

**County of Ventura  
AUDITOR-CONTROLLER  
MEMORANDUM**

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**To:** Bob Roper, Fire Chief

**Date:** October 4, 2010

**From:** Christine L. Cohen

**Subject: ISSUES ARISING FROM VERIFICATION OF EMPLOYEE FRAUD HOTLINE ISSUE 08-0037 REGARDING VEHICLE ASSIGNMENTS/USE AND OVERTIME/STANDBY ALLOCATIONS FOR THE VENTURA COUNTY FIRE PROTECTION DISTRICT**

We have completed our verification of Employee Fraud Hotline Issue 08-0037, which did not substantiate the allegations. However, our verification identified other issues regarding vehicle assignments/use and overtime/standby allocations for the Ventura County Fire Protection District (VCFPD), which are provided below.

This report is not deemed confidential and may be subject to public inspection pursuant to the disclosure provisions of Government Code Sections 6250 et seq. and 53087.6.

**BACKGROUND**

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VCFPD provides fire protection, emergency medical services, community education, suppression, hazardous material monitoring, rescue and related emergency services to the communities within the district. VCFPD assigns County vehicles to designated County employees to assist in accomplishing VCFPD's mission. Of the 91 vehicles in VCFPD's fleet during June 2009, excluding emergency vehicles such as fire trucks, 73 were assigned to designated VCFPD personnel. Of the 73 assigned vehicles, 41 were authorized to be taken home and stored at each designated employee's residence.

In addition, due to the nature of the services provided by VCFPD personnel, overtime compensation is often needed to meet mandated requirements, emergency situations, and seasonal or peak overload requirements. Employees may also be placed on standby status due to forecasted emergency conditions. During fiscal year (FY) 2007-08, the \$17.1 million in total VCFPD overtime paid was distributed among 94 percent of all VCFPD employees. During this same period, the \$176,000 in VCFPD standby pay was distributed among 24 percent of VCFPD employees.

**SCOPE**

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During our verification of Employee Fraud Hotline Issue 08-0037, we noted other issues regarding VCFPD's vehicle assignments and use and the allocation of overtime and standby hours. Our review of these other issues included discussions with VCFPD management and the review of personnel listings and rosters, vehicle type assignments, policies and regulations, and relevant payroll records. For our review, we used documents from July 2006 through August 2010.

## FINDINGS

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We noted that action was needed to comply with reporting requirements for personal use of County vehicles and to develop written procedures for the assignment of overtime and standby hours. Following are details of the areas where action and improvements were needed. VCFPD management initiated corrective action as noted.

### 1. Reporting Compliance for Personal Use of County Vehicles.

VCFPD personnel did not always report personal use of County vehicles as required. The Code of Federal Regulations (CFR) specifies that an employee's personal use of an employer-provided vehicle is considered as wages unless certain conditions are met. These conditions include exceptions for qualified nonpersonal use vehicles that are not likely to be used more than a de minimis amount for personal purposes, such as ambulances [26 CFR 1.274-5(k)]. Exceptions are also specified, in pertinent part, for "[c]learly marked police, fire, or public safety officer vehicles...required to be used for commuting by a police officer, fire fighter, or public safety officer...who, when not on a regular shift, is on call at all times, provided that any personal use (other than commuting) of the vehicle outside the limit of the police officer's arrest powers or the fire fighter's or public safety officer's obligation to respond to an emergency is prohibited by such governmental unit" [26 CFR 1.274-5(k)(3)].

The Auditor-Controller annually requests that departments report the personal use of County vehicles for employees/vehicles that do not meet the exception provisions. The value of such personal use of a County vehicle must be reported to the Internal Revenue Service as a fringe benefit included in the employee's gross income [26 CFR 1.61.21(a)]. However, our review disclosed that 16 (39%) of the 41 VCFPD employees assigned County vehicles used in part for commuting did not meet the exception provisions and did not report personal use of the vehicles. Specifically:

- Two employees currently authorized to take assigned vehicles home, which are not qualified nonpersonal use vehicles, are not reasonably considered to be police officers, fire fighters, or public safety officers and have not complied with the reporting requirement. These employees must estimate the personal use of County vehicles from January 1, 2007 through December 31, 2009, and report such mileage to the Auditor-Controller no later than February 15, 2011, for corrections to each employee's W-2 Wage and Tax Statement as required by Revenue Ruling 2009-39. These employees must also comply with reporting requirements for calendar year 2010 and, if personal use continues, for future years.
- Two employees currently authorized to take assigned vehicles home, which are not qualified nonpersonal use vehicles, and reasonably considered to be public safety officers did not comply with the reporting requirement prior to the change in 26 CFR 1.274-5(k)(3), which added public safety officers to the exempted classifications effective May 19, 2010. These employees must estimate the personal use of County vehicles from January 1, 2007 through December 31, 2009, and report such mileage to the Auditor-Controller no later than February 15, 2011, for corrections to each employee's W-2 Wage and Tax Statement as required by Revenue Ruling 2009-39.

These employees must also comply with reporting requirements for calendar year 2010 for personal use that occurred from January 1 to May 19, 2010.

- Twelve employees authorized to take assigned vehicles home, which were not qualified nonpersonal use vehicles, prior to a restriction in doing so effective July 20, 2009, were not reasonably considered to be police officers or fire fighters and did not comply with the reporting requirement prior to the restriction date. These employees must estimate the personal use of County vehicles from January 1, 2007 to July 20, 2009, and report such mileage to the Auditor-Controller no later than February 15, 2011, for corrections to each employee's W-2 Wage and Tax Statement as required by Revenue Ruling 2009-39.

**Management Action.** VCFPD management concurred with the finding and stated: "The District will ensure that its employees comply with both the Auditor-Controller's policy on personal use of vehicles and the Internal Revenue Service's rules on the same. Identified personnel will complete the necessary paperwork to ensure that their W-2's include amounts for reported personal use of County vehicles."

2. **Written Procedures for Overtime and Standby Assignments.** Written procedures to support the rationale for the assignment of overtime and standby hours had not been established, which may potentially lead to the perception of improper bias. VCFPD assigns overtime and standby hours by assessing departmental needs and staff qualifications and availability. Application of these criteria could be perceived by others not involved in the selection process as preferential treatment given to certain personnel without proper written procedures authorizing the use of these criteria. In addition, the risk of improper bias in selecting staff for overtime or standby may be reduced by formally documenting how selections are to be made.

**Management Action.** VCFPD management concurred with the finding and stated: "The District has already implemented a policy for the assignment of non-emergency overtime. This policy controls the distribution of overtime so it is equitably divided based on year-to-date accumulated overtime hours by individual. The Policy identifies that standby hours are generally approved during heightened states of emergency readiness and, as such, are assigned to the individual that has been scheduled to cover the logistics function for the week. While standby hours may or may not be equally distributed, the fact that they are approved based on emergency need eliminates the potential for an unfair method of distribution. The Policy recognizes the limitations as it relates to emergency overtime. When an emergency occurs and staffing is needed from the Fire Prevention Bureau, the Logistics Chief sends out a page for help to all Prevention employees. Emergency overtime is then distributed on a first call basis due to the emergent need."

## **AUDITOR'S EVALUATION OF MANAGEMENT ACTION**

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We believe that management actions taken or planned were responsive to our findings. VCFPD management planned to complete corrective actions by November/December 2010, except for action relating to Finding 2, which has already been implemented.

Bob Roper, Fire Chief

October 4, 2010

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We appreciate the cooperation and assistance extended by you and your staff during this engagement.

cc: Honorable Kathy Long, Chair, Board of Supervisors  
Honorable Linda Parks, Board of Supervisors  
Honorable Steve Bennett, Board of Supervisors  
Honorable Peter C. Foy, Board of Supervisors  
Honorable John C. Zaragoza, Board of Supervisors  
Marty Robinson, County Executive Officer