

REPORT BY THE
AUDITOR GENERAL
OF CALIFORNIA

Telephone:
(916) 445-0255



Thomas W. Hayes
Auditor General

STATE OF CALIFORNIA
Office of the Auditor General
660 J STREET, SUITE 300
SACRAMENTO, CA 95814

**THE STATE HAS HAD PROBLEMS
IN PLANNING AND DESIGNING
THE SAN DIEGO PRISON**

May 23, 1985

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Honorable Art Agnos, Chairman
Members, Joint Legislative
Audit Committee
State Capitol, Room 3151
Sacramento, California 95814

Dear Mr. Chairman and Members:

The Office of the Auditor General presents its report concerning the problems the State has had in planning and designing the California State Prison at San Diego.

Respectfully submitted,

Thomas W. Hayes
THOMAS W. HAYES
Auditor General

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U.S. Department of Justice
National Institute of Justice

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SUMMARY

The Department of Corrections (department) has not met its schedule for planning and designing the California State Prison at San Diego. The prison is at least ten months behind schedule because the department has changed the design of the prison. As a result, the prison will not be completed until January 1987 and therefore will not be able to alleviate overcrowding at other prisons as originally planned. The department has not completed arrangements for a system to dispose of sewage from the prison.

In addition, the department's accounting and contract practices have not complied with provisions of the Government Code and the State Administrative Manual. The department has improperly allocated costs to the appropriations for construction of the San Diego prison and has not complied with state contracting requirements.

The San Diego Prison Will Not Operate
on Schedule Because of Design Changes

The department's plans for building a prison at San Diego have fallen behind schedule by almost one year because the department changed the design of the prison and has not provided a sewer system for the prison. In May 1983, the department planned to add 500 cells to the prison and to make design changes to reduce the cost of the prison. In September 1983, the Legislature authorized the department to add the 500 cells and established a limit on the project's costs. While these changes did delay the prison's schedule and add \$560,775 in architectural fees, they also reduced the estimated costs of the prison by over \$50 million. In August 1984, the department had the architect redesign the placement of the prison's facilities for its education, training, and industrial programs. As a result, the prison was delayed another five months, and the State will pay the architect an additional \$207,950.

The department did not authorize a study to determine the options for an off-site sewage system for the prison until March 1984. It did not select a system until December 1984. Further, the department did not have a management schedule to identify critical planning activities required to establish sewage systems for new prisons.

The Department Has Used Improper
Accounting and Contracting Practices

During the planning and design of the San Diego prison and several other new prisons, the department has not always correctly allocated costs to the appropriations for the San Diego prison. One contractor submitted to the department invoices for work done at other projects. However, the department attributed \$449,654 in costs on those invoices to the San Diego project although only \$65,000 should have been charged. In addition, some contractors began work on new prisons before contracts for the work took effect.

In our report, we recommend improvements in the department's procedures to prevent similar problems from occurring at other prison projects.

INTRODUCTION

The Department of Corrections (department) is responsible for the control, care, and treatment of men and women whom the courts have convicted of serious crimes and committed to state correctional institutions. The department operates 42 institutions throughout the State, including 12 prisons and, in cooperation with the Department of Forestry and Los Angeles County, 30 conservation camps.

California is experiencing a rapid rise in its prison population. Between June 30, 1975, and March 17, 1985, the inmate population rose from 23,998 to 44,570 inmates, an increase of 86 percent. The capacity of the State's penal institutions is 30,929; however, the current occupancy rate for state institutions is 144 percent of their designated capacity. According to department projections, the inmate population is expected to increase to 58,135 by June 30, 1990.

To accommodate the anticipated increase of inmates into the correctional system, the department plans to increase prison capacity to house an additional 19,400 inmates by 1987. Chapter 11 of the Penal Code requires the department to prepare plans for and construct those prison facilities included in the department's master plan for which the Legislature has appropriated funds. It is the responsibility of the department's Planning and Construction Division to plan and construct new prisons and improve existing prisons.

The department is currently working under the 1984-89 Facilities Plan, which includes projections of inmate growth over the five-year period and plans for building prisons to accommodate this projected growth. Included in this plan is a 2,200 cell prison in San Diego. At the time of our review, construction on the site had not yet begun, and the original completion date of February 1986 has been changed to January 1987. However, the department will probably not be able to complete the San Diego prison by January 1987 because of several obstacles that must be overcome before the prison will have a sewage disposal system. For a chronological overview of the San Diego Prison Project, see Appendix A.

SCOPE AND METHODOLOGY

We reviewed the Department of Corrections' planning and design of the California State Prison at San Diego. We sought to determine the estimated costs of the prison, whether it would be completed on schedule, and whether the department's accounting and contracting practices for the prison comply with applicable state policy.

To determine the estimated costs of the prison, we reviewed department accounting records and cost estimates, and we interviewed staff of the department's Administrative Services Division. To determine if the prison would be completed on schedule, we reviewed department plans and schedules, and we interviewed officials of the department's Planning and Construction Division. We also interviewed

officials of Kitchell CEM, the department's consultants for program management services, and we reviewed reports and schedules they produced.

During our review, we sought to determine why the department has not yet completed arrangements for a sewer system for the prison. We reviewed department records and reports and interviewed department officials to determine what actions the department has taken to complete the arrangements. We also interviewed officials of the City and County of San Diego and the Otay Mesa International Center to determine what effect their actions may have had on the plans for a sewer system.

To determine if the department's accounting and contracting practices comply with state requirements, we reviewed the department's contracts with Kitchell CEM, Heery/VCM, and the Hope Consulting Group. We reviewed invoices from the consultants to the department, and we compared the invoices with records of expenditures to determine the department's total expenditures for the project. We also compared the department's expenditures with the appropriations for the project to determine if the charges to appropriations comply with state requirements. Finally, we reviewed the contracts and amendments to determine if they comply with state requirements that prohibit contractors from starting work before the contracts are approved by the Department of General Services.

CHAPTER I

**THE CALIFORNIA STATE PRISON AT SAN DIEGO
WILL NOT OPERATE ON SCHEDULE
BECAUSE OF DESIGN CHANGES**

The project to build a state prison in San Diego has fallen behind schedule by at least ten months. The project has fallen behind schedule partly because of changes to the original design of the prison. In 1983, the Legislature authorized the addition of 500 cells to the facility and limited the amount per cell that the Department of Corrections (department) could spend on the project. As a result, the department made a major change in the design of the prison and lowered its estimated cost to build the prison by \$52.2 million. In addition, the project was further delayed because the New Prison Policy Committee approved a design that the department later determined did not meet policy guidelines. Finally, the department did not study possible methods to dispose of the prison's sewage and to decide on one promptly. The department has added staff members and has implemented a schedule of activities to help avoid these delays on future projects.

Because the San Diego prison will not open on schedule, it will not help alleviate the overcrowding in California prisons as early as it was scheduled to. In fact, overcrowding will be approximately 9 percent higher than it would have been if the prison had been completed on schedule. The ultimate effect of such a delay is to jeopardize the safety of prison employees, inmates, and the public.

Another consequence of the delay in the construction of the San Diego prison is that the State had to pay a private firm for construction management services that the State did not receive.

DESIGN CHANGES IN 1983 CAUSED DELAYS
IN THE CONSTRUCTION OF THE PRISON
BUT REDUCED ITS ESTIMATED COSTS

In 1983, the department authorized design changes in the San Diego prison to increase the number of cells and reduce the cost of the prison. These changes in design delayed the project.

Before September 1981, the Office of the State Architect was responsible for the design and construction of prisons in the State. However, Chapter 540, Statutes of 1981, authorized the department to plan and construct new prisons and renovations for existing prisons. In April 1982, the department hired the Hope Consulting Group (formerly Frank L. Hope and Associates), which the Office of the State Architect had contracted with since 1979, to provide architectural plans and designs for the new medium security prison in San Diego. The plans for this prison were to serve as a model for other medium security prisons. The department estimated in February 1983 that the San Diego prison, designed for 1,700 cells, would cost about \$141.4 million and would be completed by March 1986. However, the department delayed further development of the designs for the 1,700 cell prison so that additional cells could be added.

As the June 1983 Facilities Master Plan indicates, the department planned to add 500 cells to the San Diego prison. Department projections indicated that this additional capacity was needed to help reduce overcrowding at existing prisons. The department estimated that the additional 500 cells would increase the total cost of the prison to \$194 million.

The department's deputy director for planning and construction told us that the cost of the prison, including the 500 additional cells, was too high. He added that in May 1983, the department authorized its management consultant, Kitchell CEM (formerly Rosser/Kitchell), to study ways of reducing construction costs of new prisons. Kitchell CEM's study, completed in August 1983, suggested several methods for reducing the cost of constructing and operating prisons. For example, it recommended using less expensive construction techniques and a more economical design for the housing buildings. This new design for housing buildings required fewer guard stations and therefore reduced costs.

In September 1983, Chapter 958, Statutes of 1983, authorized the addition of the 500 cells to the San Diego prison. It also set limits on its cost and on the size of the correctional staff to operate the prison. The law limited the costs of the prison to \$50,000 per cell, excluding the cost of equipment and off-site utilities, unless the Joint Legislative Prison Committee found that the limit could not be met. The department then amended its contract with the architect to

provide an additional fee of \$560,775 to implement the new design for the prison, and in January 1984, the architect resumed work on the prison.

In April 1984, the department estimated that the prison would cost \$138.7 million. Kitchell CEM, however, currently estimates that the prison will cost \$141.8 million and will be completed in January 1987. Both of these estimates reflect reductions of over \$50 million from the original estimate of \$194 million for the cost of the prison. However, neither Kitchell CEM's estimate of \$141.8 million nor the department's estimate of \$138.7 million meets the Legislature's limit on the cost per cell of the prison. As previously noted, the Legislature had limited the cost of the San Diego prison to \$50,000 per cell, excluding the cost of equipment and off-site utilities, unless the Joint Legislative Prison Committee found that such a limit could not be met. In January 1985, this committee approved an increased expenditure of \$55,000 per cell. Both estimates exceed this new limit.

IN 1984, A DECISION BY THE
NEW PRISON POLICY COMMITTEE
FURTHER DELAYED THE PROJECT

By August 1984, the architect had prepared drawings for the placement of buildings at the San Diego prison. However, because the New Prison Policy Committee (committee) of the Youth and Adult Correctional Agency had previously directed the architect to prepare a design for the prison buildings that the department later determined

would not comply with the department's established policy guidelines, the department was forced to direct the architect to produce new drawings that complied with the guidelines.* As a result, the department paid the architect an additional \$207,950 and delayed construction of the prison for another five months.

The department's guidelines for the planning of new prisons specify that a prison may consist of more than one discrete facility. Each facility may house a maximum of 500 inmates, and each must maintain its autonomy from other facilities. These guidelines are intended to minimize inmate movement among the separate prison facilities and to reduce the contact among inmates assigned to different facilities.

In February 1984, the architect submitted to the committee several options for the design of the San Diego prison, which was to consist of four medium security facilities and one minimum security facility on one site. In the plan that the committee chose, the prison's educational, vocational training, and industrial programs were located in separate prison facilities. The Undersecretary of the Youth and Adult Correctional Agency told us that the committee did not

*The New Prison Policy Committee is composed of the Undersecretary and a Deputy Secretary of the Youth and Adult Correctional Agency, the Director and Chief Deputy of the Department of Corrections, and members of the department staff.

recognize at the time the potential for increased traffic when inmates had to move from one program to another and therefore from one facility to another. He also said that, although the design that the committee chose met the guidelines for reduced traffic among support functions such as the kitchen, laundry, and infirmary, the committee did not review the patterns of inmate traffic that would result if the prison's work and training programs were housed in separate facilities. As a result, on March 14, 1984, the committee chose a design that the department later determined did not comply with department guidelines.

In April 1984, the architect presented to the department a preliminary version of the design for the prison. While reviewing the design, a member of the Prison Industry Authority recognized that using the building plan that the committee had selected, with a separate program activity situated in each prison facility, could disrupt a program completely if the facility that housed it had to be secured from other facilities. In addition, the department's Program Planning Unit also realized that this plan could violate the department's policy guidelines. For example, if more inmates had to be assigned for work or training to one facility than could be housed there, it would be necessary to move inmates among facilities for program activities. The resulting increase in inmate traffic would violate the requirement for a minimum of movement of inmates among facilities.

Although the department detected the potential design problem in April 1984, it did not tell the architect to stop work on this design. The department did, however, on May 4, 1984, authorize a study of the problem. On July 10, 1984, the Program Planning Unit issued a memorandum to the New Prison Policy Committee indicating that the design selected by the committee would not meet policy guidelines and suggesting a design that would meet the guidelines.

On August 14, 1984, as scheduled, the architect was prepared to deliver to the department the completed set of documents for the design that the committee had originally chosen. However, on August 16, 1984, the department asked the architect to revise the design for the prison so that it would comply with the guidelines and would include academic, vocational training, and prison industry programs in each of the four separate prison units. This change in design cost the department an additional \$207,950 for the architect's services. According to the department, the architect had to redesign nearly 25 percent of the prison's square footage and did not deliver the new design documents until January 16, 1985. Therefore, the next phase of the project, the development of the designs with more detailed costs and specifications, had to be delayed five months.

THE DEPARTMENT OF CORRECTIONS
DID NOT ACT PROMPTLY
TO DEVELOP THE SEWAGE SYSTEM

The department delayed in evaluating various methods to dispose of sewage and in selecting the most feasible one. Although the department recognized in October 1983 the need for a study of the off-site sewage disposal options, it did not request the study until April 1984. The department did not select an off-site option until December 1984. Also, the department did not have a management schedule to identify the sequence of activities to be followed in evaluating and selecting potential prison sites, including the evaluation of sewage disposal requirements. Now, however, the department has a schedule to use in managing new prison projects, and the department now has additional staff to perform the activities identified in the management schedule.

According to two prison builders that we contacted, it is standard policy and practice to evaluate methods of sewage disposal before a construction site is selected. The Office of the State Architect describes the general conditions that must be considered in developing a sewage disposal system in its preliminary evaluations of potential sites for construction projects. In the private sector, the Corrections Corporation of America, a nationwide builder of prisons, also studies methods of sewage disposal as it is studying the general suitability of a site for prison construction. According to this corporation's Vice President for Design and Construction, the

preliminary evaluation identifies the steps to establish a suitable sewage disposal system.

When the department acquired the site for the San Diego prison in March 1983, its plan was to build a 1,700 bed institution. Based on a 1982 site comparison study, the department planned for on-site treatment and disposal of sewage generated by the prison. However, the San Diego prison Environmental Impact Report filed in January 1983, which discussed on-site sewage disposal, indicated that this disposal system needed further environmental analysis. The report also pointed out that the feasibility of off-site sewage disposal was uncertain. Although the department planned, in May 1983, to increase the inmate capacity for the San Diego prison to 2,200, it did not study the impact of this increased capacity on its proposed method of on-site sewage disposal.

In July 1983, the City of San Diego presented another option for sewage disposal to the department. Under this plan, the department could use the city's sewer system by connecting into a proposed city sewer line that was to service a new development. In its Project Planning Guide, dated October 14, 1983, the department recognized the need for further study of the off-site alternatives to dispose of sewage. However, the department did not request such a study until April 1984, six months after recognizing the need for the study.

In June 1984, the department received the results of the study of the possible methods for off-site sewage disposal. The department's architectural and engineering consultants advised the department to decide immediately on a sewage disposal method in order to avoid any further delays in the prison occupancy date. However, the department did not select a method to dispose of sewage at the San Diego prison until December 1984.

According to both the Deputy Director of the department's Planning and Construction Division and the Chief of its Construction Operations Branch, the department did not evaluate and select a method to dispose of sewage earlier because staff responsible for new prison construction were working on other projects that had higher priority than the San Diego prison. They were developing the prototype prison designs, exploring methods for housing inmates, and researching ways to reduce the costs of prisons. In addition, they were involved in the Sacramento County and Solano County prison projects during 1984. The division's deputy director also told us that the department now has more staff to work on new prison construction. In 1984, the department created the Construction Support Branch to help administer new prison construction, and it established positions for construction project directors to oversee the building of prisons. However, three of the five project director positions are currently unfilled. The Construction Operations Branch Chief told us that the department has selected the candidates but has not received approval to fill the positions.

Furthermore, the department did not have a detailed management schedule that would allow department staff to identify the sequence of activities that they should follow in evaluating and selecting potential prison sites. Included in the schedule of activities is the preparation of a site evaluation report, which includes the evaluation of the site's sewage disposal requirements. In October 1983, Kitchell CEM provided the department with a Prison Scheduling Manual that identified the need to prepare a preliminary site evaluation and an analysis of sewage disposal. However, the manual did not specify the order in which these activities were to occur or delineate the requirements applicable to each. A suitable, more detailed management schedule was not available until August 1984. Although this schedule cannot be used for the San Diego prison project, the Chief Scheduler for Kitchell CEM told us that it is being used to identify the sequence of activities to establish a sewage disposal system for the prison being planned for Kings County.

Even though the department has now decided to dispose of prison sewage by connecting into the City of San Diego's proposed sewer line, there are a number of factors that could cause delays in the construction of the currently proposed sewer line or force the department to abandon its current plans and select another method to dispose of prison sewage. First, in compliance with the California Environmental Quality Act, the department must complete an Environmental Impact Report (EIR) to identify the significant effects of the prison on the environment and ways to minimize the significant

effects. In January 1985, the department asked the Department of General Services to prepare a supplement to the EIR, called a negative declaration, which states that the proposed sewer line will have no significant effect on the environment. The public has 30 days to review and question the negative declaration. Public review of the negative declaration is planned for May 1985. If concerned individuals or groups take legal action against the department, it may be unable to proceed with the acquisition of the right-of-way it needs for the sewer line.

Second, in the department's current negotiations with the City of San Diego for transportation, treatment, and disposal of the prison sewage, San Diego has proposed that the department pay a fee of \$2,420,298 to connect into the city's sewer system. However, California Constitution Article XIII, Section 3, states that property owned by the State is exempt from taxation. Courts have construed this section to mean that unless authorized by the Legislature, state property is exempt from special assessments, such as connection fees. The department's Construction Operations Chief stated that the department would like to avoid legal intervention, which is both costly and time-consuming, and has decided to pay the connection fee required by the city. Therefore, the department has proposed legislation that will allow payment of the connection fee. If the proposed legislation is not enacted, the completion of the sewage disposal system could be delayed because the department may then have to take legal action against the city or formulate another method to dispose of the prison's sewage.

Third, the department must acquire the right-of-way for the proposed sewer line. The Real Estate Services Division of the Department of General Services has prepared an appraisal for the right-of-way that the State will have to acquire for the sewer line. A land agent in this division stated that the appraisal must be presented to the Public Works Board for approval. The Department of General Services will then develop agreements with the landowners, and the Public Works Board will authorize the acquisition of the right-of-way. If the Department of General Services has difficulty obtaining the required approvals or agreements, the completion of the San Diego prison sewage disposal system could be further delayed.

Finally, the department is relying on a private developer to complete a portion of the City of San Diego's sewer system into which the department will connect the prison's sewer line. The developer has contracted with San Diego to complete construction of the sewer system in May 1986. However, if the developer does not meet the schedule, the department will be unable to connect into the City of San Diego's sewer system in May 1986 and will, therefore, probably not be able to operate the first of the four prison housing units by October 1986, as it now plans to do.

Because the San Diego prison will not be completed by February 1986, inmates who could be housed in this prison will continue to overcrowd existing facilities. According to the department's 1984-89 Facilities Plan, overcrowded prison conditions may result in a

greater likelihood of violent behavior in the institution, a greater likelihood of escapes, and more difficulty in managing and controlling inmates. On March 17, 1985, prisons designed for 30,929 housed a statewide inmate population of 44,570, 144 percent of capacity. By February 1986, the department expects the capacity to increase to 32,772 and the population to increase to 47,409, representing a 145 percent occupancy rate. This rate would have been 136 percent had the 2,200 cells been available at San Diego as originally scheduled.

CONCLUSION

The San Diego prison is at least ten months behind schedule because the Department of Corrections changed the design of the prison and failed to decide promptly on a method of sewage disposal.

The department delayed the prison project and paid the architect an additional \$560,775 to add 500 cells to the prison. However, the Legislature limited the amount that could be spent, and the department reduced the estimated cost of the prison by over \$50 million. The department also delayed the prison project and paid the architect an additional \$207,950 because the New Prison Policy Committee had approved a design that the department later determined did not meet policy guidelines.

The department recognized the need to study the off-site sewage disposal options in October 1983. However, the department did not request the study until April 1984. In addition, although the department obtained the results of the study in June 1984, it did not select an off-site sewage disposal method until December 1984.

RECOMMENDATIONS

To ensure that the Prison Industry Authority staff review the placement of programs within new prisons, a representative of the Prison Industry Authority should serve on the New Prison Policy Committee.

To avoid incorrect directions to the architect, the Department of Corrections should develop specific guidelines for the placement of program functions within the prison facilities.

For each new prison it plans to construct, the department should use a management schedule for site evaluation and acquisition to identify the sequence of activities that must be performed to establish a sewage disposal system for the prison.

Whenever there is a change in prison design that may affect the planned method of sewage disposal, the department should reevaluate the feasibility of its original method.

To carry out the activities identified in the management schedule, the department should fill the vacant project director positions as soon as possible.

CHAPTER II

THE DEPARTMENT OF CORRECTIONS' ACCOUNTING AND CONTRACT PRACTICES HAVE BEEN UNSOUND

The Department of Corrections' practice of charging expenditures to the appropriations for construction of the San Diego prison has been improper. Consequently, the department issued inaccurate financial statements for the fiscal year ending June 30, 1984. The department plans to correct its financial statements. In addition, the department has not complied with State Administrative Manual provisions prohibiting contractors from starting work before the Department of General Services approves the contract.

SOME CHARGES TO SAN DIEGO CAPITAL OUTLAY APPROPRIATIONS ARE INACCURATE

The department entered into agreements with three private contractors to build a prison near San Diego: Hope Consulting Group for architectural services, Kitchell CEM for program management services, and Heery/VCM for construction management services. (Appendix B shows the name of the contractor, the services the contractor is to provide, the amount of the contract, and the amount that was paid from June 4, 1982, through March 25, 1985.) Both Kitchell CEM and Heery/VCM are providing services to the department for several prison projects in addition to the San Diego project. These contractors submit an invoice for work performed on all projects during the invoice period, and the department then charges the expenditures to project appropriations.

The Government Code requires state agencies to properly account for expenditures. However, the department's method of accounting for payments to Kitchell CEM for work performed at all prison projects between July 21, 1982, and June 30, 1983, is questionable. Kitchell CEM billed the department for \$962,000 for work performed on all projects during the period; the department charged \$300,000 of this amount to the San Diego project. However, neither the department's Chief of the Construction Operations Branch nor the Chief of the Construction Support Branch was able to tell us the method used to apportion the expenditures to the San Diego project. As a result, we were not able to determine the appropriateness of the \$300,000 charged to the San Diego project. Invoices for services performed after June 30, 1983, contain a statement of expenditures incurred at the San Diego project.

Most of the charges that the department made to the San Diego project appropriations for the services of Heery/VCM are inappropriate. The department's contract with Heery/VCM covers the San Diego project plus three other prison construction projects. Heery/VCM billed the department for work performed at all four projects without separately identifying the cost of the work its employees actually performed at each project. None of the invoices submitted by Heery/VCM contains a statement of work performed at the San Diego project.

The Program Director at Heery/VCM said that the department's former program manager instructed him to suggest to the department how

the total amount of the invoice should be divided among the various projects. These suggestions were to be based upon amounts available in project appropriations, regardless of which project Heery/VCM employees actually worked on. Since encumbered funds at the Folsom and Tehachapi prison projects were running out, at the suggestion of Heery/VCM, the department charged \$449,654 to the San Diego project based upon available encumbrances rather than time spent on the project.

The department and Heery/VCM's program director agree that of the \$449,654 charged to the San Diego project for expenditures incurred by Heery/VCM between December 1983 and August 1984, only \$65,000 should have been charged to this project. The remaining \$384,654 should have been charged to the Tehachapi and Folsom prison projects, where the services were actually performed. The Program Director at Heery/VCM told us that his firm has performed little work at the San Diego project because of delays in starting construction. He estimates that his firm should have charged the department only \$65,000 for the San Diego project over the entire contract period. Because of these inaccurate charges to the San Diego project, the department issued inaccurate financial statements for the fiscal year ending June 30, 1984.

During January 1985, the department's Construction Support Branch found that expenditures were improperly charged to the San Diego project, and on April 2, 1985, the department sent a memorandum to Heery/VCM proposing adjustments in charges to the various projects.

Further, the department plans to correct its financial statements to reflect actual expenditures at the various projects.

The Chief of the department's Construction Operations Branch said that even though some of the work was not performed at the San Diego project, the Heery/VCM expenditures were allocated to the project because the contract required the department to pay a fixed monthly fee to the contractor regardless of whether any work was done. The work at the San Diego project was delayed, but to avoid charging only the projects that Heery/VCM was actually working on, the department allocated expenditures to all projects.

The department's Audit/Rate Development Section examined the accounts of Heery/VCM from March 15, 1982, through June 30, 1984. In its preliminary report dated June 27, 1984, the department found that because of construction delays, Heery/VCM did not hire the full staff it estimated it would need for the project. The fixed fee contract, however, required the department to pay the full fee, which included the salaries of the staff who were not hired. As a result, Heery/VCM realized an estimated \$316,356 increase in profits.

The current contract with Heery/VCM, for fiscal year 1984-85, requires the department to reimburse the contractor for actual work done rather than to pay a fixed fee. The Director of the Construction Support Branch said that, to avoid such future fixed fee contracts, the department has established an informal policy prohibiting such

contracts. The department currently assigns costs to various projects based on services actually performed at each project.

SOME CONTRACT WORK WAS PERFORMED BEFORE THE DEPARTMENT OF GENERAL SERVICES' APPROVAL

Section 1204 of the State Administrative Manual prohibits work under certain contracts until they have been approved by the Department of General Services. Further, Section 1216 of the State Administrative Manual requires state agencies to obtain the Department of General Services' approval on any amendments to those contracts. However, all three of the contractors working on the San Diego project performed some of the contract work before the Department of General Services approved their contracts and the contract amendments.

Kitchell CEM provided some services before the date the Department of General Services approved the contract and the amendments. For example, on May 2, 1983, Kitchell CEM submitted an invoice of which \$250,000 was allocated to the San Diego project. The invoice covered work performed between January 1, 1983, and June 30, 1983. However, the Department of General Services did not approve the contract amendment until May 3, 1983. We found evidence of two other instances in which Kitchell CEM submitted invoices for work performed before the Department of General Services approved the contract and amendments.

The Hope Consulting Group also provided services before the Department of General Services approved a contract amendment. The contractor performed work between August 16, 1984, and January 16, 1985, under a contract amendment that was not approved until April 5, 1985. Further, we found three instances in which Heery/VCM completed work before the effective date of the contract and amendments.

The Chief of the Construction Operations Branch told us that he does not know why, under his predecessor, the department allowed the contractors to start work before the effective date of the contracts. However, he said that he has acted on the premise that, although the Department of General Services has to approve the amendments to a contract, the contractors do not have to await approval but can continue to work. The Chief of the Construction Support Branch said that if the contractors were not allowed to continue work, they would have to lay off their employees. He does not think this would be reasonable.

CONCLUSION

The Department of Corrections contracts with three consultants for services on the San Diego prison. These consultants submit invoices, and the department charges the invoice amounts to project appropriations. However, during our review we were not able to determine the appropriateness of \$300,000

the department paid to Kitchell CEM because department staff could not tell us the method they used to charge expenditures to the San Diego project. Furthermore, \$384,654 of the \$449,654 the department charged to the San Diego project for work performed by Heery/VCM was inappropriate because the work for which those charges were made was performed on other prison projects. Furthermore, all three consultants for the San Diego project performed some work before the Department of General Services approved the contracts or the contract amendments.

RECOMMENDATIONS

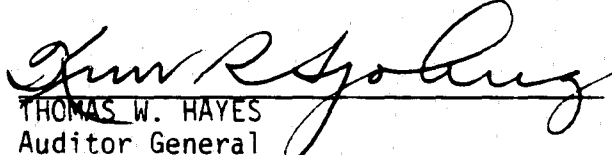
The Department of Corrections should ensure that only actual expenditures are charged to prison construction projects.

The department should establish a formal policy of not entering into prison construction contracts whereby the contractor gets paid a fixed fee regardless of whether the work is performed, rather than a fee for work actually provided.

The department should establish procedures that ensure that contractors do not perform any work under the contract or contract amendments until the contract and amendments have been approved by the Department of General Services.

We conducted this review under the authority vested in the Auditor General by Section 10500 et seq. of the California Government Code and according to generally accepted governmental auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,

for 
THOMAS W. HAYES
Auditor General

Date: May 20, 1985

Staff: Steven L. Schutte, Audit Manager
Anthony F. Majewski
Ann Reicherter, CPA
Gary L. Colbert
Donald A. Davison
Marina Murphy
Margaret A. Peters
Sylvia S. Skonberg, CPA

State of California

Memorandum

Date : May 17, 1985

Telephone: ATSS ()
()

To : Mr. Thomas W. Hayes
Auditor General
Office of the Auditor General
660 J Street, Suite 300
Sacramento, California 95814

From : **Youth and Adult Correctional Agency**
Office of the Secretary

Subject: SAN DIEGO AUDIT

Thank you for the opportunity to comment on your draft audit report of the California Prison - San Diego County. I have reviewed the report and following are my comments.

My biggest concern with the report is that it should be retitled, "The State Has Saved More Than \$50 Million Dollars in Redesign of the San Diego Project". I believe your Executive Summary, as well as the body of the report should more accurately reflect the tremendous amount of time and effort the Department has gone through to save \$50 million dollars. The quote in your report, "they also reduced the estimated costs of the prison by over \$50 million", seems to me the most significant finding of your audit.

The draft report indicates that the New Prison Policy Committee made an error in the placement of the prison's Education, Training and Industrial Programs. It is true that a change was made to the placement of these programs. However, said change resulted from new information that was not available at the time the original decision was made. ① *

The report makes reference to the \$55,000 per cell cost for the facility. It states that both the Department and Kitchell CEM estimates on total project costs exceed the \$55,000 per cell limit. The report does not give any indication of how close the Department figures are to the \$55,000 goal. In fact, the Department's estimate exceeds the goal by less than one percent. The report further doesn't indicate that the goal set in legislation was not drawn from any architectural or engineering studies.

*The Auditor General's comments on specific points contained in the agency's response appear on page 31.

Mr. Thomas W. Hayes
Auditor General
Page 2


The draft report indicates that the sewage system solution has caused a delay in the completion of the prison. This is not so. Although the sewer solution has been difficult to obtain due to the complexity of the problem and the various concerned interests, the Department's present schedule indicates that the sewer will be complete by the end of May 1986. The present schedule indicates that the prison will not begin to receive inmates until October of 1986. The sewer system is not on the critical path. ②

The draft report indicates that the Department had to pay for consultant services that the State did not receive. This reference relates to the contract with Heery/VCM. I wish to point out that under the prior Administration, a lump sum contract was negotiated with Heery/VCM. The results of the inappropriate charging mechanism was an accounting convention related to the specific provisions of the contract. The Department has changed its procedures for contracting and no longer negotiates lump sum contracts. As was explained to your staff during their review, these changes were made before your audit was initiated. ③

Your report mentioned that the Department has now hired more staff to manage the construction program. However, during the time that many of the design and off-site utility issues on the San Diego project were being considered, the Department was severely understaffed. At that time, the Department had approximately four employees to monitor the entire prison construction program.

Last, I would like to point out that of the eight recommendations made in your report, the Department had implemented five of them before the audit began. ④ With regard to your recommendation that the Department fill the vacant Project Director positions as soon as possible, I am pleased to announce that two of the three positions have been filled this week.

Sincerely,


N. A. CHADERJIAN
Agency Secretary

**AUDITOR GENERAL'S COMMENTS ON THE
YOUTH AND ADULT CORRECTIONAL AGENCY'S RESPONSE**

- ① As stated on page 9 of the report, the Agency's Undersecretary told us that the committee did not recognize at the time the potential for increased traffic when inmates had to be moved. Since we cannot determine if the committee should have recognized this potential problem before the policy was clarified, we have changed the text of the report.
- ② Although the department's present schedule indicates that the sewer system will be completed by May 1986, our report, on page 15, discusses several factors that could cause delays in the construction of the proposed sewer line and thus delay the start of operation of the prison beyond October 1986. We have changed the text to clarify this information.
- ③ On page 24 of our report, we acknowledge that we were told about these changes. The Director of the Construction Branch told us that the department has established an informal policy prohibiting fixed fee contracts. We believe, however, the department should make this a formal, written policy.
- ④ We note frequently in our report that the department has taken corrective action on problems the report discusses. However, because department staff could, in some cases, only describe the corrective measures rather than provide us with written changes to policies and procedures, we lacked assurance that the department would continue to follow the improved policies and procedures in the future. We, therefore, felt that our recommendations were appropriate.

APPENDIX A

CHRONOLOGICAL OVERVIEW OF THE SAN DIEGO PRISON PROJECT

Since the mid 1960's, the Department of Corrections has planned to build a correctional facility in San Diego County. In 1967, the department purchased a site at Otay Mesa near the Mexican border in San Diego County for a correctional facility. By 1980 the department had postponed construction on the site three times because inmate population in the State had decreased. The Budget Act of 1981 expressed the preference of the Legislature for a different prison site.

In 1981, the State Legislature passed Chapter 540, Statutes of 1981. The law gave the department statutory authority to assume responsibility from the Office of the State Architect to design and construct prison facilities.

In April 1982, the department contracted with the Hope Consulting Group (Hope) to provide design and construction services for a prison in San Diego County. That contract specified that Hope would be paid \$1.9 million for the initial planning and architectural services in compliance with the department's approved correctional program. Specifically, the contract required Hope to do architectural work that included a study of the feasibility of the selected site to support a prison; a plan for the management of the facility and its staff; and a master plan of the prison's overall operation, utility system, scheduling, and costs. The contract also required Hope to produce drawings, known as schematics, that would do the following: illustrate the prison's specifications and its relationship to the site, other buildings, roads, walks, and utilities; depict the relationships among all interior areas; describe construction materials, electrical systems, and mechanical systems; and estimate costs.

Further, the contract specified that, for additional fees, Hope was to develop other architectural drawings and also perform services during the construction of the prison. For example, the contract required Hope to develop more detailed drawings for the project after the schematic drawings were approved by the department. These drawings, called design development drawings, were to be developed from the schematics to confirm or adjust in more detail the specifications and cost of the project. After the design development drawings, Hope was to make the construction documents, which include all technical specifications, conditions, and other information for bidders on the construction contracts. These documents also include information the State can use in overseeing the construction of the project. In addition, the contract required Hope to provide other, construction-related services, including site observations, drawings to clarify construction details, and changes and review of the completed project.

Under this contract, Hope prepared a design for a site west of the present site. In early 1981, the department intended that the prison on that site would house 1,100 maximum security inmates. By February 1983, the department planned for 1,700 inmates: 1,500 medium security inmates in 3 facilities of 500 inmates and 200 minimum security inmates in another facility. The department estimated this prison would cost \$141 million.

In February 1983, the department acquired another site northeast of the original site and about 12 miles east of the Pacific Ocean. The department currently plans to build a prison on that site.

In May 1983, the department decided to increase the capacity of the San Diego prison because projections indicated that additional beds were required. The department directed its architects to add a fourth 500-cell housing unit. Chapter 958, Statutes of 1983, provides the department with authority to add the additional housing and sets limits on the cost and staffing of the prison. The law set a maximum of \$50,000 on the cost per prison cell, excluding the cost of equipment and off-site utilities. It also limited staff to no more than one prison staff member to each four inmates. To implement the new design for the prison, the department and the architect agreed to amend their contract to provide for an additional fee.

The current plan for the San Diego prison includes four 500-bed medium security facilities and one 200-bed minimum security facility. Each facility will be separated from the others, with its own security perimeter. All facilities will be within a secure outer perimeter. Each facility will be semiautonomous, with its own administrative, program, support, housing, visiting, and recreation components. However, functions such as food preparation, laundry, receiving and release, the infirmary, complex administration, purchasing, fire protection, maintenance, and warehousing will be centralized and will serve the entire prison. The department currently estimates the cost of the prison at \$141.8 million.

As early as January 1983, the Environmental Impact Report for the present San Diego prison site identified potential problems in developing sewer service for the prison. The report stated that the Otay Mesa was not served by a waste water collection and treatment system, and that how and when service would be provided to the prison site were uncertain. The report further stated that the issue of sewage would be addressed in a supplemental report, or a negative declaration. In 1983, the department discussed the sewer issue with the Deputy City Manager of the City of San Diego and requested information about agreements the city had with other agencies to provide them with sewage disposal service. However, the department did not decide on a plan to dispose of sewage from the prison site until December 1984. Since that time, the department has continued its efforts to obtain sewer service for the prison. The department currently estimates that the sewer system will cost approximately \$6 million for construction and fees. This amount includes \$445,000 to acquire rights-of-way. However, the Department of General Services estimates that the rights-of-way will cost only \$98,500.

DEPARTMENT OF CORRECTIONS
SUMMARY OF AMOUNTS PAID TO CONTRACTORS
ON THE SAN DIEGO PRISON PROJECT
JUNE 4, 1982 THROUGH MARCH 25, 1985

Contractor	Services to be Provided by Contractor	Amount of Contract*	Amount Paid
Hope Consulting Group	All services pertaining to the design and construction of the prison, including: - Site suitability report - Operational program - Architectural program - Master plan - Schematic design	\$3,930,328	\$3,424,324
Kitchell CEM	Administration and overall project management of the State's Capital Outlay Program, including: - Budget overview - Property acquisition - Planning - Programming - Design - Construction	1,261,441	864,031**
Heery/VCM	Construction management: - Construction management plans - Monthly progress reports	1,039,752	449,654***
Total		<u>\$6,231,521</u>	<u>\$4,739,977</u>

*Includes all contract amendments.

**As we noted on page 22 of this report, we were unable to determine if \$300,000 of this amount was appropriately charged to the San Diego project.

***As discussed on page 23 of this report, this amount is inaccurate; the department should have charged only \$65,000 to the San Diego project.

cc: Members of the Legislature
Office of the Governor
Office of the Lieutenant Governor
State Controller
Legislative Analyst
Assembly Office of Research
Senate Office of Research
Assembly Majority/Minority Consultants
Senate Majority/Minority Consultants
Capitol Press Corps

END