

**California Victim Compensation and Government Claims Board**  
**Open Meeting Minutes**  
**August 16, 2012, Board Meeting**

The California Victim Compensation and Government Claims Board (Board) convened its meeting in open session at the call of Anna Caballero, Secretary, State and Consumer Services Agency, at 400 R Street, Sacramento, California, on Thursday, August 16, 2012, at 10:04 a.m. Also present was Board member Richard Chivaro, Chief Counsel, acting for and in the absence of John Chiang, Controller. Chairperson Caballero announced that Board member Michael Ramos would be delayed due to airplane problems. Board member Michael Ramos joined the meeting at 10:24 a.m.

Board staff present included Julie Nauman, Executive Officer; Kathy Cruz, Chief Deputy Executive Officer; and Wayne Strumpfer Chief Counsel. Tisha Heard, Board Liaison, recorded the meeting.

The Board meeting commenced with the Pledge of Allegiance.

**Item 1. Approval of Minutes of the June 21, 2012, Board Meeting**

Chairperson Caballero and Board member Chivaro voted to approve the minutes of the June 21, 2012, Board meeting.

**Item 2. Public Comment**

Chairperson Caballero and Board member Chivaro opened the meeting for public comment. Public comment was provided by Dennis Carlton. Mr. Carlton requested that his government claim and his victim compensation program application be reviewed and consolidated. He commented that he wanted to clarify and make staff aware of his business losses and requested staff review his medical records.

**Item 3. Executive Officer's Statement**

No report was given.

**Item 4. Legislative Update**

Jon Myers, Deputy Executive Officer, Legislation and Public Affairs Division, reported the following:

- AB 1531 (Fuentes), the VCGCB's first Government Claims Bill of 2012, which appropriates \$859,738.51 to pay 273 claims approved by the Board from June 2011 through December 2011, was signed by the Governor.
- SB 1065 (Kehoe), the VCGCB's second Government Claims Bill of 2012, which appropriates \$624,671.86 to pay 117 claims approved by the Board from January 2012 through April 2012, was in the Assembly Appropriations Committee.
- SB 1299 (Wright), the bill extends the filing period for CalVCP applications from one year to three years and limits the conditions for acceptance beyond that filing period. It also prohibits reductions to CalVCP maximum rates and service limitations from applying to reimbursement of medical or mental health expenses incurred within three months after adoption of the change. It also includes several technical changes to CalVCP statutes. The bill was on suspense and would be heard today.
- SB 1210 (Lieu), the bill that enhances restitution collection authority for local jurisdictions to address the implementation of public safety realignment, as follows: (1) authorizes counties to collect up to 50 percent of the wages and trust account deposits of prisoners in county jails and to assess an administrative fee for costs of collection; (2) authorizes counties to impose revocation fines on offenders which are payable upon violation of post-release community supervision or mandatory supervision; (3) allows any portion of a restitution order that remains unsatisfied after a defendant is no longer on post-release community supervision or mandatory supervision to be enforced by the county collection agency or by the victim as a civil judgment; and (4) allows court-ordered debt over \$100 imposed by a juvenile court to be referred to the Franchise Tax Board for collection. The bill was in the Assembly Appropriations Committee and would be heard in the suspense hearing today.
- SB 1371 (Anderson), the bill that prohibits restitution fines and orders owed by offenders from being converted into prison time served. The bill was an urgency bill and was signed by the Governor.

- SB 1504 (Kehoe), the bill that provides that no interest will accrue on a claim against the state which VCGCB submits to the Legislature and for which an appropriation is made until 180 days after enactment of the appropriation. The bill also affects settlement and judgment claims submitted to the Legislature by the Attorney General. The bill was signed by the Governor.

## **Item 5. Government Claims Program**

### **Consent Agenda (Nos. 1- 921)**

Chairperson Caballero and Board member Chivaro adopted the staff recommendations for item numbers 1-921, with the following exceptions: item numbers 66 (605039), 271 (603431), 276 (603583), 326 (604121), 431 (604597), and 782 (605626) were continued to the September 20, 2012, meeting; item numbers 82 (605221), 105 (603214), 823 (605759), 824 (605760), 826 (605773), and 828 (605778) were removed pending review of additional information received; and item numbers 267 (603323), 310 (603949), 390 (604494), 435 (604606), 508 (604828), 541 (604911), and 845 (601156) were removed to allow the claimants an opportunity to address the Board.

### **Consent Agenda Appearance**

#### **Item 267, G603323**

##### **Claim of Athan Magganas**

The claimant failed to appear.

Mary Lundeen, VCGCB Senior Attorney, explained that Mr. Magganas requested compensation from the California Department of Transportation in an amount exceeding \$48,693.28 to clean his property during an ongoing construction project.

Ms. Lundeen recommended that, to the extent that the Board had jurisdiction, the Board reject the claim because the issues raised were complex and outside the scope of analysis and interpretation typically undertaken by the Board.

Chairperson Caballero and Board member Chivaro voted to adopt the staff recommendation to reject the claim.

### **Consent Agenda Appearance**

#### **Item 310, G603949**

##### **Claim of John R. Eichinger**

Mr. Eichinger appeared and addressed the Board. Mr. Eichinger submitted documents to the Board for their review and consideration. John McDonough appeared and addressed the Board on behalf of the California Highway Patrol.

Mary Lundeen, VCGCB Senior Attorney, explained that Mr. Eichinger requested reimbursement from the California Highway Patrol (CHP) in the amount of \$2,532.13 for towing charges and damage to his vehicle. Ms. Lundeen stated that the CHP and Government Claims Program (GCP) recommended that the Board reject the claim.

Mr. Eichinger stated that on October 24, 2011, his car was stolen while parked in front of his home. On October 28, 2011, he received a telephone call from the CHP informing him that his car had been recovered and it was being towed to Santa Cruz, which, he stated, was 20 miles in the wrong direction. Rather than asking him where he would like his vehicle towed, he stated that the CHP made the decision to have his vehicle towed in the wrong direction. During the act of recovery, he stated that his vehicle was damaged resulting in \$2,057.13 in repairs. He stated that he also incurred \$475 in towing and storage fees that he would not have had to pay because he had AAA towing insurance.

Mr. Eichinger directed the Board's attention to the "California Highway Patrol Centralized Cad Journaling System," a document he submitted for the Board's review. According to the log, at 09:39 the property owner informed the CHP that there was an abandoned vehicle on the property and provided the license plate number. At 14:39, the officer arrived at the scene and wrote a report at 14:40; however, the officer did not call him until 16:03. He stated that, pursuant to the Highway Patrol policy manual on the recovery of stolen, embezzled, or other abandoned vehicles "if workload permits, the location of the vehicle recovery is reasonably close to the R/O and the R/O is able to respond and take possession of the vehicle within a reasonable period of time, an attempt should be made to release the vehicle to the R/O rather than storing the vehicle." He added that the CHP had 6 ½ hours to notify him; instead, the officer waited over two hours before he contacted him. Lastly, he commented that the CHP did not act within their policy and law.

Mr. McDonough stated that the vehicle was located in a very difficult location on a fire road down a ravine. Although the original report did come in the early morning hours, to ensure accuracy at all times, an officer cannot write a report until the officer verifies the license and VIN. In addition, the property owner needed to be present at the time the officer went out; however, the property owner indicated in the original call that he would not be present until later in the afternoon. He stated that the majority of the delay was due to the fact that the officer could not get on the property to look at the vehicle. Further, he added that the tow company caused the vast majority of damage to the vehicle; therefore, the tow company is responsible for the damage, not the CHP. Under the law, the CHP is required to remove stolen or damaged vehicles from private property; regrettably, the officer did not contact the owner immediately. He clarified that with regard to the tow truck taking the vehicle in the wrong direction, two tow truck companies came up on the CHP's list of tow truck operators and the tow truck company responded within the time limit that was requested. The company did tow and store the vehicle, which is what the CHP was required to do under the law.

Mr. Eichinger stated that the CHP was responsible for the damage to his vehicle because the CHP contacted and hired the tow truck company. He stated that the officer had over two hours to contact him, which was ample time to notify him and ask him what he wanted to do with his vehicle. The officer verified that the vehicle was stolen within a few minutes of being on scene. Mr. Eichinger stated that he was only 15 minutes away from the scene. If he had been notified, he would have went to the scene, called AAA to tow his vehicle, and supervised the extrication. Instead, the tow truck company hired by the CHP strung a cable 200 feet down the hill and tried to tow the car out causing him over \$2,000 in damages.

The Board voted to adopt the staff recommendation to reject the claim.

### **Consent Agenda Appearance**

#### **Item 390, G604494**

#### **Claim of Athalye Consulting Engineering Services, Inc.**

Ashok Athalye, President and CEO, Athalye Consulting Engineering Services, Inc., and Omar Siddiqui, attorney, Ulwelling Siddiqui LLP, appeared on behalf of Athalye Consulting Engineering Services, Inc. Laurie Epstein-Terris, Sandra McNealy, and Keith Duncan appeared on behalf of the Department of Transportation.

Mary Lundeen, VCGCB Senior Attorney, explained that Athalye Consulting Engineering Services, Inc. (ACES), sought compensation from the California Department of Transportation (Caltrans) in an amount exceeding \$9,000,000.00 for lost business opportunities.

Ms. Lundeen stated that the Government Claims Program (GCP) staff recommended that the claim be rejected because the issues presented were complex and beyond the scope and analysis typically undertaken by the Board.

Mr. Siddiqui stated that ACES is a prominent engineering firm based in Southern California and has worked on high profile contracts throughout the State. ACES presented its government claim on or about May 14, 2012, for the recent arbitrary and capricious exclusion from the bidding process by Caltrans on its Contract 07A3205. The exclusion resulted in conflict of interest disclosures and declarations, which, in turn, led to blackballing or blacklisting from certain District 7 contract managers.

Mr. Athalye stated that his company worked on major contracts with Caltrans including major toll crossings such as the Bay Bridge, San Mateo Bridge, Richmond-San Rafael Bridge, and other bridge seismic projects. ACES was also recognized under the CalMentor program as an outstanding small business in California. He stated that he questioned the procurement process because he believed that it was tainted in that it arbitrarily eliminated most of the competition for the contract. He explained that ACES submitted a proposal for the qualifications-based selection for Contract 07A3205 for on-call construction support services, but was disqualified as non-responsive due to a purported conflict of interest. Caltrans determined that the conflict of interest involved participation in an on-call contract for design services in the same geographic areas as the contract for construction support services. The procurement was primarily the I-5 project corridor that was defined as a beginning of a corridor and an ending of a corridor. The RFQ defined certain expenditures authorization numbers, referred to as E numbers, that were clearly identified. Caltrans would not allow a consultant to provide services in both the design phase and construction phase on the same project. If there were any overlap between the previous work, it would be deemed to be in conflict. He stated that there were no E numbers that were a part of the I-5 corridor. ACES was neither directly in conflict nor was there any concern with disclosures because they did not have any numbers identified in the RFQ, which is the reason they did not disclose them.

He stated that when ACES protested the procurement, Caltrans informed them that they and their sub-consultants were in conflict. He stated that Caltrans implemented a much broader interpretation of their conflict rules for Contract 07A3205 than in the past, causing ACES to be disqualified even though its previous contracts were deemed compliant and responsive. He stated that the firm selected did not disclose any of the Es; in fact, the prime consultant worked on the I-5 corridor which was not disclosed and which should have eliminated them right away.

He further stated that ACES has provided over 100 documents to Caltrans, yet they have not responded. He offered to meet with Caltrans representatives to discuss the matter; however, he was turned down. There was an investigation against a procurement officer in response to an objection on a previous contract wherein ACES was deleted from a teaming arrangement already in place. ACES raised an objection and, as a result, there was an investigation. He stated that there was evidence that inside information about the questions for the interview for Contract 07A3205 was leaked and text messaged to consultants prior to the interview.

Lastly, Mr. Athalye stated that his current ACES team has serviced Caltrans for the past three years on a different contract. He stated that the Caltrans contract manager has been poaching his employees. He has a number of highly qualified staff members with vast project knowledge of ongoing construction projects in District 7 who will now likely leave his company in favor of a new firm.

Ms. Epstein-Terris stated that it was Caltrans' position that the Board did not have jurisdiction over the claim because there was no contract; rather, it was a challenge to a procurement that would be more appropriately heard in Superior Court. The claim involved procurement issues, employment issues, and conflict of interest all of which were too complex for the Board. She stated that Mr. Siddiqui alleged potential criminal activities; however, when she asked him to provide information to support the allegations, he never provided any supporting documentation. She stated that she was not aware or privy to the results of any confidential investigation. She would like to conduct

discovery to find out who the people were who spoke to the companies that were interviewed, which she asked Mr. Siddiqui on several occasions. Further, she requested that the Board reject the claim because it lacked jurisdiction.

Mr. Siddiqui cited *Phillips v. Desert Hospital Dist.*, and added that the court stated “the purpose of the claims statutes is to provide the public entity sufficient information to enable it to adequately investigate claims and to settle them, if appropriate, without the expense of litigation.” He stated that Athalye filed a government claim to resolve the issues without costly litigation to the State or his client, Athalye. He explained that Ms. Epstein-Terris declined to meet with Athalye to discuss the matter; rather, she only wanted him to turn over the evidence. He stated that James Becker was a Caltrans investigator who conducted a thorough investigation and interviewed Caltrans Board members and he provided Ms. Epstein-Terris with his telephone number. Sometime later, Mr. Becker told him that Ms. Epstein-Terris advised him that he should no longer communicate with him.

Board member Ramos thanked both sides for their professional presentations; however, he stated that a judge and witnesses would better handle the complex issues involved in the claim.

Chairperson Caballero stated that the Board does not have the capability to make the evidentiary findings that would be necessary regarding the claim. She added that because she serves the Governor, she would make it her mission to get the matter to the highest authority in an effort to get the matter resolved without litigation.

The Board voted to adopt the staff recommendation to reject the claim.

### **Consent Agenda Appearance**

#### **Item 435, G604606**

#### **Claim of Ann Marie Alexander**

Ann Marie Alexander appeared and submitted documentation in support of her claim for the Board’s review and consideration. There was no representation provided by the Attorney General’s Office.

Mary Lundeen, VCGCB Senior Attorney, explained that due to the late notice regarding the applicant’s appearance, there was no representation by the Attorney General’s Office.

Ms. Lundeen explained that Ms. Alexander requested compensation from various individuals and entities in excess of \$1.5 million for current and future damages including theft, lies, threats, disguising her voice to create her words, and invasion of privacy. Ms. Lundeen stated that, to the extent that the Board had jurisdiction, the Government Claims Program staff recommended that the Board reject the claim due to its complexity.

Ms. Alexander alleged that a U.S. Marshal conspired with multiple governmental jurisdictions to commit seven murders, attempted kidnapping, grand theft auto, and others crimes. In addition, she stated that a court reporter did not correctly transcribe a court hearing in January 2012. At that hearing, she stated that an investigator lied under oath and conspired with other individuals to alter medical records causing her to have panic attacks. Lastly, she stated that she had a \$10 million lawsuit pending.

The Board voted to adopt the staff recommendation to reject the claim due to its complexity.

### **Consent Agenda Appearance**

#### **Item 508, G604828**

##### **Claim of Jonathan T. Lynn**

Jonathan Lynn appeared and submitted documentation in support of his claim for the Board's review and consideration. Don McDonough appeared and addressed the Board on behalf of the California Highway Patrol.

Mary Lundeen, VCGCB Senior Attorney, explained that Mr. Lynn requested compensation from the California Highway Patrol (CHP) in the amount of \$15,084.00 for damages to his boat and impound fees. Ms. Lundeen stated that the CHP and Government Claims Program recommended that the Board reject the claim.

Mr. Lynn stated that the CHP left his 45-foot boat unsecured on a trailer for five days. Because the CHP did not secure his vessel in a safe location, it was stripped of its precious metal and ruined. He stated that due to the six-month timeframe, he filed a civil suit against the CHP; however, he had not served the CHP yet. He further stated that pursuing the matter in court might be a better option for him.

Mr. McDonough stated that Mr. Lynn's vessel was deemed unseaworthy by the harbormaster because the vessel had no visible means of propulsion. In addition, the vessel had been denied launch privileges and was on a trailer that was not licensed or registered. For those reasons, the CHP was asked to handle the matter. He stated that Mr. Lynn was notified that the vessel would be impounded and had an opportunity to retrieve his personal items and relocate the vessel; instead, he stated that Mr. Lynn left the vessel for a period of over a week. Although the loss of the vessel was unfortunate, Mr. Lynn neglected to take appropriate action to protect his property. He stated that the CHP acted fully within the law.

The Board voted to adopt the staff recommendation to reject the claim.

### **Consent Agenda Appearance**

#### **Item 541, G604911**

##### **Claim of Clifton Court LP**

Suzanne Womack and Sheldon Moore appeared and addressed the Board. Karin Shine and Rhett Cotter appeared on behalf of the Department of the Water Resources.

Mary Lundeen, VCGCB Senior Attorney, explained that Clifton Court LP requested reimbursement from the California Department of Water Resources in an amount exceeding \$30,000.00 for ongoing crop damage. Ms. Lundeen stated that the Government Claims Program (GCP) staff recommended that the claim be rejected.

Ms. Womack stated that Clifton Court LP is her family's farm. In 1960, the State took half of the property for the California Water Project and the Clifton Court Forebay sits on the other half of the property. The only adjacent neighbor is the California Aqueduct beginning the Clifton Court Forebay. She stated that they have had ongoing problems with the Department of Water Resources regarding controlling the squirrel population. She kept asking DWR to take care of their property because the squirrels cause huge problems for the farm including crop damage and holes in their field. In November 2011, they spent \$30,000 to control the squirrels, but over the years, they have spent a million dollars. She stated that they filed two claims that together total \$63,915, which represents the amount that her tenant spent in the last six months; the second claim is for \$33,885.

Lastly, Ms. Womack stated that on March 16, she received a letter from DWR advising her to file a government claim in order to be compensated yet she was told that her claim was being

recommended for rejection. She commented that the State is a horrible neighbor. In addition to the squirrels causing damage, they are also experiencing vandalism problems resulting in the need to install concrete gates to keep trespassers away.

Ms. Shine stated that she could not address what other department representatives or employees may have told Ms. Womack; however, she agreed with the GCP recommendation to reject the claim due to its complexity. Further, she stated that the DWR has a squirrel abatement program.

Chairperson Caballero stated that if the facts were as Ms. Womack described, the State has not been a good neighbor. She explained that the process is to file a complaint with the department then a government claim with the VCGCB. She further explained that if the Board determined that the issues involved were too complex, it would reject the claim giving Ms. Womack the right to pursue the matter in Superior Court.

Chairperson Caballero commented that Ms. Womack had the opportunity to speak with the department director to let them know that it is not her intent to sue; rather, she wanted compensation. She added that if Ms. Womack was not satisfied with their response, her legal remedy would be to pursue the matter in Superior Court.

The Board voted to adopt the staff recommendation to reject the claim due to its complexity.

### **Consent Agenda Appearance**

#### **Item 845, G601156**

#### **Claim of Leighann Schreyvogel**

Leighann Schreyvogel appeared and addressed the Board. Jill Scally appeared and addressed the Board on behalf of the Attorney General's Office.

Mary Lundeen, VCGCB Senior Attorney, explained that Leighann Schreyvogel requested leave to present a late claim for compensation from the Department of Fish and Game (DFG) in the amount of \$1,166.76 for personal property taken during a search of her residence on January 4, 2010, and economic harm resulting from a jury trial that was dismissed on May 17, 2011.

Ms. Schreyvogel stated that in November 2009, she shot a buck on private residence. She stated that it was a legal shot, it was validated that day, and she mailed the tag the next day. In December 2009, she placed an article and photo of her shooting the deer in the *Western Outdoor News*. In January 2010, DFG searched her house, took her guns, horns, the photo, and deer meat. In September 2010, DFG filed suit against her. From 2010-2012 there were miscellaneous court appearances; however, she did not have to appear. On May 11, 2011, she met with her attorney and on May 12, 2011, there was a mandatory settlement conference that she was required to attend. On May 16-17, 2011, she was on trial in Butte County. On May 17, 2011, the judge dismissed the case. On the same day, the attorney for DFG told her that they would appeal the decision; however, they did not appeal it. In July 2011, she drove to Redding to retrieve her guns. In September 2011, she received the horns and pictures from the Department of Fish and Game in Redding. On that same day, the Department of Fish and Game warden informed her about the VCGCB; however, her lawyer was unaware of the VCGCB. She stated that if she had known that there was a time limit to file a government claim, she would have filed her claim immediately. Further, she stated that she did everything that she should have done and only wanted compensation for her wages and the money for her deer meat.

Ms. Scally stated that being unaware of the VCGCB was not a sufficient basis for granting the late application. She recommended that the Board deny the late application.

The Board voted to adopt the staff recommendation to deny the late application for failure to meet the criteria required in Government Code section 911.6.

Board member Ramos commented that Ms. Schreyvogel's next step could be to pursue the matter in small claims court.

**Item 6. Claim of Omnicare Inc.**

**Claim Number G599523**

Mary Lundeen, VCGCB Senior Attorney, explained that Omnicare Inc. requested re-issuance of a stale dated Health Care Deposit Fund warrant in the amount of \$86,607.33. The original warrant was issued June 16, 2005.

Ms. Lundeen stated that the State Controller's Office (SCO) confirmed that the warrant was not previously cashed or re-issued and therefore recommended the claim be allowed in the amount of \$86,607.33 under authority of Government Code section 905.2(b)(4) (legislative pay).

The Department of Health Care Services concurred with the recommendation provided by SCO.

Based on the facts of the claim and the recommendation of SCO to allow the claim, GCP staff recommended that the claim be allowed in the amount of \$86,607.33, under authority of Government Code section 905.2(b)(4) (legislative pay).

The Board voted to adopt the staff recommendation to allow the claim.

**Item 7. Claim of Ryan C. Todd**

**Claim Number G602061**

Mary Lundeen, VCGCB Senior Attorney, stated that the claim would be continued to the September 20, 2012, Board meeting at the request of the claimant.

**Item 8. Claim of AT&T**

**Claim Number G603600**

Mary Lundeen, VCGCB Senior Attorney, explained that AT&T requested payment from the California Department of Corrections and Rehabilitation (CDCR) in the amount of \$664,109.74 for telephone services provided during the period of March 4, 2010, through July 24, 2010.

She stated that CDCR acknowledged that the services were provided and that CDCR owes the amount requested. Further, CDCR recommended that the claim be allowed in the amount of \$664,109.74 under authority of Government Code section 965 (agency pay).

The GCP staff reviewed the claim and determined that it was complete and timely pursuant to Government Code sections 910 and 911.2. In determining completeness and timeliness, GCP relied upon the date AT&T discovered it must file to seek payment through the GCP process, which was August 30, 2011. She stated that based on its review of the claim and the recommendation from CDCR, GCP staff recommended that the claim be allowed in the amount of \$664,109.74 under authority of Government Code section 965 (agency pay).

The Board voted to adopt the staff recommendation to allow the claim.

**Item 9. Claim of Bay Area Doctors, Inc.**

**Claim Number G603785**

Mary Lundeen, VCGCB Senior Attorney, explained that Bay Area Doctors, Inc. (Doctors, Inc.) requested payment from the California Department of Corrections and Rehabilitation (CDCR) in the amount of \$71,717.21 for mental health services provided between November 1, 2010, and June 22, 2011.

CDCR issued an invoice dispute notification that stated that CDCR was unable to pay because their mental health budget was depleted; however, CDCR agreed with the validity of the services and supported payment to Doctors, Inc. in the amount requested.

GCP staff reviewed the claim and determined that it was complete and timely, pursuant to Government Code sections 910 and 911.2. Doctors, Inc. provided satisfactory services to CDCR and had not been compensated. Based upon consideration of the facts and the parties' mutual desire to settle the matter through the Board action, GCP staff recommended that the claim be allowed in the amount of \$71,717.21, under authority of Government Code section 965 (agency pay).

The Board voted to adopt the staff recommendation to allow the claim.

**Item 10. Request for Continuation of the Government Claims Program/California Highway Patrol Program**

Mary Lundeen, VCGCB Senior Attorney, requested that the Board approve the continuation of the Government Claims Program /California Highway Patrol Program for three years and expand the types of claims included in the CHP Program. She stated that the Program may be discontinued by either the Board or the CHP with 30 days' written notice, effective August 16, 2012.

Ms. Lundeen explained that on August 23, 2007, the Victim Compensation and Government Claims Board adopted a resolution delegating to the Executive Officer the authority to evaluate and decide claims arising out of the activities of the CHP, if all of the following conditions exist:

1. The claim involves vehicle damage, an impounded vehicle dispute, push bumper, or minor property damage;
2. The amount of the claim is over \$1,000.00, but does not exceed \$5,000.00;
3. The GCP staff concurs with the CHP's recommendation on the claim; and
4. The CHP certifies a sufficient appropriation for payment of the claim exists in the current fiscal year.

Ms. Lundeen stated that the GCP and CHP recommend adding the following types of claims to condition one above:

1. Lost property
2. Force entry damage
3. Alleged employee error
4. Search and Seizure
5. Special settlements (settlement agreements made prior to claim presentation)
6. CHP inspection station incidents

Adding these types of claims will increase the scope of the CHP Program, thereby increasing the number of claims that can be efficiently and effectively handled.

Consistent with the Board's extended renewal period for delegated authority established April 19, 2012, GCP staff recommended extending the period during which the CHP Program is continued from one year to three years.

Ms. Lundeen stated that CHP Program has resulted in streamlined and effective claims processing and has improved communication and collaboration between GCP and CHP. In consideration of the CHP Program, CHP has agreed not to seek statutory changes to its Delegated Authority. CHP has Delegated Authority for claims under \$1,000.00, which include claims meeting criteria for the CHP Program. Claims over the Delegated Authority amount of \$1,000.00, that do not meet the CHP Program criteria are sent to CHP as requests for recommendation through the normal GCP process.

Further GCP staff, with the approval of the CHP, recommended that the Board approve the expansion and continued operation of the CHP Program with a three-year time frame, effective August 16, 2012, through August 30, 2015.

The Board voted to adopt the staff recommendation to approve the request.

**Item 11. Applications for Discharge From Accountability for Collection**

The item was removed from the agenda.

**Item 12. Bid Protest of HERCO**

**Invitation for Bid No. COR-1-000584-001-S0**

The item was continued to the September 20, 2012, meeting.

**Item 13. Bid Protest of Secure Detention Products**

**Invitation for Bid No. CIM-1000423-KF**

Lance Phillips appeared on behalf Secure Detention Products. Robert Stroebel appeared on behalf of IB Roof Systems. Tracey Talamantes appeared on behalf of the California Department of Corrections and Rehabilitation.

Mr. Strumpfer explained that the Protest of Secure Detention Products Invitation for Bid No. CIM-1000423-KF was before the Board to decide whether Secure Detention Products' two bids complied with the IFB specifications. The Hearing Officer reviewed and considered the procurement file including, but not limited to, the IFB specifications, questions and answers, communications between CDCR and Secure Detention Products, and the two bids. The hearing officer determined that Secure Detention Products failed to show by a preponderance of the evidence that it submitted the lowest bid complying with the IFB specifications and therefore recommended that the Board deny the protest.

Mr. Phillips stated that the protest was submitted based upon his bid submittal that was equal or equivalent to the bid solicitation. Their bid met IFB specifications even though no FM listing for the two assemblies was submitted. The identity name was not included with the bid; however, paperwork has since been amended and identified. The Dow Factory Mutual (FM) has been listed and approved.

Ms. Talamantes explained that Mr. Phillips' bid was originally rejected because the roofing assembly that he provided in the bid was not listed, which was a requirement of the specification. Although Secure Detention Products' assembly is now listed, it was not listed in the original bid.

Mr. Stroebel explained that of the two systems, one of them, IB Roof Systems, has been added and published; however, the second one has not been processed yet. He stated that he had a letter from IB Roof Systems that stated that they are working with Dow FM in processing the roof numbers that were issued to them; however, it had not been published yet. He stated that initially they submitted FM data from the insulation adhesive manufacturer and their listing is good up to the roof cover and roof cover board. In fact, they provided third-party test data through another company, Trinity ERD, which revealed that they had the test data for the roof cover and roof cover board.

They then paid for an evaluation report which tied the two together showing that the testing and the FM letter from the insulation adhesive manufacturer were compliant with the specification.

Ms. Talamantes stated that the information provided by Secure Detention Products at the Board meeting was not available at the time of the bid opening; therefore, when the architects and engineers reviewed all of the bids to ensure that they were compliant, Secure Detention Products bid was rejected because it was not compliant.

The Board voted to adopt the staff recommendation to deny the protest.

**Item 14. Bid Protest of The Bright Group  
Invitation for Bid No. CIM-1000423-KF**

The item was continued to the September 20, 2012, meeting.

**Victim Compensation Program**

The Board commenced the Victim Compensation Program portion of the meeting at 11:35 a.m.

**Public Comment by Dennis Carlton**

Mr. Carlton commented that his Application Number A11-2983096 was not too complex for the Board's consideration because he submitted sufficient documentation to support his claim, which included his business losses and medical records.

Chairperson Caballero thanked Mr. Carlton for his comments and stated that the Board would adjourn into Closed Session. She explained that Mr. Carlton would receive written notification of the Board's decision.

**Closed Session**

Pursuant to Government Code section 11126(c)(3), the Board adjourned into Closed Session with the Board's Executive Officer, Chief Deputy Executive Officer, and Chief Counsel at 11:40 a.m. to deliberate on the proposed decisions numbers 1-306.

**Open Session**

The Board reconvened into open session at 11:45 a.m. The Board voted to adopt the proposed decisions for numbers 1-306.

The Board meeting adjourned at 11:45 a.m.