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The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

#296

Promotional Practices of the Mississippi Department of Corrections from January 1, 1992, through February 1, 1993, Resulted in Questioned Costs of $123,990

April 13, 1993

The PEER Committee

Mississippi Legislature

The Mississippi Legislature
Joint Committee on Performance Evaluation and Expenditure Review
PEER Committee

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April 13, 1993

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HONORABLE TIM FORD, SPEAKER OF THE HOUSE
MEMBERS OF THE MISSISSIPPI STATE LEGISLATURE

At its meeting of April 13, 1993, the PEER Committee authorized release of the report entitled **Promotional Practices of the Mississippi Department of Corrections from January 1, 1992, through February 1, 1993, Resulted in Questioned Costs of $123,990**.

The Committee has concerns that state agencies, other than the Department of Corrections, may also be awarding employees and new hires the maximum allowable employee compensation without providing documentation to justify the additional expense, resulting in unnecessary expenditure of state funds. The Committee urges state agency managers and State Personnel Board staff to curtail these additional employee compensation expenses without adequate written justification.

Cecil McCrory

Representative Cecil McCrory, Chairman

This report does not recommend increased funding or additional staff.

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Promotional Practices of the Mississippi Department of Corrections from January 1, 1992, through February 1, 1993, Resulted in Questioned Costs of $123,990

Introduction

During two separate investigations, the Corrections Auditor noted that three MDOC employees had received promotions in 1992 that significantly increased their salary (by 27% or more). In addition to the promotions, each of these employees received the maximum compensation above the start step salary for the position that is allowable under State Personnel Board policies.

The Corrections Auditor reported these conditions to the PEER Committee and the Joint Legislative Budget Committee. Subsequent to these reports, the PEER Committee began an additional review of MDOC's promotion practices.

Authority

The Corrections Auditor and PEER Committee reviewed the promotional policies of the Mississippi Department of Corrections (MDOC) pursuant to MISS. CODE ANN. Sections 47-5-35 and 5-3-57 (1972).

Scope and Purpose

The Corrections Auditor reviewed the promotion and hiring practices of the Department of Corrections for the period January 1, 1992, to February 1, 1993, obtaining information relevant to the following issues:

- Has the Department of Corrections justified salary increases when MDOC personnel are promoted?
- Has MDOC used the "New Hire Flex" policies set forth by the State Personnel Board in an efficient manner?

Method

During the course of this review, the Corrections Auditor:

- reviewed relevant State Personnel Board (SPB) policies;
- reviewed SPB Position - Employee Profile forms;

- reviewed SPB computer reports;
- interviewed SPB personnel;
- interviewed MDOC Personnel;
- reviewed MDOC personnel files; and,
- reviewed relevant provisions of the Mississippi Code of 1972.

Overview

The Department of Corrections has not properly implemented the State Personnel Board's Employee Performance Appraisal System and does not utilize performance appraisals when making promotional salary increases. For example, of fifty-two promotions at DOC from January 1, 1992, to February 1, 1993, only nine individuals' files had complete documentation for their promotions as required by the Employee Performance Appraisal System.

In addition, the department awards employees and new hires the maximum allowable employee compensation without providing documentation to justify the additional expense. In sixty percent of the promotions MDOC awarded from January 1, 1992, to February 1, 1993, the department awarded employees additional compensation above minimum "start step" levels. This additional compensation above minimum levels cost the state $101,477 in annual salary and fringe benefits expenses.

MDOC also used the "new hire promotional flex" pay increase in fifteen instances during the same period. In nine of the fifteen instances MDOC failed to provide documentation to support the additional expense. The awarding of promotional flex in these nine instances increased MDOC's annual employee compensation expenses by $22,513.

The State Personnel Board approves such employee compensation without adequate analysis. In addition, although its policy and procedures manual requires a letter of justification for each new employee considered for promotional flex, SPB approved employees for such compensation with inadequate or nonexistent documentation of the need for such compensation.

Background

State Personnel Board policies and procedures provide the Mississippi Department of Corrections with power to promote and hire employees within these policies. Because the labor market and competition often require starting salaries for new employees and those promoted to exceed suggested minimums, the SPB system provides necessary flexibility. PEER supports the concept of agency flexibility, provided the agencies used sound judgment and document their analysis prior to setting salaries above minimum levels.

Within these SPB procedures, the Employee Performance Appraisal System serves as a system of analyzing and documenting employees' performance to justify promotions and pay increases. SPB established this appraisal system in response to MISS. CODE ANN. Section 25-9-119 (2) (ii) (B), which requires the SPB and its director to provide for salary increases for outstanding performance "based upon documented employee productivity and exceptional performance in assigned duties."

The State Personnel Board also administers the Variable Compensation Plan (VCP). Under VCP, agencies are to determine salary increases based on formulas issued as annual policy memoranda by the SPB.

Findings

MDOC has failed to implement the Employee Performance Appraisal System fully and does not utilize the performance appraisal when making promotional salary increases.

DOC awarded fifty-two promotions from January 1, 1992, to February 1, 1993. Of these fifty-two promotions, only nine had complete documentation for each individual's promotion as required by the Employee Performance Appraisal System. Of the files for the fifty-two promotions PEER reviewed:

- twenty files contained no documentation that DOC management had conducted a performance appraisal prior to the promotion;
- thirty-three files contained no documentation that DOC management had conducted a semi-annual review and feedback session with the promoted employee;
- thirty-three files contained no documentation that DOC managers had informed the promoted individuals of the elements and standards of the position to which they were being promoted;
- twenty-one files did not contain the annual narrative appraisal portion of the Employee Performance Appraisal System.

According to SPB Policies and Procedures ("Employee Performance Appraisal System"):

> *The formal employee appraisal, including an appraisal rating, shall be made in writing using the appropriate form (Attachment C); the appraisal shall be communicated to the employee and* ***used as a basis for personnel actions*** *to include* ***pay, promotion****, retention, or other job related personnel management actions.* [Emphasis added]

In addition, the appraisal system requires:

- an annual planning session, with the rating supervisor and the employee to identify the job performance elements and standards. This planning session should involve the completion of SPB form "Attachment A."
- a review and feedback session conducted semi-annually and documented using SPB form "Attachment B."

- the appraisal to have a performance rating summarized on the "Employee Performance Report," as well as narrative appraisal listing managements comments and employee responses on SPB form "Attachment C."

For the period noted above, the Department of Corrections did not comply with SPB's policies requiring the Employee Performance Appraisal System to document analysis of the employee's performance and use such analysis in promotions and pay increase determination. The State Personnel Board failed to review and evaluate MDOC's compliance with the appraisal system policies and procedures, and SPB did not review MDOC's personnel policies and procedures to ensure that they complied with all performance appraisal requirements. Additionally, SPB neglected to review MDOC promotions to ensure that performance appraisals were being utilized.

As a result, MDOC awarded these promotions with no assurance that the promotions as well as the promotional pay increases were justified. Additionally, MDOC has not provided assurance that it does not arbitrarily award performance ratings. A further consequence of SPB's failure to monitor MDOC's promotion practices properly is that no overall controls are in place to ensure that evaluations are completed in an analytical manner.

MDOC's awarding of promotions without properly documented performance appraisals violates MISS. CODE ANN. 25-9-119 (2) (ii) (B), which requires state employee salary increases for outstanding performance to be based on documented employee productivity and exceptional performance in assigned duties. In addition, when employees are not given appropriate feedback on performance, they could either fail to improve performance because they do not know what areas are deficient, or might not receive positive feedback when they perform above the expected performance level. When managers do not inform employees of the elements and standards of the position to which they are promoted, these employees do not know to what performance standards they will be held in their new positions.

For the period January 1, 1992, through February 1, 1993, Department of Corrections management promoted thirty-one employees and provided them $101,477 in increased compensation (above start step) without documentation of any analysis to justify such increases. The State Personnel Board approved MDOC's actions without requiring documentation of analysis.

MDOC awarded fifty-two promotions from January 1, 1992, to February 1, 1993. Of these fifty-two promotions:

- MDOC promoted five individuals to the start step of the pay range to which they were promoted.

- MDOC awarded sixteen individuals start step pay, given that this was the maximum allowable increase under the State Personnel Board's promotional max step formula.

- In thirty-one instances, MDOC awarded additional compensation to the employee above the start step salary (promotional max step). Of these thirty-one instances, twenty-nine employees received the maximum allowable compensation under SPB policies. The other two employees received 35% and 11.6% increases in salary.

(See Exhibit 1, page 7, for details of these promotions).

In sixty percent of the promotions MDOC awarded from January 1, 1992, to February 1, 1993, the department awarded employees additional compensation above start step for the promotional position. This additional compensation cost MDOC $101,477 in annual salary and benefit expenses.

The department incurred these additional expenses without documenting the content of any analysis used when determining the promotional pay increases. The department has often been criticized for imprudent management of resources, and awarding maximum employee compensation without proper documentation to justify the additional expense is not prudent financial management.

According to SPB Policies and Procedures ("Provisions for VCP Salary Determination"):

> *The promotional max step is the maximum that may be awarded.* ***In addition to budgetary considerations****, the determination of the step to be awarded should be* ***based on sound personnel management principles****, with due consideration given to the* ***impact of the salary award on other employees*** *within the agency.* [Emphasis added]

"Promotional max" is defined as the maximum pay step that may be awarded as determined by one of the three promotional formulas SPB describes in its policy and procedures manual.

Because SPB does not require MDOC to submit evidence of analysis for each personnel action, documentation to justify the awarding of promotional max increases consists only of pen and ink revisions in computer data entry forms. Under SPB's policies, MDOC's personnel management actions regarding such increases are not subject to transaction-by-transaction prior approval. The State Personnel Board may review MDOC's actions through an annual post audit system. The State

EXHIBIT 1

MDOC Employees Who Received Additional Compensation Above Promotional Start Step

EMPLOYEE	OLD SALARY	NEW SALARY	PERCENT INCREASE	START STEP SALARY	DIFFERENCE	DIFFERENCE IN TOTAL COMPENSATION	PERCENT PAY RAISE TO START STEP
1	$42,327	$55,121	30.23%	$42,327	$12,794	$15,737	0.00%
2	25,442	31,057	22.07%	26,214	4,843	5,957	3.03%
3	37,548	39,468	5.11%	37,548	1,920	2,362	0.00%
4	13,504	15,069	11.59%	13,983	1,086	1,336	3.55%
5	46,293	62,447	34.90%	51,406	11,041	13,580	11.04%
6	13,504	15,069	11.59%	13,984	1,085	1,335	3.55%
7	15,841	18,680	17.92%	15,841	2,839	3,492	0.00%
8	21,915	28,677	30.86%	23,021	5,656	6,957	5.05%
9	12,919	19,724	52.67%	18,221	1,503	1,849	41.04%
10	39,656	45,604	15.00%	39,656	5,948	7,316	0.00%
11	13,984	22,124	58.21%	20,037	2,087	2,567	43.29%
12	15,153	25,067	65.43%	22,687	2,380	2,927	49.72%
13	16,989	18,763	10.44%	16,989	1,774	2,182	0.00%
14	13,504	16,321	20.86%	15,153	1,168	1,437	12.21%
15	18,304	20,955	14.48%	19,348	1,607	1,977	5.70%
16	22,124	25,839	16.79%	22,353	3,486	4,288	1.04%
17	16,155	18,033	11.62%	16,906	1,127	1,386	4.65%
18	23,606	26,089	10.52%	23,606	2,483	3,054	0.00%
19	21,477	23,731	10.49%	23,021	710	873	7.19%
20	21,059	26,611	26.36%	24,086	2,525	3,106	14.37%
21	29,408	32,497	10.50%	30,765	1,732	2,130	4.61%
22	32,497	37,548	15.54%	33,979	3,569	4,390	4.56%
23	16,655	19,932	19.68%	18,032	1,900	2,337	8.27%
24	16,154	19,348	19.77%	18,032	1,316	1,619	11.63%
25	13,921	14,631	5.10%	13,921	710	873	0.00%
26	13,566	15,925	17.39%	13,884	2,041	2,510	2.34%
27	14,130	16,238	14.92%	16,008	230	283	13.29%
28	29,408	30,138	2.48%	29,408	730	898	0.00%
29	21,164	23,376	10.45%	23,021	355	437	8.77%
30	12,919	13,566	5.01%	12,919	647	796	0.00%
31	16,405	18,116	10.43%	16,906	1,210	1,488	3.05%
TOTALS	$667,531	$795,764	19.21%	$713,262	$82,502	$101,477	6.85%

SOURCE: State Personnel Board Data.

Personnel Board has not disapproved through post audit of any of the transactions or MDOC personnel procedures PEER questioned.

The State Personnel Board's policies requiring agencies to use "sound personnel management principles" and discretion in awarding promotional salary increases lack definition because they do not require documentation of the principles utilized. In addition, DOC management has not operationally defined SPB policies by developing specific and objective criteria for the awarding of promotional salary increases.

Although MDOC has not violated SPB policies regarding promotional salary increases, the department has used the State Personnel Board's VCP promotional formulas without regard to employee performance and documented evaluations. MDOC's use of promotional max, combined with the practice of awarding promotions without documented performance appraisals, could be construed as favoritism.

For the period January 1, 1992, through February 1, 1993, Department of Corrections management provided fifteen newly hired employees with new hire flex. This additional compensation (above start step) increased MDOC's expenses by $22,513, without documentation of any analysis to justify such increases. The State Personnel Board approved MDOC's actions without requiring documentation of analysis.

DOC used the new hire promotional flex pay increase in fifteen instances from January 1, 1992, to February 1, 1993. In nine of the fifteen instances, MDOC failed to document the justification for the ten percent increase in pay. SPB records for three of these nine employees included letters of justification which merely restated the minimum qualifications of the positions and gave no specifics on the employees' experience and education. Records for the other six employees contained no attempt at justification. (See Exhibit 2, page 9, for details of these promotions.)

The State Personnel Board did not follow its own procedures in requiring and filing letters of justification from MDOC for the purpose of establishing a record of these new hires' "superior education and experience." At a minimum, SPB should have required MDOC to submit a letter of justification for each employee being considered for promotional flex. Further, these letters of justification should document the specific "superior education and experience" of each candidate.

The awarding of promotional flex to the nine newly hired employees increased MDOC's annual employee compensation expenses by $22,513. As noted above, awarding maximum employee compensation without sufficient documentation is not prudent financial management.

EXHIBIT 2

MDOC Employees Who Received New Hire Flex Without Documented Justification

EMPLOYEE	START STEP SALARY	PROMOTIONAL FLEX	DIFFERENCE	DIFFERENCE IN TOTAL COMPENSATION
A	$15,445	$17,073	$1,628	$2,002
B	30,765	32,330	1,565	1,925
C	15,445	17,073	1,628	2,002
D	15,445	17,073	1,628	2,002
E	21,477	23,731	2,254	2,772
F	13,984	15,445	1,461	1,797
G	20,538	22,687	2,149	2,643
H	15,841	17,511	1,670	2,054
I	19,056	23,376	4,320	5,314
TOTAL	$167,996	$186,299	$18,303	$22,513

SOURCE: State Personnel Board Data.

According to SPB Policies and Procedures ("Provisions for VCP Salary Determination,"), new hire flex (salary that represents twenty steps above start step) is to be awarded:

> *. . .based upon agency needs and the new hire's superior education and experience. . . .A letter of justification from the agency head identifying the need for the salary exceeding the assigned start step, as well as the education and experience of the applicant, shall be forwarded to the State Personnel Board with the completed profile form. This letter of justification shall be maintained by the State Personnel Board for the purpose of establishing a record.*

The Department of Corrections did not comply with SPB's policies requiring a letter of justification to document the new hires' superior education and experience.

The State Personnel Board approved MDOC's actions without requiring documentation of analysis. The State Personnel Board failed to review the letter of justification for content and granted the awarding of new hire flex with inadequate or nonexistent documentation to support these additional expenses.

Unless MDOC provides SPB with a letter which includes adequate justification for use of new hire flex for each new employee who receives such, the department could unnecessarily increase its salary expenses to hire individuals who might not be qualified to receive the additional compensation.

Conclusion

MDOC has failed to implement the SPB appraisal system fully and does not provide sufficient documentation to justify promotional pay increases. The State Personnel Board's post audit system has not ensured MDOC's compliance with the Employee Performance Appraisal System and has not prevented unjustified award of excess promotional pay.

MDOC's practices regarding additional compensation above start step for promotions have resulted in increased employee compensation expenses of $101,477 without documentation justifying these increases. PEER found a similar lack of documentation regarding new hire flex at a cost of $22,513.

Without adequate documentation of employee performance, DOC could place employees without appropriate skills and abilities in positions for which they are not qualified. This could prevent the department from operating effectively and could also affect the morale of other employees with promotional potential.

Recommendations

1. MDOC should implement the Employee Performance Appraisal System and document all job-related personnel management actions. Additionally, MDOC should base promotional pay increases on the employee's performance rating, budgetary considerations and the impact of the salary award on other employees.

2. SPB should revise its promotion policies to include definitions of key terms such as "sound personnel management principles" and guidelines for awarding compensation above start step salary.

3. SPB should monitor MDOC's promotion practices more closely and implement pre-audit if necessary of both new hire and promotional flexibility transactions. Additionally, SPB should conduct a post audit of MDOC's personnel management policies and procedures.

4. MDOC should revise its personnel management policies to require documentation explaining promoted employees' experience, knowledge and skills to justify additional expenses above start step.

5. SPB should comply with its new hire policies to ensure that all state agencies submit documentation to justify the awarding of new hire flex. In those instances in which sufficient documentation of a new hire's superior education and experience is not received from the agency, SPB should decline the awarding of new hire flex.

Agency Response

STATE OF MISSISSIPPI

DEPARTMENT OF CORRECTIONS

EDDIE LUCAS
COMMISSIONER

April 27, 1993

Mr. John W. Turcotte, Director
Joint Committee on Performance Evaluation and
 Expenditure Review
222 N. President Street
Jackson, Mississippi 39215-1204

Dear Mr. Turcotte:

After reviewing the PEER draft report entitled "Promotional Practices of the Mississippi Department of Corrections from January 1, 1992 Through February 1, 1993 Resulted in Questioned Cost of $123,990," the Mississippi Department of Corrections offers the following response to recommendations one and four:

The Mississippi Department of Corrections (MDOC) has, in fact, implemented the Employee Performance Appraisal System (EPAS) and has been operating under the EPAS program set forth by the Mississippi State Personnel Board (SPB). This implementation was accomplished at the time the SPB put the EPAS program in place in the early 1980's. However, I imagine that MDOC should be more prudent in its efforts to keep the EPAS program more current. I also feel that the majority of job-related personnel management actions are currently being documented in some manner, with the exception of those as listed in recommendation number (4). This idea is acceptable to the MDOC.

However, in response to the recommendation on the method to be used to base promotional pay increases, MDOC reserves the right to execute promotional pay increases at our discretion as long as these pay increases are made within the Rules and Regulations of the SPB. We agree that the items listed in Recommendation number one (1) should be considered, but would argue that there are other factors to be considered when making a sound managerial decision on the awarding of pay increases above start step when promotions are involved. These include, but are not limited to, length of service, suitability to the job, and pay level required to entice the individual to accept the position.

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The MDOC will continue to make every effort to spend its salary dollars as efficiently and accurately as possible, as well as comply with SPB Rules and Regulations.

If I may be of further assistance, please do not hesitate to contact me.

Sincerely,

Eddie Lucas

Eddie Lucas, Commissioner

EL-DAM:ib

MISSISSIPPI STATE PERSONNEL BOARD

April 28, 1993

Mr. Wayne Hegwood
PEER Committee
P.O. Box 1204
Jackson, Mississippi

Dear Mr. Hegwood:

I would like to express my appreciation for the opportunity to respond to some of the recommendations contained in your April 12, 1993 Confidential Draft concerning personnel practices at the Mississippi Department of Corrections. Although I do not have a copy of the report and cannot explore the specific instances on which you have formed your conclusions, the synopsis you shared with my staff does provide some points directly related to State Personnel Board Policy which I can address. In this response I will differentiate between the responsibilities of the Department of Corrections and those of the State Personnel Board in regard to personnel actions specifically cited in your recommendations.

With regard to Recommendation No. 2 and sound personnel management principles, it is difficult to define precise principles of application in every circumstance due to the differences in each agency's mission, budget, vacancies, recruitment difficulties, etc. Some general guidelines the State Personnel Board uses in determining New Hire Flexibility should be agency budgetary considerations, the agency need which requires a superior level of expertise in a particular position, and the parity between salary levels of current employees in the same job classification. An equally important consideration is the presumption that a superiorly qualified new hire can actually translate his or her qualifications into superior performance. This consideration is currently addressed by the twelve (12) month period during which a new hire is eligible for award of New Hire Flexibility. The agency head may award only a portion of the award at initial hire or defer the entire award until an appraisal of the new hire can be performed.

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The previous points are a few examples of sound personnel management and are concepts which should be familiar to managerial and policy making employees such as agency directors and personnel directors. A request for New Hire Flexibility is based strictly upon the discretion of the agency head and can be reasonably applied only at the agency level. Current State Personnel Board policy requires certification of funds availability for New Hire Flexibility, and a letter of justification detailing the applicant's superior qualifications compared to the minimum requirements of the position.

Language in each agency's Fiscal Year 1994 appropriation bill concerning employees hired after June 30, 1993, effectively denies utilization of the New Hire Flexibility component for Fiscal Year 1994. A very good indicator of this component's value or lack thereof, will be our annual Variable Compensation Plan survey which is compiled in the late fall and presented in our State Personnel Board Annual Report in January. Agencies are encouraged in the survey to report successes, as well as difficulties, encountered in administration of variable compensation plan components during the fiscal year. I am certain that pertinent data will be generated on New Hire Flexibility.

Recommendation No. 5 actually could have been incorporated into Recommendation No. 2 as it concerns the required documentation which must accompany a request for New Hire Flexibility. The nine (9) Department of Corrections personnel actions you reviewed with Frederick Matthes, Director, Office of Classification and Compensation, were not all New Hire Flexibility actions; in fact, only five (5) of the actions actually utilized New Hire Flexibility and were accompanied by the required letter of justification. The nine (9) actions are as follows:

Type of Action	Justification Letter Attached
New Hire Flex	yes
Reemployment	not required
New Hire Flex	yes
New Hire Flex	yes
Promotional Formula	not required
New Hire Flex	yes
Promotional Formula	not required
New Hire Flex	yes
Promotional Formula	not required

I have enclosed copies of these actions in order that you may confirm that the required letter of justification was submitted as required.

Recommendation No. 3 and Promotional Flexibility can best be explained using the hypothetical example below:

Employee: William M.
Agency: State Personnel Board
Salary Range: 175 ($15,152.64) - 256 ($22,687.20)
Current Step: 185 ($15,924.96)

Promotional Transfer (Inter-Agency)
to the following:

Vacant Position
Agency: Department of Corrections
Salary Range: 195 ($16,822.32) - 276 ($25,066.56)

Promotional Formula

William H. current pay step:	185
Less old start step:	175
	= 10
Add to new start step:	195
* Promotional max step:	205

* Where the promotional increase authorized is less than the salary which could be authorized for a new hire, promotional flexibility may be awarded which is set under provisions for New Hire Flexibility.

In this instance, a new hire into the position could be compensated at step 215 ($18,492.12) through New Hire Flexibility. Therefore, our hypothetical William H. may be promotional transferred at **step 215 ($18,492.12).**

As is apparent, New Hire Flexibility and Promotional Flexibility are interwoven in the current promotional formula. The practical view of Promotional Flexibility is that it enables an agency to overcome the very real dilemma of compensating a promoted employee at a pay level below that of a probationary, unproven new hire. The Legislative restrictions which deny New Hire Flexibility during Fiscal Year 1994 will also negate Promotional Flexibility from the promotional formula. As stated previously, data concerning the effect of these restrictions will be available in our Annual Report.

The view that these two components are avenues by which agencies may lavish excess compensation should be avoided. These components, utilized in a thoughtful and conscientious fashion, provide practical solutions to recruitment and promotional problems, and are applied strictly at the discretion of the agency head.

The Department of Corrections has recently employed a Personnel Director who is thoroughly familiar with State Personnel Board Policy and Procedure, and has a background in personnel management. In light of this, and the fact that New Hire Flexibility and Promotional Flexibility will be denied for an entire fiscal year, I recommend that your post audit suggestion under Recommendation No. 3 be deferred in order that the Personnel Director at the Department of Corrections be given an opportunity to set proper priorities, and encourage exercise of sound personnel management principles.

If you have questions or need additional information please contact Frederick Matthes, Director, Office of Classification and Compensation at 359-2769.

Sincerely,

Larry K. Gregory
Interim State Personnel Director

enclosure

LKG/BM

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