

DEPARTMENT OF TRANSPORTATION

Investigations of Improper Activities by State Employees, July 2000 Through January 2001

ALLEGATION I980141 (REPORT I2001-1), APRIL 2001

Department of Transportation's response as of November 2002

Investigative Highlights . . .

A California Department of Transportation (Caltrans) employee:

- Had a conflict of interest when he participated in making Caltrans decisions that benefited a company owned by his wife.*
- Misused his state position to influence Caltrans contractors and other private businesses to do business with his wife's company.*
- Used state resources to solicit work for his private consulting business.*

Caltrans:

- Did not require this employee, nor others in similar classifications, to file annual statements of economic interest to assist in identifying and preventing conflicts of interest.*
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We investigated and substantiated that an employee of the California Department of Transportation (Caltrans) violated conflict-of-interest laws and engaged in incompatible activities. In addition, Caltrans failed to identify and prevent conflicts of interest. Specifically:

Finding #1: The employee participated in a governmental decision that benefited his wife's company.

The employee, acting within the authority of his position, but contrary to state law, recommended that the erosion control product sold by his wife's company be used on a Caltrans project, resulting in state payments to her company.

Finding #2: The employee's actions created at least the perception of more conflicts of interest.

At least 35 contractors, subcontractors, or vendors on Caltrans projects also purchased products from the company owned by the employee's wife. The employee's state position provided him with the opportunity to influence contract specifications and wield considerable power over a substantial number of contractors and subcontractors, creating at least the perception of more conflicts of interest.

Finding #3: The employee offered to use his influence to benefit other companies and potentially himself.

The employee told a business owner that he could use his Caltrans position to make sure that a product he wanted to manufacture and sell with the owner would be specified for projects throughout the State. The employee violated the prohibition against incompatible activities by offering to use the influence of his state position in ways that would financially benefit not only contractors but possibly himself. Another

company's Web site contained a quote from the employee, who was identified as a Caltrans employee, which could be interpreted as an endorsement.

Finding #4: Contractors believe the employee used his authority to influence and intimidate them and others.

Contractors told us that they believed the employee had used his state position to compel, intimidate, or threaten contractors to get them to use particular materials produced by his wife's company. In addition, the employee's favoritism toward some vendors was not only discouraging for the competition but also might have resulted in Caltrans paying higher prices.

Finding #5: The employee created confusion by representing both Caltrans and his wife's company.

The employee represented both Caltrans and his wife's company at professional conferences, creating confusion about whose interests he was representing. The fact that the employee both works for Caltrans and represents his wife's company could be interpreted as a Caltrans endorsement, creating an unfair advantage for the company.

Finding #6: Caltrans conducted three investigations of possible conflicts of interest involving the employee but did not take appropriate action.

Caltrans knew the employee wrote contract specifications and tried to use his influence in other ways that benefited his wife's company. Caltrans also knew the employee solicited private consulting work on state time. Although Caltrans issued instructions for conduct to the employee, he violated the instructions and continued to use Caltrans information to his advantage by assisting his wife's company. Individuals in the erosion control industry said that Caltrans' inaction sent a clear signal that this is what passes for acceptable behavior by state employees.

Finding #7: Caltrans has not established adequate controls over conflicts of interest.

Caltrans did not require the employee, or other employees in similar positions of influence, to disclose their financial interests. As a result, Caltrans may be unaware of employees' financial interests that could conflict with their responsibilities as state employees.

Caltrans' Action: Corrective action taken.

In late 2000, the employee's supervisor warned the employee not to engage in any activity related to erosion control (the industry in which his wife's company operates) during work hours or in his capacity as a Caltrans employee. In direct violation of this warning, the employee attended a Caltrans-sponsored meeting for the erosion control industry in June 2001. In addition, only six days after the personnel board approved the stipulated agreement from the employee's previous disciplinary action, on February 21, 2001, the employee posted an inquiry on the Caltrans intranet related to erosion control.

To discipline the employee, Caltrans attempted to reduce the employee's pay by approximately 17 percent for 12 months. The employee appealed this decision to the personnel board, which modified the disciplinary action to a 5 percent salary reduction for 6 months.

