Secretary of State
AUDIT REPORT

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Division of State Lands: Change of Director Audit

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Summary

PURPOSE

The Audits Division is required by statute to audit state agencies when the executive head leaves his or her position. The purpose of this audit is to examine the transactions and accounts directly under the former director's control for compliance with applicable laws and regulations. In addition, we reviewed the division's procedures as related to the transactions and accounts examined. For further details of procedures performed, see the "Objective, Scope and Methodology" section of this report.

RESULTS IN BRIEF

We determined that the former Division of State Lands director returned all fixed assets assigned to him and that the division terminated all access to state computer systems and property. Further, we found contracts and travel expense reimbursements were reasonable and adhered to state policy. However, our review identified a vacation payout underpayment, a vacation payout overpayment, and improvements that could be made in the division regarding director travel and time authorization.

We also have provided updated information on division progress for audit findings contained in our 1994 performance audit report. These results are contained at the back of this report.

Additional information regarding risks associated with the Division has been conveyed to the Division in Management Letter No. 141-2001-03-01, dated March 7, 2001.

RECOMMENDATIONS

We recommend that the division:

- Take additional measures to ensure that leave and payroll policies are clearly understood by division management, personnel, and payroll officers.
- Take actions necessary to ensure that the former director is properly compensated for the vacation payout errors.
- Work with the Department of Administrative Services and the Department of Justice to ensure that the excess compensation is recouped from the identified overpayment.
- Work with the Department of Administrative Services State Controller's Division to develop written policies and procedures to implement the forthcoming state policy regarding agency head travel and timesheet review and approval.

DIVISION ACCOMPLISHMENTS

In response to our findings, the division has taken action on the vacation payout overpayment and vacation payout underpayment.

AGENCY RESPONSE

The division generally agrees with the recommendations.

AUDIT RESULTS

Inaccurate Vacation Payouts

During our review, we identified two employees who received compensation for unused vacation leave hours. Both were paid incorrect amounts. The former director, who transferred to another state agency, was underpaid. The other employee, who retired and then was re-employed by the division on a limited duration basis, was overpaid.

Former Director

Our review found that there were two errors with the division's calculation of the former director's vacation payout, both resulting in underpayments.

According to ORS 60.000.05 (8), "After six months of employment, any employee who is transferred to or employed in another agency may elect to have a maximum of 80 hours of unused vacation leave hours transferred to the gaining agency, except the gaining agency may agree to accept a greater amount. The employee shall receive cash compensation from the losing agency for unused vacation leave hours not transferred to the gaining agency to a maximum of 250 hours."

First, the wrong hourly pay rate was used to calculate the vacation payout amount. The former director received an hourly pay rate increase prior to his transfer; however, his old rate was used to calculate the vacation payout. Had the correct rate been applied, the former director would have received an additional $288.60.

Second, the 250-hour rule was incorrectly applied, resulting in the former director's not being

compensated for 8.74 hours of unused vacation leave. The former director had 258.74 hours of vacation leave accrued at the time of his transfer. The division applied the 250-hour rule prior to reducing his vacation balance for the transferred hours, leading to the loss of 8.74 hours. This error led to the former director's being underpaid by $409.47.

The combined errors resulted in the former director's being underpaid by $698.07.

Re-employed Employee

Our review found that one employee, who retired and then was re-employed by the division on a limited-duration basis the next day, was incorrectly credited with vacation hours that should have been lost at the time of separation.

According to ORS 60.000.05 (9), “An employee who separates after six months of state service shall be paid for not more than 250 unused vacation leave hours." "Any hours beyond the 250-hour cap… shall be lost.”

The division paid the employee the 250-hour maximum allowed by rule upon his retirement; however, it incorrectly carried forward the 46.60 hours he had remaining when he was re-employed. The 46.60 hours should have been lost upon the employee's official retirement and vacation payout. When the employee separated as the limited duration employee, his second vacation payout included payment for the 46.60 hours ($1,630.07) that should have been lost.

We recommend that the division:

- Take additional measures to ensure that leave and payroll policies are clearly understood by division management, personnel, and payroll officers.
- Take actions necessary to ensure that the former director is properly compensated for the vacation payout errors.
- Work with the Department of Administrative Services and the Department of Justice to ensure that the excess compensation is recouped from the identified overpayment.

Agency Response: The division is in the process of reviewing leave and payroll policies with all management, personnel, and payroll staff. The former director has been compensated for the vacation payout underpayment. The division anticipates receipt of reimbursement for the overpayment by March 1, 2001. If payment is not received timely, the division is prepared to pursue collection via appropriate channels.

Process Improvements

The division's internal controls, and policies and procedures for director travel reimbursement approval and director timesheet approval could be improved.

Our review of travel reimbursements and timesheets in connection with our change of director audit identified the following exceptions:

- Through our testing of the former director's travel expense reimbursements, it was noted that they were not reviewed and approved by a higher authority.

  We found that the former director's travel expense reimbursements appeared reasonable and were adequately supported; however, a higher level of authority did not approve his travel reimbursements. The travel reimbursements were reviewed for accuracy and processed by accounting staff.

  The *Oregon Accounting Manual* policy 06-01-00.PO.121 requires travel expense reimbursements to be approved by the authorizing supervisor or manager; however, the policy does not provide clear roles and procedures for authorizing director’s travel reimbursements.

  Our review included four travel reimbursement claims; the total of the four claims grossed $1,969.35.

- During our review of the former director's timesheets, it was noted that out of the seven timesheets reviewed (January 2000-July 2000), none received a critical higher-level review. We found that no one had been designated to review and approve the former director's timecards.

We recommend that the division work with the Department of Administrative Services State Controller's Division to develop written policies and procedures to implement the forthcoming state policy regarding agency head travel and timesheet review and approval.

Agency Response: The division has reviewed the draft policy as proposed by the State Controller's Division. Once the policy is published as final, the division will establish written policies and procedures to ensure compliance.

Prior Audit Findings

As part of our audit, we followed up on our audit report number 94-01 titled "Division of State Lands," issued in 1994. This section summarizes the division's efforts to implement prior audit findings.

Prior Audit Recommendations

1. **The State Land Board should monitor and follow up to ensure that excess cash is invested as planned and in compliance with the adopted investment policy.**

   Implemented—The Oregon Investment Council (OIC) Board approved and passed a formal investment policies and

procedures manual for the Common School Fund. Quarterly meetings are held to ensure that investments are complying with policy.

2. **The Division of State Lands and State Treasurer should continue to meet periodically to monitor implementation of the investment policy components adopted by the State Land Board.**

   Implemented—In a memorandum of agreement dated September 13, 1994, the Division of State Land's director and the Deputy State Treasurer signed an agreement, which provided for quarterly meetings between division and Oregon State Treasury staff regarding the investment policy for the Common School Fund. Records indicate ongoing discussion and analysis of investment policy.

3. **Division management should compile information on the cost and benefit of identifying and placing under lease uses of submerged and submersible lands. Division management can use this information to determine the cost-effectiveness of and an appropriate level of resources for identifying and placing under lease submerged and submersible lands.**

   Partially Implemented—The division began a comprehensive inventory of waterway structures/uses without first conducting a cost/benefit analysis.

   The statewide "baseline" inventory began in 1997 and was completed mid-year 2000. Each year, the status of structures/uses changes to some degree, and the division must revisit waterway sites and continually update its inventory listing.

4. **The Division of State Lands should establish specific procedures and time frames for identifying and placing under lease uses of state-owned submerged and submersible lands. This includes exerting ownership rights to submerged and submersible lands to which the state is entitled.**

   Partially Implemented—In 1995, the Legislature passed a new law establishing the process the Land Board must follow for ownership claims to title navigable waters. The law does not permit the division to waive or assert an ownership.

   According to the division, exerting ownership rights to submerged and submersible lands to which the state is entitled does not lend itself to any specific time frame. It depends on completion of division-requested navigability studies and authorization by the State Land Board to undertake. The outcome of navigability studies is also subject to a federal court navigability test, which could support or deny the state's assertion of ownership.

   New administrative rules governing the authorization of uses on state-owned submerged and submersible land by registration, lease, temporary use permit and public facility license were adopted by the Land Board in April 1998 and June 1999.

   As indicated by the division, the fieldwork for the inventory was complete and the office work nearly completed by October 2000. Due to the Land Board's new rates and rules, all existing leases needed to be reviewed, classified by use type, re-sized and a new lease rate computed. By fall 2000, almost all the leases had been through this process.

5. **Division management should establish specific performance standards that the division can use to measure its success in identifying and placing under lease uses of state-owned submerged and submersible lands.**

   Not Implemented—The division has not developed specific performance standards regarding the success of identifying and placing under lease uses of state-owned submerged and submersible lands. The division conducted the inventory on those waterway-identified areas determined as the most developed portions and therefore having the most potential for unauthorized uses.

6. **The Division of State Lands should establish methodologies to determine lease rates for marina and houseboat moorage uses of submerged and submersible lands that reasonably reflect the value or the income potential of the land leased and are easy to administer. Regardless of the methodologies used, the division should complete its efforts to establish minimum lease rates, processing fees, or both that at least cover the division's costs in administering the leases.**

   Implemented—Lease rates for marina and houseboat moorages fall under the marina moorage lease classification. The lessee may choose the lowest of the established three rates for such leases. The minimum rate is set at $250 per year but not less than $.005 per square foot times the leased area, whichever is greater.

7. **The Division of State Lands should provide the Business Registry Section of the Office of the Secretary of State with copies of unclaimed property**

forms and instructions for distribution to new businesses registering with them.

Implemented—The division provides the Office of the Secretary of State Business Registry Section copies of unclaimed property forms. The forms are then placed in the packets that are sent to new businesses registering with the Business Registry Section. Also, unclaimed property forms are available at the Business Registry Section's public service counter.

8. **The division should work with Business Registry Section staff to create mailing labels from the Business Registry database for businesses within industry classifications that are likely to hold unclaimed property. Using the labels, the division should mail information, forms, and instructions to likely holders of unclaimed property.**

Partially Implemented—The division reviews magazines, newspapers, and the Secretary of State Corporations Business Registry to identify industries that are likely to be holders of unclaimed property. The division conducts research on the size of industries to further note recognizable holders of unclaimed property. Likely holders are sent unclaimed property forms.

The division receives reports from holders monthly, and the report information goes into the holder database, a database maintained at the division. Its database also contains information on division-audited companies and surveys conducted by the division on companies to determine potential liability. The database generates mailing labels to the active holders in the database.

9. **The division should work with staff from the Employment Department to obtain legislative approval to use otherwise confidential payroll data to identify likely holders of unclaimed property.**

Not Implemented—The division has not obtained legislative approval as recommended. However, House Bill 2129, which is currently pending, provides a requirement for the Department of Revenue and Secretary of State Corporations Division to assist the division in the identification and education of potential and existing holders of unclaimed property.

10. **The division should try to obtain authorization from the Emergency Board to create a position and hire an auditor dedicated to auditing likely holders of unreported unclaimed property. If authorization cannot be obtained, the division should contract out for as long as it determines it is cost effective to do so.**

Implemented—Currently, the division has two auditor positions dedicated to unclaimed property.

11. **The Division of State Lands should establish and monitor financial performance measures to provide a means to evaluate programs, make decisions, and demonstrate how successfully it is achieving its objective of generating revenue for the Common School Fund.**

Not Implemented—Currently, the division is working on a project with other states to generate performance measures for managing trust lands.

12. **When developing its Asset Management Plan, the division should incorporate minimum required rates of return for real property assets that are consistent with financial theory and that meet the division's trust obligations.**

Not Implemented—The division found that the rate of return equation was not best suited for them. Instead, the division is focusing on net operating income. Division management is reviewing how to best utilize net operating income information.

13. **The division should periodically monitor the actual rate of return against the established minimums and take appropriate action when necessary.**

Not Implemented—The division is using net operating income, rather than the actual rate of return. Net operating income amounts for all land management activities is noted annually in an asset management plan update.

OBJECTIVE, SCOPE AND METHODOLOGY

This audit was conducted in compliance with *Oregon Revised Statute* 297.210, which requires the Audits Division to perform an audit or review when the executive head of a state department leaves that position for any reason. Our audit objective was to assure that the Division of State Lands took appropriate actions to protect state assets upon the former director's separation.

Specifically we:

- Determined whether state assets in custody and control of the former director were returned to the division upon his resignation.
- Determined whether the former director's access to state and division automated systems was terminated upon his resignation.

- Reviewed the travel reimbursement claims, those filed by the former director during his final six months of service and those he authorized during that time, to determine whether reimbursements complied with state travel rules, and were authorized, proper, adequately supported, and reasonable.
- Reviewed payroll disbursements to the former director to determine if there were any unusual payments during his final six months of service. We also determined whether the former director was properly removed from the division payroll.
- Reviewed payroll disbursements for those employees whose timesheets were approved by the former director to determine if there were any unusual payments during the six months prior to the former director's departure.
- Reviewed personal service contracts, which the division entered into during January 1, 2000 to October 1, 2000, to determine whether the contracts were reasonable, proper, and adequately supported.
- Determined whether the former director was subject to any internal or external investigation or disciplinary action pertaining to legal compliance during his final year of service.
- Reviewed the efforts by the division to resolve prior audit findings and recommendations.

We conducted this audit according to generally accepted government auditing standards. We limited our review to the areas specified above.

This report, which is a public record, is intended to promote the best possible management of public resources. Copies may be obtained by mail at Oregon Audits Division, Public Service Building, Salem, Oregon 97310, by phone at 503-986-2255 and 800-336-8218 (hotline), or internet at Audits.Hotline@state.or.us *and* http://www.sos.state.or.us/audits/audithp.htm.

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The courtesies and cooperation extended by the officials and staff of the Division of State Lands were commendable and much appreciated.

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