

AUDIT REPORT

Construction Contractors /Landscape Contractors Board: Change of Administrator Audit



Bill Bradbury, Secretary of State
Cathy Pollino, Director, Audits Division

Summary

PURPOSE

This review 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 agency leaves that position for any reason.

The purpose of this audit was to assure that appropriate actions were taken to cancel the former administrator's access to state systems, return any state assets in the former administrator's possession, and assure that recent transactions authorized by the former administrator were reasonable and complied with appropriate laws and regulations. For further details of procedures performed, see the "Objectives, Scope and Methodology" section of this report.

Kenneth Keudell, who was appointed as the administrator of the Construction Contractors Board on April 1, 1983, resigned from that position June 29, 2001.

RESULTS IN BRIEF

We found that the agency could improve its timesheet and travel expense reimbursement approval request processes. A subordinate approved the administrator's timesheet and travel expense reimbursement requests.

We found no other significant instances of noncompliance with laws, rules or regulations relating to the change of administrator.

OTHER MATTERS

Additional information regarding issues that we felt warranted the attention of the agency is included on page two of our report. For example, we found that the agency:

- Gave employees bonuses, which violated state policy;

- Did not adequately approve and oversee some of the agency purchase card transactions;
- Risked job performance inefficiencies due to limited use of job performance appraisals; and
- May not have provided adequate consumer protection because it did not perform random criminal record checks on license applicants.

In addition, one board member let his contractor's license lapse, which was out of compliance with state law.

We also have provided updated information on the division's implementation of recommendations relating to prior audit findings contained in our Report No.96-21, entitled *Construction Contractors Board Performance Audit Report May 1996*. The results can be found starting on page three of this report.

RECOMMENDATIONS

We recommend that the board Implement OAM 10.90.00.PO, which became effective July 16, 2001, for supervisory review and approval of the administrator's monthly timesheet and travel reimbursement requests.

AGENCY'S RESPONSE

The Construction Contractors Board generally agrees with the recommendations. The agency's specific responses are included in the body of the report.

Background

The agency is governed by a nine-member board appointed by the governor and confirmed by the senate. The administrator is appointed by the board and is responsible for ensuring that Oregon Contractors Law is followed, implementing rules and regulations guiding contractors, resolving construction claims, and enforcing applicable statutes.

Audit Results

Improve Approval Processes

We found that the previous administrator's time sheet and travel expense reimbursement requests were approved by a subordinate. Good business practice suggests that agency heads' time sheets and expense per diem statements be reviewed and approved by someone in a higher position of authority, or

have the responsibility delegated in writing. In addition, *Oregon Accounting Manual* (OAM) policy 10.90.00.PO, which became effective July 16, 2001, requires agency heads appointed by a board or commission to work with that body to create a review and approval structure for financial transactions of the agency head.

Ten time sheets were not signed to show supervisory review and

approval, and one manager did not sign a travel expense reimbursement request that was submitted. Good business practice suggests that every employee's time sheet be signed to show supervisory review and approval. OAM 06.01.00.121 (revised September 5, 2001 to OAM 40.10.00.121 PO) requires all expense sheets to have the signatures of employee and supervisor. Without these controls, there is an increased risk of inaccurate time reporting and payment of inaccurate travel claims.

A review of agency policies and procedures reveals that the agency has no written guidelines for review of the administrator's or an employee's monthly time sheet and travel reimbursement requests.

We recommend that:

- The agency develop policies and procedures to implement OAM 10.90.00.PO, which became effective July 16, 2001, for supervisory review and approval of the administrator's monthly time sheet and travel reimbursement requests;
- Agency management require employees periodically review travel policies (OAM 40.10.00.PO);and
- Agency management require time sheets and travel reimbursement requests be signed by an employee and authorized by his or her supervisor.

Agency's Response: *We agree and have complied.*

- On October 23, 2001, the Board delegated in writing the authority to the Manager of Administrative Services to review and approve the Administrator's timesheet and travel expense per diem statements (see statement signed by the Board).
- Agency management now periodically requires employees to periodically review travel policies (see CCB policy #1-38).

- Agency management now requires timesheet and travel reimbursement requests be signed by an employee and authorized by his or her supervisor.

Other Matters

Employee Bonuses

We found that the agency gave employees bonuses, which violated state policy. The agency gave gift certificates to 33 employees in December 2000, ranging in amounts from \$25 to \$100, totaling \$1,850. According to agency management, the bonuses were not included in income earned for the year.

In this instance, the awards were issued without a formal program having been developed by the agency for issuing service awards. Managers determined that cash awards based on the number of years of state (versus agency) service would be best. All employees with more than five years of state service as of November 30, 2000 received a gift certificate. Managers also determined that a cash award would be best because it was the holiday season.

State policy 50.040.01 addresses employee recognition. The policy states that to reward and reinforce desired, demonstrated behavior, achievements and results, appointing authorities may establish and maintain plans that recognize and promote extraordinary employee or team achievements. To satisfy state policy requirements, the award program must be established with clear criteria and fully documented in writing before awards are made under it; second, the awards must be based on performance, not solely on time of service.

We recommend that the agency contact the Department of Justice and Department of Administrative Services to determine the appropriate actions for resolving this matter.

Agency's Response: *We agree and will do so by February 1, 2002.*

Non-Compliance by Board Member

At the time the Audits Division was doing fieldwork at the agency, we found that a board member let his license lapse and was out of compliance with Oregon law for a period of 22 days.

Oregon Revised Statutes (ORS) 701.205(3) requires that, to be eligible for board membership, the six contractor members of the board shall be registered under this statute and shall maintain their registration in good order during their term in office. Auditors were told that board members are not advised of the eligibility requirements when they become board members.

We recommend that the agency properly orient new board members concerning eligibility requirements for remaining on the Construction Contractor's Board.

Agency's Response: *We agree and will develop an orientation program by February 1, 2002.*

Management of Assets

Our review of the agency's Small Purchase Order Transaction System (SPOTS) program expenditures from January through May 2001, revealed the following:

- Of 33 expenditures examined, eight were not approved by the purchaser's supervisor;
- The SPOTS card was used to pay for a motel room;
- Employees did not fill out agency credit card use forms for all purchases made by telephone; and
- Four hand-held computers were purchased on separate occasions without the purchasing section's knowledge. A SPOTS statement for the purchase of one of the computers was paid even though

the receipt for the hand-held computer was lost. The manager of management services was unaware of the purchases until the Audits Division requested the records, even though this manager had approved payment of the invoices, including the one missing the receipt.

State policy (OAM 55.30.00 PO) states that the Approving Officer, appointed by the agency head, is responsible for the delegation of authority to use the purchase card, provide needed training, and oversee control and compliance with the policy. Further, purchase cards can be used only for authorized purposes. Expenditures for employee travel costs, such as motel rooms, are unauthorized uses.

Agency policy requires that items valued at \$100 or more must have ID tags attached. The computers were not properly inventoried.

Based on the above information, we question the approval and oversight of the agency's purchase card program. Employees are either unaware of or disregard state and agency policy, and management does not enforce existing policies. In addition, high-risk assets may be lost because identifying tags are not attached and property is not adequately tracked.

We recommend that the agency:

- Implement training policies to inform all employees of purchasing policies; and
- Improve management oversight of the SPOTS program.

Agency's Response: *We agree and have complied (see CCB policy #1-15, Staff Use of Credit Cards for Purchasing. CCB performed training on November 21, 2001).*

Managing Human Resources

A risk of job performance inefficiencies may exist for staff not

fully or correctly informed of their job responsibilities.

The agency administrator stated that not all management has been consistent in updating job descriptions and conducting performance appraisals of each employee. OAM 10.10.00.106b PR recommends that agency management should perform periodic performance appraisals of their employees.

We recommend that the agency consider implementing OAM policy 10.10.00.106b PR by conducting performance appraisals on a periodic basis, and update job descriptions regularly.

Agency's Response: *We agree and have complied (see CCB policy #1-37).*

No Criminal Record Checks

We found that the agency is at an increased risk of not providing adequate consumer protection because it does not perform random criminal record checks to assure that applicants are truthfully answering the criminal conviction section on the licensing application. ORS 701.135 allows the agency to deny or revoke a license based on the conviction of certain crimes.

By relying on self-reporting of an applicant's criminal convictions, and not performing random criminal records checks, the agency may not be providing adequate consumer protection.

Agency's Response: *CCB shares the Auditors' concerns about providing adequate and proper consumer protection to the public. While random criminal background checks may be currently prohibited by statute and funding limitations, we will look to other means to ensure that applicants truthfully answer all portions of the CCB application, including the criminal conviction section.*

We will consider administrative sanctions in the form of license revocation and civil penalties up to \$5,000, as well as possible criminal sanctions for providing false information to the Board. If the Legislature determines that random criminal record checks are necessary, we will seek statutory changes and funding to properly perform this work.

Update On Prior Audit Findings

As part of our audit, we followed up on our audit Report No. 96-21, entitled *Construction Contractors Board Performance Audit Report May 1996*. The report contains 30 recommendations, 24 of which have been implemented. This section summarizes the six remaining recommendations that have not been implemented.

Recommendation No. 1: The Role of the Agency

- ***We recommend the Oregon Legislature adopt statutory language to define the agency's role as a consumer protection agency regulating the construction industry.***

Attempted to Implement—The agency proposed HB 2043 in the 1997 Regular Session to define its mission, but it never went further than "in committee upon adjournment."

Agency's Response: *The Legislature created a 'policy' board to oversee the licensing of contractors. Throughout the years since its inception in 1972, the Board has reviewed and modified its mission statement. We believe the legislature's lack of action to commit CCB's mission to statute demonstrates its satisfaction that the policy Board is performing an adequate job of defining the mission of the Agency.*

We believe it is again time that the Board formally review and, if

necessary, modify its mission statement. We plan to do so in the spring of 2002.

**Recommendation #8:
Management Information**

- *Close all applicants after an established time frame for submittal of information.*
- *Collect and analyze additional management information concerning various Registration Section functions, including:*
 - ✧ *Number and type of phone calls received by staff;*
 - ✧ *Number of "Action Records" changed by staff;*
 - ✧ *Costs to process applications;*
 - ✧ *Costs to renew contractor registrations; and*
 - ✧ *Time to process applications and renewals.*

Partially Implemented—The agency has not completely implemented this recommendation. The licensing section does not compile and analyze costs to process applications and renewals.

Agency's Response: *We agree. We will develop a methodology to determine these costs by July 1, 2002.*

**Recommendation #9:
Claims Processing-Statistics**

- *We recommend the agency calculate "Average Days to Process Claims" by including only those claims it has jurisdiction over.*

Not Implemented—The Claims section still records days to process complaints (which they have no jurisdiction over) in "Average Days to Process Claims."

Agency's Response: *We agree. We are developing a means to*

accomplish this recommendation. It will be completed by February 1, 2002.

**Recommendation #10:
Claims Processing-Costs**

- *We recommend the agency:*
 - ✧ *Implement a time reporting system to identify specific time expended on individual claims.*
 - ✧ *Calculate actual costs to process a claim including personnel and other expenses.*

Not Implemented—The agency did not completely implement this recommendation.

The Claims Section does not calculate actual time or costs to process an individual claim.

Agency's Response: *The Agency implemented a modification of this specific recommendation by collecting time each employee expends on claims actions—not specific claims. We can, therefore, determine the average cost of processing a claim; the specific cost of processing a particular claim, while interesting, was not worth the cost of implementing a tracking process detailed enough to acquire the data.*

Management decisions can be properly made knowing the average cost to process a claim.

**Recommendation #13:
Claims Meditation/Investigators**

- *We recommend the agency:*
 - ✧ *Discontinue the use of contract investigators and hire 2.5 full-time equivalent staff investigators to conduct on-site investigations.*
 - ✧ *Develop specific procedures associated with performing on-site investigations.*

Partially Implemented—The agency has eliminated the use of contract claims investigators.

The agency has not completely implemented the prior recommendation concerning the development of specific procedures for performing on-site investigations.

Agency's Response: *We agree. We will develop specific procedures for performing on-site claims investigations by February 1, 2002.*

**Recommendation #24:
File Format**

- *We recommend the Enforcement Section develop specific guidelines for the assembly of files (to assure case files contain a complete history of an enforcement action).*

Partially Implemented—The agency created a policy for the assembly of files, but they do not follow the policy. Files are not assembled in a consistent manner.

Agency's Response: *We agree. We have compiled and have directed staff to follow the policy, which they are doing. The policy will be slightly modified by February 1, 2002, and staff will again be directed to follow the policy. Management will follow up to ensure that staff are following the policy.*

Objectives, 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 objectives were to assure that the division took appropriate actions regarding the former administrator's control and access to state assets, and to ensure that travel reimbursements, payroll

disbursements, and personal service contracts authorized by the former administrator were reasonable and complied with appropriate laws and regulations. Specifically, we:

- Determined whether the former administrator's access to state and division automated systems was terminated upon resignation;
- Determined whether state assets in custody and control of the former administrator were returned to the division upon resignation;
- Reviewed the travel reimbursement claims that were either filed or authorized by the former administrator during the former administrator's final six months of service, to determine whether reimbursements complied with state travel rules, and were authorized, proper,

adequately supported, and reasonable;

- Reviewed payroll disbursements to the former administrator to determine if there were any unusual payments during the former administrator's final six months of service. We also determined whether the former administrator was properly removed from the division payroll;
- Reviewed payroll disbursements for those employees whose timesheets were approved by the former administrator to determine if there were any unusual payments during the six months prior to the former administrator's departure;
- Reviewed a sample of personal service contracts, which the division entered into between July 1, 2000 and June 30, 2001, to determine whether the

contracts complied with state and division policies and were reasonable, proper, and adequately supported;

- Determined whether the former administrator was subject to any internal or external investigation or disciplinary action pertaining to legal compliance during the former administrator's final year of service;
- Performed a risk assessment to determine areas of concern that warrant management attention; and
- 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 Construction Contractors Board were commendable and much appreciated.

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