

DEPARTMENT OF TRANSPORTATION

AUDITS AND INVESTIGATIONS

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June 28, 2013

Ms. Sheral Gates, Deputy Director
Real Estate Services Division
Department of General Services
707 3rd Street
West Sacramento, CA 95605

Dear Ms. Gates:

Attached is the Department of Transportation's (Caltrans) Audits & Investigations' final audit report of the Department of General Services' (DGS) Real Estate Services Division. Your response has been incorporated as part of the final report. This audit report is intended as information for you and Caltrans management.

We thank you and your staff for the assistance provided during this audit. If you have any questions, or require additional information, please contact Laurine Bohamera, Chief, Internal Audits & Construction Claims, at (916) 323-7107, or Juanita Baier, Internal Audit Manager, at (916) 323-7951.

Sincerely,

A handwritten signature in black ink, appearing to read "William E. Lewis".

WILLIAME LEWIS
Assistant Director
Audits and Investigations

Attachments

- c: Fred Klass, Director, DGS
Malcolm Dougherty, Director, Caltrans
Norma Ortega, Acting Chief Deputy Director, Caltrans
Faizi Pourhosseini, Chief, Professional Services Branch, DGS
Steve Durham, Chief, Construction Services Branch, DGS
Jim Martone, Chief, Project Management Branch, DGS
Rick Gillam, Chief, Audit Services, DGS
Glenn A. Yee, Chief, Division of Business, Facilities and Securities, Caltrans
Steven Keck, Acting Chief Financial Officer, Caltrans
Laurine Bohamera, Chief, Internal Audits & Construction Claims, Audits and Investigations, Caltrans

P4000-0385

**Audit of the
Department of General Services'
Form 22 Process**

June 2013

**William E. Lewis
Assistant Director
Audits and Investigations
California Department of Transportation**

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Summary

The California Department of Transportation's (Caltrans) Audits and Investigations (A&I) completed an audit of the California Department of General Services' (DGS) Real Estate Services Division (RESD). The purpose of the audit was to review DGS' processes for initiating, tracking and reviewing work performed; reconciling the work performed for Caltrans to the funds requested; and the process for returning unspent funds.

Our audit disclosed that, during the audit period of January 1, 2010, through February 14, 2013, RESD properly initiated, tracked and monitored project funds. However, we identified the following:

- Project Cost Accounting System Weaknesses
- Project Close Out Weaknesses

Background

The California State Auditor (CSA) issued an audit report on August 16, 2012, identifying various weaknesses in the maintenance of the State Route 710 expansion project properties. DGS performs the majority of the property maintenance on these properties for Caltrans. A&I performed this audit of RESD's internal Form 22 processes as part of the corrective action submitted to CSA.

RESD provides various real estate services to state departments, including Caltrans. These services include: portfolio & asset management, space utilization management, building management and administration, maintenance, janitorial, repair services and state construction management. Caltrans funds the on-going maintenance and repairs of the State Route 710 expansion properties through the fund transfer process as provided by the State Administrative Manual (SAM) Section 6868. Other work funded through the Form 22 process includes:

- Studies
- New construction
- Major construction and equipment
- Minor construction
- Other building and improvement projects

All transfers of funds to the Architecture Revolving Fund (ARF) are approved by the Department of Finance, per Government Code Section 14957.

Objectives, Scope, and Methodology

A&I conducted an audit of RESD processes for initiating and tracking, reviewing work performed; reconciling the work performed for Caltrans to the funds requested; and the process for returning unspent funds.

**Objectives,
Scope, and
Methodology
(Continued)**

We performed the audit in accordance with Generally Accepted Government Auditing Standards. The audit covered the period of January 1, 2010, through February 14, 2013. We conducted our audit from January 22, 2013 through February 14, 2013. Changes after these dates were not tested, and accordingly, our conclusion does not pertain to changes arising after February 14, 2013.

Our methodology consisted of interviewing the RESD management and staff, examining policy and procedure manuals, reviewing and testing project costs and performing other analytical tests and assessments as we considered necessary to achieve the audit objectives.

The objectives of the audit were to determine whether:

- A process is in place for charging fees to Caltrans.
- Fees charged to Caltrans are properly supported.
- A process is in place for tracking the work performed and comparing it to the scope of approved work.
- Funds requested are reconciled to actual expenditures.
- Unspent funds are returned to Caltrans in a timely manner.

Conclusion

Our audit determined that during the audit period of January 1, 2010, through February 14, 2013, RESD properly initiated, tracked and monitored project funds. However, we identified the following issues within RESD:

- Project Cost Accounting System Weaknesses
- Project Close Out Weaknesses

The findings and recommendations are discussed in greater detail in the Findings and Recommendation section of this report.

**View of
Responsible
Official**

We requested and received a response from the Deputy Director, RESD, DGS. This official stated that DGS is committed to ensuring that the projects it oversees are administered in an efficient and effective manner and provided a response to the findings and recommendations. For a copy of DGS' complete response, please see Attachment 1.



WILLIAM E. LEWIS
Assistant Director
Audits and Investigations
May 21, 2013

FINDINGS AND RECOMMENDATIONS

Finding 1 - Project Cost Accounting and Internal Control System Weaknesses

Our audit disclosed that overall, the Department of General Services (DGS) Real Estate Services Division (RES D) properly initiates, tracks and monitors project funds. However, we identified the following weaknesses within RES D's project cost accounting system:

- RES D does not consistently charge project related costs to the project within their Activity Based Management System (ABMS). Specifically, if a project is over-budget, incurred project costs are not charged to the project until additional funds are obtained. We found legal and labor costs which had not been charged to the appropriate projects.
- RES D's Direct Construction Unit (DCU) prepares cost estimates using activity codes and uses the activity code amounts to populate task numbers within ABMS. However, the activity codes and task numbers are not the same, resulting in an ABMS budget that is different than the original estimate. In addition, we found that DCU shifts costs between budgeted cost categories during the life of the project and documentation to support the adjustments is not maintained.
- Various costs recorded within ABMS and charged to specific projects were not supported as actual, incurred costs. The following are examples of such costs:
 - In-house costs related to Project Scheduling and Project Coordination.
 - DCU administrative fees, including:
 - Vehicle Mileage
 - Equipment Surcharge
 - Contract Administration
 - Design Charge
 - Warranty

Accurate project accounting plays a key role in effectively managing and delivering projects. Without accurate financial data, actual project costs may be over or under budget, which may negatively affect management decisions regarding the project.

RES D management is aware of these issues, but has not changed existing practices to ensure more accurate financial data.

Government Code, Section 13401 requires agencies to maintain an effective system of internal accounting and administrative control to ensure that state assets and funds are adequately safeguarded, as well

**Finding 1
(Continued)**

as to produce reliable financial information for the agency. Section 13403 (a) also states, "The elements of a satisfactory system of internal accounting and administrative control, shall include, but are not limited to, the following: (3) A system of authorization and recordkeeping procedures adequate to provide effective accounting control over assets, liabilities, revenues and expenditures."

Recommendations

We recommend RESD management:

1. Implement procedures to ensure project costs are properly recorded within the ABMS project cost accounting system. All project related expenditures should be identified and properly charged to the project, regardless of the projects' budget.
2. Revise current DCU cost estimate procedures to eliminate the inclusion of any administrative fees and align activity codes to ABMS task numbers.
3. Ensure any changes to ABMS budget line items are documented and approved by the project managers prior to initiating ABMS adjustments.
4. Implement procedures to ensure all billed project costs are actual, incurred and adequately supported; and cease billing unsupported administrative fees and other costs to all Caltrans projects.

DGS Response

RESD has already taken action to ensure that all project related costs and charges are identified and properly charged to the applicable project. For a copy of the complete response, see Attachment 1.

**Finding 2 -
Project Close Out
Weaknesses**

We reviewed 22 projects to determine whether projects are closed out timely, fund transfers and expenditures are reconciled and any remaining fund balance returned to Caltrans. Project close out procedures are the responsibility of the project directors with assistance from designated analysts. As of February 14, 2013, 14 of the 22 projects reviewed were completed and/or their funds had expired. Five of these projects were closed timely. We reviewed related Form 22s, ABMS project cost reports, and Return of Funds Transfer Documents (AFS 59s), if applicable. We found the following:

- Three of 14 projects (21 percent) had funds which expired between June 2009 and June 2011 and not been closed.
- Six of 14 projects (43 percent) were closed after the funds expiration date.
- Project Number 120016 had \$406,009 that was unaccounted for in ABMS. The Form 22 transferred \$1.7 million to this project while only \$1.3 million was reflected as spent in ABMS. The difference, \$406,000, was transferred to a different project,

**Finding 2
(Continued)**

Number 128984, which had a different scope of service and was fully expended. The new project was outside the scope of approved work in the Form 22 for project Number 120016 and neither DGS nor Caltrans provided us with documentation showing the transfer was approved.

Project expenditures and funding should be reconciled and completed projects closed out timely to prevent expiration of funds. Money in ARF is available for the purposes transferred without regard to fiscal year. However, funds in ARF will revert to the originating fund source if they are not encumbered within three years of being placed in ARF, or within three months of a project's completion. Time extensions may be approved by the Department of Finance (DOF). Expired funds could inhibit project completion and create additional work by all parties to secure the funding required to complete the project. Additionally, without consistent reconciliation of financial data, the amount of spent and unspent funds may not be accurately reflected within ABMS. Finally, when advanced funds are not used for their intended purpose, DGS should request prior approval, from Caltrans and DOF before moving them to another project.

Government Code Section 13403 (a) states, "The elements of a satisfactory system of internal accounting and administrative control, shall include, but are not limited to, the following: (3) A system of authorization and recordkeeping procedures adequate to provide effective accounting control over assets, liabilities, revenues and expenditures."

In addition, Government Code Section 14959 states that any excess amounts must be transferred immediately back to the source fund through the reversion process.

Finally, according to Government Code Section 14957, projects funded through the ARF require approval by the DOF and the state agency funding the project.

Project directors and analysts are not consistently "closing the loop" after project completion, which includes initiating close out procedures with DGS accounting and coordinating with Caltrans for project closure.

Recommendations

We recommend RESD management implement procedures to ensure:

1. Project directors and analysts initiate project close out procedures prior to the expiration date of project funds.

**Recommendations
(Continued)**

2. Projects with expired funds are closed out immediately.
3. Fund transfers and expenditures are reconciled on a regular basis.
4. All cost savings are refunded to the client and only transferred to other projects with DOF and agency approval.

DGS Response

DGS agrees with the recommendations and is updating its project close-out procedures. For a copy of the complete response, see Attachment 1.

Audit Team

Laurine Bohamera, Chief, Internal Audits & Construction Claims,
Caltrans
Juanita Baier, Audit Manager, Caltrans
Teresa Draeger, Auditor, Caltrans

ATTACHMENT 1

**DEPARTMENT OF GENERAL SERVICES RESPONSE
TO THE DRAFT REPORT**



MEMORANDUM

Date: June 27, 2013

To: William E. Lewis, Assistant Director
Audits and Investigations
Department of Transportation
P.O. Box 942874, MS-2
Sacramento, CA 94274-0001

From: Department of General Services
Real Estate Services Division

Subject: **RESPONSE TO AUDIT OF THE FORM 22 PROCESS**

Thank you for the opportunity to respond to the Audits and Investigations (A&I) office's audit of the Real Estate Services Division's (RES D) administration of Department of Transportation (Caltrans) projects funded through the Form 22 process. RES D appreciates A&I's professional audit of its processes used for overseeing Caltrans' funded projects.

In summary, A&I concluded that RES D properly initiated, tracked and monitored project funds. However, weaknesses exist within RES D's project cost accounting system and project close-out processes that need to be addressed to ensure the successful administration of projects.

Based on the results of its fieldwork, A&I developed the following recommendations to further improve RES D's administrative processes. In general, A&I's recommendations have merit and will be promptly addressed.

RECOMMENDATIONS

Finding 1: Project Cost Accounting System Weaknesses

RECOMMENDATION 1: *RES D management implement procedures to ensure project costs are properly recorded within the ABMS project cost accounting system. All project related expenditures should be identified and properly charged to the project, regardless of the project's budget.*

RESPONSE 1:

RES D has taken action to ensure that all project related costs and charges are identified and properly charged to the applicable project, regardless if a project's budget has been exhausted. Specifically, on May 9, 2012, the division issued RES D Bulletin 12-01 (See Attachment) which

eliminated the use of an overhead project task account to charge costs when sufficient funding is no longer available in a project/task budget. In brief, currently, all charges to a project/task without adequate funds go into "Suspense" until resolution. On a monthly basis, the suspense charges are tracked by project and actively monitored by executive management to ensure that an unreimbursed liability is not created that impacts the Architecture Revolving Fund.

RECOMMENDATION 2: ***RESD management revise current DCU cost estimate procedures to eliminate the inclusion of any administrative fees and align activity codes to ABMS task numbers.***

RESPONSE 2:

DCU has reviewed its administrative fees and is revising the way these costs are tracked, accounted for, and recovered by the unit. The new process will ensure that cost estimates include only fully supported and justified amounts. Further, to ensure accurate accounting, DCU is taking action to ensure that cost estimate activity codes align with ABMS task numbers. These changes will be implemented for the 2013/2014 fiscal year.

RECOMMENDATION 3: ***RESD management ensure any changes to ABMS budget line items are documented and approved by the project managers prior to initiating ABMS adjustments.***

RESPONSE 3:

In the near future, DCU will implement procedures to ensure that any changes to ABMS budget line items are documented and approved by its project managers. It is foreseen that this process will include provisions for the maintenance of additional information in ABMS to clearly support adjustments between budgeted cost categories.

RECOMMENDATION 4: ***RESD management implement procedures to ensure all billed project costs are actual, incurred and adequately supported; and cease billing unsupported administrative fees and other costs to all Caltrans projects***

RESPONSE 4:

In its report, A&I expresses concerns that adequate documentation was not always available to support DCU's administrative fees. As noted in our response to Recommendation No. 2, DCU is revising the way these costs are tracked, accounted for, and recovered by the unit. The revised process will provide additional assurance that only fully justified and documented costs are charged to Caltrans' projects.

In addition, A&I expresses concerns that adequate documentation was not available to support costs related to project scheduling and project coordination. With the elimination of RESD's Project Scheduling and Project Coordination Unit in August 2012, costs related to project scheduling and project coordination are no longer directly charged to projects as a separate line item.

Finding 2: Project Close-Out Weaknesses**RECOMMENDATIONS:****RESD management implement procedures to ensure:**

- 1. Project directors and analysts initiate project close-out procedures prior to the expiration date of project funds.**
- 2. Projects with expired funds are closed out immediately.**
- 3. Project revenues and expenditures are reconciled on a regular basis.**
- 4. All cost savings are refunded to the client and only transferred to other projects with client approval.**

RESPONSE:

The timely closing of projects and handling of project savings is addressed in RESD's operating policies. Specifically, RESD Bulletin 12-01 (See Attachment) provides that:

- Upon the satisfactory resolution of all outstanding issues, projects shall be closed within 180 days after completion and any remaining funds shall be returned to the fund of origin within 90 days.
- Unless specifically authorized, project savings shall not be retained and used for other projects.

Currently, RESD is updating its project close-out procedures. As part of this process, additional guidelines will be provided to project directors to assist in the timely closure of projects. Further, unit supervisors will be tasked with monitoring the close-out process to ensure that it is being conducted in an effective manner. The process will also include periodic reports to office/unit management on the effectiveness of the close-out activity.

CONCLUSION

RESD is firmly committed to ensuring that the projects it oversees are administered in an efficient and effective manner. As part of its continuing efforts to improve operations, RESD will take appropriate actions to address the issues presented in the report.

If you need further information or assistance on this report, please contact me at (916) 375-4150.

 *James A. Derby, Asst. Dep. Director.*

SHERAL GATES, Deputy Director
Real Estate Services Division

cc: Esteban Almanza, Chief Deputy Director, DGS
James Derby, Assistant Deputy Director, RESD, DGS

Steve Durham, Chief, DCU, DGS

Jim Martone, Chief, PMB, DGS

Faizi Pourhosseini, Chief, PSB, DGS

Laurine Bohamera, Chief, Internal Audits & Construction Claims, Caltrans

Juanita Baier, Internal Audit Manager, Caltrans

DEPARTMENT OF GENERAL SERVICES
REAL ESTATE SERVICES DIVISION
BULLETIN 12-01

SUBJECT:	DATE ISSUED: May 9, 2012
ARCHITECTURE REVOLVING FUND DEFICIT Project Budget Management – Suspense Hours	EXPIRES: Until Rescinded
	REFERENCES: RESD Bulletin 11-02 Project Management Policy Budget Letter 08-30 Administrative Order entitled, MANAGEMENT OF UNFUNDED/UNDERFUNDED SERVICES/PROJECTS Government Code Section 13324 Budget Act Section 32
	SUPERSEDES: Administrative Order 06-14 RESD Bulletin 08-01
DISTRIBUTION: All RESD Branch Chiefs All RESD Assistant Branch Chiefs All RESD Staff cc: DGS Chief Information Officer Deputy Director, Administration Division Chief, Office of Fiscal Services Chief, Office of Technology Resources OFS Capital Outlay Accounting Staff	ISSUING BRANCH: RESD EXECUTIVE BRANCH

PURPOSE Control Section 4.70, Budget Act of 2008, directs the Department of General Services (DGS) to recover the ARF deficit from fiscal years 2008-09 through 2012-13. This Control Section was amended in the Budget Act of 2011-12 to extend the repayment period through June 30, 2015.

Pursuant to Government Code 13324 and Budget Act Section 32, this bulletin provides revised policies and procedures that eliminate activities and processes that create or contribute to the Architecture Revolving Fund (ARF) Deficit. Consistent with good project management and budgetary practices, this bulletin also provides instructions on the manner in which staff charge work hours to their projects in the Department's Activity Based Management System (ABMS) Project Accounting and Leave (PAL) Module. Finally, this bulletin establishes expectations for resolution of Suspense Hours and accountability and adherence to the directives, including all referenced documents.

BACKGROUND The Real Estate Services Division (RESD) is a "fee for service" organization where employee positions are considered "billable" and each billable hour is entered on an individual's time sheet against a Project/task budget. If a Project/Task budget is exhausted and work is still required to complete the Project/task, the billable hour(s)

will not be allowed to be entered against the Project/task in the ABMS system until sufficient funding is available in the Project/Task budget.

Historically, when the budget was exhausted, an Over Head Project task (OHP) authorization was requested by the Supervisor from the Chief of the Branch or Section. On February 1, 2012, the practice of OHP usage was halted and disabled in the PAL system.

Currently, those hour(s) without an adequate budget go into "Suspense". If not managed; through reimbursement, securing additional project funds, or other appropriate action, and allowed to accumulate, Suspense Hours create an unreimbursed liability in the Architectural Revolving Fund (deficit).

POLICIES

The financial integrity of the ARF must be maintained. Any activity or process that contributes to the ARF deficit **is not allowed**.

All RESD projects must have sufficient funding authorized by statute, the Budget Act, or conditionally authorized subject to approval by the Department of Finance (DOF) and/or the Legislature, as specified, prior to their initiation.

Project funding, regardless of funding source, must only be utilized for the project for which it was funded, unless otherwise authorized through statute, the Budget Act or approved by the DOF and/or the client agency, as appropriate.

Project savings shall not be retained and used for other projects unless specifically authorized by statute, the Budget Act, or conditionally authorized subject to approval by the Client Agency, DOF and/or the Legislature, as specified.

Upon the satisfactory resolution of all outstanding issues, projects shall be closed within 180 days after completion and any remaining funds shall be returned to the fund of origin within 90 days as required by Government Code Section 14959.

WHO NEEDS TO COMPLY **ALL RESD STAFF**

EFFECTIVE DATE May 9, 2012

PROCESS IMPLEMENTATION The following procedures must be followed to eliminate activities and processes that contribute to the ARF deficit.

ABMS PAL Time Charges As of February 1, 2012, Over Head Project (OHP) accounts have been eliminated and are no longer available to charge time to.

All time charges will be charged to the appropriate cost code and/or project task for which they are incurred (i.e.: vacation time shall be charged to vacation, administrative time to administration, project time to the appropriate project and task number).

Any request to create additional, new tasks and cost centers will be evaluated

on a case-by-case basis and is subject to the first level approval of your respective Assistant Branch Chief (ABC) and the second level and final approval of the Branch Chief (BC).

ABMS PAL Time Management System Tools

The ABMS PAL Module has controls necessary to stop unauthorized time charges to projects. These controls include the following:

- Project End Date. End dates for a project or project phase (i.e.: Study, Preliminary Plans, Working Drawings, Construction) will be reported in ABMS and the ability to charge time to the project will immediately cease on the specified end date.
- Project Dollars. Dedicated project funding will be reported in ABMS and the ability to charge time to the project task will immediately cease when the allocated dollars are exhausted.
- Adjustments for Rate Changes. ABMS will be programmed to adjust project hour balances every July 1st based upon changes in the DGS hourly rates.
- Project Hours. Are calculated based on budgeted project dollars and current hourly rates.

ABMS System Alerts

ABMS system alerts are activated to notify Project Directors, Project Managers (PD/PM), and Project team members before a project end date has been activated or project hours and/or funds have been exhausted. As outlined below the DGS PD/PM will prepare and submit augmentation requests to the Client Agency or DOF for all projects as soon as an anticipated project deficit is forecasted. Sufficient lead time must be allowed to avoid stopping projects due to a funding deficiency. If the funding deficiency is not addressed, the project will stop once funds have been exhausted.

Project Budget Tracking and Monitoring

On a monthly basis (twice a month for PSB-DSS), time sheets are submitted by all employees to their respective Supervisor/Manager. When the billable hour(s) are submitted and approved in the PAL system without an adequate budget, those hours are considered in "Suspense" until the hours are moved to a Project/task with adequate funding or the budget is increased to cover the approved hour(s). When hour(s) go into the "Suspense" category, it signifies to Branch Management that either an input error has occurred or budget adjustments are required. A daily email reminder issued from the PAL system goes to the Employee and approving Supervisor until the suspense hour(s) are resolved.

Ongoing use of the Suspense Hours concept is vital to managing staff billable time charges. The current system works as designed for its intended purpose. RESD will utilize existing reports to better manage staff time entries and identify when RESD Management needs to get involved in Branch issues. The following protocol shall be utilized:

- A. Each Project Director/Manager will meet with their project team (project team is defined as including all DGS employees working on a project regardless of branch, section or unit assignment) to conduct monthly meetings during the life of the project to track and monitor all time charges to active projects. Specifically, the team shall forecast future billable hours and compare them

with available remaining hours and make proactive budget adjustments to avoid suspense hours.

- B. Supervisors will monitor suspense hour reports on a monthly basis for projects under their supervision and work with project staff and management to resolve outstanding issues in a timely manner as follows:
1. On or about the 10th of each month, an interface occurs between PAL and the Controller's Office. All employee time sheets must be submitted and approved prior to that date/time.
 2. Shortly after the interface, a report entitled "DGS Employee Direct/Indirect Hours Report" will be run by each Branch and or Section which provides a summary of each employee's indirect hours, billable hours and suspense hours.
 3. Based on the report, each Branch's Management Team shall review the report to determine the reasonableness of each employee's number of indirect and billable hours. Suspense hours shall be reviewed in detail.
 4. By the 15th of each month, all Suspense hours that can be resolved internally within a Branch (i.e. the employee charged an incorrect task, budget money needs to be moved within tasks, etc.) are resolved.
 5. By the 20th of each month, all Project/tasks requiring inter branch review and resolution are issued to the Branch Chiefs for their consideration. Inter branch discussions commence. Examples of resolutions may include utilizing another budget category (i.e. Special Consultants, State Fire Marshal, etc.) if the actual costs appear to be less than budgeted. A determination is made whether an augmentation needs to be pursued and the justification for the augmentation is determined.
 6. By the 25th of each month, a written plan is established for all outstanding and unresolved suspense hours signed by all Branch Chiefs impacted by the plan. The plan is submitted to the RESD Deputy Director via the RESD Governance Council and a meeting is established, if necessary. The RESD Deputy Director will review the circumstances and plan for reimbursement and if the suspense hours for a given project exceeds 40 hours at any given sub task level (i.e.: XX.NNN.NNN or 100 hours at the project level) regardless of individual sub task balances, a determination will be made whether to stop the project.

QUESTIONS

Questions may be directed to your respective RESD Program/Project Director, Assistant Branch Chief or Branch Chief.

APPROVAL

(Signature on file) Assistant Deputy Director	(Signature on file) James Derby Deputy Director (A)
--	--

REFERENCES

Government Code 13324. Every person who incurs any expenditure in excess of the allotments or other provisions of the fiscal year budget as approved by the department or as subsequently changed by or with the approval of the department, is liable both personally and on his official bond for the amount of the excess expenditures.

Budget Act Section 32. (a) The officers of the various departments, boards, commissions, and institutions, for whose benefit and support appropriations are made in this act, are expressly forbidden to make any expenditures in excess of these appropriations. Any indebtedness attempted to be created against the state in violation of this section shall be null and void, and shall not be allowed by the Controller nor paid out of any state appropriation.

(b) Any member of a department, board, commission, or institution who shall vote for any expenditure, or create any indebtedness against the state in excess of the respective appropriations made by this act shall be liable both personally and on his or her official bond for the amount of the indebtedness, to be recovered in any court of competent jurisdiction by the person or persons, firm, or corporation to which the indebtedness is owing. Notwithstanding the foregoing or any other provision of law, a person may not be held personally liable for the amount of any indebtedness created by an expenditure in excess of an appropriation made by this act if all of the following occur: (1) the expenditure is in response to increases in enrollment, population, or caseload by the State Department of Social Services, the Department of Corrections and Rehabilitation, the State Department of Developmental Services, the State Department of Mental Health, the State Department of Health Care Services, or the State Department of Public Health; (2) that expenditure is incurred no sooner than 30 days after the Director of Finance provides written notification of its necessity to the Chairperson of the Joint Legislative Budget Committee; and (3) if the chairperson does not advise in response that the expenditure shall not occur. The director's notification shall include a certification of any amounts required by enrollment, population, or caseload, rather than management decisions or policy changes.

(c) Neither subdivision (a) nor (b) applies to the expenditure of moneys to fund continuous appropriations, including appropriations made in the California Constitution, and federal laws mandating the expenditure of funds.