were not able to determine which entity paid travel expenses for the other three department employees. However, if the department paid them through some other fiscal agent, the total cost to the State to send five department employees to the Washington, D.C., conference for five days was approximately \$6,800. The department had obtained approval for only one employee to travel to this out-of-state conference.

The Department Did Not Control Expenses for In-State Conferences and Staff Meetings





Although CAVICA collected fees from students to pay for conferences, the manager also charged UAS and the community college district.



Each year, CAVICA holds a state conference to bring 700 to 800 students together for four days. The students pay fees to CAVICA to cover the costs of holding the conference. These costs include hotel rooms for conference administrators, including department employees, and various banquets. From 1993 through 1995, CAVICA collected an average of \$60,275 each year from students for the state conference. Although CAVICA had collected these fees, the manager submitted bills for the conference to both the community college district and UAS.

In May 1994, the community college district paid \$13,858 and CAVICA paid \$19,728 to the Anaheim Marriott for the state conference. The total of \$33,586 included \$19,805 for banquets, \$10,490 for lodging, \$1,799 for telephone calls and audio and visual aids, \$345 for flowers, and \$1,147 for room service and other food charges. One charge was for \$105 (\$15 each) to have one-half pound boxes of deluxe chocolates delivered to seven people, including at least four department employees. In 1995, UAS paid \$16,500 and CAVICA paid \$13,826 to the Red Lion Hotel in Sacramento. The \$30,326 included \$23,299 for banquets, \$6,219 for lodging, \$612 for room service and other food charges, and \$196 for telephone calls and business expenses. Because the department used

fiscal agents and did not maintain control over these expenditures, the State has no assurance that its funds were spent appropriately.


*Some conference costs
paid by the department
through fiscal agents were
not prudent.*


When planning conferences funded by state and federal money, state employees should exercise prudence and attempt to control the actual costs to the taxpayers.^{iv} We believe that some of the conference costs paid for by the department through fiscal agents were not prudent.¹⁰ For example, the foundation paid \$2,078 for a one-day meeting at the Los Angeles Hyatt in September 1993. The hotel bill included a \$1,086 lunch banquet for 49 people, at \$22 per person. The State normally reimburses no more than \$9.50 for lunches. The community college district reimbursed the foundation for this cost. Both the department employee who originally paid the bill and the assistant superintendent requested reimbursement from the department for lunch on the date of the banquet.^v Since they both apparently attended the lunch banquet, they should not have incurred a meal expense and, therefore, were not entitled to a reimbursement.

UAS used contracts with the department to pay for other inappropriate expenses, such as \$981 for coffee and a pasta bar buffet for 40 people (\$24.53 per person) for a one-day meeting on March 23, 1995, at a Los Angeles airport hotel. UAS paid \$597 to the same Los Angeles airport hotel for coffee, a meeting room, and a fajita buffet for 20 people on April 19, 1995. Because only \$100 of the bill was for the room rental, the lunch cost \$24 per person. Both of these invoices were addressed to a department employee, both invoices charged an 18 percent service fee on the food, and both meetings were scheduled to last six hours, including the buffets.

The manager's unit also held three to four staff meetings a year throughout the State. For example, every December the unit held a two- to three-day staff meeting in Palm Springs prior to an industrial and technical education conference also held in Palm Springs. In 1992, the foundation paid \$3,626 for hotel charges and meeting rooms for 12 people, 7 of whom live in the Sacramento area. The community college district, using funds from its contracts with the department, later reimbursed the foundation for this amount. In December 1994, the community college district paid \$8,065 to the Marriott Rancho Las Palmas for a department staff meeting held from November 28 through December 1, 1994, in Rancho Mirage.

¹⁰ Because the criteria governing the cost of conference meals only addresses the need for prudence, we do not attempt to quantify how much of the cost is clearly imprudent.

State law requires that state managers exercise prudent economic measures to ensure that the State's funds are not wasted.^{vi} Because most of the individuals attending the staff meetings were from the Sacramento area, we believe that it was not a prudent use of funds to pay expenses to hold the meetings outside of Sacramento. Holding staff meetings in Sacramento prior to traveling to the conferences would be a more prudent use of state funds, in our opinion. Because some costs would be incurred even if meetings were held in Sacramento, we did not attempt to quantify how much was spent on these meetings imprudently.

The Department Reimbursed Employees for Improper Travel Expenses

In addition to the manager's improper travel reimbursements described in Chapter 1, the department's use of fiscal agents and its own lack of controls resulted in improper payments totaling more than \$3,567 to other department employees. For example, two employees submitted duplicate travel claims and misrepresented arrival and departure times to receive a total of \$1,079 in improper reimbursements. The department's lack of controls resulted in the employees receiving an additional \$2,488 in improper reimbursements.



Use of Fiscal Agents

Employee A, who worked in the manager's unit, received \$441 in duplicate travel reimbursements for Lake Tahoe workshops held in the summers of 1994 and 1995. In June 1994, this employee conducted a six-day summer workshop at Lake Tahoe for the members of a middle school technical education association. Since the association had collected fees for this purpose, it paid the campground fees and some food expenses.¹¹ However, on his travel claim submitted to the department, the employee requested a reimbursement of \$50 per night for lodging in his RV and \$37 for meals and incidentals each day. The employee admitted in his statement, signed under penalty of perjury, that he should not have claimed the campground fee, lunch each day, and one dinner that the association paid. By claiming these reimbursements, the employee received \$173 in duplicate reimbursements from the department in 1994 and \$148 from UAS in 1995.

◆
One department employee claimed duplicate travel reimbursements.
◆

¹¹ The association's funds were deposited to the foundation account. Later in this chapter, we will describe other improprieties related to these funds.

Employee B, who also worked in the manager's unit, received \$591 in duplicate reimbursements for travel claims submitted between August 1992 and December 1995. For example, from May 8 through 18, 1995, the employee presented workshops in Oregon and Washington on behalf of a federal project funded through Sonoma State University Academic Foundation (Sonoma). He also made technology presentations to teachers in both states on behalf of California State University, Los Angeles. Employee B requested hotel and per diem reimbursement for May 8, 9, and 10, 1995, and mileage from both UAS and Sonoma. As a result, he received \$569 in duplicate reimbursements. Although both institutions had an interest in his presentations in Oregon and Washington, he paid his expenses only once and was entitled to only one reimbursement. Employee B stated that UAS probably requested a pre-signed travel form and mistakenly included the hotel costs from May 8 to May 10, 1995. However, Employee B's signature is on both travel claims certifying that expenses claimed were a true statement of the travel expenses incurred by him.


*Another department
employee received
reimbursements for his
vacation expenses.*


Employee B also misrepresented his times of departure and arrival and received reimbursements for expenses he incurred on days when he was on vacation. For example, the community college district paid him travel expenses for a 12-day trip to Washington, D.C., and Atlanta, Georgia, from September 18 through 29, 1993. However, because the employee's time sheet showed he was on vacation on September 22, he should not have been paid \$37 for his expenses for that day. Moreover, his parking receipt at Sacramento International Airport indicates that he did not leave the lot until October 1, 1993. He charged the community college district \$10 for the two extra days of parking, even though he was apparently not on state business on September 30 or October 1. Employee B was not able to identify who paid for his hotel in Washington, D.C.

Because the department allowed fiscal agents to pay for travel reimbursements made to department employees, these employees were able to submit duplicate travel claims to two different entities. Further, because these travel claims were not subjected to the proper review, the employees could misrepresent arrival and departure times. Neither of the entities that paid for the expenses knew about claims submitted to the other entity, therefore, neither could compare travel expenses claimed by the employees. Additionally, while Employee B submitted his travel claims to a fiscal agent, his time sheet was submitted to the department. Therefore, neither agency had both pieces of information to identify improper travel reimbursements.

Department's Lack of Control

—◆—
A department employee charged the State \$50 per night for staying in his motor home.
—◆—

State regulations indicate that employees who choose to stay in noncommercial lodging may claim \$24 per day for meals and incidentals and \$23 per day for lodging expenses.^{vii} Nevertheless, Employee A charged \$50 per night when he used his motor home for lodging and charged \$37 per day for meals while traveling on department business. As a result, he received overpayments totaling \$2,055 from the department and \$215 from UAS for his travel from May 1993 through June 1995. Employee A told us the department had permitted him to claim this housing reimbursement when he used his motor home because renting out the vehicle was his second business. However, we do not believe that the use of his own motor home could be classified as a second business.

Employee B also improperly received reimbursements of \$218 in expenses to which he was not entitled. These improper charges were paid by the department (\$184) and the community college district (\$34). The department reimbursed the employee for meals that he was not entitled to under state regulations because the department did not enforce adherence to state travel regulations.

In another example, Employee B claimed mileage expenses for 456 miles on a trip ending December 3, 1994. However, for that same trip, the employee used a rental car that cost the State \$184. Although documentation for the rental car charge was attached to the employee's claim, the department paid him \$109 for the mileage he stated he had driven. The employee stated that it looked like the mileage had been claimed in error. Other improper expenses claimed by Employee B included meals to which he was not entitled and room charges in excess of the maximum rate allowed by state regulations.

Nearly all of the claims we examined requested reimbursement for the maximum rate allowed for breakfast, lunch, and dinner. The employees even claimed the maximum rate allowance for the meals that they received at conferences they attended, which had been paid by another entity.^{viii} Nevertheless, the department reimbursed for the maximum allowed.

An Employee Diverted Department Workshop Fees to a Teacher Association

As stated earlier, state laws prohibit state employees from using the State's resources for private gain or advantage or from using its prestige for private gain or for the private gain of

another. State law also prohibits state employees from accepting money from anyone other than the State for the performance of their duties as state employees.^{ix} Nevertheless, Employee A deposited \$1,800 in fees he collected for a workshop he presented on behalf of the department into the foundation account.

Employee A received fees and dues from middle school teachers on behalf of a technical education association. He deposited these fees into the foundation's bank account.¹² Employee A stated that \$1,800 was from the fees charged for a workshop he held from August 16 to August 21, 1993, as an employee of the department. He said it was his decision to donate the workshop fees of \$1,800 to the association so its members could hold their technical education workshop in the summer. However, by doing so, the employee improperly misappropriated state funds.

The Manager Used Foundation Funds To Make a Political Contribution

State law prohibits using any public monies for the purpose of financing political campaigns.^x Nevertheless, the manager, as the primary officer of the foundation, used a foundation check to pay \$200 to the political campaign of a candidate for a community college board. This appears to have been an improper use of public monies since the foundation received federal and state funds through reimbursements.


Additionally, the bylaws and articles of incorporation of the foundation specifically state that it will not participate directly or indirectly in political campaigns for any candidate for public office. The manager did not follow the terms of the trust as expressed in the trust documents, thereby violating another state law that prohibits using trust property for any purpose contrary to the intent of the trust.^{xi}

Employees Improperly Handled Cash Receipts and Disbursements


Good internal control procedures also require that receipts be deposited intact. However, the manager did not ensure that cash received from the sales of enamel pins at the national VICA conferences was handled and recorded properly.

¹² Although the association used the foundation's bank account, Employee A kept a separate account of the association's balance in the foundation's account.

Every year CAVICA held a contest for graphic arts students for the design of a state pin. The winning design was reproduced on enamel pins that were awarded to students. The pins also sold for \$1.50 to \$2.50 at the national VICA conference held each year in either the Midwest or the South. The state CAVICA advisor told us she took approximately 1,000 pins with her each year to the national VICA conferences. She gave away around 200 to students, volunteers, and industry supporters. Presumably, the remaining 800 pins were sold at approximately \$1.50 each, or \$1,200 each year. A total of approximately \$3,600 should have been collected since 1993 from the sale of pins.



Although \$2,511 was received for pin sales from June 1993 to June 1994, no pin sales receipts were posted in June 1995.





However, the receipts ledgers for CAVICA show that a total of \$2,511 was received for pin sales from June 1993 to June 1994. The ledgers show no receipts from the sale of pins in June 1995. Most of the money received from the sale of pins was in the form of cash, and, according to the state CAVICA advisor, some of it was applied against conference expenses. Although there is some evidence that cash amounts ranging from \$813 in 1993 to \$263 in 1995 were applied against expenses incurred at the national VICA conference, it is unknown how much was received or what happened to the cash because neither the advisor nor the manager recorded how much cash was received. Good internal controls require that disbursements be made by check, rather than applying cash receipts against expenses. Writing checks also centralizes the disbursement authority in the hands of designated officials who are authorized to sign checks.

Moreover, the manager submitted the total bill of over \$7,400 for producing the pins in 1994 to the community college district for reimbursement. He did not reduce the production cost by the amount made from the sale of the pins.

The Department Used Fiscal Agents To Pay Other Expenses

Because the department paid for many administrative expenses through fiscal agents, it has not tracked the true nature of the expenses. As a result, it may have exceeded the federal limits on administrative costs. In addition, the State's financial statements and budgets do not accurately reflect the cost of administering the department.


The department may have exceeded federal limits on administrative costs.


The contract between the department and UAS, which paid for the state CAVICA advisor position, also paid department expenses of \$12,860 in 1995. Because federal funds pay for this contract, the department may have violated federal restrictions on the use of those funds. For example, in March 1995, UAS, located in Los Angeles, paid \$10,000 to the State Center Community College District for the rental of an office in Fresno County. The invoice from the State Center Community College District was addressed to an employee of the department. According to the state CAVICA advisor, the invoice was for the office rent of a department employee located in Fresno. She said the manager presented the invoice to her for payment by UAS.

The same contract paid two invoices in 1995 to the California Institute on Human Services (CIHS) at Sonoma State University. In March, UAS paid \$1,860 for a presentation by a consultant in San Francisco at a "CDE Mentor conference on Integrating Academic and Vocational Education," and, in August, UAS paid \$1,000 to the CIHS for 100 copies of an Integrating Curriculum Manual. Both of these invoices from the CIHS were addressed to the department, to the attention of the manager.

Because many of the contracts between the department and the fiscal agents used to pay for equipment, services, and other expenses were funded with federal monies, the department may have exceeded the administrative cap that the U.S. Department of Education sets. Specifically, most of the federal funds were from a grant to the State from the Carl D. Perkins Vocational and Applied Technology Education Act of 1990. The department and the chancellor's office were required to use these funds to develop and expand the academic and vocational skills of students in grades K-12 and at the community colleges. Federal government restrictions on these funds limit administrative expenses to 5 percent of the amount of the grant. However, the department only reports the amount it retains and uses to administer the grant. The funds allocated to other educational agencies through contracts are not included in the calculation of administrative expenses.

Moreover, if department services, equipment, and travel are paid by fiscal agents, these expenses are not included in the cost of administering the agency; therefore, the state financial statements and the state budget do not accurately reflect the true cost of administering the department.

By using fiscal agents to pay its expenses, the department circumvented controls established to prevent errors, irregularities, and illegal acts such as those described in this report. Further, because the department normally has to pay

administrative fees to fiscal agents for handling the funds, it is unnecessarily increasing the cost of doing the State's business. For example, UAS charged an administrative fee of 17 percent of all expenditures made from a contract it had with the department. We believe that if the department incurs legitimate expenses, it should pay them directly.

Endnotes

- i California Government Code Section 13402 states that state agency heads are responsible for the establishment and maintenance of a system of internal accounting and administrative controls within their agencies. The section further states that this responsibility includes assuring that the system is functioning as prescribed.
- ii Public Contract Code Section 10373 except in limited circumstances, requires state agencies to secure at least three competitive bids or proposals for each consulting services contract. Further, it is the State's policy that all electronic data processing services and goods must be competitively procured unless the Department of General Services determines the required product is available from only one source or must be acquired on an emergency basis.

In addition, Public Contract Code Section 12100 requires that all contracts for electronic data processing services or goods be made by or under the supervision of the Department of General Services. According to Section 12101 of the same code, it is the Legislature's intent that the State's policies and procedures provide for a competitive framework for the acquisition of such services and goods.
- iii California Government Code Section 11033 states that no employee shall travel on behalf of the State without obtaining prior approval from the governor and the director of finance, except when the absence is for less than five consecutive working days' duration and involves only travel into states bordering upon this state. Additionally, Section 11032 states that actual and necessary travel expenses shall be allowed state employees when such travel has been approved by the governor and the director of finance. These controls exist to ensure that the expenditure of state funds is prudent and in the best interest of the State.
- iv California Code of Regulations Title 2, Section 599.635.1 states that meals that are an integral part of a conference may be included in conference costs if the conference is conducted while the meal is served. Meals not provided as part of a conference are reimbursable at actual cost up to a maximum of \$5.50 for breakfast, \$9.50 for lunch and \$17 for dinner.
- v California Code of Regulations, Title 2, Section 599.635.1 states that meals provided as part of the conference shall not be claimed by a state employee or reimbursed.
- vi California Government Code Section 13401(b)(3) states that all levels of management for state agencies must be involved in assessing and strengthening the systems of internal accounting and administrative control to minimize fraud, errors, abuse, and waste of government funds.

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- vii California Code of Regulations, Title 2, Section 599.619(c) states that employees who choose to stay in noncommercial lodging may claim \$24 per day for meals and incidentals and \$23 per day for lodging expenses.
 - viii California Code of Regulations, Title 2, Section 599.619(a) states that reimbursement for meals shall be the actual cost of the meal, up to \$5.50 for breakfast, \$9.50 for lunch and \$17 for dinner.
 - ix California Government Code Section 19990 prohibits state employees from using state resources for private gain or advantage. The same section prohibits employees from using the prestige of the State for their private gain or for the private gain of another.
 - x California Government Code Section 85300 prohibits the use of public monies for the purpose of financing political campaigns.
 - xi Probate Code Section 16004 prohibits using trust property for any purpose contrary to the intent of the trust. In addition, Section 16000 of the Probate Code requires a trustee to administer the trust in accordance with the trust instrument.

Conclusion

We investigated and substantiated several allegations. Specifically, the manager abused his position with the State to obtain over \$65,900 in personal benefits in violation of state laws. For example, the manager illegally paid over \$44,100 of his personal expenses, including a trip to the Bahamas, out of California Association of Vocational Industrial Clubs of America Leadership Foundation (foundation) and California Association of Vocational Industrial Clubs of America funds. He submitted additional false claims that resulted in improper payments totaling over \$17,745 for his travel expenses. The manager also improperly exchanged at least \$4,100 in airline tickets purchased with federal funds for other tickets, which he used to take personal trips, including one to the Virgin Islands.

He appears to have influenced fiscal agents' decisions to do business with his close personal friend who was also his business associate, which resulted in payments of more than \$26,300 to his friend and her corporation. The manager also had financial relationships with this friend, receiving personal loans of \$15,000 from her and \$4,330 from the school district in South Carolina where she was an administrator. In addition, he wrote checks on her corporate account for \$21,800.

The manager further violated state law when he failed to report over \$30,000 in income he received from another corporation in which he was a corporate officer and a shareholder.

The manager gained personal benefit at least in part because he was able to use his various roles to divert more than \$95,900 from a number of sources into the foundation's account. He then used his role at the foundation to direct some of the substantially increased funds to his own personal use.

By using Los Rios Community College District, University Auxiliary Services at California State University, Los Angeles, and the foundation as fiscal agents, department employees circumvented state policies and controls. As a result, both the manager and the department made improper expenditures of state and federal funds in addition to those cited above. These additional improper expenditures included payments of \$37,480 for services not received, more than \$76,000 for services and

computer equipment purchased without competitive bids, and over \$13,500 in excessive and unauthorized travel expenses by department employees.

In addition, another employee misappropriated state funds, the manager made an illegal political contribution out of the foundation, and department employees engaged in improper cash handling practices. The department further violated budgetary controls by using fiscal agents to pay for state office rent, equipment, and other administrative costs. Finally, because it used fiscal agents to pay for other than program expenses, the department may have violated federal limits on the amount of federal grants that can be spent for administrative expenses.

We conducted this investigation 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 of this report.

Respectfully submitted,



KURT R. SJOBERG
State Auditor

Date: September 9, 1996

Investigative Staff: Ann K. Campbell, Manager, CFE
Tone Staten, CPA
Cynthia A. Sanford, CPA
Dore C. Tanner, CPA, CFE

Audit Staff: Regina Harmonson
Angela Yoshida

Agency Response

Since January 1995, the California Department of Education (department) has worked to strengthen controls over program operations to ensure compliance with all federal and state laws and regulations and to safeguard federal and state funds. The department has limited the number of individuals authorized to approve fiscal transactions, increased review of such transactions, and established new departmental policies. Further, the department instituted ethics classes for all department employees.

The department stated that the manager acted fraudulently, without the department's or his superiors' knowledge. However, in response to this report, the department replaced the entire chain of command responsible for vocational service organizations. In addition, the department's managerial and administrative staff are thoroughly reviewing the department's administration of the vocational service organizations to identify ways for further improving fiscal controls and safeguarding funds.

The manager retired on August 8, 1996. However, the department reported that if he had not retired, the department would have dismissed him. Furthermore, the department reported that it will pursue criminal prosecution of the manager. Finally, the department reported that it will take punitive action against other employees who have abused the system.

cc: Members of the Legislature
Office of the Lieutenant Governor
Attorney General
State Controller
Legislative Analyst
Assembly Office of Research
Senate Office of Research
Assembly Majority/Minority Consultants
Senate Majority/Minority Consultants
Capitol Press Corps