California Legislature

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January 14, 1982 102

The Honorable President pro Tempore of the Senate
The Honorable Speaker of the Assembly
The Honorable Members of the Senate and the
Assembly of the Legislature of California

Members of the Legislature:

Your Joint Legislative Audit Committee respectfully submits the Auditor General's report concerning the Department of Transportation's administration and disposal of land not needed for highway facility operations and construction.

Respectfully submitted,

WALTER M. INGALLS
Chairman, Joint Legislative
Audit Committee

REPORT BY THE

OFFICE OF THE AUDITOR GENERAL

TO THE

JOINT LEGISLATIVE AUDIT COMMITTEE

102

A REVIEW OF THE DEPARTMENT OF TRANSPORTATION'S ADMINISTRATION OF EXCESS LAND

JANUARY 1982

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SUMMARY

We have reviewed the Department of Transportation's administration and disposal of excess land, which consists of real property, land, and improvements that the department does not need for right-of-way or for other operations. Excess land can be improved or unimproved, residential or commercial property. As of July 31, 1981, the department's inventory of excess land included approximately 3,300 parcels valued at more than $57 million at the time of acquisition.

Chapter 1116, Statutes of 1979, was enacted to benefit families who are subject to displacement and families who have low or moderate incomes. In accordance with this statute, the Department of Transportation must sell, at present, 262 residential properties at affordable or reasonable prices that generally fall below fair market value. By selling these parcels as mandated by the statute, the Department of Transportation will incur an estimated net sales loss of $11.3 million, funds that could revert to the State Highway Account. Further, in the case of rescinded highway routes, such as Route 2 in Los Angeles County, enactment of the statute may reduce revenues to local governments. Similar effects may occur since 473 more parcels may be affected by the statute.

Other conditions have been tied to the enactment of the statute. By implementing Chapter 1116, Statutes of 1979, the department has incurred added selling costs and has adopted lengthy administrative procedures for processing property sales. Also, the statute requires the Department of Transportation to impose resale controls and to monitor these controls.

In reviewing holds on parcels, we found that the Department of Transportation has approved extensive holds on excess land and has held certain parcels without adequate documentation. We found that the department has inappropriately extended holds for public agencies on 138 parcels worth over $5 million. Additionally, the department has held land worth more than $1.8 million for operational purposes without adequate documentation. These actions have hindered the sale of parcels, a condition that may reduce revenue both to the State Highway Account and to local governments.

Finally, the Department of Transportation has not maintained an accurate management information system. We noted that the department uses inconsistent procedures in administering the inventory of excess land and that it has

inadequately documented parcel files. Since these conditions prevent the department from effectively administering its inventory, they could further delay the sale of parcels.

To address these areas, we have suggested that the Legislature amend Chapter 1116, Statutes of 1979, either to ensure that the Department of Transportation offers surplus residential property to buyers at fair market value or to include the costs of processing and repairs in the minimum sales price for such property. We further suggest that the Legislature direct the Department of Transportation to appoint an appropriate agency to monitor resale controls.

We also directed to the Department of Transportation certain recommendations relating to holds on parcels and maintenance of the excess lands inventory. Specifically, the department should

- Require a 10 percent cash deposit for all holds exceeding one year;
- Report to the Legislature all excess land now held over one year for public agencies;
- Require entities to submit complete applications requesting holds on parcels;

- Establish explicit guidelines for classifying parcels and reevaluate and reclassify parcels as needed; and

- Follow up on annual compliance reviews of the inventory system, emphasizing the importance of documenting parcel files in those reviews.

INTRODUCTION

In response to a request by the Joint Legislative Audit Committee, we have reviewed the Department of Transportation's administration and disposal of real property, land, and improvements not required by the department for its operations. This review was conducted under the authority vested in the Auditor General by Sections 10527 and 10528 of the Government Code.

Background

The Department of Transportation (Caltrans) is responsible for administering and constructing the State's transportation facilities. To fulfill this responsibility, Caltrans administers the Highway Transportation Program, the Mass Transportation Program, the Transportation Planning Program, and the Aeronautics Program. According to the Governor's Budget for fiscal year 1981-82, Caltrans spent an estimated $661 million in administering the State's transportation facilities and $1.2 billion in constructing these facilities during fiscal year 1980-81.

The Division of Right-of-Way, one of 17 divisions within Caltrans, is responsible for acquiring and appraising land needed for constructing transportation facilities, relocating families and businesses affected by proposed construction, managing and disposing of property under the department's control, and clearing the land prior to construction. During fiscal year 1980-81, the division spent an estimated $82 million for support and acquisition. The division's income and expenditures for the past three fiscal years are detailed in the following table.

TABLE 1

ESTIMATED EXPENDITURES AND
INCOME FOR THE DIVISION OF RIGHT-OF-WAY
(In Millions)

	1978-79	1979-80	1980-81
Acquisition expenditures	$43.6	$52.1	$54.0
Support expenditures	22.0	24.8	28.0
Total expenditures	$65.6	$76.9	$82.0
Income from sales, rentals and leases	$14.4	$15.2	$19.0
Excess land sales	13.2	11.3	8.2
Total gross income	$27.6	$26.5	$27.2

As Table 1 illustrates, during fiscal year 1980-81, the division received an estimated $8.2 million from sales of excess land. Excess land consists of real property, land, and

improvements that, according to Caltrans, are not needed for right-of-way or other departmental operations.* At the time of acquisition, this excess land can be residentially or commercially improved or can be vacant.

Caltrans classifies some land as excess at the time of purchase. For instance, if the department needs only part of an acquired parcel for the right-of-way, it classifies the remaining portion as excess. Furthermore, Caltrans may be required to purchase land that becomes inaccessible or that loses value as a result of other departmental purchases. This land is also classified as excess when it is purchased. Other land may become excess as a result of changes in the design of highway projects, such as eliminating an interchange. In addition, excess land results when maintenance and material sites are no longer needed or when an adopted route is rescinded.**

* Right-of-way is a strip of land over which passage is made for improvements such as highways and railroads.

** The California Transportation Commission is empowered to adopt routes and rescind adopted routes. A route is rescinded after it has been determined that a proposed facility will no longer be constructed.

The Excess Land Branch, within the Division of Right-of-Way, is responsible for administering excess land. This branch obtains the maps, legal descriptions, and departmental clearances of the land; and also inventories and sells the parcels.

Caltrans administers excess land using a listing known as the "excess lands inventory." This inventory categorizes land into three general categories: potentially disposable parcels, parcels under engineering holds, and parcels being held for processing. Potentially disposable parcels include those available for immediate sale as well as those that may not be sold because other public agencies are interested in the parcels, because of judicial or legislative action, or because of potential adverse claims against Caltrans. Parcels under an engineering hold may be held for the same project, for other projects, or for operational purposes. Parcels held for processing are unclassified parcels recently added to the excess lands inventory.

Caltrans values excess land in the inventory based upon its worth at the time it was acquired. This value at the time of acquisition may differ from the department's actual costs in purchasing the land because the value may be changed when the land is considered as a separate parcel. Department

officials estimated that the acquisition value of the department's excess lands inventory is approximately one-third to one-half the current fair market value of these lands.*

As of July 31, 1981, the excess lands inventory included approximately 3,300 parcels having an acquisition value of over $57 million. These parcels are placed into three categories, as shown below:

- 2,781 of these parcels with an acquisition value of $43.1 million were classified as potentially disposable;
- 358 parcels worth $6 million were under engineering holds;
- 156 parcels worth $7.9 million were being held for processing.

Appendix A details the status of the excess lands inventory as of July 31, 1981.

* The fair market value of a parcel is the amount that the seller could reasonably expect to receive for the parcel if sold to a willing buyer.

Scope of Review

During this review, we selected a sample of parcels administered by four of the eleven district offices. These are the four offices in the sample: Los Angeles, San Francisco, Marysville, and San Diego. Together, these four offices administer over 95 percent of the total acquisition value of the excess lands inventory. Our sample represented 55 percent of the total number of parcels and 76 percent of the acquisition value of all parcels in the excess lands inventory as of July 31, 1981.

We examined parcel files, state statutes, and departmental procedures, and also interviewed district right-of-way agents and headquarters personnel located in Sacramento.

AUDIT RESULTS

IMPLEMENTING CHAPTER 1116, STATUTES OF 1979, MAY REDUCE FUNDS AVAILABLE FOR THE STATE HIGHWAY ACCOUNT

Chapter 1116, Statutes of 1979, requires the Department of Transportation to sell, at present, 262 residential parcels at affordable or reasonable prices that generally fall below fair market value. By implementing the statute and selling these parcels at less than fair market value, Caltrans will incur a net sales loss of $11.3 million, funds that could revert to the State Highway Account. Further, when planned highways have been cancelled or rescinded, as in the rescission of Route 2 in Los Angeles, enactment of the statute has resulted in foregone revenue to local governments. Other effects of implementing Chapter 1116 may result since Caltrans may soon be required to process and sell 473 additional residential parcels.

We noted other conditions linked with the enactment of the statute. For instance, Caltrans has incurred additional selling costs and has adopted cumbersome administrative procedures in processing sales under the statute. Finally, the statute directs Caltrans to enforce requirements on those

purchasing residential parcels and to monitor the buyers' adherence to these requirements. This directive contradicts the Department of Transportation's objective to divest itself of all interest in excess land.

Requirements of Chapter 1116, Statutes of 1979

Chapter 1116, Statutes of 1979, is intended to benefit families who are subject to displacement and families who have low or moderate incomes. This statute provides for the sale of certain surplus residential properties at "affordable" prices to qualifying tenants or at "reasonable" prices to housing-related entities. The statute also requires all state agencies with surplus residential property to impose resale controls on sales below current fair market value and to monitor and enforce these controls.*

Surplus single family residential properties are offered to the present occupants at an affordable price based upon the occupants' income. All other surplus residential properties and those surplus single family residential properties not purchased by current occupants are offered to housing-related public and private entities at a reasonable

* Attached as Appendix B is the text of Chapter 1116, Statutes of 1979.

price. This price is based upon the required affordable rents and prices the housing agency can collect from families having low or moderate incomes. The affordable price or reasonable price cannot be greater than the parcel's fair market value or less than the price paid by Caltrans for the original acquisition. Generally, both the affordable and reasonable prices fall below the current fair market value of the properties.

In addition, the statute requires repairs of single family residences. That is, it requires Caltrans to provide repairs required by lenders and government housing assistance programs. Funding for repairs is defined as state operations and is part of the Highway Program. Highway Program funds are first reduced by the costs of state operations, then the remainder is budgeted for highway construction costs. Consequently, expenditures for repairs of residential properties reduce the funds remaining for capital outlay in the Highway Program.

Significant Losses May Result from Residential Sales

Currently, Caltrans must sell 262 properties--159 single family residences and 103 multi-family residences--under the requirements of Chapter 1116, Statutes of 1979. By selling

these properties at prices below fair market value, Caltrans will incur a net sales loss of $11.3 million, funds that could augment the State Highway Account.

Of the total residential properties just discussed, 115 single family residences and 99 multi-family residences became excess land when construction plans for portions of Route 2 in Los Angeles County were cancelled in 1976. The tenants of these properties petitioned for the right to purchase the residences they were renting. In 1979, Caltrans conducted a study that presented methods for disposing of residential property. The issues brought forth as a result of the rescission and the methods developed were ultimately addressed in Chapter 1116, Statutes of 1979. However, this statute stipulates that, because of the 1979 study, parcels on Route 2 are excluded from portions of the eligibility requirements dealing with income limitations and terms of residency. Excluding these requirements allows more tenants of the Route 2 residences the option of purchasing the residences at an affordable price.

Added to the residential property on Route 2 are 44 single family residences and 4 multi-family residences in the State that are currently affected by the statute. This gives a total of 159 single family residences and 103 multi-family

residences or 262 properties to be disposed of according to the statute. We will now discuss the revenue that the sale of these properties will yield.

According to estimates by Caltrans officials, if sold at affordable prices, the 159 single family parcels would yield $6,214,600. This amount, reduced by the department's estimated costs to repair the property, leaves an estimated net sales revenue of $2,799,600. Table 2 presents this calculation.

TABLE 2

ESTIMATED NET SALES REVENUE FROM
SALES OF 159 SINGLE FAMILY RESIDENCES

Estimated gross sales revenue	$6,214,600
Less estimated repair costs	$3,415,000
Estimated net sales revenue	$2,799,600

The estimated net sales revenue shown above is less than the cost of acquiring these properties. Caltrans acquired these parcels for $3,968,000. When this amount is reduced by the estimated net sales revenue of $2,799,600, it yields $1,168,400, the amount of actual costs Caltrans will not recover on the sale of these parcels.

Further, Caltrans officials estimated that, if sold through the competitive bid process, the 159 parcels would yield $11,154,800. This figure, when reduced by the estimated net sales revenue of $2,799,600, leaves $8,355,200. Thus, by selling these parcels at affordable prices, Caltrans will incur an estimated net sales loss of $8.3 million--revenue that could augment the State Highway Account.

Apart from these 159 single family residences, there are 103 multi-family residences currently affected by the statute. Caltrans is not required to repair these parcels; however, it is required to sell them to housing-related public and private entities at reasonable prices.

At this time, Caltrans has estimated that these 103 parcels have a fair market value of $10,094,900. Caltrans officials estimated that the reasonable sales price of the 103 parcels is $7,110,000. Thus, by selling these parcels at a reasonable price, the department will forego $2,984,900 in sales revenue to the State Highway Account. The following table summarizes the estimated net sales loss that the department will incur from implementing Chapter 1116, Statutes of 1979.

TABLE 3

THE DEPARTMENT OF TRANSPORTATION'S
ESTIMATED LOSSES FROM SELLING
SURPLUS RESIDENTIAL PROPERTY

	Single Family	Multi-Family	Totals
Number of residences	159	103	262
Fair market value	$11,154,800	$10,094,900	$21,249,700
Sales revenue	2,799,600	7,110,000	9,909,600
Estimated net sales loss	$ 8,355,200	$ 2,984,900	$11,340,100

In addition to these losses in net sales, we found losses in revenue to local governments have resulted from enactment of the statute. These losses affect local governments in areas where highways have been rescinded, such as in Los Angeles County.

The department rents or leases improved and unimproved land that is needed for future highway needs. Twenty-four percent of all rental income received is allocated to the county in which the rent is collected. However, once a route is rescinded, this allocation requirement no longer applies.

Since the rescission of portions of Los Angeles Route 2 in 1976, local governments have foregone an estimated $1.2 million in revenues because rental revenue has not been

allocated to the local governments and the property has not been sold. Although the losses prior to the enactment of the statute in 1979 cannot be directly attributable to the statute, over $500,000 of the loss has occurred since the statute has been in effect. Moreover, because of the resale control document required with each sale, the new owner will pay property taxes based upon the affordable price paid, not the fair market value of the property.* Thus, revenue to local governments will be reduced.

Losses in net sales and in local revenue may continue because the department may soon be required to process and sell more parcels pursuant to the statute. Caltrans is continually reevaluating the freeway needs of the State and the resources available to meet these needs. Currently, the California Transporation Commission is reviewing proposals on the possible rescission of three adopted routes. If rescinded, these adopted routes would add an additional 420 single family and 53 multi-family residential parcels to those currently affected by the statute.

* The statute requires that all residences sold to present occupants for less than fair market value be restricted as to future resale.

Additional Conditions Associated with Chapter 1116, Statutes of 1979

We noted other conditions related to the enactment of Chapter 1116, Statutes of 1979. For example, Caltrans incurs additional selling costs and requires more time than usual to process sales under the statute. Also the statute stipulates that Caltrans must monitor and enforce requirements placed upon those purchasing residential properties. When calculating the net sales loss from selling the 262 parcels, Caltrans did not include the added costs associated with selling the parcels, processing the sales, and monitoring the buyers' adherence to certain requirements.

Caltrans officials have estimated that selling costs of $3,000 are incurred for each unit sold. This amount includes the costs of preparing and processing documents, conducting the appraisal, preparing title insurance, and assessing loan points. Before this statute was implemented, the department did not incur these costs.

Caltrans estimated the additional time required to process the sale of a parcel at three district offices. It took 8 hours in Los Angeles, 24 hours in Marysville, and

25.6 hours in San Francisco.* To comply with the statute, district offices have adopted certain procedures, such as determining the tenant's eligibility, calculating the affordable price, coordinating a loan package with the lender, and inspecting the residences to determine what repairs are needed. These steps require a great deal of time and effort. For example, district offices must determine eligibility by researching the tenant's rental history and, in some cases, requesting past income tax statements.

As previously noted, the statute requires that when state-owned surplus single family residences are sold to present occupants for less than current fair market value, Caltrans, as the selling agency, must impose such terms, conditions, and restrictions to assure that such housing will remain available to families of low or moderate income. To assure that such requirements are adhered to, the new owner must sign a resale control document. This document includes a 30-year preemptive right to purchase by the Department of Transportation, restrictions on leasing and subleasing,

* Less processing time is needed in Los Angeles because it entered into interagency agreements with the Department of Housing and Community Development to assist in the disposal process. The interagency agreements, covering the period from April 1981 to June 1983, are costing the Department of Transportation over $1 million.

restrictions on substantial improvements, and detailed resale requirements. As required by the statute, the department must monitor and enforce all these requirements. It is presently attempting to contract with a housing-related entity to take over the monitoring and enforcement responsibilities associated with the residences in Los Angeles.

These monitoring and enforcement responsibilities are inconsistent with a primary departmental objective. Specifically, the policy of Caltrans is to "divest itself of excess property as soon as possible."

CONCLUSION

As a result of implementing Chapter 1116, Statutes of 1979, the Department of Transportation is unable to recover the actual costs of acquiring surplus residential properties and has incurred a net sales loss of approximately $11.3 million based upon fair market value and a $1.2 million loss based upon repair and acquisition costs. These funds could be used to augment the State Highway Account. In addition, enactment of the statute has caused local governments to lose revenues. Furthermore, the department is required to monitor low and moderate

income housing, a requirement that contradicts the department's objective of divesting itself of all interest in excess land.

MATTERS FOR CONSIDERATION BY THE LEGISLATURE

Since the enactment of Chapter 1116, Statutes of 1979, has reduced the funds available for highway construction, the Legislature may wish to amend the statute to include one of the following alternatives. The Department of Transportation should offer surplus residential property to the current tenant at fair market value. The tenant would still have an advantage over other potential buyers because there would be no competitive bids; the local governments would receive more property tax revenue because there would be no resale controls; and the State Highway Account would be augmented. If this alternative is unworkable, the department may want to include processing and repair costs as well as the original acquisition price paid by the agency in the minimum sale price. This modification would allow the tenants to pay less than fair market value for the property and enable Caltrans to recover actual costs.

Furthermore, the Legislature may wish to direct the Department of Transportation to divest iself of all interest in excess land upon sale of the land. To accomplish this, the Legislature could appoint a more appropriate agency to oversee the property and monitor all resale controls.

THE DEPARTMENT OF TRANSPORTATION HAS ALLOWED EXTENSIVE AND UNDOCUMENTED HOLDS ON EXCESS LAND

The Department of Transportation has allowed extensive holds on excess land, and it has held certain parcels without adequate documentation. We found that Caltrans had inappropriately extended the holds for public agencies on 138 parcels worth more than $5 million at the time of acquisition. In addition, Caltrans held excess land with an acquisition value of more than $1.8 million for project and operational purposes without adequate documentation.* As a result, Caltrans has prevented parcels from being made available for sale, an action that has reduced revenue to the State Highway Account and may have reduced property tax revenues to local governments.

Procedures for Holding Excess Land

When the Department of Transportation acquires excess land, its engineering departments review the parcels, determining whether the parcels will be needed for administering or constructing state transportation facilities.

* An internal audit report issued by the department in September 1980 recommended improvements in the areas of holds for public agencies and the use of economic analyses. According to department officials, the Division of Right-of-Way is addressing these issues and is in the process of correcting them.

If they are needed, these parcels are placed under an engineering hold. If not needed, these parcels are offered to the Federal Government, to other state organizations, to county and city governments, or to local housing authorities and park districts.* Finally, if these entities do not wish to purchase the parcels, the parcels are offered for sale to the general public.

Caltrans is required by statute to offer land of notable environmental value, such as land of extraordinary scenic beauty and wildlife preserves, to public park and recreational agencies before offering the land to other public agencies. Park and recreational agencies are given 60 days to notify Caltrans of their intent to purchase the property and to agree on a mutually satisfactory sales price. After arriving at a sales price, the purchasing agency is allowed an additional 60 days to complete the purchase. If the sales price and purchase are not completed within the two 60-day periods, Caltrans may dispose of the property using the procedure discussed in the previous paragraph.

* Caltrans may offer parcels to adjoining owners before offering them to public agencies to prevent the adjoining owners from initiating suits against the department or suffering hardships.

Caltrans' procedures allow other public agencies 60 days to notify the department of their intent to purchase the property at current fair market value. The public agency must conclude the purchase within one year, during which time the parcel will be held for the public agency. Caltrans may extend the time period under two conditions: when a legislative appropriation or a bond issue is required to fund the parcel or when there is a strong indication that the agency will conclude the transaction in the immediate future. If the property is not conveyed within the prescribed period of time or if the funding efforts fail, Caltrans may dispose of the property in the usual manner. Caltrans does not attempt to sell the parcel while it is being held for a public agency.

Additionally, Caltrans does not require a cash deposit when a public agency requests a parcel to be held or when a public agency requests that a hold be extended. However, a minimum 10 percent cash deposit is required if a sales agreement is made with the public agency.

Holds Approved
for Public Agencies

Our examination of parcel histories revealed that Caltrans has not complied with state statutes or with departmental procedures in holding parcels for public agencies.

While reviewing parcel files at the four district offices, we found that the department had extended holds for over two years on a total of 138 parcels for other public agencies. These parcels have an acquisition value of over $5 million.

One parcel, comprising more than 75 acres, has been held for over nine years for the United States Forest Service. The parcel, valued at $14,000 when inventoried in 1961, was placed on hold in 1972. Currently, the parcel is being held until December 1981.

Another parcel, with an acquisition value of $95,145, has been held for California's Department of Parks and Recreation for over five years. Since 1976, the public agency has been attempting to obtain funds to allow it to purchase the land. As of the end of our review, no sales agreement had been made, and the parcel continues to be held.

Caltrans has prevented parcels from being sold by approving extensive holds on parcels for public agencies. The revenues from the sale of these parcels would be directed to the State Highway Account. Also, land withheld from sale may adversely affect local property tax rolls. After evaluating sales of excess land during the first 10 months of 1981, we determined that most parcels are sold to taxpaying entities.

As a result of holds on these parcels, property tax revenues to local governments are not being increased, and the State Highway Account is not being replenished.

Engineering Holds Need Additional Documentation

In analyzing the excess land parcel histories, we identified 141 parcels that had been approved by management and held at the request of the engineering departments from one to eight years. The total acquisition value of these parcels is $4 million. On closer inspection, we noted incomplete or irrelevant documentation supporting the holds for 35 of these parcels that have an acquisition value of $1.8 million.

As discussed earlier in this section, Caltrans applies an engineering hold on parcels that may be needed for administering or constructing state transportation facilities. Departmental policy requires the engineering departments to prepare an application and, in some instances, an economic analysis to justify placing a parcel under an engineering hold. The application is to contain specific information such as the name of the engineering department requesting the hold, the route involved, the date when right-of-way lines will be established, the probability of need, and the length of time the parcel is to be held. If the acquisition value of the

parcel exceeds $500 or if the estimated disposal value exceeds $1,000, the engineering department must prepare an economic analysis. This analysis compares the gross revenue from selling a parcel immediately to the gross revenue from selling a parcel at a later date. Both the application and the analysis must be approved and reviewed annually by the Division of Right-of-Way.

Our analysis disclosed that engineering departments of Caltrans sometimes cite vague reasons in applications for holding excess parcels. As an example, we identified 13 parcels that were needed for an indefinite period of time and one parcel that was held for "possible design purposes." The management of Caltrans not only has approved these applications but has allowed extensions on them.

In addition, we found engineering holds that were inadequately documented. We identified 21 parcels that had been held based upon incomplete applications. The applications did not indicate when the right-of-way line was to be established or when construction would start. As a result, the application did not indicate when the parcel may be needed. For example, one parcel worth more than $400,000 at the time of acquisition has been held since October 1975. The application renewing the hold in October 1980 included no information

specifying when the right-of-way line would be established or when construction would begin. Even without this required information, management of Caltrans approved the hold.

Additionally, the economic analysis that engineering departments must prepare for a higher valued parcel does not appear to assist Caltrans officials in deciding whether to hold a parcel for project or operational purposes. The economic analysis compares the benefit of selling a parcel immediately to selling it later. The justification for holding a parcel should not address whether the parcel will increase in value over time but whether there is a high probability that the parcel will be needed for a specific departmental purpose. We identified parcels that were being held even though the economic analyses showed that their value would decrease if held. In these instances, the department disregarded the economic analyses.

By approving engineering holds based upon inadequate documentation, Caltrans may be delaying the disposal of excess land. As a result, revenues to the State Highway Account and to local governments may be reduced. Finally, unless applications cite specific reasons for holding a parcel and identify when a parcel will be needed, Caltrans may be holding excess land that should be reclassified.

CONCLUSION

The Department of Transportation has allowed extensive holds on excess land and has not adequately documented holds on certain parcels. Our review disclosed that Caltrans has held parcels for public agencies for over two years. Also, Caltrans has approved engineering holds for parcels even though the holds were insufficiently documented. As a result of these problems, land is not being made available for sale, a condition that may reduce revenues both to the State Highway Account and to local governments.

RECOMMENDATION

To ensure that holds of excess land requested by public agencies are valid, we recommend that the Department of Transportation require a 10 percent cash deposit for all holds exceeding one year; this deposit could be based upon the fair market value of the land. We further recommend that, in its biennial report to the Legislature, Caltrans identify all land held for public agencies over one year and cite the reason for the hold.

To ensure that excess land is either made available for sale or classified as right-of-way at the earliest possible time, we recommend that the Department of Transportation adopt these actions:

- Require that all the information requested on the hold application be complete before an approval to hold is granted;

- Reevaluate the need for using economic analyses as a justification for holding parcels for project or operational purposes;

- Reevaluate the parcels currently held for public agencies and reclassify the parcels appropriately.

THE DEPARTMENT OF TRANSPORTATION HAS NOT MAINTAINED AN ACCURATE MANAGEMENT INFORMATION SYSTEM

The Department of Transportation has not maintained an accurate management information system, as demonstrated by properties that have been erroneously excluded or included in the inventory listing. Specifically, we noted that Caltrans uses inconsistent procedures in compiling the inventory. In addition, the department had not adequately documented over 30 percent of the parcel files we reviewed.* Consequently, Caltrans is not effectively administering its management information system, a problem that may prohibit statewide evaluations or comparisons of property or delay the disposal of excess land. These conditions have resulted because of incomplete departmental guidelines for classifying properties and because the management of Caltrans has not implemented recommendations generated by annual compliance reviews.

We identified properties erroneously excluded from or included in the excess lands inventory. These demonstrated that Caltrans has not maintained an accurate or complete management information system. At the Los Angeles office, we

* The internal audit report issued September 1980 also addressed documentation of excess parcel files. The department officials have stated that they are implementing the report's recommendations.

found that a parcel having an acquisition value of $44,300 had been held in the excess lands inventory for 17 months before officials learned that the property is not excess land but is part of the right-of-way. We also noted that 221 parcels on a rescinded route in San Diego appraised at $3.4 million were omitted from the excess lands inventory. These parcels were excluded from the inventory listing because the Legal Division of Caltrans wanted the parcels to be withheld from sale. This action is not in compliance with a departmental regulation stating that rescinded route parcels are to be placed in the excess lands inventory.

Caltrans uses inconsistent procedures and practices in compiling the excess lands inventory. Two of the districts we visited transferred held parcels to a processing category while obtaining an appraisal or justifying an extension of a hold. According to management of the department, this procedure is improper because only newly acquired parcels should be placed in the processing category, not parcels previously held in other categories.

Another indication of this problem is that some parcels were categorized inconsistently. For example, we found that Caltrans personnel classified a parcel held for the Department of Housing and Community Development as held for a

public agency. They also classified another parcel, also held for this same department, as suspended by a public authority. Further, we found parcels held for economic reasons that could have been held for future right-of-way purposes. Thus, a parcel may be inconsistently classified depending upon how Caltrans personnel interpret the primary reason for the hold.

Additionally, the department has not adequately documented parcel files. We examined file documentation dating back to the early 1970s and found that 32 percent of the sampled files with an acquisition value of $2.4 million were inadequately documented. We found, for example, that some files did not indicate the current status of a parcel, did not present the file history, did not state a justification for a hold or for the classification, and did not explain the gaps in documentation from year to year.

We noted several instances of inadequate file documentation at both the Los Angeles and San Francisco offices. In the Los Angeles office, one file for a parcel with an acquisition value of $225,000 had not been documented in eight years. From 1972, when the parcel was certified as excess land, until 1980, when a public agency was notified of the sale of the land, no activity had been documented. Moreover, the Los Angeles office had not prepared files for

five parcels that, at the time of acquisition, were worth $66,000. And in the San Francisco office, we discovered two parcels that had been held for reasons that were not documented.

The inconsistent inventory procedures used by Caltrans as well as the failure to document parcel file activity have contributed to an inaccurate management information system. These problems, in turn, prevent Caltrans from using the parcel files to prepare statewide evaluations and comparisons of excess land. Hence, administering excess land parcels on the basis of the inventory listing is inadequate. In addition, failure to maintain the inventory filing system appropriately may delay the sale or disposal of excess land.

The right-of-way manual explains how to determine excess land and how to classify parcels but also allows inconsistent categorization. Excess land is not required for right-of-way or other operational purposes. Parcels are to be classified according to specific criteria. In addition, the manual specifies how parcel files should be documented. For each excess land parcel, district offices are to maintain a file documenting all the steps taken toward processing the parcel for disposal.

However, the right-of-way manual may contribute to the problems discussed since it allows different interpretations of parcel classification. Certain parcels may be correctly classified in either of two categories. In addition, the right-of-way manual allows for inconsistent procedures. Some provisions allow a parcel to be transferred to the processing categories while justifications are being reviewed. According to other provisions, processing categories are to be used only for parcels recently classified as excess land.

Another factor contributing to the procedural and documentation problems is that Caltrans does not follow up on recommendations made in its compliance reviews. Caltrans performs compliance reviews to monitor the excess land program and to correct deficiencies. Once Caltrans completes a review, the district offices provide a plan demonstrating how and when problems will be corrected. In most cases, the department relies on the district offices to correct the deficiencies and does not follow up on its recommendations until the subsequent compliance review. Finally, although the compliance reviews address documentation, Caltrans needs to place more emphasis in this area.

CONCLUSION

The Department of Transportation has not maintained an accurate excess land management information system. Procedures used in compiling the inventory are inconsistent, and parcel files lack necessary documentation. As a result, the management information system is inaccurate, a problem that may delay the disposal of excess land and prohibit statewide evaluations or comparisons of parcels. Departmental procedures include criteria for determining excess land, classifying excess land, and documenting files properly; nevertheless, regulations are neither clear enough nor sufficient enough to guarantee uniform compliance.

RECOMMENDATION

To ensure that inventory procedures and practices are administered consistently and adequately, we recommend that the Department of Transportation

- Establish explicit guidelines for classifying parcels and for detailing how categories may be used;

- Immediately follow up on all compliance reviews to ensure that identified deficiencies are corrected;

- Emphasize the need for adequately documenting and maintaining parcel files in the compliance review.

Respectfully submitted,

Thomas W. Hayes

THOMAS W. HAYES
Auditor General

Date: December 30, 1981

Staff: Thomas A. Britting, Audit Manager
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DEPARTMENT OF TRANSPORTATION
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December 28, 1981

Thomas W. Hayes, Auditor General
Office of the Auditor General
660 J Street, Suite 300
Sacramento, CA 95814

EXCESS LANDS
General

Dear Mr. Hayes:

Response to Draft Auditor General's Report No. 102

Thank you for the opportunity to review your draft report covering Caltrans' Administration of Excess Land. We also appreciate the opportunity to meet with your staff and discuss the presentation of their findings. While the main thrust of the report is directed to the Legislature in the form of recommendations pertaining to Chapter 1116, Statutes of 1979, there are some operational concerns raised. As mentioned in your report, many of these concerns have been identified by the Department and corrective action is being implemented. The Department is committed to improving its operations and any additional actions will be formalized and implemented after the issuance of your final report.

We would appreciate your consideration of the following comments before issuance of your final report:

1. Engineering Holds

The audit has found a significant number of parcels that have been approved for engineering holds on the basis of incomplete documentation supporting the holds. During May 1980, the Headquarters' Project Development Unit, at the specific direction of the Director reviewed all engineering holds encompassing 387 parcels with a value at time of acquisition of $8.1 million. This review, a copy of which is attached as Exhibit A, authorized the release of 25 parcels for sale. The review also verified the need to hold all other parcels for future project use. We appreciate that this hold analysis may not have been documented in the individual District Excess Land parcel files. This documentation will be added to these files. Our review process requires that each parcel under hold be periodically reviewed and recertified for continued engineering need. In addition, any new

requests are reviewed to ensure that maximum amounts of excess are released for sale.

2. Economic Analysis of Engineering Holds

Page 26 of your report questions the continued need for performing an Economic Analysis on parcels already certified for project holds on the basis of engineering need. This particular method of analysis was mandated by the Little Hoover Commission during their review of the Department's Excess Land procedures approximately 10 years ago. Given our current funding situation and the difficulty in setting project schedules, we agree that this process should be reviewed.

3. 10 Percent Cash Deposit for Public Agency Holds

Page 27 recommends that all public agencies expressing an interest in acquiring Caltrans' excess land be required to make a 10 percent cash deposit on all holds to exceed one year. In theory, this appears to be a practical solution but there are possible technical problems in its application. Currently, properties being held for an extensive period of time are subject to reappraisal of fair market value at time of actual sale. A 10 percent deposit could be construed as constituting an option for future purchase, thus fixing the sale price to the point of time at which the deposit was made. This would allow continued holding of the property for a minimal deposit and prevent the Department from recapturing future appreciation during the hold period.

In addition, our experience indicates that most public agencies do not have immediate funds available for land acquisitions, even for small deposits. Many public agencies would be unable to put up a deposit without legislative action, bond issues, or federal grants. The idea is good but of probable limited application.

4. Reconsideration of Parcels Held for Public Agencies

Reconsideration is a continual process. Attached, as Exhibit B, is our most recent review of all public agency holds, conducted at the request of the Little Hoover Commission. As part of an earlier review, procedures have been changed to

require Directorate approval of all public holds that will exceed one year. (Exhibit C).

5. Management Information System File Deficiencies

On pages 29 through 34, the report states numerous deficiencies associated with the parcel file backup for our computerized Excess Land Information System. This has previously been identified by the Department, and compliance review procedures with appropriate follow-up action have been instituted. An example of a recent corrective action is the attached compliance review of District 05 dated October 26, 1981 (Exhibit D).

Many of the file deficiencies, as noted in your report, occurred many years back. Our primary concern today is whether current file information is accurate and supports the current category of the particular parcel. Current file documentation problems will be corrected. It would not be cost effective to correct historical deficiencies which have no impact on current parcel status. We believe that the recommendation on Page 34 concerning correction of identified deficiencies should be limited to correcting file problems bearing on the current category only.

6. Inconsistent Categorization of Holds

Page 30 and again on Page 32 the report references inaccurate or inconsistent categorization of excess holds. We do not believe that the identified discrepancies represent a significant systemwide problem, but instead are mostly limited to a current problem dealing with the Department of Housing and Community Development holds only.

If any additional information is needed, please contact Denny Shields, Chief of our Program Evaluation and Management Review Division, on 445-1030.

MARLIN BECKWITH
Deputy Director
Administration and Finance

AUDITOR GENERAL NOTE: The Department of Transportation provided additional documents with this response. These documents are available upon request.

DIVISION OF RIGHT-OF-WAY
EXCESS LANDS INVENTORY
AS OF JULY 31, 1981

	Number of Parcels	Acquisition Value
Category 1 - Potentially Disposable		
1-A Available for immediate sale	630	$20,030,837
1-B Held for other public agencies	177	4,650,455
1-C Sales suspended by public authority	1,584	17,206,829
1-D Held for optimum return	212	1,147,389
1-E Temporarily unsaleable	178	68,472
Subtotal	2,781	$43,103,982
Category 2 - Engineering Holds		
2-A Held for same project	169	$ 3,177,836
2-B Held for other projects	111	2,273,611
2-C Held for departmental purposes	78	542,911
Subtotal	358	$ 5,994,358
Category 3 - Held for Processing		
3-A Pending clearance for sale	78	$ 750,616
3-B Pending justification	78	7,205,414
Subtotal	156	$ 7,956,030
Total	3,295	$57,054,370

CHAPTER 1116
STATUTES OF 1979

An act to add Article 8.5 (commencing with Section 54235) to Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, and to amend Section 118 of the Streets and Highways Code, relating to surplus property, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1979. Filed with Secretary of State September 28, 1979.]

The people of the State of California do enact as follows:

SECTION 1. Article 8.5 (commencing with Section 54235) is added to Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

Article 8.5. Surplus Residential Property

54235. The Legislature reaffirms its finding that the disposition of surplus property owned by public agencies should be utilized to further state policies.

The Legislature reaffirms its finding that there exists within the urban and rural areas of the state a serious shortage of decent, safe, and sanitary housing which persons and families of low or moderate income can afford, and consequently a pressing and urgent need for the preservation and expansion of the low and moderate income housing supply. The Legislature further reaffirms its finding that highway and other state activities have contributed to the severe shortage of such housing. The Legislature reaffirms that the provision of decent housing for all Californians is a state goal of the highest priority. The Legislature finds and declares that actions of state agencies including the sales of surplus residential properties which result in the loss of decent and affordable housing for persons and families of low or moderate income is contrary to state housing, urban development, and environmental policies and is a significant environmental effect, within the meaning of Article XIX of the California Constitution, which will be mitigated by the sale of surplus residential property pursuant to the provisions of this article.

The Legislature further finds and declares that the displacement of large numbers of persons as a result of the sale of surplus residential property owned by agencies of the state is a significant environmental effect, within the meaning of Article XIX of the California Constitution which will be mitigated by sale of such properties pursuant to the provisions of this article. The Legislature further finds that the effect of displacing small numbers of persons, as a result of individual sales, is a significant environmental effect, within the meaning of Article XIX of the California Constitution, which will be mitigated by the sale of surplus residential property pursuant to the provisions of this article.

The Legislature further finds and declares that the sale of surplus residential property pursuant to the provisions of this article will directly serve an important public purpose. Wherefore, the Legislature intends by this article to preserve, upgrade and expand the supply of housing available to persons and families of low or

moderate income. The Legislature further intends by this article to mitigate the environmental effects, within the meaning of Article XIX, of the California Constitution, caused by highway activities.

54236. (a) As used in this article, the term "offer" means to solicit proposals prior to sale in a manner calculated to achieve a sale under the conditions specified, and to hold such offer open for a reasonable period of time, which shall be no more than one year, unless such time is extended by the selling agency at its discretion, for a period to be specified by the selling agency.

(b) As used in this article, the term "affordable price" means, in the case of a purchaser, other than a lower income household, the price for residential property for which the purchaser's monthly payments will not exceed that portion of the purchasing household's adjusted income as determined in accordance with the regulations of the United States Department of Housing and Urban Development, issued pursuant to Section 235 of the National Housing Act; and, in the case of a purchaser that is a lower income household, the price for residential property for which the purchaser's monthly payments will not exceed that portion of the purchasing household's adjusted income as determined in accordance with the regulations of the United States Department of Housing and Urban Development issued pursuant to Section 8 of the United States Housing Act of 1937.

(c) As used in this article, the term "single-family residence" means a real property improvement used, or intended to be used, as a dwelling unit for one family.

(d) As used in this article, the term "surplus residential property" means land and structures owned by any agency of the state that is determined to be no longer necessary for such agency's use, and which is developed as single-family or multi-family housing, except property being held by the agency for the purpose of exchange.

Surplus residential properties shall only include land and structures which, at the time of purchase by the state, the state had intended to remove the residences thereon and to use the land for state purposes.

(e) As used in this article the term "displacement" includes, but is not limited to, persons who will have to move from surplus residential property that they occupy when it is sold by a state agency because they are unable to afford to pay the price which the state agency is asking for the residential property.

(f) As used in this article, the term "fair market value" shall mean fair market value as of the date the offer of sale is made by the selling agency pursuant to the provisions of this article. This definition shall not apply to terms of sale that are described as mitigation measures in an environmental study prepared pursuant to the Public Resources Code if such study was initiated prior to the enactment of this measure.

(g) As used in this article, the term "affordable rent" means, in the case of an occupant person or family, other than a person or

family of low or moderate income, rent for residential property which is not more than 25 percent of the occupant household's gross monthly income, and in the case of an occupant person or family of low or moderate income, rent for residential property which is not more than the percentage of the adjusted income of the occupant person or family as permitted under regulations of the United States Department of Housing and Urban Development issued pursuant to Section 8 of the United States Housing Act of 1937, but not in excess of the market rental value for comparable property.

(h) As used in this article, the term "area median income" means median household income, adjusted for family size as determined in accordance with the regulations of the United States Department of Housing and Urban Development issued pursuant to Section 235 of the National Housing Act, as amended (P.L. 90-448), for the Standard Metropolitan Statistical Area (S.M.S.A.), in which surplus residential property to be disposed of pursuant to this article is located, or the county in which such property is located, if it is outside an S.M.S.A.

(i) As used in this article, the term "persons and families of low or moderate income" means persons and families of low or moderate income as defined by Section 50093 of the Health and Safety Code.

(j) As used in this article, the term "lower income households" means lower income households as defined in Section 50079.5 of the Health and Safety Code.

54237. (a) Notwithstanding Section 11011.1, any agency of the state disposing of surplus residential property shall do so in accordance with the following priorities and procedures:

(1) First, all single family residences presently occupied by their former owners shall be offered to such former owners at the appraised fair market value.

(2) Second, all single-family residences shall be offered, pursuant to this article, to their present occupants who have occupied the property two years or more and who are persons and families of low or moderate income.

(3) Third, all single-family residences shall be offered, pursuant to this article, to their present occupants who have occupied the property five years or more and whose household income does not exceed 150 percent of the area median income.

(b) Single-family residences offered to their present occupants pursuant to paragraphs (2) and (3) of subdivision (a) shall be offered to such present occupants at an affordable price, which price shall not be less than the price paid by the agency for original acquisition, unless the acquisition price was greater than the current fair market value, and shall not be greater than fair market value. When such single-family residences are offered to present occupants at a price which is less than fair market value, the selling agency shall impose such terms, conditions and restrictions to assure that such housing will remain available to persons and families of low or moderate income and households with incomes no greater than the incomes of the present occupants in proportion to the area median income. The

Department of Housing and Community Development shall provide to the selling agency recommendations of standards and criteria for such prices, terms, conditions and restrictions. The selling agency shall provide repairs required by lenders and government housing assistance programs.

(c) If single-family residences are offered to their present occupants pursuant to paragraphs (2) and (3) of subdivision (a) the occupants shall certify their income to the selling agency. When such single-family residences are offered to present occupants at a price which is less than fair market value, the selling agency may verify such certifications, in accordance with procedures utilized for verification of incomes of purchasers and occupants of housing financed by the California Housing Finance Agency. The income limitations and term of residency requirements of paragraphs (2) and (3) of subdivision (a) shall not apply to sales that are described as mitigation measures in an environmental study prepared pursuant to the Public Resources Code, if such study was initiated prior to the enactment of this measure.

(d) All other surplus residential properties, and all properties described in paragraphs (1), (2), and (3) of subdivision (a) which are not purchased by the former owners or the present occupants shall be then offered to housing-related private and public entities at a reasonable price, which is best suited to economically feasible use of the property as decent, safe, and sanitary housing at affordable rents and affordable prices for persons and families of low or moderate income, on the condition that the purchasing entity shall cause the property to be rehabilitated and developed as limited equity cooperative housing with first right of occupancy to present occupants, except that where the development of such cooperative or cooperatives is not feasible, the purchasing agency shall cause the property to be used for low and moderate income rental or owner-occupied housing, with first right of occupancy to the present tenants. The price of the property in no case shall be less than the price paid by the agency for original acquisition unless the acquisition price was greater than current fair market value, and shall not be greater than fair market value. Subject to the foregoing, it shall be set at the level necessary to provide housing at affordable rents and affordable prices for present tenants and persons and families of low or moderate income. When such residential property is offered at a price which is less than fair market value, the selling agency shall impose such terms, conditions and restrictions as will assure that such housing will remain available to persons and families of low or moderate income. The Department of Housing and Community Development shall provide to the selling agency recommendations of standards and criteria for such prices, terms, conditions and restrictions.

(e) Any surplus residential properties not sold pursuant to subdivisions (a) to (d), inclusive, shall then be sold at fair market value, with priority given first to purchasers who are present

occupants and then to purchasers who will be owner occupants.

54238. In the event a purchaser of surplus residential property does not comply with terms, conditions, and restrictions imposed pursuant to Section 54237 of this article, to assure that such housing will remain available to persons and families of low or moderate income, the state agencies which sold the property may require that the purchasers pay the state the difference between the actual price paid by the purchaser for the property and the fair market value of such property, at the time of the agency's determination of noncompliance, plus 6 percent interest on such amount for the period of time the land has been held by the purchaser. This section does not limit the right to seek injunctive relief to enforce the provisions of this article.

54238.4. This article is intended to benefit persons and families subject to displacement and persons and families of low or moderate income. The article shall be liberally construed to permit such persons or families to enforce the rights, duties, and benefits created by the article.

54238.5. Failure to comply with the provisions of this article shall not invalidate the transfer, sale, or conveyance to a bona fide purchaser for value or an encumbrancer for value.

54238.6. If a provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application thereof, and to this end the provisions of this article are severable.

SEC. 2. Section 118 of the Streets and Highways Code is amended to read:

118. Whenever the department determines that any real property or interest therein, heretofore or hereafter acquired by the state for highway purposes, is no longer necessary for such purposes, the department may sell, contract to sell, sell by trust deed, or exchange such real property or interest therein in the manner and upon terms, standards, and conditions established by the commission. The payment period in any such contract of sale or sale by trust deed shall not extend longer than 10 years from the time such contract of sale or trust deed is executed, and any such transaction involving a contract of sale or sale by trust deed to private parties shall require a downpayment of at least 30 percent of the purchase price, except that, in the case of unimproved real property sold or exchanged for the purpose of housing for persons of low and moderate income, as defined in Section 50093 of the Health and Safety Code, the payment period may not exceed 40 years and the downpayment shall be at least 5 percent of the purchase price. All contracts of sale or sales by trust deed, for the purpose of housing for low and moderate income persons shall bear interest. The rate of interest for any such contract or sale shall be computed annually, and shall be the same as the average rate returned by the Pooled Money Investment Board for the past five fiscal years immediately

preceding the year in which the payment is made. Such contract of sale and sales by trust deeds shall not be utilized if the proposed development or sale qualifies for financing from other sources and if such financing makes feasible the provision of low and moderate income housing. Any such conveyance shall be approved by the commission and shall be executed on behalf of the state by the director and the purchase price shall be paid into the State Treasury to the credit of any fund, available to the department for highway purposes, which the commission designates.

Any such real property or interest therein may in like manner be exchanged, either as whole or part consideration, for any other real property or interest therein needed for state highway purposes.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that surplus residential properties owned by state agencies may be disposed of in a manner that will provide additional housing in this state, thereby improving the health and welfare of the residents of this state, at the earliest possible time, it is essential that this act take immediate effect.

cc: Members of the Legislature
Office of the Governor
Office of the Lieutenant Governor
Secretary of State
State Controller
State Treasurer
Legislative Analyst
Director of Finance
Assembly Office of Research
Senate Office of Research
Assembly Majority/Minority Consultants
Senate Majority/Minority Consultants
California State Department Heads
Capitol Press Corps