
# Implementation of State Auditor's Recommendations

February 2001
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# Introduction

This report summarizes the major findings and recommendations from audit and investigative reports we issued from January 2000 through January 2001. The purpose of this report is to identify what actions, if any, these departments have taken in response to our findings and recommendations. We have placed this symbol ➲ in the left-hand margin of the summary to identify areas of concern or issues that we believe the department has not adequately addressed.

For this report, we have relied upon required periodic written responses prepared by auditees to determine whether corrective action has been taken. The Bureau of State Audits' (BSA) policy requests that auditees provide a written response to the audit findings and recommendations before the audit report is initially issued publicly. As a follow up, we require the auditee to respond at least three times subsequently: at 60 days, 6 months, and 1 year after the public release of the audit report. We may at times require follow-up beyond 1 year or have initiated a follow-up audit if deemed necessary.

We report all instances of substantiated improper governmental activities resulting from our investigative activities to the cognizant state department for corrective action. These departments are required to report the status of their corrective actions every 30 days until all such actions are complete.

Unless otherwise noted, we have not performed any type of review or validation of the corrective actions reported by the auditees. All corrective actions noted in this report were based on responses received by our office as of February 7, 2001.

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# Department of Education

## *Lax Monitoring Led to Payment of Unsubstantiated Adult Education Claims and Changes in the Program May Seriously Impact Its Effectiveness*

### Report Number 98113, July 1999

***Audit Highlights . . .***

***Our review revealed that the Department of Education mismanaged its oversight of the federal adult education program. As a result, several community-based organizations could not support services for which they were paid.***

***Furthermore, although it is making significant changes to the program, past monitoring problems may not be resolved and new problems may be created.***

The Joint Legislative Audit Committee requested an audit of the California Department of Education's (department) administration of the adult education program. We focused on the department's administration of federal adult education funds and on community-based organizations' (CBOs) use of these funds. Specifically we found:

***Finding #1:*** *The department failed to detect cases where claimed services were not substantiated.*

The department made payments to CBOs for more services than the CBOs were able to substantiate. Eight of the 10 CBOs we reviewed could not adequately document claimed hours of instruction for at least one of the last five fiscal years. In addition, none of the 10 CBOs could consistently show that the students for whom hours were claimed demonstrated a gain in skill. These collective circumstances indicate the department paid for services that the CBOs may not have furnished. Although we found these problems to be widespread, the department rarely detected them during its site visits, giving CBOs no compelling reason to improve their record keeping.

***Finding #2:*** *The department risks paying even more money for unsubstantiated claims in fiscal year 1999-2000 since its draft adult education monitoring procedures do not ensure that claimed services are documented, and it has not yet developed documentation requirements for service providers.*

To ensure that service providers maintain appropriate evidence to support their claims for payment, we recommended that the department:

- Establish strict guidelines for service providers to document student testing and hours of instruction to deter easily falsified evidence.

- Place a high priority on developing a battery of interchangeable tests for measuring gains in skill to avoid falsification of evidence or teaching to the test questions.

- Design monitoring procedures to test support for claimed services, including review of attendance records, summary documents, and tests showing attainment of benchmarks.

➲ ***Department Action: Partial corrective action taken.***

As of July 2000, the department had not addressed our recommendation to establish guidelines for service providers to document student testing and hours of instruction. But, the department reported that its test provider has a process in place for the ongoing development of appropriate tests. The department reported that it is exploring agreements with a school district and a community college to calibrate other tests developed by school districts in collaboration with the test provider. Although its last response did not address our recommendation regarding monitoring procedures to test support for claimed services, the department claimed that it performed a compliance review of all grant recipients in the spring of 2000. However, the only monitoring document the department has provided us was a July 1999 draft that we found to be inadequate.

***Finding #3:*** *The department's oversight of adult education funding is flawed.*

The inconsistent review and approval by the department of applications for federal funding from CBOs raises questions regarding the fairness of its decisions. Specifically, the department approved some deficient applications while rejecting others for the same deficiencies. In addition, it approved levels of funding for some CBOs that were unreasonable in light of their past performance. Further, the department awarded one grant that was unrealistically large given the CBO's reported size. In addition, the department failed to react appropriately when it learned of significant concerns about this same CBO.

To ensure that its award decisions are consistent and fair, we recommended that the department:

- Hold all applicants accountable for submitting required information, including audit reports to qualify for funding.

- Evaluate funding requests in light of prior-year performance and the size of the service provider before authorizing grant awards.

- Review a sample of fiscal year 1999-2000 awards to ensure that decisions to award or deny funds are consistent and defensible.

***Department Action: Partial corrective action taken.***

The department stated that it did not accept as eligible for funding any application for fiscal years 2000-01 through 2002-03 from an agency that did not submit required audit reports. However, it did not address whether it held applicants accountable for other required information. But, the department reported that it employed a new application-review process for fiscal years 2000-01 through 2002-03 that it believes is less subjective than processes used in past application reviews. Further, the department stated that it has established a computerized database that will evaluate funding requests in light of prior-year performance and the size of the service provider before authorizing grant awards. In cases where funding requests vary significantly from past performance, the department stated it will investigate the validity of the requests. Finally, when the department reviewed fiscal year 1999-2000 awards, it found inconsistencies in its decisions to deny three applications. It then reevaluated those applications and subsequently approved them.

***Finding #4:*** *Changes to the award process the department proposes may provide more consistency, but may also diminish services.*

The department is implementing a new award process that may result in more consistent award decisions, if it follows through with current plans; however, a new rate structure and more stringent eligibility requirements may also reduce services for the neediest students. Additionally, because the State's fiscal year 1999-2000 budget earmarks federal funds for adult education much more restrictively than the department expected, the department will need to reassess its new rate structure and award process.

We recommended that the department evaluate the impact that changes in the program will have on students and service providers. If, as we anticipate, this evaluation shows that fewer students will be served, the department should develop strategies to encourage program expansion.

➲ ***Department Action: None.***

In July 2000, the department reported that the number of applications it received for federal adult literacy funds has decreased since the institution of new federal laws requiring the department to consider applicants' performance results when making awards. The department also reported that federal enrollment data indicated a decrease in the number of students served in fiscal year 1998-99 and again in fiscal year 1999-2000. Although the federal government projects a slight increase for fiscal year 2000-01, the department has not provided us any strategies to encourage program expansion.

# Perkins Vocational Education Program

## *The State's Use of Funds to Administer Other Programs Reduced Its Ability to Provide Effective Administration and Leadership*

### Report Number 98124, May 1999

***Audit Highlights . . .***

***The federal government passed the Carl D. Perkins Vocational and Applied Technology Education Act (Perkins) amendments of 1990 to increase citizens' abilities to compete in today's technologically advanced global society. Our review found that:***

- ☑ ***The California Department of Education (department) and the Chancellor's Office of the California Community Colleges (Chancellor's Office) used some Perkins funds to administer other federal and state programs that are similar to the Perkins program.***
- ☑ ***Since reorganizing in 1995, the department reduced the number of staff working on the program in its Secondary Education Division, resulting in diminished services to school districts.***

***As a result, the department and the Chancellor's Office have not maximized the effectiveness or availability of Perkins vocational education services at the local level.***

The Joint Legislative Audit Committee requested that we evaluate the State's administration of the Carl D. Perkins Vocational and Applied Technology Education Act (Perkins) program and determine how the California Department of Education's (department) 1995 reorganization of its Curriculum and Instructional Leadership Branch affected its ability to administer the Perkins program. We found that:

***Finding #1:*** *Department employees charged Perkins funding for time they used to administer other programs.*

Four of five tested employees for fiscal year 1997-98 and five of five tested employees for fiscal year 1998-99 charged nearly all their time to Perkins funding despite working on other state and federal programs. In addition, the department's Regional Occupation Centers and Programs (ROCPs) unit charged nearly all its administration costs to Perkins funding, even though it administers only $17 million on Perkins funds for local projects versus $250 million in state funds for local projects.

Shifting Perkins funding to support the administrative costs of other programs shrinks the resources available for meeting specific Perkins goals. Moreover, since these costs are funded by other federal and state sources, they appear to be unallowable for Perkins funding.

To ensure that the State meets federal cost guidelines and mandates of Perkins, we recommended that the department either stop using its Perkins funds to administer other federal and state programs or obtain approval from the federal government to support these programs in this way.

***Department Action: None.***

The department contends that pursuant to federal law, it may use Perkins funds to improve and expand programs identified in the California State Plan. It further argues that if it stopped its current method for spending Perkins dollars it would be out of compliance with Perkins and the federal State Plan.

We have reviewed the department's State Plan and have not seen where the department has informed the federal government of its intentions to use Perkins funding for the administration of other federal and state programs. We continue to recommend that the department obtain federal approval or discontinue using the funding in this manner.

***Finding #2:*** *The Chancellor's Office of the California Community Colleges (Chancellor's Office) used some of its Perkins funds to administer the State's Economic Development Program.*

From August 1977 to February 1999, the Chancellor's Office used over $500,000 in Perkins funds to administer the State's Economic Development Program. By doing so, it decreased the amount of money available to community colleges to fund services under the Perkins program.

We recommended that the Chancellor's Office either discontinue using Perkins funds to administer the State's Economic Development Program or obtain prior approval from the federal government to support state programs in this manner.

***Chancellor's Office Action: Partial corrective action taken.***

The Chancellor's Office sent a letter to the federal government in August 2000, asking it to determine whether the Chancellor's Office's use of Perkins funds was appropriate. We have not yet seen a response from the federal government.

***Finding #3:*** *As part of its reorganization, the department decreased the number of staff working on the Perkins program.*

Despite increased administrative requirements and increased federal funds available for administering the program, the department decreased staff working on the Perkins program in the Secondary Education Division. As a result, administrative

and leadership services to vocational education providers diminished.

We recommended that the department evaluate all areas where its services related to the Perkins program have dropped and ensure that it maximizes the use of available Perkins funding. We also advised the department to reexamine its structure in light of the results of the statewide needs assessment to be conducted under the 1998 Perkins Act and ensure that it is organized in a way to fully address the State's needs.

***Department Action: Partial corrective action taken.***

The department believes vocational education services to local educational agencies have not diminished, but have instead taken on a different focus. Further, the department believes that its 1995 reorganization increased the number of services available to vocational education programs and brought it into compliance with a federal directive to integrate vocational education with academics. However, in response to our recommendation, the department states that it has entered into an interagency agreement that will assist in the development of the State Plan and updating of its needs assessment. The department also states that the State Plan and needs assessment call for substantial input from all of the stakeholders, and will provide the department with information to allow it to evaluate its ability to meet vocational education needs.

Contrary to the department's assertion, our review revealed services under the Perkins program diminished and certain school districts indicate they have unmet needs. Thus, we continue to believe it is important that the department ensure that it maximizes the use of available Perkins funding, and it is organized in a way to fully address the State's needs for the Perkins program.

# Department of Education

## *Its Monitoring Efforts Give Limited Assurance That It Properly Administers State and Federal Programs*

### Report Number 99121, January 2000

***Audit Highlights . . .***

***Our review of the monitoring activities revealed that the Department of Education (department):***

- ☑ ***Does not focus its monitoring activities on high-risk programs and entities.***
- ☑ ***Lacks an overall system to track the performance of recipients of state and federal funds.***
- ☑ ***Audits and Investigations Division's oversight activities provide limited value.***
- ☑ ***Program divisions do not effectively monitor their respective programs.***

We were asked to determine whether the Department of Education's (department) Audits and Investigations Division (audits division) is structured appropriately to audit and monitor the more than $26 billion in state and federal programs the department administers. We found:

***Finding #1:*** *The department needs to reevaluate its current approach to monitoring nonprofits and school districts.*

The department's underlying philosophy focuses on ensuring that it distributes state and federal funds to nonprofit organizations and school districts and provides them with technical assistance. While this philosophy is well intended, it comes at the expense of ensuring that these entities meet program requirements and diminishes the department's ability to effectively monitor state and federal funds.

Furthermore, the department's consideration of risk is minimal when planning its monitoring activities. Although the department reviews program recipients every three to five years as required under state and federal law, it does not conduct more frequent reviews of organizations with significant instances of noncompliance.

We recommended that the department modify its underlying philosophy to restore its accountability for monitoring entities administering state and federal programs. We also recommended that it prepare a departmentwide monitoring plan, which includes analyses to determine the risk associated with programs and organizations receiving funds, and that it establish a monitoring committee.

***Department Action: Partial corrective action taken.***

The department has created five work groups to redesign its monitoring and accountability system. Two of its work groups are focusing on compliance monitoring and enforcement and sanctions. Further, on November 1, 2000, the department convened an external advisory committee to discuss its redesign. Based on recommendations from this committee, the department has adopted guiding principles for the redesign that, among other things, acknowledges that while student achievement is its top priority, California also has a responsibility to support compliance with federal and state laws, and the level of program monitoring can be differentiated using risk assessments. Depending on approval by the State Board of Education and its budget request, the department plans to implement a pilot of its redesigned monitoring and accountability system in fiscal year 2001-02.

***Finding #2:*** *The department lacks a central tracking system for determining the status and results of monitoring activities.*

Department staff currently use different, nonintegrated systems that contain incomplete information. Thus, it cannot quickly identify programs and entities that consistently experience problems such as claiming reimbursement of unallowable costs or failing to correct previously identified weaknesses.

We recommended that the department develop a central database to track the status and results of its monitoring activities.

***Department Action: Partial corrective action taken.***

As part of the redesign of its monitoring and accountability system, the department reported that the State Operations work group is focusing on developing a department wide database for monitoring compliance, technical assistance, and enforcement and sanctions. This work group will also organize a process for improved internal communication across departmental units, divisions, and branches when technical assistance and sanctions are to be invoked. The department also reported that it distributed a request for proposal to conduct a feasibility study on the changes need to upgrade its databases that track monitoring and compliance activities. It expects this study to be completed and a final report issued by May 2001.

***Finding #3:*** *The department does not routinely use performance measures to assess the value of its monitoring efforts or the results of program reviews and audits.*

We found performance measures to be virtually nonexistent during our review of the department's overall monitoring process. When they did exist, the divisions made little effort to achieve them. Establishing and consistently using performance measures would ensure that the department is providing the most value it can to its ultimate customers, the students.

We recommended that the department establish and consistently use performance measures to evaluate its monitoring activities.

➲ ***Department Action: None.***

The department initially reported that it planned to evaluate the cost-effectiveness of establishing performance measures and determine whether they can be implemented within its existing resources. Although the department has reported on efforts to redesign its monitoring and accountability system, it has not specifically addressed this issue.

***Finding #4:*** *Restricted funding and inefficient use of resources limits the audits division's ability to oversee program participants effectively.*

The audits division receives federal funding for monitoring programs, but use of these funds is restricted to monitoring certain programs. It receives almost no state funding for monitoring. Additionally, the audits division focuses a large amount of resources on reconciling child development program records with independent Certified Public Accountant (CPA) reports. If the audits division's external unit did not have this responsibility, it could use these hours to conduct more on-site audits, develop audit procedures to improve the effectiveness of program reviewers, and assist other reviewers with the more complex aspects of their own on-site reviews.

We recommended that the department modify its existing regulations to transfer the responsibility for reconciling child development reimbursement and expenditure amounts reported by independent CPAs from the audits division to its Fiscal and Administrative Services Division, which performs a similar function for school districts and community colleges.

We also recommended that the audits division conduct more on-site visits and that it develop audit procedures to improve the effectiveness of program reviews.

***Department Action: Partial corrective action taken.***

The department stated it had transferred some of the responsibility for reconciling child development reimbursement and expenditure amounts to the Fiscal and Administrative Services Division. The department also stated the audits division conducted nine on-site audits of high-risk child development and nutrition program agencies in 2000. Finally, the department reported that its audits division completed standard audit programs for the Child and Adult Care Food and Adult Education programs. The division continues to work on developing a standard audit program for Child Development programs.

***Finding #5:*** *Recent federal audits cite deficiencies in the audits division's work.*

In its August 1999 report, the U.S. Department of Agriculture (USDA) noted that the audits division's external unit's review process was deficient because it does not examine CPA work papers supporting audit reports to ensure that federal requirements were met, nor does it ensure audits were conducted in accordance with generally accepted government auditing standards. The USDA also noted that the unit had never received an independent peer review of its internal quality control system in accordance with generally accepted government auditing standards.

We recommended that the audits division periodically review the working papers of the independent CPAs who audit those entities receiving federal and state funds. We also recommended that the department ensure that the audits division has an independent peer review of its operations every three years in accordance with generally accepted government auditing standards.

***Department Action: Partial corrective action taken.***

The department reported that its audits division staff plan to review the working papers of independent auditors for each field audit of a high-risk child development and nutrition agency. The department also indicated it has arranged for a peer review of its external audit procedures by the California Association of State Auditors.

***Finding #6:*** *A substantial backlog of CPA report reviews places federal funding at risk.*

The audits division reviews CPA reports for the Child Nutrition, Child Development, and Adult Education programs to ensure that audits of program participants comply with federal requirements. Delays in completing timely reviews of these reports have resulted in a backlog of more than 500 reports for fiscal years 1995-96 through 1997-98.

We recommended that the department eliminate the backlog of CPA report reviews by requiring audits division staff to work a reasonable amount of overtime and through the continued use of outside assistance from entities such as the Department of Finance.

We also recommended that the department require the audits division to streamline the process for reviewing CPA reports to prevent future backlogs and to remain current with its workload by focusing only on critical areas.

***Department Action: Corrective action taken.***

The department stated the audits division has completed the backlog of child nutrition and child development audits for the fiscal years prior to 1999-2000. Also, in November 2000, the audits division developed and implemented a revised review checklist to focus audit report review efforts on the most critical elements of the audit reports. As a result, the audits division expects to promptly complete review of all fiscal year 1999-2000 reports.

***Finding #7:*** *The audits division's review of department's accounting and administrative controls is insufficient.*

For its most recent review of the department's accounting and administrative controls, the audits division's internal unit did not use any of the audit procedures recommended by the Department of Finance, nor did it document why. Moreover, the unit did not identify vulnerable areas as recommended by the Department of Finance where its audit resources would best benefit the department.

We recommended that the department require the audits division to perform sufficient work to ensure that the department's

internal accounting and administrative controls are effective. We also recommended that the audits division perform a biennial risk assessment and that it review and document the work of those auditors that it intends to rely on to support its review.

➲ ***Department Action: None.***

The department stated the audits division's internal auditors have completed their review of the department's budget operations as required by the State Administrative Manual. However, the department did not specifically indicate whether it addressed our areas of concern.

***Finding #8:*** *The department's Coordinated Compliance Review (CCR) of school districts and other program reviews are less effective than they could be.*

CCR reviewers do not maintain sufficient documentation demonstrating that they examined all required program elements. These reviewers also do not adhere to CCR guidance for following up on deficiencies, leaving schools out of compliance long past the deadlines. Furthermore, schools rarely receive sanctions for failing to correct problems promptly. We also found similar deficiencies in the Fiscal Services Unit's review processes of the Development Division, the Nutrition Services Division, and the Adult Education Office.

We recommended that department direct program staff to adhere to audit and review cycles set forth by federal and state laws, regulations, or departmental policies and document the monitoring visits performed during site visits. We also recommended that the department monitor corrective action for entities receiving state and federal funds, enforce fiscal and administrative penalties, and establish clear guidelines for imposing sanctions on noncompliant entities. Furthermore, we recommended that each division within the department evaluate the effectiveness of their monitoring process and periodically report to the new monitoring committee on their success in meeting monitoring objectives.

***Department Action: Partial corrective action taken.***

As previously mentioned, the department plans to implement a pilot of a redesigned accountability system for school districts in fiscal year 2000-01. The purpose of the redesign is to clarify state and local agency roles in supporting student achievement and

compliance with federal and state laws. In an effort to increase compliance enforcement, the department recommended and the State Board of Education approved the withholding of categorical funds from three school districts with long histories of noncompliance with state and federal requirements.

The department's child development division has established a three-year review cycle for all nonlocal education agencies. The division will continue to review all local education agencies every four years as part of the CCR process. Moreover, its nutrition services division has reorganized in an effort to focus on improving monitoring, ensuring corrective action, and enforcing penalties for noncompliance. The division has also established a Fiscal Accountability and Integrity Team to focus on the management of recipients identified, or at risk of being identified, as seriously deficient. Finally, the department stated its adult education office conducted an on-site review at 188 of its 190 agencies in fiscal year 1999-2000 and plans to monitor all 190 in fiscal year 2000-01.

***Finding #9:*** *Discontinued Special Education Reviews expose this program to risk.*

In fiscal year 1998-99, the special education division dropped out of the CCR process and began developing its own review system. Meanwhile, the number of school districts the special education division visited dropped from 189 in fiscal year 1997-98 to 1 in fiscal year 1998-99. Given the significant number of noncompliance issues identified by the division during the previous year, the nearly complete cessation of review work in fiscal year 1998-99 exposes the department to further risk by allowing problematic schools to continue receiving special education funds for programs that may not fully meet the needs of eligible students.

We recommended that the department instruct the special education division to expedite the development and implementation of its new review process.

***Department Action: Partial corrective action taken.***

The department stated its special education division continues implementation of its quality assurance process.

# Los Angeles Unified School District

## *Its School Site-Selection Process Fails to Provide Information Necessary for Decision Making and to Effectively Engage the Community*

### Report Number 99123, December 1999

***Audit Highlights . . .***

***Our review of the Los Angeles Unified School District's (district) site-selection process revealed that the most appropriate and safest school sites are not always chosen. Specifically, we found that the district:***

- ☑ ***Failed to provide its board with sufficient, complete, and accurate data for decisions.***
- ☑ ***Acquired 16 sites with hazardous substances on or near them.***
- ☑ ***Excluded the community from participating in the selection of nearly half of 51 recent school projects.***
- ☑ ***Has been ineffective in soliciting community input on new school sites, thus angering community members and delaying selections.***

The Joint Legislative Audit Committee asked us to evaluate the process used by the Los Angeles Unified School District (district) to select sites for new schools. We found that the district's procedures do not ensure that the most appropriate and safest sites are selected. Specifically:

***Finding #1:*** *The district failed to provide its board of education (board) with sufficient, complete, and accurate data for decision making.*

Before district staff selected and the board approved preferred sites for feasibility studies and before the board approved sites for acquisition, the district did not provide the board with sufficient data to make informed decisions. Specifically, district staff did not include criteria recommended by the California Department of Education (CDE) in its site evaluations and did not determine whether selecting a proposed site would violate state law. As a result, the district risks wasting resources on feasibility studies for substandard sites while acquiring sites posing a health risk to students and teachers.

We recommended that the district revise its site-selection guidelines to include all applicable criteria recommended by the CDE. We also recommended that before selecting a preferred site for feasibility studies, the district conduct limited environmental assessments of all sites being considered to assess

their safety and screen all sites to determine if they would violate California laws. Finally, we recommended that the district obtain better cost estimates before recommending a preferred site for feasibility studies.

***District Action: Corrective action taken.***

The district developed new site-selection procedures including CDE criteria that the board approved in February 2000. In addition, the district stated that it conducts a limited environmental review of all potential school sites. Finally, the district reported that it is working with an outside consultant to develop preliminary cost estimates and rank proposed selections.

***Finding #2:*** *The district acquired 16 sites with hazardous substances on or near them.*

Partly as a result of the district's lack of information about potential school sites, the district built 11 schools on or in close proximity to sites containing hazardous substances. It also delayed or halted construction on 3 other schools located on such sites and built 2 more on sites known or suspected to have released hazardous materials.

To ensure that school sites selected for acquisition are safe, we recommended that the district continue to submit environmental reports to the Department of Toxic Substances Control (DTSC) and that the district revise its site-selection procedure to include the DTSC in the site-selection process.

***District Action: Corrective action taken.***

The district stated that it continues to submit all environmental reports for new school sites receiving state funding to the DTSC for review. In addition, the district's revised site selection procedures reflect the involvement of the DTSC.

***Finding #3:*** *The district does not effectively involve the community in its site-selection process.*

The district excluded the community from participating in the selection of nearly half of 51 recent school sites. When it did seek public involvement, the district limited or delayed public participation so that the community had little opportunity to change the course of the projects. By excluding or limiting

community involvement in the site-selection process, the district missed opportunities to get valuable site suggestions and neighborhood perspectives, angered community members, and ultimately delayed selection decisions.

We recommended that the district eliminate its expedited process and institute a policy of holding a community meeting before selecting preferred sites for feasibility studies. We also recommended that the district improve the notification process for initial community meetings and to include community representatives on the site-selection team. Finally, we recommended that the district provide property owners and tenants enough advance notice of facility committee meetings to allow for a two-week review of staff reports before the meeting dates.

***District Action: Corrective action taken.***

The district developed new site-selection procedures to address our recommendation. The district stated that it has eliminated its expedited process, implemented a community outreach program to more fully involve stakeholders in the site-selection process prior to choosing preferred sites, and provides a 10-day notice of all facility committee meetings.

***Finding #4:*** *The district lacks accountability over its site-selection process.*

For the nine school projects we reviewed, documentation relating to site selection was minimal. In addition, the district could not provide us with a complete list of the status of all projects started within the past 10 years. Without adequate documentation, the district cannot ensure that it is completing all steps in the site-selection process and that it is maintaining accountability to the board and the public.

We recommend that the district use project timelines and checklists including all the steps in the site-selection process to ensure that all the branches involved coordinate their efforts, complete all steps in the process, and are held accountable for their decisions. We also recommend that the district adhere to the priorities for building new schools established in its 1998 and future master plans.

***District Action: Partial corrective action taken.***

The district stated that the project timelines and checklists are part of the new site-selection procedures. However, we did not find any references to timelines or checklists in the new procedures. A revised master plan priority list was approved by the board on July 25, 2000.

# Grant Joint Union High School District

## *It Needs to Improve Controls Over Operations and Measure the Effectiveness of Its Title I Program*

***Audit Highlights . . .***

***Our review of Grant Joint Union High School District's (Grant) administrative practices revealed that it:***

- ☑ ***Did not obtain the board of trustees' advance approval for certain contracts, although state law and board policy require it to do so.***
- ☑ ***Does not have sufficient controls over contracts initiated by its legal counsel.***
- ☑ ***Lacks an adequate system to track and safeguard its current inventory totaling more than $32 million.***
- ☑ ***Allowed several employees to remain on paid administrative leave for an extended time without always acting promptly to complete the personnel actions being taken against them.***

***Moreover, in the past, Grant has not consistently measured whether its Title I, Part A, of the Elementary and Secondary Education Act program is effective.***

### Report Number 99130, June 2000

The Joint Legislative Audit Committee requested that we conduct a comprehensive audit of the Grant Joint Union High School District (Grant) based on concerns that Grant is mismanaged and does not spend funds appropriately. Particular concerns were expressed regarding whether Grant appropriately spent federal funds for its Title I, Part A, of the Elementary and Secondary Act (Title I) program. Grant serves approximately 11,600 students, mainly in north Sacramento County. This report focused primarily on Grant's administrative practices, rather than on any actions it was taking to improve its educational programs. For the areas we reviewed, we found that generally Grant was managed properly and spent funds appropriately. However, it could improve its administrative practices in several areas. Specifically, we found:

***Finding #1:*** *Grant's policies do not require the board of trustees (board) to approve certain contracts and purchases in advance.*

During 1999, Grant did not submit certain contracts and purchases to the board in advance for approval in three types of circumstances. First, although some members expressed concern that the board was not involved in certain expenditure decisions, board policy requires that it approve only certain types of contracts and purchases in advance. Second, Grant did not obtain board approval for some purchases because it interpreted board policy as not requiring such approval. Finally, Grant failed to obtain the board's approval for other contracts, even though state law or board policy require it. As a result, the board is not involved in any meaningful way with some purchasing and contracting decisions.

We recommended that the board clarify and review its existing policies, decide on the extent to which it desires to be involved in and informed of contracts and purchases, and revise its policies to meet those expectations. In addition, we recommended that Grant ensure it follows its own policies and state law for obtaining board approval.

***Grant Action: Partial corrective action taken.***

Grant states that it has clarified procedures in this area and has fully implemented controls over contracts. However, Grant did not specifically address whether the board clarified and reviewed its existing policies. According to Grant, the board now approves all contracts. Specifically, Grant indicated that all first time contracts and any project requiring a contract are preapproved by the board. If the board approves a project, approves the basic parameters for the contract, and authorizes staff to proceed, then a contract is developed based on those parameters, and is signed and ratified by the board.

***Finding #2:*** *Grant did not always use a competitive process when required.*

Grant sometimes failed to use a competitive process when required by state law and board policies. We found that Grant made three purchases totaling $212,000 in 1999 that should have been bid competitively. Grant failed to use a competitive process for two of the purchases because its purchasing department does not have a procedure to detect orders that it should combine. Grant also did not always follow its own internal written policy for obtaining quotes when it purchases goods and services that do not require formal competitive bidding. As a result, Grant cannot ensure that it received the best value for these purchases.

We recommended that Grant implement procedures to ensure the purchasing department reviews purchases and combines orders when appropriate and submits purchases above the established threshold to a competitive bidding process. In addition, Grant should competitively bid all purchases and contracts required by state law and the board's policies. Finally, Grant should obtain quotes for purchases not requiring competitive bidding in accordance with its internal policies.

***Grant Action: Partial corrective action taken.***

Grant notes that its policy is clear on this issue, and it does not anticipate this will be a problem in the future. It acknowledges, however, that the most difficult items to control are computers because of Grant's decentralized program. Grant plans to resolve this issue by semi-annually reviewing contracts or other bids for acceptable computer purchases and ensuring its choices are approved by the board. Grant states it also plans to obtain quotes and bids as appropriate.

***Finding #3:*** *Grant has not developed policies for its use of California Multiple Award Schedules (CMAS) vendors.*

Grant has not developed policies or procedures to ensure that it compares the prices offered by various vendors when it makes purchases through the CMAS program. Although district staff indicated that they compare and negotiate with various vendors when purchasing goods and services through the CMAS program, they cannot demonstrate that this comparison actually occurred. Furthermore, Grant has not established policies that set limits on CMAS orders it can make. Without obtaining prices from competing vendors, Grant cannot ensure it obtains the best available value. Additionally, since Grant has not set limits on the orders it can make, purchases of any size can be made without requiring staff to seek board approval for any of these transactions.

We recommended that Grant develop policies and procedures to ensure that it compares various vendors when using the CMAS program and that it sets order limits.

***Grant Action: Partial corrective action taken.***

Grant states that while CMAS purchases do not require bidding, it will require board approval for CMAS contracts or purchases above board policy limits for bidding. Additionally, Grant will follow CMAS guidelines for review of CMAS purchases and contracts. However, Grant does not address whether it plans to develop policies and procedures to ensure it compares vendors or sets order limits.

***Finding #4:*** *Grant should improve control over certain agreements.*

Grant also could improve its control over agreements initiated by its legal counsel. Grant paid nearly $488,000 for services it received during calendar year 1999 for these types of agreements. Staff did not maintain copies of all agreements, and it appears as though written agreements never existed in certain instances. Additionally, some agreements lacked clear descriptions of the work to be performed and set no limit on the amount Grant was willing to pay for the services. Further, some related invoices did not contain sufficient detail. As a result, Grant does not have a sufficient basis on which to review the related billings and ensure that it has received the appropriate services. In addition, because Grant did not set a limit on the amount it was willing to pay, it does not have a mechanism in place that, when the limit is reached, would cause staff to review the agreement and determine whether they want to continue to receive the agreed-upon services.

Additionally, all but 4 of 10 advisory services agreements we reviewed failed to identify a specific period of performance. For 2 of the 4 agreements that did define a period of performance, Grant paid for services outside the agreed-upon period. For 1 agreement, Grant also requested that the contractor perform services not specifically identified in the scope included in the original agreement.

We recommended that Grant take the following actions:

- Maintain complete files of all signed agreements and prepare written agreements for all services it requests.

- Include complete descriptions of the work to be performed and rate schedules in the agreements to allow informed judgments as to whether the services were appropriate and allowable.

- Set limits for the amounts it is willing to pay in its agreements to trigger a review and determine whether it wants to continue to receive the agreed-upon services.

- Require all contractors to provide detailed invoices.

- Prepare new agreements or amendments to agreements before it incurs or pays for services not included in the original agreements.

***Grant Action: Partial corrective action taken.***

Grant states that it has improved quality control over all agreements it negotiates and executes. Specifically, all agreements with vendors, including law firms, consultants, and other service providers must be submitted to the board for approval. Furthermore, all agreements must state with specificity the services to be performed, the cost of the services, and the duration of the agreement. Grant also notes that it has revised its master contract file, which is now maintained in the Business Services Office and the Legal Services Office. However, Grant does not address whether it plans to require all contractors to provide detailed invoices.

***Finding #5:*** *Weaknesses in control over equipment inventory diminish Grant's ability to safeguard its property.*

Although Grant is making major equipment purchases through a variety of programs, it has not established an effective system to account for these investments. As of March 2000, Grant's inventory contained more than 83,000 items totaling more than $32 million. We found that Grant has not completed a physical count of its equipment for several years, and its inventory system often does not adequately track the location of equipment. Consequently, it cannot ensure the accuracy and usefulness of its inventory records and lessens its ability to account for and safeguard its equipment against loss or theft. Additionally, Grant cannot ensure the proper use of equipment purchased for a specific purpose.

Additionally, our review of the equipment list indicated that it contains hundreds of items with a value substantially less than the required threshold of $500. By keeping low-cost items in the inventory records, Grant increases the difficulty of tracking equipment and maintaining records for valuable or sensitive equipment.

We recommended that Grant immediately perform a physical inventory of its equipment and update its inventory records. After it updates its inventory records, Grant should then keep them current by developing procedures to track new equipment at

appropriate locations and by consistently performing an annual physical inventory. Additionally, the board should revise its current policy to require Grant staff, consistent with state law and federal regulations, to include in its equipment inventory only those items with a value greater than $500 or items determined to be highly susceptible to theft. It also should instruct Grant staff to remove items from its inventory records that do not meet those criteria.

***Grant Action: Partial corrective action taken.***

Grant is reviewing the inventory and eliminating items that do not meet the $500 threshold or that it otherwise wishes to control. Grant stated that a revised inventory would be available for review in January 2001. Once the volume of items listed is reduced, Grant believes it will be easier to review, maintain, and control the remaining items. At that time, Grant plans to conduct a physical inventory to validate the revised inventory.

***Finding #6:*** *Length of paid administrative leave for some employees seems excessive.*

Grant does not always ensure that it promptly resolves cases involving employees on paid administrative leave. For example, it could not demonstrate it was engaged in activities that would lead to a resolution of the personnel actions it took for five employees placed on extended paid leave for significant blocks of time during calendar year 1999. Its failure to resolve cases promptly may result in a waste of district funds as it continues to pay the employee on leave. This action may also leave Grant vulnerable to criticism that certain employees receive special treatment.

We recommended that Grant limit paid administrative leave by taking prompt action in disciplinary matters.

***Grant Action: Corrective action taken.***

According to Grant, since our audit, it has been very aggressive in reviewing and streamlining its human resources procedures, including, but not limited to, administrative leaves. On July 1, 2000, Grant permanently filled the position of assistant superintendent of human resources with an individual who has addressed the issue of paid administrative leave. Grant also states that it intends to expedite investigations and inquiries to minimize the number of days an employee is on paid administrative leave.

***Finding #7:*** *Control over background checks and tuberculosis testing of Grant volunteers should be strengthened.*

Grant does not always ensure that it adheres to its policies requiring volunteers to submit to background checks and tuberculosis tests before they are given access to school facilities. We found 10 instances in 31 volunteer files in which Grant prepared identification badges for volunteers before it completed one or both procedures. It appears that Grant actually issued the identification badges to the volunteers in 4 of the instances. The badges allow the volunteers access to district campuses, and as a result, Grant may be placing the safety and security of its students, employees, and facilities at risk.

We recommended that Grant tighten its control over the review of volunteers' files and not permit volunteers access to school campuses until background checks and tuberculosis tests are completed.

***Grant Action: Partial corrective action taken.***

Grant states that its new assistant superintendent of human resources has commenced an audit of all the personnel files to ensure proper compliance with Education Code guidelines as well as its own policies that require a background check and tuberculosis test for all volunteers.

***Finding #8:*** *Grant should continue to strengthen its hiring practices.*

Although questions arose in the past regarding Grant's hiring practices, it is making progress towards improving them. In 1997, Grant hired a consulting firm to assess the personnel services and the department's hiring procedures and to make recommendations to improve these services. In 1999, Grant contracted with another consultant to, among other duties, assess its progress toward implementing the recommendations of the earlier report. The second consultant found that Grant had implemented many of the original recommendations.

We recommended that Grant address any unresolved concerns identified by the consultants.

***Grant Action: Partial corrective action taken.***

Grant states that the new assistant superintendent of human resources has further refined the posting, processing, and screening of applications during the hiring process. Grant has

also become a member of an organization that provides specific job testing. However, Grant does not specifically address how many of the concerns identified by its consultants are still unresolved.

***Finding #9:*** *Grant has failed to measure the effectiveness of its Title I program.*

Although it is required to do so by federal law, Grant has not consistently measured the effectiveness of its Title I program. This program provides grants to improve the teaching of children who are at risk of not meeting academic standards. Federal law gives some of Grant's schools flexibility when using these funds. This flexibility, combined with public perception that the Title I program has failed in this district, makes it especially important to measure the program's effectiveness. Currently, in response to more stringent state requirements for achievement testing, Grant is implementing an annual evaluative process for all students. The California Department of Education believes this process, combined with certain other measures, will meet the Title I requirements. However, it is too early to determine whether the evaluative process will demonstrate that Grant is using its Title I funds in the most effective manner.

We recommended that, as Grant progresses in the development of its overall assessment process, it consistently assess whether its Title I program is effective.

***Grant Action: Pending.***

This is an issue that Grant needs to focus on as it progresses in the development of its overall assessment process.

# STAR Program

## *Ongoing Conflicts Between the State Board of Education and the Superintendent of Public Instruction as Well as Continued Errors Impede the Program's Success*

***Audit Highlights . . .***

***Our review of the California Department of Education's (department), State Board of Education's (board), and superintendent of public instruction's (superintendent) implementation of the Standardized Testing and Reporting (STAR) program disclosed:***

- ☑ ***Open conflict between the superintendent and the board as well as errors on the part of school districts and the test publisher have negatively affected the program.***
- ☑ ***The superintendent has not developed an annual implementation plan, as law requires.***
- ☑ ***During the first two test cycles—spring 1998 and spring 1999—the department did not closely monitor the performance of the test publisher. The program has been plagued with missed deadlines, unreliable data, and inaccurate reporting of achievement test results.***
- ☑ ***The department must take further action to ensure the success of the Public School Accountability Act of 1999, such as pushing for better test security.***

### Report Number 99131, April 2000

The Joint Legislative Audit Committee asked us to conduct an audit regarding the implementation and execution of the Standardized Testing and Reporting (STAR) program. Our audit focuses on the roles and responsibilities of the California Department of Education (department), the Superintendent of Public Instruction (superintendent), the State Board of Education (board), school districts, and test publishers in implementing, administering, and reporting the STAR program. Specifically, we found:

***Finding #1:*** *Conflict between the board, superintendent, and department undermine the STAR program.*

The California Education Code (code) gives the board the authority to adopt policies for the governance of kindergarten through grade 12 in public schools. The code further states that the role of the superintendent and the department is to administer the board's policies. Historically, the board and the superintendent have not always agreed whether certain issues are matters of policy or administration. The decades-old conflict between these educational bodies continues and has negatively affected all aspects of the STAR program.

To facilitate communication between the board, superintendent, and the department and to create a more productive environment for the STAR program, we recommended that:

- The Legislature should establish a mechanism for appointing a mediator to resolve disputes that will most certainly continue concerning these entities' respective roles and responsibilities.

- With the help of the mediator, the board and the department should establish a memorandum of understanding that outlines their respective roles and responsibilities for implementing the STAR program.

***Legislative Action: Unknown.***

We are unaware of any legislative action implementing this recommendation.

***Department and Board Action: Partial corrective action taken.***

The department and the board did not address the establishment of a memorandum of understanding but report that they are able to work together without the assistance of an outside mediator. Specifically, legislation giving the department administrative responsibility over the STAR program allows it to provide better direction to the test publisher. Moreover, the department and the board have had weekly meetings to communicate information on testing and to plan STAR administration.

***Finding #2:*** *The STAR program lacks an implementation plan.*

State law requires the superintendent to submit to the Legislature a plan for producing valid, reliable, and comparable individual student scores. However, the superintendent has not developed such a plan for the STAR program.

We recommended that the superintendent should develop an annual implementation plan as mandated by law. Further, the plan should explain how to communicate instructions to the test publisher and include:

- A decision matrix that shows the representatives who must be present from each entity before a decision is accepted.

- Timelines indicating all anticipated actions to be taken by the board and the department.

***Department Action: Partial corrective action taken.***

The department did not address the superintendent's development of an annual implementation plan. However, it did report that it has been working continuously with the test publisher to plan a test item-development process, develop procedures for field testing test items, and obtain research information on testing to

facilitate the production of valid and reliable test results for both language arts and mathematics. It also states that this work is included in the test publisher's 2001 contract.

***Finding #3:*** *Poor communication between state entities causes the test publisher to receive conflicting instructions.*

For the spring 2000 test cycle, the department contracted directly with the test publisher. Despite this contract, weak communication among the department, the board, and the test publisher continues. Several times during the spring 2000 test cycle, the board and department gave the test publisher conflicting instructions.

We recommended that the department must continue its weekly meetings with the test publisher, as outlined in the 2000 contract. It should also ensure that it places similar requirements in all future contracts. We also recommended that the board and the department must establish a formal meeting schedule to make sure that the board is kept abreast of ongoing program issues.

***Department and Board Action: Corrective action taken.***

The department reports it continues to meet and hold conference calls weekly with the test publisher's staff, as required in the test publisher's 2000 contract. A similar requirement is also in the test publisher's 2001 contract.

***Finding #4:*** *The State did not properly monitor the test publisher's performance.*

There appears to have been very little monitoring of the test publisher's performance by the department in the first two test cycles, spring 1998 and 1999. The superintendent did not establish a method for working with the test publisher to ensure that the achievement test results are valid, reliable, and comparable, as state law requires. Thus, a clear description of the scope of the work; a timeline for major activities and milestones; a plan for monitoring the test publisher's performance; and defined roles and responsibilities for the department, board, and test publisher did not exist. Consequently, the test publisher's performance during the first two years was problematic, particularly during the spring 1999 test cycle. To improve its performance, the test publisher obtained the services of a consultant to identify breakdowns in its operations and those of its subcontractors.

We recommended that the board and department should review the recommendations of the test publisher's consultant and amend the current contract to ensure that the test publisher does implement all recommendations that will improve the STAR program.

***Department and Board Action: Corrective action taken.***

The board and department report that, where possible, they have ensured that the consultant's recommendations were incorporated into the planning and program procedures for STAR 2001.

***Finding #5:*** *School district training can increase the integrity of the STAR program.*

For the first two years of the STAR program, school district and test publisher errors prevented the department from posting complete and accurate test results for public viewing on the Internet by the yearly statutory deadline of June 30. Delays in reporting accurate and complete test results can have a significant effect on the State's Academic Performance Index (API), which is used to distribute about $150 million earmarked for schools and teachers under the Public Schools Accountability Act of 1999. Currently, the achievement test results comprise 100 percent of the API.

To ensure the integrity of the testing process and the accuracy of the information given, we recommended that the department should calculate the additional costs of requiring all school districts and testing personnel to attend training courses on properly administering the test and accurately reporting necessary demographic information. If the costs are reasonable in relation to the total program costs, the department should take the necessary actions for requiring all relevant personnel to attend this training.

***Department Action: Partial corrective action taken.***

The department reports that it has taken a number of steps to improve training materials and the training process. For the spring 2001 test cycle, the department intends to provide school districts with an enhanced video training tape to improve training for teachers and test proctors. It also is attempting to revise all testing manuals and pretest workshops to clarify areas that have been problematic. Finally, the department has determined that it does not have legal authority to mandate that all school district staff administering the STAR program attend training classes.

# Standardized Tests

## *Although Some Students May Receive Extra Time on Standardized Tests That Is Not Deserved, Others May Not Be Getting the Assistance They Need*

***Audit Highlights . . .***

***Our review of the process for granting extra time on standardized tests to students with learning disabilities revealed that:***

- ☑ ***Very few students receive extra time on standardized tests such as the Scholastic Aptitude Test (SAT), ACT, and the Standardized Testing and Reporting exam.***
- ☑ ***Wide demographic disparities existed between those 1999 graduating seniors who received extra time on the SAT and those who did not.***
- ☑ ***Some deserving students may not be receiving the accommodations they need on standardized tests because schools and parents are not aware of Section 504 of the Rehabilitation Act of 1973.***
- ☑ ***Some undeserving students may be receiving extra time on standardized tests; however, the potential magnitude of this problem is limited.***

### Report Number 2000-108, November 2000

We reviewed the process for granting accommodations to students with learning disabilities when taking college admissions tests, such as the Scholastic Aptitude Test (SAT); ACT, formerly known as the American College Testing Program; and other standardized exams, including those administered under the Standardized Testing and Reporting (STAR) program.

To help compensate for their disabilities, disabled students often need accommodations on school work and standardized tests, such as extended time, scribes, or large-print formats. Two federal laws, the Individuals With Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973 (Section 504), ensure that disabled students receive the educational services they need and are not subject to discriminatory practices. Students eligible for accommodations on standardized tests typically qualify for special education under IDEA and have individualized education programs (IEPs) or have Section 504 plans. IEPs and Section 504 plans are tailored to meet the individual needs of students with disabilities and serve as agreements outlining the services schools will provide. Our audit revealed the following:

Very few students receive extra time on standardized tests. For example, less than 2 percent of the 1999 graduating seniors nationwide who took the SAT received extra time, and in California, the rate was less than 1.2 percent. Likewise, less than 2 percent of the 4.2 million California students in grades 2 through 11 who took the STAR exam during the 1998-99 school year received extra time. Although few students received extra time on the SAT, those who did were disproportionately white or

were more likely to come from an affluent family or to attend a private school. Such disparities did not exist for students taking the STAR exam.

***Finding #1:*** *Some deserving students may not be getting the assistance they need on standardized tests.*

Because so few students receive accommodations on standardized tests, it appears that some students might not be getting the assistance they need. In fact, among 1,012 public schools and 584 private schools with seniors who took the exam, not one 1999 graduating senior received extra time on the SAT. This represents 70 percent and 73 percent, respectively, of all such public and private schools in California. While the cause of this problem may vary from district to district, lack of awareness of Section 504 and weaknesses in district processes for identifying students with suspected disabilities would seem to be contributing factors. The two school districts in our sample—San Francisco Unified and Los Angeles Unified—with below average percentages of students receiving extra time on the SAT also had low percentages of students with Section 504 plans compared to the other districts we visited. Los Angeles Unified School District has been criticized for having a weak process for identifying students with disabilities.

To ensure that students with learning disabilities are identified and receive the services they need, we recommended that all California school districts ensure compliance with the requirements of Section 504. Specifically, procedures should exist to identify and evaluate students with disabilities and to ensure that all eligible students receive the accommodations they need. Additionally, districts should ensure that staff, parents, and students are aware of services available to eligible students under Section 504.

***District Action: Partial corrective action taken.***

Los Angeles Unified School District states that it will continue to increase Section 504 awareness by providing teacher and staff development training. San Francisco Unified School District is in the process of formalizing new procedures designed to identify and provide services to students eligible for protection under Section 504. These new procedures include increasing Section 504 awareness by providing teacher and staff training.

***Finding #2:*** *Some undeserving students may be receiving extra time on standardized tests.*

Our review of the files of 330 California students from 18 public schools, most of whom obtained extra time on standardized tests, found that the basis for their accommodations was questionable in 60 instances, or 18.2 percent. The frequency and seriousness of questionable cases varied substantially from district to district. However, because less than 2 percent of total SAT and STAR test takers receive extra time, the potential magnitude of undeserving students receiving extra time is limited.

Six of the seven districts we reviewed did not have adequate records to support the accommodations some students received. However, only San Dieguito Union High School District displayed significant, widespread problems. For example, its incorrect interpretation of Section 504 allowed potentially ineligible students to obtain extra time on college entrance exams. The threat of litigation also caused one district to provide an unwarranted Section 504 plan that was used by a student to obtain questionable accommodations on a college entrance exam. Finally, vague instructions on the College Board's eligibility form and weaknesses in its own approval process may have allowed some undeserving students to receive extra time on the SAT. As a result, these students may have had an unfair advantage over other students taking college admissions tests.

To ensure that ineligible students do not gain an unfair advantage on standardized tests, we recommended that San Dieguito Union High School District revise its policies to ensure that it provides Section 504 plans only to students whose impairment substantially limits a major life activity. Decisions regarding eligibility, placement, and services to be provided should be made only by a team qualified to make such decisions and should be based on the district's own evaluation of disabilities and their impact on learning.

We also recommended that Acalanes Union High School District, Beverly Hills Unified School District, Palo Alto Unified School District, and San Francisco Unified School District provide or request extra time on standardized tests only when such an accommodation is warranted and documented in the student's IEP or Section 504 plan.

***District Action: Partial corrective action taken.***

San Dieguito Union High School District has contracted with legal counsel to review and, if appropriate, revise its policies and procedures regarding Section 504. The other districts chose not to respond to the report.

# California Community Colleges

## *The Chancellor's Office Should Exercise Greater Oversight of the Use of Instructional Service Agreements for Training or Services*

### Report Number 96040, January 2000

***Audit Highlights . . .***

***Our review of California's community college districts revealed that the Chancellor's Office:***

- ☑ ***Is not properly monitoring the districts' use of instructional service agreements.***
- ☑ ***Does not have the information needed to determine which districts have instructional service agreements.***
- ☑ ***Revised its district audit manual but the manual is still incomplete.***

In accordance with Chapter 690, Statutes of 1997, we reviewed California's community college districts' (districts) compliance with regulations prohibiting the districts from receiving apportionment funding for activities that are fully funded through another source. Districts use the apportionment funds they receive to support their community colleges, including the instruction provided. Districts can use instructional service agreements (ISAs) to contract with public or private entities to provide specific training or services. This report concludes that the Chancellor's Office has been slow to review and follow up on the district's compliance with regulations concerning ISAs. Specifically, we found:

***Finding #1:*** *The Chancellor's Office is not properly monitoring the districts' use of ISAs.*

The Chancellor's Office has been slow to monitor and follow up on district annual audits performed by local independent certified public accountants (CPAs). These CPA reports include information on the districts' compliance with regulations concerning ISAs. As of December 1999, the Chancellor's Office had reviewed only 18 of the 71 reports it had received 11 months earlier. Because it has not yet reviewed all 71 audit reports, the Chancellor's Office has only limited assurance that it properly allocated funding to the districts.

We recommended that the Chancellor's Office review district audit reports to ensure that CPAs have performed the required audit procedures to assess district compliance with state regulations on ISAs, and promptly follow up on any state compliance issues identified in these annual audits.

***Chancellor's Office Action: Partial corrective action taken.***

The Chancellor's Office hired a new staff member on October 15, 1999, to reduce the audit workload. In addition, the Chancellor's Office reported that it has received and reviewed all 71 audit reports for fiscal year 1998-99.

***Finding #2:*** *The Chancellor's Office may have provided state apportionment funds for full-time equivalent students (FTES) that did not comply with existing Chancellor's Office regulations.*

For fiscal year 1997-98, Barstow and Lassen community college districts received state apportionment funding for FTES generated through ISAs using instructors that did not have signed contracts with their districts. Such FTES do not comply with Chancellor's Office regulations and therefore would not qualify for apportionment funding. In addition, Chabot-Las Positas received state apportionment funding for FTES claimed through an arrangement with the sheriff's academy without having an ISA with that agency. Chancellor's Office regulations do not allow FTES to be generated in that manner.

We recommended that the Chancellor's Office determine whether the FTES credits Barstow and Lassen community college districts generated through their respective ISAs complied with State Education Code and the Board of Governors' regulations. We also recommended that the Chancellor's Office determine whether the FTES credits generated by Chabot-Las Positas Community College District met the requirements for state apportionment.

***Chancellor's Office Action: Pending.***

A vocational education specialist with responsibility for ISAs is currently following up on these issues.

***Finding #3:*** *The Chancellor's Office lacks information to determine which districts have ISAs.*

When we asked if the Chancellor's Office could provide us with the number of FTES individual districts generate from ISAs, we were told such information is not available at the Chancellor's Office. Without knowing which districts generate FTES through ISAs, the Chancellor's Office cannot assess which districts may be more likely to receive state apportionment funding based on agreements that do not comply with the requirements outlined in the district audit manual or the contract guide.

We recommended that the Chancellor's Office require districts to submit a list of their ISAs and the number of FTES the districts estimate they will generate through such agreements. The Chancellor's Office should utilize this information in its review and follow-up of the districts' annual audit reports to better assure that districts are entitled to the apportionment funding.

***Chancellor's Office Action: Pending.***

The Chancellor's Office is exploring the possibility of gathering information regarding FTES generated at each community college by ISAs through the automated reporting system currently in place.

***Finding #4:*** *The Chancellor's Office's district audit manual is incomplete.*

Although the Chancellor's Office revised its district audit manual to require the CPAs to test ISAs, its suggested audit procedures do not include such items as verifying that contracting entities certify that the direct education costs of their classes are not being fully funded through other sources. Such a certification is required by Section 58051.5 of Title 5 of the California Code of Regulations. Because it did not include this provision in its Contracted District Audit Manual, the Chancellor's Office has less assurance that districts comply with its provisions.

We recommended that the Chancellor's Office revise its Contracted District Audit Manual to require CPAs to specifically test the districts' compliance with regulations that prohibit them from claiming FTES for fully funded classes.

***Chancellor's Office Action: Corrective action taken.***

The Chancellor's Office has amended its Contracted District Audit Manual to require district auditors to specifically test the districts' compliance with regulations that prohibit them from claiming FTES for classes fully funded through another source.

# California Community Colleges

## *Poor Oversight by the Chancellor's Office Allows Districts to Incorrectly Report Their Level of Spending on Instructor Salaries*

### Report Number 2000-103, October 2000

***Audit Highlights . . .***

***Our review found that:***

- ☑ ***Six of 10 districts did not meet the 50 percent threshold for spending on instructor salaries despite having reported compliance with the law.***
- ☑ ***Board of Governors' regulations allowing districts to exclude costs for certain ancillary services not explicitly stated in the law do not further the Legislature's goal of providing more funding for instructional programs.***
- ☑ ***Chancellor's Office training and monitoring is weak and does not provide adequate guidance or identify district misreporting. It also does not monitor the CPAs on whom it primarily relies to verify whether district reports are accurate.***

The Joint Legislative Audit Committee (committee) requested that we review how the Chancellor's Office of the California Community Colleges (Chancellor's Office) implements the law requiring community college districts (districts) to spend 50 percent of their current educational expenses on salaries of instructors. The committee wanted to learn whether the Chancellor's Office appropriately instructs districts on calculating compliance with the law, commonly known as the 50 percent law. We found that:

***Finding #1:*** *Districts overstate their compliance rates.*

Six of 10 districts we visited did not meet the 50 percent requirement for fiscal year 1998-99, despite reporting compliance with the law in annual reports to the Chancellor's Office. They overstated their compliance rates by inappropriately including administrative salaries and benefits in instructor salaries, and excluding from current educational expenses normal operating expenses or district-funded expenditures for categorical programs.

We recommended that the Chancellor's Office clarify its instructions to the districts and provide districts with regular training on compliance with the 50 percent law.

***Chancellor's Office Action: Pending.***

The Chancellor's Office reports that it is planning workshops for certified public accountants (CPAs) and district staff in April and May of 2001 to present changes in the audit requirements, including changes in the 50 percent law compliance tests.

Changes will be based on input from the 50 Percent Law Task Force, the districts, and the Bureau of State Audits.

It also states that it is pursuing various alternatives for providing training to district staff. Such alternatives include, but are not limited to, making presentations for chief business officials and their staff and seeking additional funding for its staff to work on fiscal reviews and technical assistance.

***Finding #2:*** *Regulations adopted by the board of governors allow districts to incorrectly reduce current educational expenses.*

The board of governors has adopted regulations allowing districts to exclude costs for all ancillary activities including bookstore, child development, parking, and student housing operations. The law, however, specifically describes only three such activities as excludable—student transportation, food services, and community services—and does not include a catchall category for "other" similar activities. Including General Fund expenditures and transfers to subsidize noninstructional activities, such as bookstore, child development, parking, and student housing as part of a district's current educational expenses, furthers the legislative goal of providing more funding for instructional programs.

We recommended that the Chancellor's Office discontinue its practice of excluding from the compliance calculation noninstructional activities not enumerated in the law or seek an opinion from the attorney general to support its interpretation of the law as reflected in the regulations.

➲ ***Chancellor's Office Action: None.***

The Chancellor's Office states that it respectfully disagrees with our recommendation.

***Finding #3:*** *Ineffective oversight by the Chancellor's Office allows districts to misreport their compliance rates.*

The Chancellor's Office relies primarily on district-hired CPAs to ensure that districts' reports are accurate, but because these CPAs use inadequate audit procedures developed by the Chancellor's Office, they fail to discover errors. Also, some CPAs even fail to demonstrate that they have completed the audit procedures from the Chancellor's Office. Since fiscal year 1993-94, the

Chancellor's Office has not routinely inspected the CPAs work to ensure that districts are complying with the 50 percent law.

We recommended that the Chancellor's Office expand suggested audit procedures for district CPAs to detect errors in risky areas, such as faculty reassignments and exclusions from current educational expenses. We also recommended that the Chancellor's Office perform routine, independent checks of work CPAs do for the districts.

***Chancellor's Office Action: Pending.***

The Chancellor's Office reports that it is planning workshops for CPAs and district staff in April and May of 2001 to present changes in the audit requirements, including changes in the 50 percent law compliance tests.

The Chancellor's Office also states that it will resume, to the degree possible given its limited resources, its review of CPA work papers. The Chancellor's Office reports that it will continue its pursuit of additional resources for fiscal accountability. Further, it will establish a policy or procedure to address instances when it finds that CPAs audit work is substandard.

# California Community Colleges

## *Part-Time Faculty Are Compensated Less Than Full-Time Faculty for Teaching Activities*

### Report Number 2000-107, June 2000

***Audit Highlights . . .***

***Our review of the compensation of part-time teaching faculty in California's community colleges revealed that:***

- ☑ ***Community college districts pay part-time faculty lower wages and provide fewer benefits than full-time faculty for the same teaching activities.***

***Depending on one's policy perspective, the unequal compensation of part-time faculty either:***

- ☑ ***Creates problems that should be addressed.***
- ☑ ***Reflects an appropriate balance of market conditions that should not be tampered with.***

***If it chooses to address the issue, the Legislature could increase pay for all part-time faculty or only part-time faculty who rely on college teaching as their primary employment.***

The Joint Legislative Audit Committee requested that we study the compensation of part-time faculty within the California Community Colleges. Our review revealed the following:

***Finding #1:*** *Part-time faculty receive less for teaching duties than full-time faculty with the same education and experience.*

Part-time faculty are compensated less overall for teaching activities than full-time faculty with the same education and experience. At the eight districts we reviewed, if part-time faculty were to teach a full course load at their current pay, they would receive an average of $13,042 (or 31 percent) less in annual wages than full-time faculty for the same teaching activities. In addition, medical and retirement benefits of part-time faculty are not always comparable to those given to full-time faculty and are often more difficult to obtain. Finally, even though most districts pay part-time faculty less, they generally expect part-time faculty to perform the same teaching activities, including conferring with students outside the classroom.

However, perspectives vary on whether this pay inequity creates a fiscal incentive for using part-time faculty that may eventually harm the long-term quality of education or whether the pay inequity represents an appropriate balance of market conditions at the local level that should not be altered.

We presented the following options for the Legislature to consider should it take action to eliminate existing pay differences between part-time and full-time teaching faculty within the California Community Colleges system:

To maintain local control in establishing pay for teaching activities, the Legislature could establish a program that provides additional funding to districts that establish equal pay scales for teaching activities for their part-time and full-time faculty. The objective of this option is to eliminate, for all part-time teaching faculty, the existing pay differences for teaching activities that currently exist between part-time and full-time faculty. We estimate this option would cost about $144 million annually.

Rather than eliminate the pay difference for all part-time teaching faculty, the Legislature could opt to establish a program to remove the pay difference for only a portion of part-time teaching faculty based on workload. This approach would raise the level of pay of part-time instructors whose primary employment is college teaching while leaving at a lower level the pay of part-time instructors who generally only teach one or two classes a term and have regular employment in another occupation. We estimate the annual cost for this program would range from $18 million to $38 million.

***Legislative Action: Unknown.***

We are unaware of any legislative action implementing either of these options.

# California State University

## *While Its System of Direct Vendor Payments Should Continue, Its Credit Card Program Could Benefit From Better Controls*

### Report Number 96041, July 2000

***Audit Highlights . . .***

***Our review of the California State University (CSU) revealed that direct payments to vendors were appropriate, properly supported, and documented. Accordingly, there is no need to return the payment process to the State Controller's Office.***

***Although we did not observe widespread abuse, our review of CSU's use of state-issued credit cards (PRO-Cards) also revealed that:***

- ☑ ***Not all purchases received review by an appropriate approving official.***
- ☑ ***Some purchases violated policies and some purchases were questionable.***
- ☑ ***Some purchases lacked sufficient supporting documentation.***
- ☑ ***The CSU's chancellor's office and campuses could improve their own practices by learning about each other's best practices.***

A state law effective January 1, 1997, permits the California State University (CSU) to pay its vendors directly through December 31, 2001. This law also required the Bureau of State Audits to evaluate the CSU's system and report findings and recommendations to the Legislature. Our review found few problems, all of which were isolated rather than systemic. Although we found few errors with payments made by check, we identified more problems with payments made by state-issued credit cards (PRO-Cards). CSU gives PRO-Cards to certain employees for official purchases to streamline the procurement process and to purchase low-value items economically. However, because of weak internal controls—specifically, a lack of clear policies and insufficient monitoring and enforcement—cardholders sometimes were able to use the credit cards to make questionable or improper purchases. Specifically:

***Finding #1:*** *Our review found few problems with the CSU's direct payments to vendors.*

We found only 23 minor problems out of a possible 2,626 that we tested. These problems were scattered across six of the tested characteristics at five campuses and the chancellor's office. A previous review in August 1999 by the State Controller's Office (controller's office) had similar results and concluded that CSU's system of internal controls is generally adequate to ensure the legality and propriety of state disbursements. Further, according to the CSU's analysis supporting the change in the law, the CSU estimated that it would save $1.2 million annually by paying its vendors directly. Coupled with the fact that neither our review nor the controller's office review found any significant problems, returning the vendor payment process to the controller's office would be an inefficient use of state resources.

To ensure that the vendor payment system is efficiently administered, we recommended that the Legislature enact legislation that allows the CSU to continue to pay its vendors directly beyond December 31, 2001.

***Legislative Action: Unknown.***

We are unaware of any legislative action implementing this recommendation.

***Finding #2:*** *An appropriate approving official did not review all purchases.*

The approving officials' level of review for card purchases varied greatly at the campuses we visited. Of the 1,205 purchases we reviewed, 97 (8 percent) lacked an approving official's signature on the monthly statement or had the incorrect signature. In 29 of those instances, cardholders signed their own statements as the approving official. Two campuses allowed other individuals to approve PRO-Card statements for payment when the approving official was unavailable and the campus did not want to delay payment. Statements missing the official's signature prompt us to question whether the purchases were properly reviewed, particularly because we were unable to verify that all employees signing in place of the approving official had received the same training on the proper use of the PRO-Card as the assigned official.

At least two campuses we visited did not ensure that approving officials held a supervisory or managerial position of a higher rank than cardholders, but rather allowed the cardholders' peers or subordinates to act as approving officials. Additionally, Fullerton permits cardholders to purchase items for the official who subsequently approves the purchases even though the purchase could be viewed as questionable or inappropriate. Because there is little separation between the employee purchasing the item and the person reviewing the charges, employees may feel pressured to approve a superior's purchase instead of questioning its appropriateness.

To ensure that the proper officials consistently review all PRO-Card purchases and supporting documentation, the chancellor's office and each campus should take these actions:

- Design a clear approval process, taking into account the possibility that approving officials may be unavailable when monthly statements must be approved and forwarded for payment.

- Ensure that a cardholder's subordinate or peer is not designated as the approving official.

- Ensure that approving officials do not approve purchases made on their behalf, which could be viewed as personally benefiting them.

➲ ***CSU Action: Partial corrective action taken.***

The chancellor's office did not specifically address the approval process regarding approving officials being unavailable when monthly statements must be approved and forwarded for payment. The chancellor's office issued an executive order stating that a cardholder's subordinate or peer should not be responsible for the approval of credit card purchases; the order also directs approving officials not to approve their own purchases.

***Finding #3:*** *Someone other than the approved cardholder used some cards.*

We found 31 uses of PRO-Cards by people other than the cardholder. Allowing such use is a serious breach of internal controls because it is unclear who would be accountable for any improper purchases made by these other users. Although we did not find improper purchases, it is possible that improper purchases could be made.

To ensure that only authorized employees purchase items on the PRO-Card, we recommended that the chancellor's office and each campus prohibit the use of PRO-Cards by anyone other than the cardholder.

***CSU Action: Partial corrective action taken.***

The chancellor's office stated that all campuses have been directed to ensure that strong internal controls are in place to prevent abuse or excess liability through use of PRO-Cards.

***Finding #4:*** *The chancellor's office issued PRO-Cards to non-state employees.*

The CSU did not adhere to the guidelines in its contract with the bank that issues the PRO-Card. It states that the PRO-Card program is intended for university employees only. However, we found that the chancellor's office provides PRO-Cards to employees of the California State Student Association (CSSA), a nonprofit organization representing CSU students. Use of the PRO-Card by CSSA employees also raises the question of whether it is appropriate for non-state employees to use state resources. Use of the PRO-Card by CSSA employees requires that CSU employees who administer the PRO-Card program spend time reviewing and paying the charges. Moreover, the CSU may not be protected from liability issues with regard to CSSA employees because non-state employees are not covered in the contract between CSU and the bank that issues the credit cards.

To prevent non-state employees from abusing state resources and creating a liability, we recommend that the chancellor's office and each campus ensure that only state employees can receive PRO-Cards.

***CSU Action: Partial corrective action taken.***

The chancellor's office stated that all campuses have been directed to ensure that strong internal controls are in place to prevent abuse or excess liability through use of PRO-Cards.

***Finding #5:*** *Some purchases violated policies while others were questionable.*

Overall, we did not identify widespread personal abuses. However, some purchases made with the PRO-Card violated individual campus policies, other purchases appeared unreasonable or inappropriate, and still other purchases appeared personal or did not further the CSU's educational mission. In some cases, officials approved payment of charges even though it was obvious that employees were circumventing campus policies that limit their charges. Of 1,205 PRO-Card purchases at the chancellor's office and 12 campuses, we found 165 with these problems out of a possible 3,615 (4.6 percent). While 6 campuses had very few problems, we found numerous exceptions at the chancellor's office and 6 remaining campuses. Some purchases had more than one problem.

We also found questionable purchases that campus PRO-Card policies did not specifically address. For example, employees at the chancellor's office, and the campuses of Hayward, Long Beach, Monterey Bay, Sacramento, and Stanislaus used PRO-Cards to purchase $1,027 worth of flowers and plants for new employees and for other employees to offer sympathy, thanks, congratulations, and get-well wishes. These purchases are not items for which a state agency would normally pay; public dollars should not be spent for gifts. CSU employees should purchase gifts for co-workers with their own money.

Purchases of snacks, refreshments, and meals for staff meetings, training sessions, and lunches are also questionable. We found three occasions when the chancellor's office purchased coffee and kitchen supplies for its employees. We also noted numerous instances when Fullerton employees purchased refreshments for their meetings with their PRO-Cards. The cardholders did not reimburse the CSU for these purchases.

To ensure that personal or inappropriate items are not purchased with PRO-Cards, we recommended that the chancellor's office and each campus expressly prohibit purchases—such as alcohol, food, flowers, gifts, or other items—that could be used for personal benefit, unless the purchase is preapproved and the cardholder demonstrates that the purchase meets the university's mission. Food purchases for CSU employees do not meet the mission of the university unless one of the following circumstances exists:

- Official university business is being conducted with individuals who are not CSU employees.
- All CSU employees present are on travel status.
- The food is purchased for events, such as training, where some CSU employees present are on travel status.

***CSU Action: Partial corrective action taken.***

The chancellor's office stated that each campus is required to develop written policy and procedures to implement the chancellor's office executive order "Hospitality, Payment, or Reimbursement of Expenses." Further, the chancellor's office stated that the use of the PRO-Card for purchase or payment of meals or other items that could be construed to be of personal benefit is subject to preapproval by an authorizing official.

***Finding #6:*** *Some PRO-Card purchases lacked sufficient supporting documentation.*

Insufficient documentation prevented us from determining whether a number of the purchases we reviewed were appropriate. This was true for 160 (13 percent) of the 1,205 PRO-Card purchases we reviewed. Some may have been appropriate; others may not have been business-related or in compliance with campus policy. For example, many purchases lacking documentation were for meals. If cardholders do not provide a meeting agenda, state the purpose of the meeting, and who attended, neither we nor any other independent reviewer, including the approving official, can ensure that the meal has a legitimate business purpose.

We also found that some purchases lacked detailed receipts. For instance, documentation for 134 purchases either did not include itemized or detailed receipts, or had no receipt at all. Unless campuses establish and enforce a policy stating that purchases must be adequately supported or sufficiently explained, approving officials cannot be certain if the purchase is business-related or allowed under campus policy.

So that reviewing officials can determine the appropriateness of purchases, we recommended that the chancellor's office and each campus do the following:

- Require that cardholders sufficiently describe the purpose for each purchase.

- Require, as necessary, an authorization form prior to the purchase, for example, for sensitive items such as food purchases. For food items, this form should include the meeting agenda, the purpose of the meeting, a list of attendees, and an explanation of how the purchase meets CSU's mission and goals.

- Insist that cardholders include itemized receipts with their monthly PRO-Card statements and annotate receipts lacking sufficient descriptions of purchases.

***CSU Action: Partial corrective action taken.***

The chancellor's office stated that prohibited items and card usage is emphasized in training sessions for new users.

***Finding #7:*** *The chancellor's office and most campuses do not reconcile travel-related charges to travel expense claims.*

PRO-Card policies at all campuses except Fullerton prohibit the charging of travel-related expenses to the PRO-Card. Despite these policies, in some instances, employees were allowed to charge travel-related costs. However, with the exception of Fullerton, which not only allows but encourages employees to use PRO-Cards for travel expenses, the chancellor's office and many campuses do not reconcile travel-related expenses charged to the PRO-Card with the travel expense claims used to reimburse employees. For example, many campuses allow fees for out-of-town conferences to be charged to the PRO-Card. Because employees may also list these fees on their travel expense claims as a business expense, the fees could be paid twice if campuses do not reconcile travel expense claims to PRO-Card statements.

To avoid duplicate payments, we recommended that the chancellor's office and each campus reconcile all travel-related expenses charged to the PRO-Card with employees' travel expense claims.

***CSU Action: Partial corrective action taken.***

The chancellor's office stated that campuses that allow usage of the PRO-Card for travel have established internal controls to prevent duplicate payments. Also, the chancellor's office reported that prohibited items and card usage is emphasized in training sessions for new users. However, the chancellor's office did not specify who provides this training.

***Finding #8:*** *Many employees violate PRO-Card policies without suffering consequences.*

We found that the campuses inconsistently reprimand employees who repeatedly violate PRO-Card policies, for example, by providing insufficient documentation for purchases. Another shortcoming identified in PRO-Card transactions is the failure of many campuses to identify inappropriate purchases and ensure that staff or faculty reimburse the campus for personal purchases. Unless personal charges and related reimbursements are monitored, the CSU may not recover all funds due from cardholders.

To ensure that employees follow PRO-Card policies, officials take appropriate action for questionable or improper purchases, and, when necessary, employees reimburse CSU for inappropriate PRO-Card charges, we recommended that the chancellor's office and each campus take the following steps:

- Track policy violations, including personal charges, and suspend or cancel cards when necessary.

- Monitor inappropriate charges and subsequent cardholder reimbursements.

- Create a review process to ensure that cardholders and approving officials comply with PRO-Card policies.

***CSU Action: Partial corrective action taken.***

The chancellor's office stated that all campuses have been directed to establish internal policies and controls consistent with the above recommendations and CSU policy. The chancellor's office stated that it implemented a program to monitor and enforce PRO-Card usage policies by tracking violations. Further, the chancellor's office stated that it has shared a user handbook with all campuses and assisted campuses with program implementation.

***Finding #9:*** *Some campuses have stronger internal controls over PRO-Card use than others.*

The chancellor's office and campuses could learn and benefit from each other's best practices. During our review, we classified the internal controls for the PRO-Card program into three basic components: policies, monitoring, and enforcement.

Some of the policies and procedures governing the use of PRO-Cards are more effective than others at controlling PRO-Card purchases. Not every campus has an adequate system to monitor cardholders. Finally, although every campus we visited told us that it threatens cardholders who do not adhere to policies with warnings, a reduced credit limit, and finally, confiscation of the card, not all of the campuses follow through with the prescribed action. Unless the campuses and the chancellor's office carry out cardholder reprimands, problems will continue to exist within the program.

To improve the overall quality and consistency of internal controls over PRO-Card use, we recommended that the

chancellor's office and each campus review and consider implementing each other's best practices.

***CSU Action: Partial corrective action taken.***

The chancellor's office stated that best practices related to the PRO-Card program practices have frequently been addressed at both systemwide and national higher education buyer meetings.

# California State University, Fullerton

## *The California State University at Fullerton Mismanaged Trust Accounts, Contracts, and Donated Funds*

***Audit Highlights . . .***

***A manager engaged in numerous improper and questionable activities, including the following:***

- ☑ ***Deposited more than $800,000 into trust accounts and used the funds for unauthorized purposes.***
- ☑ ***Repeatedly circumvented controls over contracting and hiring.***

***Other employees also engaged in improper and imprudent activities, including the following:***

- ☑ ***Created an unauthorized auxiliary organization and transferred millions of dollars in donations to it.***
- ☑ ***Spent $100,000 in donations on entertainment, flowers, gifts, and other questionable items for themselves and other campus employees.***
- ☑ ***Violated their fiduciary duties over endowment funds.***

### Report Number I970051, December 1999

We received allegations that the California State University at Fullerton (campus) illegally established an all-purpose trust account, used funds in that account to pay for many types of expenditures, and diverted surplus funds to the account. In addition, the allegations stated that an official in the campus' Business and Financial Affairs Division (business division) improperly spent the business division's fee revenues and also improperly engaged in contracting and hiring. Finally, the allegations stated that the campus improperly created an auxiliary organization to which it transferred donated funds along with the power to invest and manage them. We investigated and substantiated these allegations and also uncovered additional improper activities. Collectively, these activities demonstrate serious mismanagement at the campus. Based on the evidence reviewed, we concluded the following:

***Finding #1:*** *The campus acted without statutory authority when its business division improperly established an all-purpose state trust account and deposited more than $683,000 into it from July 1994 through August 1998.*

***Finding #2:*** *During the same period, the business division improperly used more than $628,000 from this all-purpose account to pay for campus expenditures not authorized by state laws and, in January 1995, illegally diverted more than $219,000 of its unspent utilities funds to the account. The unspent utilities funds should have been returned to the State's General Fund.*

***Finding #3:*** *The business division improperly directed to an account it controls $15,000 in reimbursements that should have gone to the State. In addition, the business division official improperly used funds from this account to pay for consulting services supplied by acquaintances and former business division employees.*

***Finding #4:*** *The business division apparently overcharged other campus departments for administrative services and improperly used $197,000 in surplus fees to pay for costs unrelated to providing administrative services.*

***Finding #5:*** *A business division official circumvented university contracting policies and procedures when she authorized more than $158,000 worth of work with her acquaintances and former business division employees.*

***Finding #6:*** *The same business division official engaged in questionable personnel practices because she did not recruit for management positions and hired underqualified candidates.*

***Finding #7:*** *Campus officials inappropriately created an auxiliary organization known as the University Advancement Foundation (UAF) and transferred to this organization the investment and management of millions of dollars donated to the campus.*

***Finding #8:*** *From July 1994 to June 1998, campus officials inappropriately authorized payments of about $104,000 from non-state accounts maintained at the California State University Fullerton Foundation and the UAF for food, entertainment, flowers, gifts, and other questionable expenditures for themselves and other campus employees.*

***Finding #9:*** *The campus violated its fiduciary duty by commingling funds designated for President's Scholars with funds that can be used for other purposes.*

***Finding #10:*** *The campus led donors to believe that it had raised more than $1 million for scholarships at its Front and Center fund-raising events in 1995, 1996, and 1997 when, in fact, it set aside only $556,000 for that purpose and paid out only $35,320 of the revenue for scholarships.*

***University Action: Corrective action taken.***

The campus reduced the number of its trust accounts from 2,000 to 30 and established guidelines for originating, administering, reviewing, and monitoring the trust accounts. The campus hired a new director of internal audits, who will now report directly to the campus's president. It has also filled vacancies in the business division. In addition, the evaluation of the campus's fiscal management was completed in December 1999, and the campus appointed an independent task force to work with the consultant to implement the consultant's recommendations. The campus reported that the UAF will report new fund-raising revenues from its events, will forward quarterly budget reports on all budget accounts to the president for review, and will provide its annual financial statements to the public. Finally, the campus reported that it will report net amounts from fund-raising rather than gross amounts.

# California State University, Northridge

## *Absent University Standards and Other Guidance, the World Pornography Conference Was Allowable Under the Basic Tenets of Academic Freedom and Free Speech*

### Report Number 99122, November 1999

***Audit Highlights . . .***

***Our review of the World Pornography Conference disclosed:***

- ☑ ***Since no clear standards exist to guide the staging of this conference by the Center for Sex Research (center), the tenets of academic freedom and rights of free speech and assembly support the center's activities.***
- ☑ ***As a self-supported event, not subject to CSU Northridge oversight, most criticisms of the conference are not sustained.***
- ☑ ***CSU Northridge may have been better able to respond to conference controversies had it established procedures for investigating allegations of research misconduct.***

In August 1998, the Center for Sex Research (center), part of the California State University, Northridge (CSU Northridge), held a four-day symposium titled "World Pornography Conference: Eroticism and the First Amendment." Some critics challenged the conference's academic underpinnings, while others characterized it as merely a "trade show for pornographers."

Despite controversies about the issue of pornography, the evidence we reviewed and the absence of clear standards for staging academic conferences and for judging their academic sufficiency do not allow us to determine that this conference lacked academic merit. CSU Northridge, the California State University system, and many major research universities in the United States have no pertinent standards to guide the staging of academic conferences, affect their content or direction, or influence the expression of the views conveyed. Many universities believe that such standards may abridge the principles of free speech, freedom of association, and academic freedom.

Also, many criticisms about the conference are not sustainable. Regarding the criticism that the conference failed to include opposing views, scholars agree that balance is not required at any one conference; those with differing views may hold, and indeed have held, their own academic conferences. Further, the support services provided to the center were neither extensive nor unprecedented. CSU Northridge provided no state funds for the conference, while the center availed itself to the publicity and press-related services the university offers to all campus centers.

Although we found no impropriety directly related to the conference itself, we discovered one weakness that, had it not existed, may have helped the university better respond to the conference's criticisms. Specifically, we found:

***Finding #1:*** *A procedural weakness limited the university's ability to effectively respond to the controversy about the conference.*

Because some scholars would consider the conference to be at least partially research oriented, we believe that CSU Northridge would have been better able to respond to the controversy surrounding the conference had it established and applied procedures that many other universities have in place to investigate allegations of research misconduct. If the university had been able to apply such procedures, we believe it could have responded more effectively to allegations associated with the conference. For example, rather than attempting to justify the conference simply on the basis of academic freedom and the center's reputation, CSU Northridge could have established a faculty-based committee and given it responsibility to review and report on the scholarly foundations of the conference. The absence of an established review process arises from the CSU system, which does not require policies and procedures for addressing allegations of research misconduct.

To better respond to controversies associated with potential research improprieties, we recommended that the CSU system ensure that its universities establish procedures for responding to allegations of research misconduct.

***CSU Action: Corrective action taken.***

The chancellor of the CSU system issued an executive order directing all campuses to develop policies and procedures governing centers, institutes, and similar organizations on campus. The order states that each campus is to have explicit policies and procedures for establishing, operating, monitoring, reviewing, and discontinuing centers. The order further states that the policies and procedures are to be designed to ensure that the activities of each entity contribute to the fulfillment of the CSU and campus missions, are consistent with generally accepted tenets of scholarship (e.g., subject to peer review), and meet accepted standards of research. Moreover, the order states that if

a campus president determines that any program or appropriation is not consistent with the policies of the CSU Trustees or the campus, the program or appropriation will not be implemented. Finally, if a program or appropriation that had already received approval be determined upon review to be operating outside trustee or campus policy, then that program or appropriation will be discontinued by direction of the president until further review is accomplished.

# Los Angeles Community College District

## *It Has Improved Its Procedures for Selecting College Presidents*

### Report Number 99134, August 2000

***Audit Highlights . . .***

***Our audit of the procedures used by the Los Angeles Community College District (district) to select its college presidents disclosed that:***

- ☑ ***In the past, the district followed selection procedures that were generally consistent with each other and allowed for involvement by the college community.***
- ☑ ***Its revised procedures improve the accountability of the process, provide for greater community involvement, and are similar to those of other community college districts.***
- ☑ ***The district has been slow to replace interim presidents. In four instances since 1995, the district has had an interim president at a college longer than state regulations permit.***
- ☑ ***District costs to select college presidents have increased significantly, but are not out of line with costs other districts have incurred.***

At the Joint Legislative Audit Committee's request, we audited the process the Los Angeles Community College District (district) uses for selecting presidents for its nine campuses. This report concludes that, although the district followed its board of trustees (board) selection procedures, the district did not always hire presidents. In 1999, the district's board rejected the list of finalists forwarded to it by the search committees at Mission and Harbor Colleges and chose instead to appoint interim presidents. The district subsequently revised its selection procedures to increase quality controls and community involvement and conducted new searches that resulted in appointments of presidents at these colleges in 2000. Although the revised procedures are similar to those we identified as "recommended practices" and to those used by some of the 18 California community college districts we surveyed, we found several conditions relating to the selection of college presidents that can be improved. We also concluded that the district's costs to conduct a search process are not out of line with those of other districts.

***Finding #1:*** *The district's revised procedures do not explicitly include some recommended practices.*

The district's new selection procedures for hiring college presidents, revised in September 1999, improved the accountability of the process by designating a person responsible for ensuring compliance with board procedures and by establishing timelines for the selection process. The new procedures also provided for greater community involvement by, for example, having a greater proportion of representatives

appointed from the campus community with fewer board and district appointees on the selection committee. These procedures are similar to those used by some of the 18 California community college districts we surveyed and to those recently developed by the Community College League of California (league), a nonprofit corporation with a voluntary membership of 72 local community college districts in California.

We recommended that the district consider adopting those league-recommended practices that it is not currently using, such as establishing a budget for each search.

***District Action: Partial corrective action taken.***

The district has indicated that it has asked the Community College League of California for a copy of its publication regarding search and selection procedures. After reviewing the document, the district plans to formulate recommendations that appear to be appropriate for changes to existing policies or practices.

***Finding #2:*** *Although the district encourages open meetings on campus to present the candidates to college employees, students, and residents of the community, open meetings are not always held.*

While not requiring such meetings, the district's procedures suggest that these are good opportunities for the committee members to assess how well the candidates and college community would work together and how effectively the candidates would deal with specific concerns at the college. The committee for the recent Harbor College search chose not to have an open meeting. We believe open meetings on campus are an important quality control, as well as an opportunity for more community involvement.

We recommended that the district consider making open meetings on campus a standard practice unless the search committee has compelling reasons why such meetings should not be held.

***District Action: Corrective action taken.***

On August 23, 2000, the board modified its rules to require open meetings to be held in connection with all presidential searches.

***Finding #3:*** *The district's contract with its search consultant does not clearly specify the tasks to which the district and the consultant agreed.*

Although the district opted to use a search consultant in the Mission and Harbor colleges searches completed in 2000, the contract between the district and its consultant was not entirely clear about the specific tasks to which the district and the consultant agreed. In one example, the contract called for the consultant to communicate with the board, but it did not specify the form or frequency of the communication. In fact, we found no written progress reports from the consultant. Although we have no indication of conflict between the district and the consultant over these contract provisions, more precise descriptions of required tasks in the future could forestall potential problems.

We recommended that the district ensure that contracts with search consultants include a detailed statement of work and consider including a requirement for consultants to provide periodic written status reports to either the chancellor or the board so the district may gauge their progress and value.

***District Action: Pending.***

The district indicated it will consider including a more detailed statement of work in the standard contract the district uses to engage search consultants. One requirement that it plans to make more explicit is the duty to provide periodic written status reports on the progress of each search.

***Finding #4:*** *The district needs to improve its record keeping for its search activities.*

We found no evidence suggesting that candidates had been evaluated unfairly in the recent Mission and Harbor colleges searches. However, the search committee did not always appropriately document its evaluation process. In some instances, we were unable to determine what criteria the committee used to evaluate candidates it had interviewed. Although we saw interview questions, district staff responsible for the conduct of the process could not provide us with any summary of interview evaluations or evidence of whether the finalists were selected by the committee solely based on the interview questions or if other criteria were used.

We believe that the tasks a selection committee undertakes are not only important to ensure that the most qualified individuals are selected as finalists, but also to demonstrate that the process is conducted in a fair manner. When there is an incomplete record of some of the procedures used in the selection process, the district may not be able to assure critics of the process that the selection was carried out in an appropriate manner.

We recommended that the district archive search documents to demonstrate the district's compliance with all required procedures and to memorialize the process for subsequent searches.

***District Action: Corrective action taken.***

The district reports that it has implemented changes to its procedures that it believes will ensure better and more complete record keeping associated with presidential searches.

***Finding #5:*** *In the last five years, the district has had four interim presidents whose appointments exceeded the one-year limit.*

According to a provision in the California Code of Regulations, no interim appointment of a president may exceed one year. This provision is designed to protect colleges against interim presidents who may prefer to assume caretaker, rather than leadership roles, and who may be reluctant to make long-term decisions. In addition, if the board appoints an interim president without receiving community input, actions taken by the interim president may have less community support.

Although the regulations allow the California Community College Chancellor (state chancellor) to approve an extension of up to one year for interim appointments if a district demonstrates a pressing business need, the district has not submitted any requests for extensions during the last five years. According to data provided to us by the district, Mission College had an interim president for 25 months, Pierce College had one for 27 months, and Harbor College had an interim president for 18 months. The current president of Southwest College is also an interim president, a position she has filled since August 1996.

We recommended that the district perform selection procedures promptly to avoid having interim presidents serve longer than the California Code of Regulations allows. If the district cannot meet this timeline, it should request a waiver from the state chancellor

demonstrating that it has a pressing business need to continue operating with an interim president. We also recommended that the district develop procedures for selecting interim presidents and submit them to the board for approval. Also, the district should consider whether appointing an interim president who may apply for the position is appropriate.

***District Action: Partial corrective action taken.***

The district reported that it intends to perform selection procedures promptly to avoid having interim presidents serve longer than the California Code of Regulations allows. In cases where longer service by an interim president is required, the district plans to seek the appropriate waiver. The district believes its interests are best served if it retains the flexibility to devise selection procedures that conform to applicable circumstances as they arise, and refrains from adopting a fixed procedure for selecting interim presidents. The board explicitly addresses the issue of appointing interim presidents who may later become applicants for the regular position whenever it appoints an interim president and makes a determination on the matter based on the totality of the circumstances existing at the time.

***Finding #6:*** *The district does not have a system to track the costs associated with the search for each of its college presidents.*

Although the district was able to provide certain cost information upon our request, it generally does not have a system to track costs associated with each search. The district's costs of selecting a president have risen significantly in the last year, from an average of $6,200 for the searches ended in 1999 at Harbor, Pierce, and Mission colleges, to $32,000 or more for the searches completed in 2000 at Harbor and Mission colleges. The Harbor and Mission colleges searches, which were repeated because of the district's failure to appoint presidents in 1999, were more expensive in 2000 largely as the result of increased travel expenses for candidates and the district's decision to hire a search consultant. However, although the district's search costs increased, its expenses were still comparable to those of other districts performing similar searches.

We recommended that the district develop a system to separately track all costs associated with each presidential search. This will allow the district to determine if costs are reasonable and to budget appropriately for future searches.

***District Action: Pending.***

In 2001, the district plans to begin a major upgrade of its administrative information systems. As part of that project, it intends to convert to entirely new finance and accounting systems. When the new systems become available, the district anticipates that its ability to track the costs of presidential searches will improve.

# Department of Corporations' Regulation of Health Care Plans

## *Despite Recent Budget Increases, Improvements in Consumer Protection Are Limited*

### Report Number 97118.2, April 1999

***Audit Highlights . . .***

***Our review of the Department of Corporations' (department) implementation of a fiscal year 1997-98 budget increase revealed that:***

- ☑ ***The department's Health Plan Division (division) has not met intended staffing and performance levels.***
- ☑ ***A lack of leadership is at the core of the division's shortcomings.***
- ☑ ***Poor department estimates of revenues and expenses led to health plans paying more than necessary for the cost of their regulation.***

The Joint Legislative Audit Committee directed the Bureau of State Audits to review the Department of Corporations' (department) administration and enforcement of the Knox-Keene Act. This act governs the State's oversight of health care service plans (health plans). In partial response to this request, we issued in May 1998, an audit report, number 97118.1, titled *Department of Corporations: To Optimize Health Plan Regulation, This Function Should Be Moved to the Health and Welfare Agency.* As part of that audit, we reviewed and compared the responsibilities of the department with those of other entities to determine whether one or more of the other entities could administer and enforce the Knox-Keene Act. For our current audit, we were to determine whether the department improved its protection of health plan enrollees after it received a $6.5 million budget increase starting in fiscal year 1997-98.

Our review found that despite receiving a $6.5 million budget increase in August 1997 to enhance its regulation of health plans, the department has shown only limited improvements in its efforts to protect health plan enrollees from inadequate medical care.

***Finding #1:*** *The department lacked the leadership needed to better improve consumer protection.*

For example, the department did not have managers for its medical survey and financial examination functions, did not conduct internal reviews of some functions, and had high vacancy rates for others. Without the necessary focus, direction, and vision provided by qualified leadership, the department cannot ensure that health plan enrollees receive the level of protection expected by law.

We recommended that the governor promptly appoint qualified individuals to leadership positions within the department. In addition, because similar issues were revealed in our earlier audit of the department, we recommended that the Legislature reassign responsibility for regulating health plans from the department and, if necessary, create a new agency or department to regulate health plans.

***Legislative Action: Corrective action taken.***

Chapter 525, Statutes of 1999, transferred responsibility for the administration and enforcement of the Knox-Keene Health Care Service Plan Act from the department to the newly created Department of Managed Health Care. This new department commenced operations on July 1, 2000. The governor named Daniel Zingale as the director designee for the new department. Mr. Zingale brings several years of public health care experience to the position.

We also recommended that the department fill the vacant positions for medical survey and financial examinations management and other vacancies throughout the department.

***Department Action: Corrective action taken.***

The department states that it has filled a position designed to serve as the central point of accountability for the medical survey function and has appointed a chief examiner to lead the financial examination function. The department also filled three vacancies in other areas and will fill another five positions once the new director finishes an organization plan and determines the location for the new staff.

***Finding #2:*** *The department did not consistently review the existing policies and procedures for all functions responsible for consumer protection.*

We found little evidence that those staff involved with the medical survey or financial examination functions reviewed policies and procedures or changed procedures to improve

consumer protection. Consequently, these functions show little or no improvement in their performance since they received the budget increase.

We recommended that the department examine the policies and procedures used by staff in these functions and revise these policies and procedures as necessary.

***Department Action: Partial corrective action taken.***

The department states that it completed a comprehensive report that suggested improvements in the medical survey process. These improvements include the development of a new tool to assist in performing medical surveys that has been pilot tested and is undergoing revision. Finally, the department states that it has reviewed and streamlined the financial examination process and created tracking logs.

***Finding #3:*** *The department used poor workload estimates for its budget requests and has weak administrative controls.*

The department could not substantiate the need to conduct almost 50 annual nonroutine medical surveys and financial examinations. In addition, it lacks effective ways to identify, track, and monitor workload. As a result, the department's workload estimates were inaccurate and contributed to false expectations regarding improved consumer protection.

We recommended that the department reassess its workload estimates for the medical survey, financial examination, and complaint-resolution functions to bring its budget more in line with actual costs. It should then revise the related staffing levels and its budgets as necessary. The department should also establish sound administrative controls, including developing and implementing workload-tracking systems.

***Department Action: Corrective action taken.***

The department stated that a workload assessment study was completed in November 1999. The department also states that the costs for the new Department of Managed Health Care were carefully estimated for inclusion in the Governor's Budget for fiscal year 2000-01.

Concerning workload-tracking systems, the department stated that it implemented such a system for financial examinations. The Department of Managed Health Care stated that it assessed the new workload tracking system the department developed and found that a different system was needed. As of December 2000, the Department of Managed Health Care was developing a workload tracking system based on its case management system. Until the new system is developed, it uses a spreadsheet for workload tracking.

***Finding #4:*** *Health plan charges exceed the costs of regulation.*

At the end of fiscal years 1996-97 and 1997-98, the Health Plan Program had fund balances that exceeded its desired 25 percent reserve by $2.6 million in 1996-97 and $5.9 million in 1997-98. Although the department recognized the fund balances were too high, it was very slow to correct the situation. When fund balances are higher than desired, the department is overcharging health plans for the costs of their regulation.

We recommended that the department reduce the fund balance and develop and use more accurate estimates of its resources and expenditures.

***Department Action: Corrective action taken.***

The department stated that it reduced its assessments for fiscal year 1999-2000. It also stated that it maintained a reasonable reserve to help with the transfer of responsibilities to the newly created Department of Managed Health Care.

# Department of Health Services

## *The Forensic Alcohol Program Needs to Reevaluate Its Regulatory Efforts*

### Report Number 97025.1, August 1999

***Audit Highlights . . .***

***Our review of the Department of Health Services' Forensic Alcohol Program (FAP) revealed that:***

- ☑ ***The FAP's review of lab methods are not timely or properly focused.***
- ☑ ***Other regulatory efforts like site visits may be more beneficial to the labs.***
- ☑ ***The FAP does not consider certain professional certifications for regulatory purposes.***
- ☑ ***Training requirements for breath-alcohol equipment operators are unnecessarily restrictive.***

Forensic alcohol analysis is the measurement of the concentration of ethyl alcohol in samples of blood, breath, and urine taken from people involved in traffic accidents or violations. The Department of Health Services (department) licenses and regulates labs conducting forensic alcohol analysis. In December 1998, the Bureau of State Audits released a report titled *Forensic Laboratories: Many Face Challenges Beyond Accreditation to Assure the Highest Quality Services*. Our current audit was conducted to follow up on issues identified during the 1998 audit of 19 local forensic laboratories. Specifically, several labs raised concerns about the department's administration of its regulations, the length of time the department took to review and approve forensic alcohol methods, and the requirements the department established for training operators to use breath-analysis equipment. Our review of these issues revealed that:

***Finding #1:*** *The Forensic Alcohol Program (FAP) reviews of lab methods are not timely or properly focused.*

The FAP's tardiness stems from its lack of a standard, internal process to shepherd reviews to timely completion. The FAP estimates completion dates but often neglects to meet them, does not monitor the progress of its review, and does not follow up with the labs after it returns methods for changes. These delays limit the labs' use of procedures and equipment they have designed and purchased.

To complete method reviews as promptly as possible, the FAP should establish firm deadlines for its staff to complete reviews, develop a process to guide reviews to timely completion, and follow up with labs to encourage prompt responses to necessary changes.

***Department Action: Corrective action taken.***

The FAP stated that it has implemented a process to ensure that methods it receives for review are approved in a timely fashion. This process includes a 90-day limit for the FAP to complete its reviews of methods and procedures. In addition, if a lab has not submitted corrected materials within 90 days following the FAP's review, the FAP requests an estimated date of response.

***Finding #2:*** *Other regulatory activities could be more beneficial to the labs.*

The FAP invests 50 percent of its time in method reviews. Other regulatory efforts such as site visits and proficiency testing may be more beneficial to the labs and the quality of their analyses. By focusing so heavily on method reviews, the FAP limits its oversight to a very narrow aspect of the labs' operations.

To make its regulatory efforts more beneficial, we recommended that the FAP increase the number of site visits and proficiency tests it conducts.

***Department Action: Partial corrective action taken.***

The FAP reported that it is still in the process of selecting and training staff to perform site inspections every two years. In its six-month response to our audit recommendations, the FAP estimated beginning a "full program of biennial (every two years) site inspections and quarterly proficiency tests" by August 2000. That estimate has slipped to January 2001.

***Finding #3:*** *The FAP does not consider the American Society of Crime Laboratory Directors/Laboratory Accreditation Board's (ASCLD/LAB) accreditation for regulatory purposes.*

The ASCLD/LAB accreditation requires a lab to demonstrate that it meets a wide range of established laboratory standards. However, the FAP does not consider accreditation when

regulating labs and, in effect, may be duplicating efforts to demonstrate compliance with the regulations.

We recommended that the FAP review and understand the ASCLD/LAB's requirements for accreditation and rely on the aspects of the accreditation reviews that also demonstrate compliance with the regulations.

➲ ***Department Action: Pending.***

The FAP's Advisory Committee on Alcohol Determination met in June 2000 and concluded that the ASCLD/LAB and other accreditations have value and may be beneficial. The committee is studying the issue further, and the FAP stated it will take action and implement changes as appropriate.

***Finding #4:*** *Training requirements for breath-alcohol equipment operators are unnecessarily restrictive.*

The FAP requires forensic lab personnel to be physically present at the training as either instructors or observers. However, other conditions specified in the regulations, including FAP review and approval of training plans, and a requirement that potential operators pass a written or practical exam, act as checks and balances to assure the quality of instruction. Therefore, the FAP's requirement that forensic lab personnel personally instruct or otherwise be physically present during operator training appears unnecessary.

We recommended that the department allow forensic labs the option of using lab personnel or other qualified personnel to conduct the training. Moreover, the department should allow the training to take place without the presence of staff from the forensic lab.

➲ ***Department Action: Pending.***

The FAP presented this issue to the Advisory Committee on Alcohol Determination in June 2000. The committee agreed to study the matter further after which the FAP stated it will take appropriate action.

# Department of Health Services

## *Has Made Little Progress in Protecting California's Children From Lead Poisoning*

**Report Number 98117, April 1999**

***Audit Highlights . . .***

***Our review of the Department of Health Services' (department) Childhood Lead Poisoning Prevention Program revealed:***

- ☑ ***After more than a decade, the department is no closer to achieving the goal of determining the extent of childhood lead poisoning statewide—having only identified about 10 percent of the estimated 40,000 children needing services.***
- ☑ ***Reporting of laboratory test results is insufficient for the department to identify children requiring medical care for lead poisoning.***
- ☑ ***Children are not receiving blood-lead tests from Medi-Cal and Child Health and Disability Prevention programs as required.***

***We also found the department has had mixed results in achieving its other responsibilities for preventing childhood lead poisoning.***

As early as 1986, the Legislature charged the Department of Health Services (department) with determining the extent of lead poisoning among children in the State. In 1991, the Legislature set specific goals for protecting children from lead poisoning: it asked the department to evaluate all children for their risk of poisoning, to test those children who were at risk, to provide case management for children who were at risk, and to provide case management for children who were found to suffer from lead poisoning.

At the request of the Joint Legislative Audit Committee, we evaluated the progress of the department in achieving these goals. We found that the department is not fulfilling its responsibility as mandated by the Legislature. Specifically:

***Finding #1:*** *The department has not sufficiently identified children requiring blood-lead testing or determined where and to what extent childhood lead poisoning is a problem in the State.*

The department has failed to uphold the terms of a 1991 legal settlement requiring it to include the results of all blood-lead tests for children up to age 15 in its blood-lead reporting system. Further, the department has not pursued revisions to lab reporting requirements that would correspond to its own more restrictive criteria for providing case management. In addition, the department does not have a plan for targeting children deemed at-risk for lead poisoning. Consequently, it has no way of ensuring that it is fulfilling its requirement of identifying all children who need case management services.

To ensure that children with elevated blood levels are identified and treated, we recommended that the department adopt regulations requiring labs to report all blood-lead test results, finalize the testing and installation of software allowing labs to electronically submit their results, and develop and disseminate blood-lead reporting procedures for the labs to follow. In addition, the department should develop a plan to identify at-risk children.

We also recommended that the Legislature monitor the department's progress annually and amend Section 124130 of the Health and Safety Code to require medical laboratories to report the results of all blood-lead tests.

***Department Action: Partial corrective action taken.***

In May 1999, the department completed its proposed emergency regulations requiring labs to report all blood-lead test results. The Department of Finance rejected the regulations because the department did not have budget authority for the staff needed to handle the increased workload. The department is attempting to secure additional funding and expects to have the regulations in place by July 1, 2001.

While the department has completed the testing of the software allowing labs to electronically submit their results, it states that the installation on the software will not be complete until about 2001.

In July 1999, the department developed its Statewide Childhood Lead Poisoning Target Screening policy for identifying at-risk children. This policy was distributed to local program coordinators and health officers.

***Legislative Action:***

Recent legislation requires the Bureau of State Audits to assess the department's progress toward addressing the recommendations in this report.

***Finding #2:*** *Not all children receiving Medi-Cal or Child Health and Disability Prevention (CHDP) services are tested for lead poisoning as required.*

The department has been ineffective in identifying and educating health care providers that are not ordering mandatory blood tests. Although health care providers participating in the State's Medi-Cal and CHDP programs must order blood-lead tests, less than 25 percent of the children in these programs have been tested. Consequently, many lead-poisoned children who have yet to be identified are not receiving proper care.

We recommended that the department take immediate action to identify and educate those providers who are not ordering blood-lead tests as required.

***Department Action: Partial corrective action taken.***

The department has revised its CHDP program's lead screening policy to coincide with its Statewide Childhood Lead Poisoning Targeted Screening policy. On June 15, 2000, notification about the policy change was sent to each CHDP provider. The department also sent a policy letter to all Medi-Cal providers reminding them of the requirement to conduct blood-lead screening at age-appropriate intervals.

***Finding #3:*** *The department has not adopted required standards.*

State law required the department to adopt regulations by 1993 that would establish a standard of care requiring providers to periodically evaluate all children for the risk of lead poisoning. Without this standard, health care providers cannot be held accountable for not properly evaluating children for the risk of lead poisoning.

We recommended that the department adopt standard-of-care regulations as previously directed by the Legislature.

***Department Action: Partial corrective action taken.***

The department completed its proposed emergency regulations to establish a standard of care for screening childhood lead poisoning. The department expects to have the final regulations in place on or before March 1, 2001.

***Finding #4:*** *Many physicians lack vital information about lead poisoning.*

Specifically, the department's November 1996 survey revealed that physicians were unaware of lead poisoning treatment options or were not convinced that lead poisoning was a significant issue

for their patients. However, as of March 1999, the department had not completed its provider outreach plan to address these issues.

To gain consensus and support from the health care community for requiring blood-lead testing and to identify lead-poisoned children, we recommended that the department continue the development of a comprehensive statewide provider outreach program.

***Department Action: Partial corrective action taken.***

The department, in collaboration with the California District IX of the American Academy of Pediatrics (AAP) and the California State University, Long Beach State University Foundation, is developing a provider outreach and educational plan. The department expects that by June 30, 2001, the AAP will provide at least three recommendations and implementation strategies as well as informational materials for physicians to use in educating their patients.

***Finding #5:*** *The department does not ensure that local programs follow its case management process.*

The department has failed to enforce case management guidelines for local programs that require them to report all their activities. Additionally, when the required reports are submitted, the department does not review them to ensure adequate services are rendered to the children. Without obtaining and reviewing program information, the department cannot be certain that all lead-poisoned children received proper care, that the levels of lead in their blood are reduced to safe levels, or that the sources of their lead exposure are reduced or eliminated.

We recommended that the department obtain all necessary follow-up information on lead-poisoned children from the local programs and establish a quality control process to ensure that lead-poisoned children receive appropriate care.

***Department Action: Partial corrective action taken.***

The department has made revisions to its public health nursing guidelines for managing lead-poisoned children. After its test pilot is complete and local programs implement the guidelines, it will develop its quality control process.

***Finding #6:*** *Counties and cities lack specific authority to compel property owners to abate lead hazards.*

Consequently, known sources of lead poisoning remain as a constant danger to the children previously poisoned, or as a danger to others.

We recommended that the Legislature grant enforcement authority to counties and cities to compel property owners to eliminate or reduce lead hazards. Further, the department should assist with issuing abatement orders if the Legislature does not grant counties and cities this authority.

***Legislative Action: Unknown.***

We are unaware of any legislative action implementing this recommendation.

***Department Action: Partial corrective action taken.***

The department has revised the scope of work for its contracts with local childhood lead poisoning-prevention programs that were issued in fiscal year 2000-01. The contracts now require enforcement by local programs when a property has been identified as the source of lead poisoning for a poisoned child. The department has also conducted training for local program staff and local building and housing officials. It is developing a training program for local enforcement agencies.

***Finding #7:*** *Federal lead abatement funding is at risk.*

According to the federal Environmental Protection Agency (EPA), the department has not adequately addressed its ability to enforce lead abatement program requirements and has not demonstrated it has the legal authority necessary to impose administrative, civil, and criminal sanctions against those individuals who violate state requirements. Until the department addresses these issues, it places the State and local agencies at risk of losing federal funding to support lead abatement activities.

We recommended that the department seek legislation granting it enforcement authority to impose administrative, civil, or criminal sanctions against those who violate lead abatement requirements.

***Department Action: Partial corrective action taken.***

On November 4, 1999, the federal EPA authorized the department's application. The department now has the ability to enforce lead abatement requirements. The federal EPA has awarded the department $769,000 in federal fiscal year 2001-02 for its enforcement, policy, and training activities.

***Finding #8:*** *The branch needs to develop lead-hazard-abatement curriculum for schools and day-care centers.*

An April 1998 study by the department recognized the need to prioritize the maintenance of local hazards in California's schools. The department made a concerted effort to inform the school districts about the study and its recommendations. However, the department has yet to complete the necessary curriculum to properly educate school and day-care staff on appropriate steps for eliminating or reducing lead hazards.

We recommended that the department complete the training curriculum needed to educate California's school and day-care-facility staff on the proper steps for identifying and abating lead hazards so that children are not at risk for lead poisoning.

***Department Action: Corrective action taken.***

The department's Lead in Schools Project training materials were developed. In fiscal year 1999-2000, 26 training sessions were conducted for 501 participants representing 195 school districts. The final evaluation to determine whether lead-safe practices have changed for these school districts and to identify if any barriers exist in implementing proper lead-safe practices is pending.

***Finding #9:*** *The department does not measure the effectiveness of local outreach and education activities.*

In fiscal year 1997-98, the local programs budgeted nearly 25 percent of all funds available to them for identifying childhood lead-poisoning cases. Yet, the department does not know how many children were tested or were found to have lead poisoning as a result of these efforts. Without an evaluation component to

determine the programs' effectiveness at meeting the overall objective, the department cannot conclude that the local programs' outreach efforts result in the identification of any lead-poisoned children.

We recommended that the department require local programs to evaluate the effectiveness of their outreach and education efforts and assist with this effort based upon the primary objective of identifying more lead-poisoned children.

***Department Action: Partial corrective action taken.***

In February 2000, the department established a new section within the Childhood Lead Poisoning Prevention Branch to provide analytic, epidemologic, and program support to the branch, local programs, and others. One task for staff in this section is to provide data that will help local programs monitor their performance and appropriately target screening to those at highest risk.

# Department of Health Services

## *Despite Shortcomings in the Department's Monitoring Efforts, Limited Data Suggest Its Two-Plan Model Does Not Adversely Affect Quality of and Access to Health Care*

### Report Number 99102, July 1999

***Audit Highlights . . .***

***Limited available data suggest that the Medi-Cal Managed Care Two-Plan Model does not adversely affect quality of and access to health care for Medi-Cal beneficiaries. However, the Department of Health Services' (department) efforts to monitor plans' services thus far have been incomplete and not well organized. Specifically, the department:***

- ☑ ***Does not sufficiently monitor the number of physicians and specialists available to serve beneficiaries.***
- ☑ ***Has not met its goal for performing regular site visits of the health plans.***
- ☑ ***Fails to promptly review the corrective actions that health plans have proposed to address deficiencies identified in audits.***
- ☑ ***May be less effective in its efforts because it does not coordinate between managed care and audit staff.***

In 1991, the Legislature directed the Medi-Cal program within the Department of Health Services (department) to increase its efforts to use managed-care health plans. The department uses specific models of managed care in 20 of the State's 58 counties. Under the two-plan model, the department contracts with two health plans in each county with one operated by a local entity and the other by a commercial health maintenance organization (HMO). We were asked to determine whether the department's two-plan model has affected the access and range of medical services provided to eligible beneficiaries. In addition, we were asked to assess the department's ability to monitor effectively and efficiently the quality and cost of services delivered under the model.

***Finding #1:*** *The process for reporting services provided to children is cumbersome.*

Under the current reporting system, providers complete similar forms for both the Medi-Cal and the Children's Health and Disability Prevention (CHDP) programs, which the health plans then process and report to the department. The department's data-collection methods of using two different forms to report similar data are burdensome, inefficient, and result in inconsistencies. In addition, the methods may discourage health plans and providers from reporting their patient data.

We recommended that the department address the inefficiencies caused when it requires health plans to use different forms and coding systems for CHDP and Medi-Cal services.

➲ ***Department Action: Pending.***

The department informed us that no changes will be made in the immediate future to the submission requirements for children's preventive service data because alternative report forms that are currently available will not provide all of the information the department currently submits to the federal government. The department has formed a committee that is continuing to work to consolidate the various reporting requirements into a format that will be compliant with the reporting requirements of the federal Health Insurance Portability and Accountability Act.

***Finding #2:*** *The department has not yet developed a method to ensure that the encounter data it has collected thus far are accurate.*

In its April 1998 report on encounter data, the department's audits and investigations program concluded that nearly half of the sample data from six plans it reviewed had discrepancies when compared to actual medical and billing records. Because of the questionable reliability of the encounter data, the department and other interested parties will not be able to rely on the data to draw valid conclusions.

We recommended the department determine the accuracy of encounter data by validating the data received from managed-care health plans.

***Department Action: Partial corrective action taken.***

The department informed us that it has undertaken several approaches. Specifically, it has begun to design a change to the existing data processing system to reject data at the record level rather than in a batch format. This will allow a more complete evaluation of the technical accuracy of that data submitted by health plans. In addition, in September 1999, the department began validating administrative data using medical record reviews in conjunction with three studies that are currently under way with health plans. The department is also monitoring the compliance audit reports being prepared by its external quality review organization while its encounter-data work group is completing its recommendation for basic record-validation edits. The edits are to be implemented at the health plan level based on the edits used by the department. Finally, the department is

working with a small delegation of health plan representatives to determine which reports they will use to compare their financial and utilization data with other plans and with Medi-Cal fee-for-service data.

***Finding #3:*** *The department has begun to withhold payments from plans that do not meet minimum reporting requirements.*

Beginning with the April 1999 capitation payments, the department is withholding either 1 percent of each plan's monthly capitation payment or $100,000 per month, whichever is less, until the plan meets quarterly reporting goals in CHDP program services for children within a specified age range and also outpatient and emergency department services.

We recommended that the department periodically assess the effectiveness of its withholding provision and whether this provision has resulted in an increase in data reporting. If necessary, the department should modify the provision or impose sanctions to further encourage the prompt reliable submission of encounter data.

***Department Action: Partial corrective action taken.***

The department informed us that its analysis of its withholding provision revealed that although fiscal incentives encourage plans to evaluate their encounter data submissions, they often result in contract disputes. As a result, the department is reviewing other methods of measuring and providing incentives for contract compliance.

***Finding #4:*** *The department does not fulfill certain important monitoring responsibilities.*

Although the department determined accessibility to providers when it initially contracted with the health plans, it has not continued to sufficiently monitor accessibility for the five plans we reviewed. The department has only conducted six site visits since October 1998. Also, the department's system of addressing grievances is incomplete, and it has not adopted formal guidelines directing the monitoring activities of its staff. Furthermore, the department does not promptly review corrective action plans submitted by the health plans responding to deficiencies identified during the department's audits nor does it summarize the results of its collective monitoring efforts of the health plans to conclude on their overall compliance.

We recommended that the department implement formal standards for monitoring health plans that describe the department's expectations for various tasks as well as the nature, timing, and extent of the monitoring tasks. Also, we recommended that the department maintain an ongoing record for each health plan that encapsulates the results of the department's overall monitoring efforts.

***Department Action: Partial corrective action taken.***

The department informed us that in January 2000 it distributed a contract manager's manual to its staff who manage the contracts for all of its managed-care models. This manual describes what the contract manager needs to receive, review, and evaluate to ensure uniform contract management. However, the department has not fully implemented its use of the manual because significant turnover in experienced contract manager staff and changes to evaluation tools have resulted in a need for ongoing training and extension of the implementation of the manual. The department expects to complete its ongoing review and improvement of the manual by the end of December 2000. Thus far, new guidelines for processing provider directories have been implemented.

Finally, the department stated it has developed a streamlined review process for audits, corrective action plans, and other submissions, and reviewers and contract managers meet to discuss pertinent issues and routinely coordinate responses.

***Finding #5:*** *The department's contract managers do not always ensure that the health plans submit all required documents.*

We recommended the department develop a tracking tool to enable its contract managers to assess whether the health plans submitted all reports required by the department. Such a tracking tool would assist the department in ensuring that its staff have promptly reviewed the reports.

***Department Action: Corrective action taken.***

The department has developed a listing of all documents that must be submitted by each health plan and a tracking log of these submittals, which it implemented in January 2000. The current tool is completed manually; however, the department plans to further improve the tracking process by automating it through the use of a user-friendly database. The department is also

developing policies and procedures for management oversight to ensure that all staff tools are distributed and are being properly utilized.

***Finding #6**: Contract managers sometimes fail to document their monitoring efforts.*

Some contract managers do not always prepare written summaries, which make it difficult for the department to determine whether it is sufficiently overseeing certain areas of the health plans' operations.

We recommended that the department require its contract managers to prepare written documentation describing their monitoring efforts. This documentation will assist the department in holding its contract managers accountable for their responsibilities.

***Department Action: Corrective action taken.***

The department has completed policies and procedures for preparing written documentation describing monitoring efforts. The department has also developed a template for standardizing the format of written documentation. Contract managers are utilizing this new review tool as part of a new contract-management process implemented in January 2000.

***Finding #7:** The department's approach for monitoring health plans through medical reviews performed by its audits and investigations program is ineffective.*

We believe that the ineffective coordination between the managed-care division and audits and investigations has resulted in audit findings that add questionable value to the department's overall monitoring efforts and in the spending of additional resources.

We recommended that the department coordinate efforts between the managed-care division and audits and investigations to ensure consensus on audits and investigations' role in performing audits. In addition, both divisions should continue to resolve differences in perspectives to ensure that audits directly address the expectations of the managed-care division.

***Department Action: Corrective action taken.***

The department informed us that it continues to coordinate efforts to ensure consensus on audits and investigations' role in performing audits. For example, representatives of the managed-care division and audits and investigations have met monthly in a work group to further revise the current medical audit process and discuss developing performance studies to measure each health plan's compliance with a core set of audit categories. Further, in June 2000, the department trained its managed-care division staff on the medical audit process used by audits and investigations, and on the activities of the work group.

# Department of Health Services

## *Although It Has Not Withheld Information Inappropriately, the Department Should Make Research Findings More Widely Available*

***Audit Highlights . . .***

***Our review of the Department of Health Services' (department) handling of information disclosed that:***

- ☑ ***Despite criticism by legislators, the media, and citizens, the department has not withheld research results inappropriately.***
- ☑ ***The department's lack of policies on report dissemination leaves it vulnerable to allegations of impropriety.***
- ☑ ***By publishing a list of available reports in an accessible location, such as on its Web site, the department could reduce its vulnerability to these allegations of impropriety.***
- ☑ ***Although we found no evidence that it timed the release of information to inappropriately influence the public or pending legislation, the department sometimes incurred lengthy delays in releasing information.***

### Report Number 99106, October 1999

The Department of Health Services (department) develops research on health-related issues as part of its effort to protect and improve the health of Californians. At the request of the Joint Legislative Audit Committee, we reviewed the department's policies for conducting these studies and releasing the results. Our review found that the department has not established policies and procedures to guide its decisions about whether, how, and when to publicize the results of this research. Nonetheless, the department has not withheld study findings inappropriately. Specifically:

***Finding #1:*** *A lack of policies for releasing reports leaves the department vulnerable to allegations of improprieties. Also, the department could do more to make research results accessible to the public.*

We recommended that the department establish policies that guide its managers in determining whether, how, and when to release information to the widest appropriate audiences. Further, we recommended that the department develop a strategy for releasing information that ensures the widest dissemination appropriate to the subject matter. For example, findings that will interest a wide audience should be made public through such means as a list on the department's Web site.

***Department Action: Corrective action taken.***

The department has formed an internal working group to review current research approval and dissemination processes, and has developed a manual to guide its staff in deciding how to disseminate its information to the public.

***Finding #2:*** *The department and the former California Health and Welfare Agency (agency) delayed the release of studies.*

The department's distribution of 2 of the 10 studies we reviewed involved lengthy delays. One study did not become public for almost a year after its completion. Further, the agency took deliberate measures when it deferred the release of one study until the arrival of a new administration. Such delays reduce the effectiveness of the information. They also leave the department vulnerable to allegations that it manipulated the timing of the release of reports or inappropriately retained information.

We recommended that the agency and the department release promptly after completion of studies any results that might interest the public.

***Department Action: Corrective action taken.***

As discussed above, the department has developed a manual to guide its staff. The manual establishes a process for managers to follow in reviewing and approving studies. This process should aid the department in ensuring that its publications are promptly released.

# Department of Health Services

## *Drug Treatment Authorization Requests Continue to Increase*

### *Audit Highlights . . .*

***Our audit of the Department of Health Services' (department) processing of drug treatment authorization requests (TARs) disclosed:***

- ☑ ***The number of TARs received and processed continues to increase.***
- ☑ ***The average month-end backlog of unprocessed TARs was 11.6 percent for the current 24-month review period.***
- ☑ ***The department was unable to fully process 615 of the 2,711 drug TARs we sampled within one workday, as required. However, for 249 of these TARs, the provider had access to the department's decisions within one working day.***
- ☑ ***Processing is slow because of staffing problems and because the department's contract with Electronic Data Systems does not require TAR's processing in the time period required by department policy.***

### Report Number 2000-009, August 2000

The Government Code and the Welfare and Institutions Code required the Bureau of State Audits (bureau) to prepare an analysis and summary of the Department of Health Services' (department) data on drug treatment authorization requests (TARs) and submit a report to the Legislature beginning February 1, 1991, and every six months thereafter until January 1, 1999. New legislation in 1999 extended this requirement to January 1, 2001. This is our most recent and final report, covering four six-month intervals from June 1998 through May 2000. In summary, we reported the following:

- The department did not always comply with state policy by taking longer than one working day to fully process 615 TARs (22.7 percent) of the 2,711 drug TARs we sampled that were either faxed or mailed. Of the 615 TARs, the decisions on 366 were not available within one workday. The Stockton drug unit took two to three working days to fully process 591 of the drug TARs faxed to it. For 366 of these drug TARs, 13 percent of our sample, the decisions were not available to providers within one working day. The Los Angeles drug unit also took two to five working days to fully process 24 of the drug TARs mailed to it. However, for all 24, the consultants' decisions were available to the drug providers within one working day.

- The department received 659,328 drug TARs from December 1999 through May 2000, an increase of 580,830 (740 percent) over that of our first 6-month review period 10 years ago. This increase is due to the fact that, in November 1994, the law reduced the limit of prescriptions from 10 to 6 per month that an individual beneficiary could

receive before a drug TAR had to be submitted. In addition, although the number of Medi-Cal beneficiaries has decreased from its high point in 1995, the number is still higher than during the first review period. Moreover, beneficiaries with more severe illnesses remain with Medi-Cal instead of transferring to managed care, which does not require the TARs. Also, there is a trend toward giving medication and care outside of a hospital setting.

- From December 1999 through May 2000, the department received 154,684 (30.7 percent) more drug TARs than it did during our previous review period of December 1997 through May 1998. However, compared to the previous review period, the number of eligible Medi-Cal beneficiaries declined by 8.7 percent during December 1999 through May 2000.

- Drug providers continue to submit most drug TARs by fax. From June 1998 through May 2000, drug providers faxed to the department 98.9 percent of all drug TARs. The department received 158,169 more drug TARs by fax from December 1999 through May 2000, an increase of 32 percent over our previous review period of December 1997 through May 1998.

- The department processed 662,288 drug TARs from December 1999 through May 2000, an increase of 585,006 (757 percent) over the number processed during our first 6-month review period 10 years ago. This increase is directly related to the increase in the number of drug TARs received.

- From June 1998 through May 2000, the average percentage of unprocessed drug TARs during each six-month interval has ranged from 10.1 percent to 13.2 percent. These percentages—while lower than the high of 34 percent during December 1991 through May 1992—are significantly higher than the 1.6 percent of unprocessed TARs during June 1995 through November 1995. The average month-end backlog of 11.6 percent for the current 24-month review period does not vary greatly from the 11.9 percent reported during our previous review.

- The department's current policy to process drug TARs within one working day is less strict than the federal requirement to process drug TARs within 24 hours. However, the federal government acknowledges that processing time can exceed 24 hours and allows the department to exceed the federally

mandated processing time requirement as long as emergency drugs are available to beneficiaries when necessary. The department adheres to this condition by not requiring a drug TAR for emergency situations.

- Beneficiaries submitted 705 fair-hearing requests during our current 24-month review period of June 1998 through May 2000. Of these requests, 545 were withdrawn or dismissed, 50 were denied, and the decisions on 9 were still pending at the time of our review. The remaining 101 requests were approved.

- The department has not fully implemented all recommendations in our last report, which was issued in August 1998. The department has not closely monitored the staffing of data-entry personnel, has not been able to negotiate a new contract with a turnaround time for drug TARs of one working day, and has not reinstated procedures for monitoring processing times. The department, however, has developed a system to address problems with computer and data-transmission equipment.

We recommended that the department should take the following steps to ensure it is promptly processing drug TARs:

- Continue to more closely monitor the scheduling of data-entry staff to ensure that the department can process within the required time frame the estimated number of drug TARs it will receive.

- When the current contract with Electronic Data Systems expires, negotiate a new contract with a turnaround time for drug TARs of one workday.

- Ensure that its new system includes comprehensive procedures for monitoring processing times.

***Department Action: Partial corrective action taken.***

The department reports that it closely monitors and adjusts the number of data-entry personnel. It requires all Medi-Cal field offices to immediately report significant changes in TARs receipts to headquarters so that required adjustments in data-entry staff may be made to prevent increases in backlogged TARs due to insufficient staffing. The department also states that its new contract will require TARs processing turnaround time consistent with federal law and the department's own policy.

In addition, a major redesign of the department's TARs system is currently in development and implementation was scheduled to begin before the end of 2000. The redesigned TAR system will feature an Internet-based on-line TARs submission and adjudication. The department expects that the new system will shorten TARs processing times and substantially reduce the amount of paper documents. The department states that the new system will allow comprehensive monitoring of TARs processing.

# Department of Health Services

## *A Conflict of Interest Did Not Cause the Fresno District's Inadequate Oversight of Skilled Nursing Facilities*

### Report Number 2000-122, October 2000

***Audit Highlights . . .***

***Our review of the Department of Health Services' (department) Licensing and Certification Program's oversight of skilled nursing facilities by its Fresno district office disclosed the following:***

- ☑ ***The department has been slow to follow advice from its legal counsel to expand its conflict-of-interest policies.***
- ☑ ***The Fresno district office did not appropriately prioritize complaints or initiate and complete complaint investigations in a timely manner.***
- ☑ ***The Fresno district office issued four citations that were too lenient given the severity of the violations.***

We evaluated how the Department of Health Services (department) and its Licensing and Certification Programs' (program) Fresno district office (FDO) ensure that they identify potential conflicts of interest on the part of their employees. We also evaluated whether they prevent any conflicts of interest from resulting in inadequate monitoring of skilled nursing facilities under their jurisdiction.

***Finding #1:*** *The department has been slow to implement a comprehensive conflict-of-interest policy as recommended by its legal counsel.*

The program's integrity depends on its staff's ability to avoid actual or potential conflicts of interest while performing their monitoring and enforcement duties. It is the department's responsibility to assist program staff in ensuring that employees are not participating in decisions that can result in the appearance of bias. Because department policies applicable to the program do not specifically address the potential for certain types of conflicts of interest among district administrators, the department's legal counsel recommended that the program adopt an impairment policy that would better enable its management staff to avoid these types of conflicts. The department had taken some steps toward developing such a policy and expected to incorporate it into its existing conflict-of-interest policies by the end of 2000. However, as of October 2000, it had not yet done so.

We recommended that the department follow its legal counsel's advice to obtain an opinion from the Fair Political Practices Commission for adopting an impairment policy that will ensure that all employees and managers can readily identify and avoid the appearance of bias and impropriety in their assessments of health care facilities. Further, to ensure that its impairment policy covers financial as well as other types of conflicts of interest that can arise, we recommended that the department also obtain information from the attorney general regarding conflicts of interest, incorporate it into its impairment policy, and communicate the new policy to its employees.

***Department Action: Pending.***

The department disagreed that it should expand its existing conflict-of-interest policies to include an impairment policy. However, the department has drafted a complete listing of rules governing conflicts of interest, incompatible activities, and the appearance of bias and impropriety. It will make this policy available to all of its program's employees, including district office managers. The department will also provide training to ensure that employees recognize potential issues and seek appropriate direction.

***Finding #2:*** *The FDO administrator was part of an enforcement action against a skilled nursing facility that is owned by a company that also owns the facility in which her parents reside.*

In October 1998, the department's legal counsel advised the program to separate the administrator from all decisions involving four skilled nursing facilities owned by the company. This was done by assigning another supervisor to act as district administrator in all matters regarding those facilities. For the most part, the administrator followed the legal counsel's advice and removed herself from decisions involving the four facilities by delegating oversight of monitoring activities to a senior FDO supervisor. Still, after she had announced that she delegated this responsibility, the administrator reviewed a draft of a citation issued in April 2000 to one of the company's facilities.

We recommended that to ensure that no perception of a conflict of interest arises, the FDO administrator should not participate in or review any district office activities related to skilled nursing facilities owned by the company.

***Department Action: Corrective action taken.***

The department transferred the review and decision responsibility for the skilled nursing facilities owned by the company to the manager of the San Bernardino District Office on June 6, 2000.

***Finding #3:*** *The FDO did not appropriately prioritize several complaints and failed to initiate investigations promptly.*

In our review, we found that the FDO misidentified 3 complaints as priority 2 rather than priority 1 and failed to initiate investigations for 2 of these within the required 2-day time period. In addition, the FDO failed to initiate investigations for 21 of 52 priority 2 complaints within the required 10-day time period. For example, the FDO was 60 days late in beginning an investigation of an instance in which a resident's death may have been caused by staff error and 43 days late in beginning an investigation of a situation in which a resident may have been abused by facility staff.

The program's lack of guidance may contribute to the FDO's misidentifying priority 1 complaints. The program's procedures manual includes a chart with the required response time frame for the two complaint priorities. The manual additionally defines the priority levels and provides a list of issues, such as physical and verbal abuse, inadequate staffing levels, food poisoning, and gross medication errors that constitute an immediate and serious threat. However, the usefulness of the chart and definitions is limited; those individuals assigning priorities to complaints often must rely on their own experiences with other complaints. Including a collection of actual case scenarios in the complaint procedures manual would enable the supervisors to put into context the complaint being reviewed, which could facilitate the more appropriate assigning of priority levels.

We recommended that the department provide more guidance, such as examples of complaints, in its complaints procedures and require program staff to initiate investigations within the required time frames.

***Department Action: Partial corrective action taken.***

The department is updating its complaint investigation and citation policies and procedures and has hired additional program staff to decrease response times to complaints regarding resident care. In addition, the department has provided these staff extensive complaint and investigation training to ensure rapid response to complaints.

***Finding #4:*** *The FDO did not complete all investigations in a timely manner.*

The department's program requires district office staff to complete an investigation within 40 working days from the receipt of a complaint. We found that for 6 of 64 complaints we reviewed, the FDO took considerably longer than the permitted 40 days. For example, it took the FDO 89 days to complete an investigation involving patient abuse.

We recommended that the department require program staff to complete complaint investigations within the required time frames.

***Department Action: Corrective action taken.***

The department has hired additional staff and provided extensive training to at least 70 new evaluators as of November 3, 2000.

***Finding #5:*** *In four instances, the FDO issued inappropriately low citations.*

The Health and Safety Code define three levels of citations—class AA, class A, and class B—with class AA issued for the most severe violations. However, the FDO did not issue an appropriately severe citation for 4 of the 19 citations we reviewed. Two top managers at the program's central office in Sacramento reviewed the citations and agreed with our conclusions. For example, the FDO issued a class B citation when it found that the nursing staff at a facility administered five medications that reduce blood pressure to a resident without properly monitoring her vital signs and without notifying the attending physician when the resident showed signs of adverse reactions. The severity of the violation called for a class A citation; however, neither the evaluator who investigated this complaint nor the supervisor who reviewed the citation consulted a medical expert for another opinion. Although the department's program does not require its district offices to consult medical experts for class B citations, the FDO is not using its maximum enforcement authority when it fails to seek the opinions of program experts if a decision regarding the suitability of a citation level is unclear.

We recommended that the department require program staff to seek opinions from medical consultants, legal consultants, or other experts from its field operations branch when in doubt about the level of citation.

We also recommended that to ensure that the program's performance is consistently high throughout the State, the department should review the complaint and citation practices at each of its program's district offices and provide additional training, if necessary.

***Department Action: Corrective action taken.***

The department provided extensive training on citations to all of its program's surveyors in June 2000. The department has also clarified various issues pertaining to citations in a memo to all district managers and administrators. The memo included examples of appropriate documentation of the reasons for determining penalty amounts. To ensure accurate assessment of citation levels and penalty amounts, the department now requires all class A and class AA citations to be reviewed by its regional field operations branch chiefs, its office of legal services, and its medical or other consultants as appropriate. In addition, the department will require its programs' branch chiefs to review some of the class B citations.

# Department of Corrections

## *Utilizing Managed Care Practices Could Ensure More Cost-Effective and Standardized Health Care*

### Report Number 99027, January 2000

***Audit Highlights . . .***

***Our review of the California Department of Corrections' (department) medical operations revealed:***

- ☑ ***Compared to managed care organizations, which use comprehensive methods to contain costs and ensure uniform care, the department's methods are limited.***
- ☑ ***Despite its objective of providing consistency in services, litigation has caused different levels of care at certain facilities.***
- ☑ ***Medical operating costs per inmate vary widely among institutions, and the department does not analyze the cost variances. As a result, it does not know whether low-cost institutions are operating optimally or simply providing a level of services below other institutions.***
- ☑ ***Rapidly growing pharmacy costs could be reduced if the department employed more competitive contracting methods.***

The Budget Act of 1999 directed the Bureau of State Audits to audit the California Department of Corrections (department) to determine whether it appropriately and effectively manages its medical operations. The audit was also to make recommendations for operating the department's facilities in a managed care environment. We found the department has just begun to develop an infrastructure for inmate health care that is standard in managed care organizations; therefore, it has only partially adopted the comprehensive practices these organizations use to ensure cost-effective medical services. Specifically, we found:

***Finding #1:*** *The department does not fully or adequately employ managed care practices.*

Unlike managed care organizations, the department does not systematically review its medical operations and use key practices, such as physician profiling and outcome studies, to improve and standardize medical care. Also, while the department has partially adopted utilization management techniques, its utilization management process is limited. As a result of its limited employment of managed care practices, the department cannot effectively determine what aspects of its operations need improvement.

We recommended that the department report annually to the Legislature on its progress in adopting managed care techniques and the specific barriers that preclude it from operating more effectively in a managed care environment. The annual report was to include an identification of resources needed to develop the infrastructure necessary to comprehensively and systematically review its medical operations. In our comments on the department's response included in the report, we stated that the department should submit its initial report to the Legislature by January 15, 2001.

***Department Action: Partial corrective action taken.***

The department states that it has hired a contractor to establish a framework for evaluating its inmate medical delivery system. Additionally, it has established a quality management assessment team to evaluate, on an institution-by-institution basis, the quality of medical care delivered at all its institutions. As of February 2001, the team is in the process of initiating institution visits. The department has also taken other actions, such as establishing a program to evaluate appeals related to health care issues, as these appeals may serve to warn of potential access and quality problems. However, the department's one-year status report prepared in February 2001 did not state that it had prepared an initial report to the Legislature by January 15, 2001.

***Finding #2:*** *The process to ensure consistent standards of care is limited and affected by lawsuits.*

Lawsuits that inmates have successfully brought against the department charging inadequate health care contribute to varying levels of care among the department's institutions. In addition, the department's published standards of care have limited usefulness because they lack detailed treatment guidelines and protocols that managed care organizations include. Further, its reviews of medical services at its institutions are limited. As a result, the department has not ensured that care is consistent and standardized to the extent possible.

We recommended that the department identify the specific areas where the level of medical care, such as chronic care services, differs. If differences exist, it should determine the additional resources, including staff, necessary to remedy any inconsistencies, and seek the appropriate budgetary changes to ensure a consistent level of care at each facility to the greatest extent possible.

***Department Action: Partial corrective action taken.***

The department states that, as a result of one of its lawsuits, it has extended the programs in place at two female institutions to the other institutions housing female inmates. It has also developed a plan to review and standardize aspects of delivery of medical services to inmates at all institutions that will be phased in over subsequent fiscal years. The department reports that the Governor's Budget for fiscal year 2001-02 includes staffing to begin implementing the planned improvements at four male institutions. In the meantime, the department has begun training

staff at the institutions on standardized policies and procedures that it developed, including those for chronic care programs.

***Finding #3:*** *Some correctional treatment centers (CTCs) are not yet licensed.*

The department has made efforts to get all 16 of its CTCs licensed, but so far, only 2 are licensed. The types of care the CTCs provide, as well as the inmates' lengthy average stays, lead us to believe that the CTCs provide "inpatient care." According to the Department of Health Services (Health Services), if a facility is providing inpatient care, it probably needs to be licensed to do so. If Health Services confirms that the CTCs are providing inpatient care, it could order the department to "cease and desist" until the facilities providing inpatient care are licensed.

We recommended that the department work with Health Services to ensure that all CTCs become licensed and that the department is providing only the level of care appropriate in unlicensed facilities.

***Department Action: Partial corrective action taken.***

The department states that it has made Health Services aware of its plan regarding the development and licensing of CTCs. Additionally, the department reports that five CTCs have been licensed as of February 2001 and that license applications will be filed in 2001 for four more sites. The department says licensing the remaining seven sites requires capital outlay improvements which will create delays; however, it plans to continue to work with Health Services to license the CTCs as physical renovations are completed. Finally, the department contends that all inmates housed in the facilities that are not yet licensed receive appropriate care. Nevertheless, we believe that it is important for the department to continue to work with Health Services to ensure that it is providing appropriate care.

***Finding #4:*** *Key operating data vary significantly among institutions.*

We found that some facilities pay more than four times as much for nursing costs per inmate than others do. Likewise, some institutions incur salary costs for medical technical assistants (MTAs) that are nearly twice what other institutions pay per inmate. Because the department does not routinely analyze

comprehensive data on its medical services, it does not know why health care costs vary so widely or whether the institutions with the lowest costs are operating optimally or simply providing a level of services below that of other institutions.

We recommended that the department periodically review key operating data and investigate unusual or inconsistent information. Furthermore, we recommended that the department take appropriate steps to minimize unnecessary costs and verify that corrective actions result in the desired change.

***Department Action: Partial corrective action taken.***

The department states that its utililization management staff at the institutions continue to periodically review operating data and that resources exist in the fiscal year 2000-01 Governor's Budget to create a centralized utililization management database which will enable the department to enhance its current data collection and analysis efforts. However, it believes that a comprehensive system is necessary to perform a sophisticated comparative analysis of costs and operational data within the health care delivery system. The department plans to seek in the spring of 2001 a contractor to develop a comprehensive system to allow such analysis.

***Finding #5:*** *Restrictive staffing requirements contribute to high overtime rates for the department's MTAs.*

The contract between the State and the MTAs' bargaining unit requires these positions to be "posted;" that is, if an MTA is absent, the position must be filled only by another MTA, even if overtime pay is necessary. This policy contributes to higher than average overtime for MTAs. In fiscal year 1998-99, MTAs were paid about 54 percent of the department's total health care overtime pay even though they represent just 22 percent of the total health care payroll.

We recommended that the department take appropriate steps to reduce overtime payments for MTAs by identifying specific MTA posts that, on a temporary basis, could be left vacant or be filled with other qualified personnel and seek appropriate agreements with the MTAs' bargaining unit that would allow this.

***Department Action: Partial corrective action taken.***

The department states that it established a unit in March 2000 to specifically focus on the recruitment of correctional officers and MTAs. It plans to place special emphasis on recruitment support for institutions with historically high MTA vacancy rates. Additionally, the department reached an agreement with the MTAs' bargaining unit in June 2000 that states that MTA positions to be "run vacant" will be specified and positions that can be filled with other staff will be identified. Finally, the department and the bargaining unit are conducting a survey of how the MTA classification is being used in the institutions. The department plans to address any recommendations from the study that impact overtime usage by MTAs in upcoming negotiations with the bargaining unit. These negotiations are expected to begin in March 2001.

***Finding #6:*** *The department can improve its pharmacy staffing.*

The department reports that it has high vacancies in its pharmacist positions. According to the department, it is unable to compensate these employees at market rates. We found, however, that the department's pharmacies are run at a ratio of two pharmacists to each pharmacy assistant. Outside the department, the ratio is more typically the opposite: two assistants for every pharmacist. As a result, department pharmacists must perform routine functions in addition to their regular duties, much of which assistants could do at a lower cost.

We recommended that the department ensure that its pharmaceutical operations are staffed properly by addressing conditions that have led to vacancies among its pharmacists. If the problem is uncompetitive compensation, the department should pursue the means to improve it by working with the pharmacists' bargaining unit. Additionally, the department should consider whether it has the appropriate division of responsibilities between its pharmacists and pharmacy assistants and whether a realignment of staff is warranted.

***Department Action: Partial corrective action taken.***

The department notes that a statewide recruitment and retention pay differential of $800 per month was recently approved for pharmacists in state service, and that a $2,400 one-time lump-sum bonus after 12 months of service was approved for new pharmacists. However, the department believes that the pay

improvements still do not bring state pharmacist salaries to community levels. The department also notes that it has hired a contractor to conduct a study of its pharmacy operations, including staffing. The department anticipates that the contractor may recommend alternative delivery strategies. Following the completion of the report, the department plans to develop pharmacy staffing standards necessary to manage the recommended processes. This will include an assessment of appropriate staffing, including the 2-to-1 ratio of pharmacy assistants to pharmacists. Finally, the department plans to evaluate the space needs for its pharmacy operations.

***Finding #7:*** *The department has not measured the benefits of its co-payment program.*

Despite initial estimates that its co-payment program would generate $1.7 million each year, the department's actual collections have averaged $654,000 per year over the past four years. In addition, to be cost-effective the co-payment program would need to reduce health care visits to offset its operating costs, yet the department has not collected information to help it make that determination. As a result, the department cannot justify continuing the program.

The department should discontinue its policy requiring inmates to pay for a portion of health care visits because it has not demonstrated that its co-payment program is cost-effective.

***Department Action: Pending.***

The department states that it has suspended the co-payment program at one institution as a pilot program to evaluate the effect and provide data to support either retaining or eliminating the co-payment program. The department further states that if a decision is made to discontinue the program, it will take appropriate action to modify the regulations and make any necessary funding adjustments through the budget process.

***Finding #8:*** *The department could reduce its costs by purchasing more of its pharmaceutical products using contracts or other procurement methods.*

The department's pharmacy expenditures have grown from $24.5 million, or $175 per inmate in fiscal year 1996-97, to $51.1 million, or $339 per inmate, in fiscal year 1998-99. We estimate that the department could save up to $2.6 million

annually if it increased the number of drug products purchased under contract. Moreover, other entities, such as Health Services and the federal government, obtain more favorable prices. For example, if the department were to purchase its top 25 drugs in a manner similar to the federal government, it could save about $8.9 million per year.

We recommended that the department ensure that its methods for procuring pharmaceuticals allow for the fullest amount of competition possible. To do this, the department should work with the Department of General Services to ensure that as many items are placed on contract as possible. Further, changes should be made to the bid process to allow manufacturers to supply therapeutic drug classes when drugs are clinically, but not generically, interchangeable. Additionally, we recommended that the department explore other procurement processes that could save it more money, including the federal supply schedule.

***Department Action: Partial corrective action taken.***

The department reports that it continues to meet with Department of General Services staff regarding its pharmaceutical contracts and procurement strategies. Further, according to the department, the Department of General Services has agreed to identify strategies to include drugs for which generic equivalents are not presently available in future contracts. Finally, the department has hired a contractor to evaluate its pharmacy operations. As part of the study, the contractor is to look at the department's present methods of procurement and will study various other options that may be available to the department.

***Finding #9:*** *The department's pharmaceutical data collection system is outmoded.*

The computers at each pharmacy are not linked in a network or connected to the department's headquarters. Additionally, the present data collection system is missing key components that would enable each pharmacy to order efficiently and effectively. Further, the current data system lacks standardization in the data collected, resulting in inconsistent information. As a result, unlike managed care organizations, the department is unable to use important information that would allow it to plan for effective prescription purchases and ensure that its physicians follow appropriate practices for prescribing medications.

We recommended that the department identify conditions that limit its ability to collect and report data on its pharmaceutical operations and take the necessary steps to make information readily accessible and to increase efficiency and effectiveness.

***Department Action: Partial corrective action taken.***

The current study of the department's pharmacy operations discussed previously includes a review by the contractor of the availability of data on pharmacy operations, as well as an evaluation of the related automation needs. Specifically, the contractor is to analyze the department's current pharmacy computer system to determine if it provides the basic functions necessary to operate the existing pharmacy system.

***Finding #10:*** *The department's drug formulary needs updating.*

A well-managed health care operation monitors prescription patterns as a basis for developing and updating its drug formulary, which is a listing of approved or preferred drugs that physicians and pharmacists are expected to follow. A drug formulary is an important management tool to promote cost-effective use of pharmaceuticals. However, the department has not kept its formulary updated, thus limiting its effectiveness.

We recommended that the department periodically monitor and document drug usage, including physician prescription practices, so that information regarding the most appropriate and cost-effective drugs is available when developing and updating the department's drug formulary. Further, the department should update its formulary regularly and use it to control which drugs can be prescribed routinely.

***Department Action: Partial corrective action taken.***

The contractor, in the study mentioned previously, is to measure the extent to which physicians prescribe using the current formulary. Additionally, the contractor will evaluate the therapeutic benefits and cost-effectiveness of prescribed drugs that are not on the formulary. Finally, the contractor is to recommend a proposed new formulary as well as procedures for formulary review.

# Department of Developmental Services

## *Without Sufficient State Funding, It Cannot Furnish Optimal Services to Developmentally Disabled Adults*

***Audit Highlights . . .***

***Our review of the Department of Developmental Services' (department) program for adults with disabilities reveals that direct care staff:***

- ☑ ***Earn an average of $8.89 per hour with fewer than 40 percent offered benefits such as health insurance or sick leave.***
- ☑ ***Remain on the job not quite two years.***
- ☑ ***Have an average turnover rate of 50 percent.***

***Regional center case managers, providing the primary contact for ensuring services to these adults:***

- ☑ ***Earn an average of $17.50 per hour, 6 percent less than case managers in public and private businesses performing comparable duties.***
- ☑ ***Remain on the job at least three years.***
- ☑ ***Have a much lower turnover rate (14 percent) than direct care staff.***

***Furthermore, our review found that the State has not appropriated sufficient funds to ensure that consumers receive optimal services.***

### Report Number 99112, October 1999

The Department of Developmental Services (department) uses a statewide network of 21 independent, nonprofit regional centers to coordinate services to assist all people with developmental disabilities (consumers). The regional centers contract with organizations (providers) in the community to provide consumers with services. The department's system was designed to provide optimal services; however, our review revealed that its success has been undermined by insufficient state funding and budget cuts. We found the following conditions:

***Finding #1:*** *Interim measures are needed to align state funding and program costs.*

Certain providers did not receive rate increases for six years, and when rate increases were granted in September 1998, the additional funding was only enough to fund rates based on fiscal year 1995-96 costs and to bring rates for some providers up to the lower limit of its allowable range. Additionally, because the department's salary estimates used for its regional center budgeting were not adjusted for over nine years, case manager salaries lag behind the inflation rate. Consequently, community-based providers are hard-pressed to compete in a strong job market. Further, low salaries prevent regional centers from hiring enough case managers to oversee consumer services.

To ensure that consumers receive optimal services from the State, we recommended that the Legislature take interim measures to align state funding with program costs until the department completes its reforms. Any additional funding should

be earmarked specifically for increasing compensation for qualified direct care staff and reducing caseloads for regional center case managers.

***Legislative Action: Corrective action taken.***

The 2000-2001 Budget Act contained a 10 percent increase for direct care staff wages for workers in day, infant, supportive living, and respite programs as well as a 5 percent increase for their remaining costs.

***Department Action: Partial corrective action taken.***

The department has worked out a process to implement the budget increase with the provider agency representatives and should have rate letters out to agencies by the end of the calendar year. The budget increase will be retroactive to July 1, 2000.

***Finding #2:*** *Rate structure reforms may take up to four years.*

As part of the Budget Act of 1998, the Legislature directed the department to reform its rate structure. The department has convened a service delivery reform committee to develop, among other things, a system for paying providers. It expects to take up to four years to fully implement the committee's recommendations. Unless the State provides sufficient funding for these changes, consumers will continue to receive less-than-optimal services.

To ensure that providers continuously receive funding that reflects economic conditions, thus allowing them to compete for qualified direct care staff, the department should expedite its service delivery reforms.

***Department Action: Partial corrective action taken.***

The department is in the process of designing an outcome-based system for its services along with a new rate model. Recommendations on personnel and program requirements, performance accountability, and quality improvement will be finalized by spring 2001.

The department's contractor, the Center for Health Policy Studies, is continuing its work in developing a new rate model for residential services. Upon completion of this model, the second phase of the contract will request that they determine if this approach can be used in developing cost models for day, infant, respite, and supported living programs.

***Finding #3:*** *The department's process for regional center budgeting is outdated.*

A consultant hired by the department to develop a more appropriate budget methodology believes that the core staffing formula has outlived its usefulness. As one example, the formula does not include sufficient resources for the regional centers' information technology and training support staff.

To effectively oversee consumer plans at the regional centers, the department should carefully consider its consultant's recommendations for the regional center budget process and implement those it deems beneficial as quickly as possible.

***Department Action: Partial corrective action taken.***

The department has completed its analysis of the new core-staffing model as recommended by its consultant. Although this model would be an improvement over its existing one, further study is necessary to address concerns of the regional centers.

# Department of Rehabilitation

## *The Business Enterprise Program for the Blind Is Financially Sound, but Opportunities for Improvement Exist*

### Report Number 98020, January 1999

***Audit Highlights . . .***

***The Business Enterprise Program for the Blind is financially sound. However, the following issues need attention:***

- ☑ ***The Vending Stand Account—Special Deposit Fund's surplus appears excessive.***
- ☑ ***The Vending Machine Trust Fund's commission income can increase more than 35 percent if the Department of Rehabilitation establishes contracts for all vending machines on state and federal property.***

As required by the California Welfare and Institutions Code, we conducted a fiscal audit of the Department of Rehabilitation's (department) Business Enterprise Program for the Blind (program). We found that the program is financially sound but some opportunities exist to improve the program's financial management. Specifically:

***Finding #1:*** *The surplus in the Vending Stand Account—Special Deposit Fund (vending stand fund) appears excessive.*

The department uses the vending stand fund to account for vendor fees and partially fund the program. However, the department has consistently spent less on the program than it has received in revenue. As of June 30, 1997, the vending stand fund had a surplus sufficient to pay the program's average annual expenditures for 2.8 years. This surplus may indicate that the department should consider reducing the fees it charges vendors.

We recommended that the department analyze the vending stand fund to determine whether its surplus is appropriate for future programs' needs. If warranted, the department should also adjust its vendor fee schedule.

***Department Action: Corrective action taken.***

The department stated that it analyzed the vending stand fund surplus at the end of fiscal year 1998-99, and believes that the surplus is reasonable for anticipated future expenditures. In addition, department staff meets on a quarterly basis to analyze and monitor the fund. The department will consider adjusting the vendor fee schedule or other appropriate actions as necessary.

***Finding #2:*** *Opportunities for additional vending machine commissions still exist.*

Although the department increased its income from vending machine commissions since our fiscal year 1993-94 audit, it could do more to increase income. By establishing contracts for all vending machines on state and federal property, the department could potentially increase its vending machine commissions by 38 percent over fiscal year 1996-97.

We recommended that the department continue its efforts to enter into contracts with vending machine companies, including dedicating additional staff to assist with establishing contracts.

***Department Action: Corrective action taken.***

The department stated that it will continue to use existing staff and additional resources when available to bring all vending machines under contract. As of June 30, 1999, the department had identified approximately 3,385 vending machines and had 1,870, or 55 percent, under contract.

# In-Home Supportive Services

## *Since Recent Legislation Changes the Way Counties Will Administer the Program, the Department of Social Services Needs to Monitor Service Delivery*

### Report Number 96036, September 1999

***Audit Highlights . . .***

***Our review of the In-Home Supportive Services program disclosed:***

- ☑ ***More counties will likely establish public authorities to serve as employers for collective bargaining purposes and to limit county liabilities.***
- ☑ ***Generally, counties without public authorities pay individual providers minimum wage, while civil service workers earn up to $16.50 an hour and contract workers earn up to $14.75 per hour.***
- ☑ ***Rising wage and benefit costs may encourage counties to use more expensive contract employees, which garner higher state reimbursements.***

***Finally, although no definitive performance data exist, our analysis reveals few differences in the level of services provided between counties with and without public authorities.***

Chapter 206, Statutes of 1996, requires the Bureau of State Audits (bureau) to review the performance of the first In-Home Supportive Services (IHSS) public authority with a state-approved reimbursement rate. The first state approval took place in 1998. We reviewed the level of service provided by 3 counties before and after they established IHSS public authorities and compared their current level of service with that of 11 counties that do not have public authorities. We also assessed the potential impact of new legislation on the IHSS program. We found the following:

***Finding #1:*** *New legislation will probably prompt many counties to establish public authorities to administer the delivery of IHSS.*

Legislation enacted in July 1999 requires counties to act as, or establish, employers for individual IHSS providers so that they have an opportunity for collective bargaining. Although counties are just beginning to decide which steps to take to meet this requirement, we anticipate that counties will establish public authorities, or contract with nonprofit groups, that will act as employers. We also expect that counties will continue to predominately use individual providers since they cost less than other workers, generally $5.75 per hour versus up to $14.75 per hour for home-care contractors and $16.50 per hour for civil servants. However, as collective bargaining increases the cost of individual providers, counties may switch to home-care contractors because the State pays a higher portion of their hourly rate.

***Finding #2:*** *The effectiveness of public authorities has not been demonstrated.*

Neither the Department of Social Services (department) nor existing public authorities have accumulated reliable data showing that public authorities' activities provide additional benefits to IHSS recipients. In addition, our analysis revealed few differences in the level of services provided between counties with and without public authorities.

We recommended that the department, along with other entities involved with the IHSS program, develop standards of performance for local IHSS programs and gather and evaluate data measuring the performance of public authorities, nonprofit organizations, home-care contractors, and other entities that deliver IHSS services. We also recommended that local entities implement procedures to ensure that performance-measuring data are accurately entered into the department's information system.

In addition, we recommended that the department and local agencies better define program functions, including training for providers and recipients, background checks for provider applicants, and the use of registries for provider referrals, to improve their consistency and effectiveness. Finally, we recommended that the Legislature require the department to report on the operational and fiscal impact of the recently enacted legislation to determine whether the new law promotes a more effective and efficient program.

***Department Action: Pending.***

In the fiscal year 2000-01 budget act, the department received authorization for two new full-time positions to handle work related to public authorities and is recruiting to fill them. These positions will be used to develop requirements and standards for public authorities and other modes of employing IHSS providers, and to provide information and technical assistance to counties as they implement Assembly Bill 1682. The department expects to work closely with the counties as it develops these requirements and standards.

The department reported that it has directed its IHSS program's Evaluation and Integrity Bureau to develop a protocol for reviewing the activities and performance of public authorities. It

is also working with the department's Research and Development Division to review the program needs for IHSS data for program operation and evaluation efforts.

Further, the department indicated it has begun the process of providing a new contract for the operation of its IHSS case management, information, and payroll system, which it hopes will improve the access to and utility of the system's data output.

The department also has indicated that it plans to conduct on-site visits to identify the best practices used by public authorities and to share this information with the counties.

Finally, the department submitted a report to the Legislature in July 2000 that summarized responses from counties with public authorities to a department survey on IHSS public authorities.

***Legislative Action: Unknown.***

We are unaware of any legislative action implementing this recommendation.

***Finding #3:*** *Some requirements of recent legislation are unclear.*

Legislation enacted in July 1999 requires that counties with more than 500 IHSS cases offer an "individual provider employer option" upon the request of recipients, along with any other type of service provider. This implies that counties with 500 cases or less need not comply with the requirement. However, the statute does not clearly define an individual provider employer option. The requirement could be interpreted to mean that counties falling below the cutoff need not provide individual providers to recipients or that they need not act as or establish an employer for individual providers. As a result, 20 counties in the State with 500 or fewer cases may not be certain how they must comply with the new legislation.

We recommended that the Legislature clarify the requirements in the Welfare and Institutions Code for counties with more than 500 IHSS cases and for those with 500 or fewer cases.

***Legislative Action: Unknown.***

We are unaware of any legislative action implementing this recommendation.

# Child Support Enforcement Program

## *Without Stronger Leadership, California's Child Support Program Will Continue to Struggle*

### Report Number 99103, August 1999

***Audit Highlights . . .***

***Our review found that California's Child Support Enforcement Program is struggling because:***

- ☑ ***The Department of Social Services fails to provide the critical leadership needed and instead has adopted a laissez-faire attitude toward the program.***
- ☑ ***Because of this leadership void, county district attorneys use broad discretion in operating their child support programs resulting in uneven and, in many instances, ineffective service.***
- ☑ ***The federal government has contributed to the program's dysfunction by offering incentives that may misguide efforts.***

***Although California's performance is comparatively poor, the counties we visited have generally shown some improvement over the past four years.***

The Joint Legislative Audit Committee requested that we evaluate the effectiveness of the Child Support Enforcement Program (CSEP) in California and identify impediments to its success. The CSEP attempts to collect child support from noncustodial parents either to repay the government for public assistance previously paid to families or to give it directly to families if they are not receiving aid. In California, the Department of Social Services (DSS) is responsible for the statewide supervision of the CSEP, while the 58 elected district attorneys manage family support divisions in each county to carry out day-to-day services. Our evaluation found that the CSEP in California is disjointed, complicated, and lacking in leadership.

***Finding #1:*** *The DSS has failed to provide strong leadership and lacks a meaningful strategic plan.*

The DSS has failed to provide the leadership and assistance needed to ensure the effective operation of the CSEP in California. This has significantly contributed to the problems the State faces in child support enforcement. In addition, the DSS' strategic plan offers few meaningful goals and does not establish measurable outcomes. Thus, the DSS will not know whether the plan's activities actually improve the CSEP in California.

Wherever the governor and Legislature ultimately place the responsibility for California's CSEP, we recommended that they appoint to leadership positions only qualified individuals capable of providing the authority, motivation, direction, and effective oversight needed to significantly improve the CSEP in California.

We also recommended that the DSS develop a statewide strategic plan that establishes meaningful goals for itself and for the counties, and identifies expected outcomes and methods for measuring whether proposed activities have successfully met the plan's goals.

***Legislative Action: Partial corrective action taken.***

The governor approved legislation creating a Department of Child Support Services (department) effective January 1, 2000. The department states that in the seven months since its creation, it has made significant strides toward meeting its legislative mandates and redesigning the CSEP in California. The organizational structure of the new department has been established, key executive appointments have been made, and automation projects are moving forward. Additionally, in March 2000, the department began the initial phases of developing a strategic plan and a process is under way to seek the input of staff, customers, and other stakeholders.

***Finding #2:*** *The State Investment Fund (SIF) is not used to its full potential.*

In fiscal year 1992-93, the Legislature appropriated $10 million, augmented annually, to be set aside in the SIF for counties to use to increase child support collections. However, since its first full year of operation, the number of participating counties has significantly decreased. According to the counties, they are turning away from the SIF because current requirements make it too difficult for them to use the money effectively.

We recommended that the DSS sponsor legislation to remove barriers to county participation by modifying the SIF program's requirements.

***Department Action: Corrective action taken.***

Chapter 480, Statutes of 1999, modified SIF program requirements by extending the performance measurement period from one year to two years. According to the department, it has evaluated the SIF program, prepared a report to the Legislature, and is considering which of the report's recommendations to implement.

***Finding #3:*** *The Paternity Opportunity Program (POP) is too difficult for counties to access.*

Several counties continue to establish paternity for child support through the courts in part because they do not have ready access to paternity declarations through the DSS-administered POP. As a result, these counties are not complying with federal regulations requiring them to review voluntary paternity acknowledgments recorded in the statewide database maintained by the State's contractor. Moreover, because the POP is not being used, the estimated $1.8 million in federal and state funds spent annually to maintain POP are being wasted.

To make the POP more accessible to the counties, we recommended that DSS provide counties with electronic access to the statewide database of voluntary paternity declarations.

***Department Action: Partial corrective action taken.***

The department is currently providing the POP data to the counties quarterly on CD/ROM. The department plans to eventually make the POP data available on a Web site, which will permit counties to access the POP declaration images locally through the Internet.

***Finding #4:*** *California's counties are currently facing a dilemma as to whether or not to aggressively close child support cases having minimal likelihood of collection.*

Children's advocates strongly oppose closing cases because, unless a case is later reopened, it takes away any hope of the children ever receiving support legally owed to them. However, under new federal regulations, counties are faced with receiving less incentive funding if they continue to carry cases having a minimal likelihood of collection, referred to as "soft cases." To resolve this dilemma, the DSS has proposed a closure policy for soft cases, but has not made implementation a priority.

To ensure that it receives optimal federal incentive funding while meeting child support advocates' expectations, we recommended that the DSS make the implementation of its proposed soft closure policy a priority. To this end, the DSS should immediately request funding to make needed programming changes to the system located at the Franchise Tax Board and the Department of Justice, and if necessary, it should swiftly develop legislation to ensure county participation in the soft closure project.

***Department Action: Partial corrective action taken.***

The department states that a workgroup composed of county, state, and federal staff as well as representatives of the courts, advocacy groups, and other stakeholders is analyzing the federal and state requirements for case closure. The workgroup provided the department with recommendations for case closure policy changes.

***Finding #5:*** *The DSS has failed to monitor and assist poorly performing counties.*

The DSS currently performs annual county compliance reviews to determine whether a county is complying with certain federal regulations related to case processing. However, these compliance reviews are not sufficient to identify reasons for poor performance in a county, nor do they identify a county's needs for technical assistance. Although aware of the limitations of these reviews, the DSS did not investigate the reasons why some counties struggled to administer CSEP until mandated to do so by the Legislature. Even now, the DSS has done little to implement required performance reviews.

To identify counties with performance problems and develop strategies to assist them, we recommended that the DSS analyze program data to measure the performance of each county's CSEP. To best meet the intent of legislation requiring the DSS to conduct program reviews in poorly performing counties and provide them with needed technical assistance, we also recommended that the DSS develop a formal plan outlining the areas it intends to review and the number of additional staff required to carry out the plan.

***Department Action: Partial corrective action taken.***

The department states that it developed and is in the process of implementing a formal plan. It has reviewed four of the top performing counties to establish a basis of comparison to use when reviewing the bottom performing counties. The department completed its review of the bottom 10 counties in October 2000, and is currently working with these counties to resolve issues raised during its review.

***Finding #6:*** *The DSS does not ensure the accuracy of the reports it submits.*

The counties submit numerous reports to the DSS, which it compiles into statewide CSEP performance reports for use by the federal government and the general public. The federal government uses the data in these reports to compute state performance incentives, and the public uses the data to measure California's performance in collecting child support. Despite the importance of these reports, the DSS has failed to ensure that the report data is accurate.

We recommended that the DSS develop procedures for counties to use to validate the data that they submit to the DSS. Further, the DSS should develop its own procedures to verify and edit county reports to assure that the data reported is accurate, internally consistent, and logical.

***Department Action: Corrective action taken.***

The department states that it has analyzed the data requirements and developed and implemented the necessary internal procedures and processes to ensure data accuracy deficiencies are corrected. In addition, the department has established ongoing data monitoring and quality control processes to ensure that it identifies data discrepancies and makes adjustments immediately. The department also states that it will conduct ongoing site reviews to audit county and state data reliability.

***Finding #7:*** *The DSS underreported past-due child support and has failed to assess the likelihood of collecting past-due child support.*

The DSS has significantly underreported the amount of California's past-due child support for at least the past four years. In fact, for the 1997-98 federal fiscal year, we estimate that the DSS underreported the amount by up to $1.6 billion. Since the amount of past-due child support is used to measure how well California collects child support, the DSS should ensure the accuracy of the figures it reports. However, we found that the DSS uses a flawed process to determine this amount.

In addition, the DSS failed to analyze its own statistics to determine what portion of past-due child support is likely to be collected. When the DSS does not make informed estimates of the collectible portion of past-due child support, it creates an unrealistic public expectation of the amount of child support counties can collect. Such an analysis would also provide the DSS with information that it could use to better target and improve its collection efforts.

We recommended that the DSS require counties to report the actual amount of past-due child support rather than using an estimate to report this information. We also recommended that the DSS regularly assess the portion of past-due child support that is collectable and measure the success of the CSEP against this expectation.

***Department Action: Partial corrective action taken.***

According to the department, changes in federal and state reporting requirements now direct counties to report actual past-due child support. Also, the department has made a major commitment, through a contract with a consultant, to determine the amount of child support in California that can be realistically collected.

***Finding #8:*** *The DSS does not adequately communicate with or provide training to the counties.*

As the statewide administrator of the CSEP, the DSS must effectively communicate with the counties and provide training to ensure appropriate program guidance and consistent county actions. We found, however, that the DSS:

- Issued confusing policy memoranda that failed to provide needed clarification of federal regulations and many times were not timely.

- Failed to establish a formal structure for gaining county input on policy decisions.

- Did not routinely inform the counties of changes in its organizational structure.

- Used staff with little CSEP experience to perform county liaison functions.

- Failed to provide counties more training to help ensure consistency of service statewide.

Without adequate communication and training, counties feel they cannot rely on the DSS for appropriate and timely guidance, and their ability to provide consistent service is hampered. We recommended that the DSS improve its communication with and training of the counties by:

- Ensuring that policy memos provide clear and timely guidance.

- Developing a formal communication structure to document county input, and the rationale for final policy decisions.

- Routinely informing the counties of DSS staff assignments and responsibilities.

- Assigning the responsibility of responding to the counties' questions to the more experienced staff in the policy unit.

- Ensuring that policy unit staff maintain a current working knowledge of the CSEP at the local level.

- Surveying the counties to identify their specific training needs and developing a training program accordingly.

***Department Action: Partial corrective action taken.***

The department stated that it has taken or is taking the following steps to improve its communication with the counties:

- Instituted new procedures to ensure policy memos are distributed in a more prompt and consistent manner and are written as clearly and concisely as possible.

- Established strong working relationships with the California State Association of County Administrators, the Child Support Directors Association, the California Family Support Council, and the California District Attorney's Association to ensure statewide policy and program decisions are understood.

- A workgroup is developing a formal means of soliciting broad input from employees, customers, and stakeholders when developing program directives and regulations that will also serve to document the department's rationale for the decisions it ultimately makes.

- Directed its executive team to ensure that listings of departmental staff and their assignments are routinely distributed to the counties.

- Established a policy branch help desk to respond to county questions.

- Directed the workgroup to develop draft recommendations about the content and delivery of training programs for all levels of staff by October 1, 2000, for the director of the department to consider.

***Finding #9:*** *The DSS and the county district attorneys have not provided consistent, effective service under the CSEP.*

Although the DSS' failure to provide effective leadership and oversight is in part to blame for the lackluster results achieved by the State's CSEP, the 58 county district attorneys who administer the program locally must also take responsibility for the uneven and sometimes inadequate delivery of child support services throughout the State. Because district attorneys are allowed wide discretion in operating the CSEP within their respective counties, significant differences in the local delivery of child support services have created an inconsistent statewide program. For example, differing child support philosophies may lead one county to prosecute noncustodial parents while another county tries to educate parents about their responsibilities.

To ensure that California residents participating in the CSEP are treated equally and receive the same level of service from county to county, we recommended that the DSS exercise its authority over county-run programs to achieve uniform delivery of child support services at the local level. The DSS should also study the best practices of county-run CSEPs and consider implementing these practices statewide. If the DSS believes it is unable to effect these changes because it lacks authority, the Legislature should ensure such authority is granted.

***Department Action: Partial corrective action taken.***

According to the department, it has assigned the workgroup to formulate recommendations related to the development and implementation of consistent policies and procedures, uniform forms, and adopting best practices across the State. The department will then develop regulations that direct the local child support agency on how the new policies and procedures are to be implemented.

***Finding #10:*** *Many counties do not work child support cases that originate outside their counties.*

Over half the counties in California do not work on inter-county transfer cases because they are difficult to handle without a statewide system. As a result, counties have wasted enormous effort duplicating each other's services.

To avoid creating duplicate cases and wasting resources providing unneeded child support services when custodial parents relocate to another county, we recommended that the DSS:

- Establish new written guidelines and procedures for counties on how to handle inter-county transfers until a statewide-automated system is implemented.

- Ensure that all counties accept and process inter-county transfers using these new guidelines.

***Department Action: Partial corrective action taken.***

The workgroup is studying case processing, including inter-county transfers, and it will be making recommendations to the department. Based on these recommendations, the department plans to examine the current inter-county transfer policy and, if appropriate, develop and implement new mandated procedures for all cases that meet the inter-county transfer criteria.

***Finding #11:*** *Federal incentive funding does not consider state demographics.*

Despite recent changes that will base incentive payments to states on five quantifiable measures of CSEP performance, the federal incentive structure presents two significant problems. First, it does not reflect important demographic factors that affect a state's CSEP performance and therefore may unfairly penalize some states, including California. Second, it does not fully take into account changes in the focus of the national program over time. As a result, the federal government may be communicating conflicting priorities to the states.

We recommended that the Legislature monitor the federal government's efforts to improve its incentive structure to ensure that such modifications match the current direction of the federal CSEP and take into account demographic factors in determining a state's performance. If such improvements are not made, the Legislature should memorialize Congress of the needed changes.

***Legislative Action: Unknown.***

We are unaware of any legislative action regarding this recommendation.

# Child Protective Services

## *Agencies Are Limited in Protecting Children From Abuse by Released Inmates*

**Report Number 99120, December 1999**

***Audit Highlights . . .***

***Our review of the network intended to protect children from abuse at the hands of former offenders revealed that:***

- ☑ ***Child Protective Services (CPS) agencies do not receive information about the release of offenders that could serve as an early warning to prevent possible harm to children.***
- ☑ ***New legislation, Dustin's Law, has limitations and may not fully achieve what the Legislature intended.***
- ☑ ***Without legislative clarification, CPS agencies are unsure of their authority to proactively prevent abuse or to share information.***
- ☑ ***Parole agents and probation officers can benefit from expanded training to recognize and report child abuse.***

At the request of the Joint Legislative Audit Committee, we evaluated the communication and coordination among Child Protective Services (CPS) agencies, parole, and county probation departments regarding the release of convicted child abusers. Our review revealed the following:

***Finding #1:*** *Because CPS agencies are not informed of inmate releases, they cannot anticipate possible abuse by parolees or help protect children who are their targets.*

Current law allows the California Department of Corrections (Corrections) to share inmate release information when local law enforcement requests it. However, because CPS does not receive inmate release information, it has no advance warning that an offender with a history of child abuse is reentering the community. This information gap puts the agency at a disadvantage in safeguarding vulnerable children from abuse.

Dustin's Law, legislation which took effect in January 2000, attempts to close the communication gap between parole and CPS regarding paroled child abusers. However, because this legislation does not include CPS among agencies initially receiving release information, the notification process intended to protect children from abuse is incomplete, leaving them at risk for further harm by parolees.

We recommended that the Legislature amend Dustin's Law so that CPS receives timely information regarding incarcerated offenders due to be released. Once the Legislature acts to ensure that CPS has this information, we recommended that CPS agencies, parole, and county probation departments start an information-sharing process to identify soon-to-be released inmates who may pose a threat to children.

***Legislative Action: Unknown.***

We are unaware of any legislative action implementing this recommendation.

***Department Action: Corrective action taken.***

During 2000, Corrections established child abuse review teams in each parole district. The major objectives of these teams are to:

- Work to correct systemic issues relating to children at risk by a parolee or probationer.
- Facilitate an open exchange of information to reduce further victimization.
- Provide child abuse education and training and agency cross-training.

Corrections plans to assess the effectiveness of these efforts in July 2001.

Additionally, Corrections noted that it will implement Senate Bill 1343 (SB 1343) effective January 1, 2001, which requires it to notify the 'immediate family' of an inmate pending release from prison for specified child abuse offenses if the family requests such notification.

To minimize the contact offenders have with formerly abused children and limit repeated abuse, we also recommended that Corrections always incorporate orders restricting an offender's unsupervised contact with minor children, and confer with CPS when developing parole conditions for offenders known to have abused children in the past.

***Department Action: Partial corrective action taken.***

Corrections stated that it is its general policy to impose special conditions of parole on parolees convicted of child abuse offenses. Corrections reported that in February 2000, it completed a review of all parole cases meeting certain child abuse offense criteria and that all the cases reflected the appropriate special conditions. In addition, Corrections noted that field staffs are imposing special conditions of parole on new parolees convicted of child abuse offenses.

However, Corrections did not address the portion of our recommendation directing it to seek input from CPS when developing parole conditions for offenders known to CPS to have abused children in the past. Therefore, child abusers known to CPS who were not convicted of abuse-related charges might not

have special parole conditions limiting their contact with minors placed upon them.

***Finding #2:*** *CPS's authority to act on inmate release data is unclear.*

Current law is unclear as to whether CPS agencies can act even if they get information about the release of inmates with a history of child abuse. Laws and regulations indicate that CPS agencies are to open cases in reaction to child abuse, not in response to a perceived risk. Also, it is unclear how much information CPS may share with law enforcement because of confidentiality concerns.

We recommended that the Legislature clarify CPS agencies' roles and responsibilities to:

- Assess the risk released offenders pose to their families.
- Provide input in determining conditions of parole and probation.
- Intervene in high-risk situations.
- Share with other entities information concerning the parents of abused children.

***Legislative Action: Unknown.***

We are unaware of any legislative action implementing this recommendation.

We also recommended that the Department of Social Services (DSS), in conjunction with local CPS agencies, develop guidelines for when and how local CPS agencies should contact and monitor families where a released parent poses a renewed threat to children.

➲ ***Department Action: None.***

DSS believed legislative action was needed in this area to allow it to implement our recommendation. Further, because SB 1343 (Statutes of 2000) did not affect the operating procedures of local child protective services agencies and contained no authority for the department to amend its regulations, it will not do so.

***Finding #3:*** *Parole and probation officers need more training on how to identify child abuse.*

Parole and probation officers receive very limited training in identifying child abuse and how to report it. For example, parole officers get four hours of training at the parole academy, and Fresno County probation officers get five hours of child, elder, and spousal abuse training during their induction. Without more training, potentially abusive situations may be overlooked.

We recommended that the Legislature use the Board of Corrections, the standard setting body for probation officers training, as a point of contact to suggest that probation officers receive more training on identifying and reporting child abuse.

***Legislative Action: Unknown.***

We are unaware of any legislative action implementing this recommendation.

We also recommended that Corrections provide their parole staff with periodic training on how to identify and report child abuse.

***Department Action: Corrective action taken.***

Corrections noted that it updated the parole agent academy curriculum effective February 2000. In addition, beginning in June 2000, it began delivering "refresher" training to current parole agents. Corrections reported that its refresher-training course would be given annually.

# Department of Social Services

## *To Ensure Safe, Licensed Child Care Facilities, It Needs to More Diligently Assess Criminal Histories, Monitor Facilities, and Enforce Disciplinary Decisions*

***Audit Highlights . . .***

***As the State's agency for licensing and monitoring child care facilities, the Department of Social Services:***

- ☑ ***Has wide discretion for granting criminal history exemptions and allowing people who have committed crimes to care for or come in contact with children.***
- ☑ ***Has allowed its staff to make exemption decisions with little or no management oversight.***
- ☑ ***Should exercise more caution when granting criminal history exemptions.***
- ☑ ***Does not always follow up on complaint investigations or perform required, timely facility evaluations.***
- ☑ ***Imposes appropriate disciplinary actions against child care facility licensees but does not effectively enforce these actions once the decisions are made.***

### Report Number 2000-102, August 2000

The Joint Legislative Audit Committee requested that we assess the Department of Social Services' (Social Services) policies and practices for licensing and monitoring child care facilities.

***Finding #1:*** *Social Services has significant discretion and should use greater caution when issuing criminal history exemptions.*

Social Services has broad statutory authority to grant exemptions to the law that prohibits anyone with a past criminal conviction from caring for children or residing in a licensed child care facility. In 1999, Social Services approved 95 percent of the exemption requests it received. Although people convicted of such crimes as murder or rape cannot qualify for an exemption, Social Services may consider individuals who have committed other crimes, even felonies like spousal battery and assault with a deadly weapon.

In early 2000, Social Services concluded that its exemption procedures were inadequate and its staff may have too much latitude in granting exemptions. Our review of 25 exemptions confirmed that its own policies contributed to poor decision making because Social Services:

- Allowed staff to grant exemptions with little or no management oversight.
- Did not sufficiently consider information other than conviction data or deem important an applicant's lack of honesty in filing for an exemption, before an exemption was granted.

We recommended that the Legislature determine whether Social Services' current level of discretion to exempt individuals with criminal histories is appropriate, consider pursuing laws that automatically deny an exemption on a greater range of crimes, and consider expanding the variety of serious arrests Social Services may review during its exemption process.

We also recommended that Social Services continue following its new management review procedures of criminal exemptions involving felonies but also require management to periodically review and approve a representative sample of all other exemptions granted. Finally, Social Services should actively consider all available information, not just "rap sheets" when granting exemptions.

***Legislative Action: Unknown.***

We are unaware of any legislative action taken to implement these recommendations.

***Department Action: Partial corrective action taken.***

In its 60-day response to our audit recommendations, Social Services indicated that it continues to require supervisory review of all felony exemption cases. In addition, its supervisors are reviewing 10 percent of all other exemption requests. Finally, staff are actively considering all available information, not just rap sheets when considering an exemption request.

***Finding #2:*** *Social Services' criminal history checks are slow, sometimes incomplete, and its FBI background check procedures are questionable.*

Social Services has some fixed timelines for processing criminal history exemptions; however, it is not always able to work within these timelines. Municipal agencies, such as courts and local law enforcement, contribute to Social Services' criminal history-exemption process but do not always provide information in a timely manner or may report incomplete criminal history data. Because access to licensed child care facilities pending a criminal history review differs between license holders (licensees) and facility employees, when Social Services delays granting an exemption it may impede a person's right to work or put children in the care of people who pose a threat to their safety.

We recommended that Social Services establish and meet its goal for notifying individuals that an exemption is needed, develop safeguards to help ensure that municipal agencies provide information promptly, and use its tracking system to identify cases that are not progressing to a reasonable, timely conclusion.

***Department Action: Partial corrective action taken.***

Social Services reported that it began piloting an automated case-management system in December 2000 to assist staff in tracking all background check activities. Tracking includes generating a notice to be mailed to individuals for whom a criminal history exemption is needed, and a tickler component reminding staff when certain documents or actions are due. The system will be operational in 2001.

Social Services stated that as it has no jurisdiction over municipal agencies, changes would require legislative action—and recent legislation did not pass. Nonetheless, our recommendation is still appropriate because Social Services could take steps to change its own processes to help ensure that municipal agencies are responsive to its requests for data.

The law states that individuals who declare they have not been convicted of crimes can start operating, working in, or residing in a child care facility while Social Services conducts an FBI check. For 9 of 11 individuals we reviewed, Social Services licensed or allowed them to operate, work in, or live in child care facilities without FBI checks even though these individuals disclosed criminal convictions. Social Services' interpretation of the law is to allow people who disclose criminal convictions to begin caring for children before going through the mandatory FBI check. Our interpretation differed as we believe the law means that Social Services cannot authorize any individual who discloses criminal convictions to begin caring for children until an FBI check is complete. Social Services' actions could leave children in the hands of individuals whose criminal histories make them unfit to supervise children.

According to the deputy director for the Community Care Licensing Division, Social Services does not believe the Legislature intended to delay licensure or employment pending individuals' FBI checks. And, Social Services contends that although designed as an additional safeguard, the FBI checks have not proved more accurate or up-to-date than information the

Department of Justice (Justice) provides through its records review. Nevertheless, we believe that children are best protected when Social Services conducts FBI checks on individuals before they come in contact with children.

We recommended that the Legislature clarify the existing FBI check requirements to specify whether an individual can have contact with children pending an FBI check.

We also recommended that Social Services, to implement the FBI record-checking requirement in accordance with the law, reevaluate its current FBI records review policies and procedures and properly apply the requirements that allow individuals to work with or be in close proximity to children while their FBI check is pending.

***Legislative Action: Unknown.***

We are unaware of any legislative action taken to implement these recommendations.

***Department Action: Partial corrective action taken.***

With regard to FBI checks, Social Services noted that it reviewed its processes and found them to be in accordance with the law and legislative intent. However, it is working with Justice to receive FBI check information electronically and hopes that this will further improve the accuracy and responsiveness of the process.

***Finding #3:*** *Justice's process for reporting subsequent criminal activity is flawed.*

For four of nine cases we reviewed, Justice failed to notify Social Services when an individual it previously approved for access to a child care facility was convicted of a crime or arrested for certain statutorily defined crimes. Justice's lack of a method for tracking new arrest and conviction information contributed to its failure to notify Social Services as required. As a result, Social Services cannot monitor individuals who continue criminal activity after their criminal histories are initially reviewed and cleared, which may compromise the safety of children in care.

We recommended that Justice establish a system to track notices sent to Social Services about individuals previously granted access to child care facilities who commit additional crimes.

***Department Action: Partial corrective action taken.***

In the short run, Justice stated it will modify the work area to enable staff to work and track these transactions in chronological order. In the long run, Justice is redesigning its Automated Criminal History System so it can process subsequent arrest notifications electronically. Justice did not specify a completion date.

***Finding #4:*** *Parents lack information about caregivers' criminal history exemptions.*

Neither Social Services nor the caregiver are required to disclose to parents crimes the caregiver committed or that Social Services has granted a criminal history exemption. State law prohibits Social Services from disclosing the contents of an individual's rap sheet; however, during the audit Social Services acknowledged it could disclose to the public its exemption decisions and to whom exemptions were granted. However, Social Services has never directed licensees to disclose criminal history exemptions, believing that doing so may expose both it and the caregiver to legal liability. Until Social Services ensures that disclosures are made, parents will not receive critical information they need to make informed child care choices.

We recommended that Social Services, working with the Legislature, require disclosure of criminal history exemptions. Further, the two parties should determine the types of criminal histories and lengths of time this requirement should apply to, such as disclosing for five years an exemption received for certain convictions and serious arrests.

***Legislative Action: Unknown.***

We are unaware of any legislative action taken to implement these recommendations.

***Department Action: Partial corrective action taken.***

Social Services reported that, along with Justice, it studied California law and determined that making criminal history exemptions public information would violate an individual's right to privacy. Social Services is currently litigating a Public Records Act request regarding past criminal history exemptions it has granted. The pending court decision will provide further direction in this area.

***Finding #5:*** *Social Services has been lax in ensuring complaints against child care facilities are corrected and that required periodic monitoring is performed.*

Although Social Services appears to effectively investigate complaints it receives regarding child care facilities, it does not consistently pursue substantiated complaints to ensure that problems are corrected. For 14 substantiated complaints we reviewed, in almost 40 percent of these cases, Social Services could not demonstrate that the problem at the facility was corrected. Because Social Services does not always perform the necessary follow-up procedures on substantiated complaints, it cannot guarantee that child care facility licensees comply with the laws and regulations and provide safe and healthy environments for children.

Social Services also does not always meet its requirement to evaluate each child care center annually and each child care home every three years. Frequently, facilities are inspected long past the deadline, and sometimes not at all. Of 91 evaluations (46 child care centers and 45 child care homes) we reviewed, Social Services failed to perform 21 of them on time—6 of the 21 were performed more than seven months late. Evaluations that are significantly late prohibit Social Services from ensuring that licensees are operating properly and caring for the children entrusted to them.

We recommended that Social Services:

- Review and modify its complaints processing procedures so that all necessary complaint follow-ups occur.

- Conduct facility evaluations as required within the timelines established for both child care centers and child care homes.

- Track and monitor evaluations that are not performed on time until the evaluations are conducted.

***Department Action: Partial corrective action taken.***

Social Services stated that it is convening a work group to update existing supervisory handbooks to reflect current policies and procedures. Social Services is also planning a training program that will focus on more effectively managing and monitoring field staff activities. The staff should receive updated handbooks and training before December 2001.

Regarding facilities evaluations, Social Services reported it has emphasized with staff the importance of completing these evaluations promptly. However, Social Services believes staff vacancies and workload increases affect its ability to complete prompt evaluations. Social Services plans to redesign its visit protocol to ensure that visits can be made timely.

***Finding #6:*** *Social Services' oversight of its staff and district operations is insufficient, and it does not consistently monitor county licensing functions.*

Other than overseeing new analysts for the first three to six months on the job, Social Services lacked a systematic process for supervisors to ensure that analysts continually make sound decisions and appropriately enforce licensing regulations. Consequently, Social Services has little assurance that analysts are effectively administering the child care facility licensing program.

We recommended that Social Services:

- Establish standards requiring district offices to periodically review evaluation reports analysts prepare.

- Make certain that each district office is scheduling and performing its quality-enhancement process evaluations as required.

***Department Action: Partial corrective action taken.***

Social Services reported that it has reminded district office staff of the importance of scheduling and performing quality-enhancement process evaluations. Additionally, it is requiring that the district offices submit to their regional office an annual report of all completed quality-enhancement process evaluations. The district offices are to provide a justification in the reports if evaluations are not completed or are delayed. Social Services believes this will serve to address or eliminate the findings regarding insufficient staff oversight.

Social Services' regional offices are responsible for monitoring district office operations. However, Social Services has failed to establish policies and procedures or standards to direct its regional offices in their oversight role. As a result, the regional offices do not effectively or consistently monitor the district offices' licensing activities, and Social Services cannot ensure that its licensing activities are conducted in accordance with state laws and regulations.

We recommended that Social Services establish policies and procedures to ensure that regional offices periodically and consistently assess district offices' operations.

***Department Action: Partial corrective action taken.***

Social Services is proposing a divisionwide reorganization and hopes to create a quality control unit that will help ensure regional offices periodically and consistently assess district offices' operations. Additionally, the department is developing a Performance Measurement Program that will establish formal performance indicators, and identify data sources to use when evaluating performance.

Social Services contracts with 10 counties, allowing them to license and monitor child care homes; 9 of these counties are within its northern region. As outlined in its agreements with the counties, Social Services is responsible for inspecting, reviewing, and monitoring each county's activities. However, over an eight-year period from 1991 to 1999, the northern region reviewed only 3 of 9 county licensing programs under its direct supervision. Because Social Services lacks a schedule for periodically and consistently monitoring the counties' licensing programs, it cannot ensure that county programs are operating effectively and may be allowing deficiencies within these programs to persist.

We recommended that Social Services develop and maintain a schedule to periodically review each county's child care facility licensing operations.

***Department Action: Partial corrective action taken.***

Social Services reported in its 60-day response to our audit recommendations that it had developed a schedule to periodically review each of the 10 counties authorized to perform child care licensing functions. It stated it will make visits more often if necessary, and follow-up visits will be made to ensure the counties correct any deficiencies.

***Finding #7:*** *Social Services should take further steps to process legal actions more quickly.*

In April 1998, Social Services set a goal of six months for filing pleadings for all cases received. For 33 cases reviewed that were filed after April 1998, only 3 cases took more than six months to file the pleadings, most took less than four months. Although our

report acknowledged that the most serious cases should be processed first—which is what Social Services reports that it attempts to do—we question whether the six-month goal for filing cases is short enough. Social Services takes disciplinary action against a licensee who is not appropriately caring for children; a six-month goal for taking action seems imprudent, especially when children are left in the licensee's care pending the outcome of the disciplinary process.

We recommended that Social Services reassess its goal of filing a case pleading within six months of receiving a request for legal action and strive to shorten it. Once it sets a more appropriate time goal for processing legal actions, it should ensure that its processing goals for legal cases are met.

***Department Action: Partial corrective action taken.***

Social Services states that the most serious cases are filed first and that procedures exist for expedited pleadings when requested by district office staff. Further, it believes its ability to meet a shorter turnaround period for filing case pleadings is constrained by the increased numbers of administrative actions requested. However, Social Services reports that the Governor's Budget for fiscal year 2001-02 includes funding for additional legal staff and that it will continue to examine its case processing system to ensure efficiency.

***Finding #8:*** *Social Services' enforcement of legal actions is weak.*

Social Services does not always consistently and diligently enforce decisions regarding license revocation and individual exclusions by appropriately following up to ensure the child care facility is closed or the excluded individual is barred from the facility. In addition, it does not effectively ensure that all licensees on probation comply with the settlement terms. These weaknesses are due primarily to Social Services' failure to provide adequate guidance to district offices, which are responsible for enforcing legal decisions. As a result, Social Services does not always make certain that serious and potentially dangerous conditions in child care facilities are remedied.

We recommended that Social Services establish policies to guide district offices on:

- Enforcing all license revocations and facility exclusion decisions promptly, effectively, and consistently.

- Creating formal plans to monitor licensees placed on probation as a result of legal actions.

***Department Action: Partial corrective action taken.***

Social Services reported that it developed revised procedures for facility closures and drafted procedures for following up to verify that an individual excluded from a facility is not present. Social Services stated that it plans to distribute final revisions to staff by February 2001.

Social Services has drafted procedures for staff to use in monitoring probationary facilities. It plans to distribute these procedures in February 2001 and will train staff on implementing the procedures before the end of fiscal year 2000-01.

# Department of Social Services

## *It Still Needs to Improve Its Oversight of County Child Welfare Services*

### Report Number 2000-500, May 2000

We performed a follow-up audit to determine the extent to which the Department of Social Services (department) implemented the recommendations included in our January 1998 report, number 97103, titled *Kern County: Management Weaknesses at Critical Points in Its Child Protective Services Process May Also Be Pervasive Throughout the State.*

Specifically, we reviewed the timeliness and completeness of the department's compliance reviews of county child welfare services agencies. We also evaluated the department's efforts to track statewide child fatalities caused by maltreatment, and its efforts in analyzing this information to develop prevention strategies. Finally, we assessed the department's progress in developing and implementing assessment tools to aid caseworkers in making critical decisions regarding the welfare of children.

***Finding #1:*** *The department conducts compliance reviews as required, but is not promptly ensuring corrective action.*

The department now conducts timely compliance reviews of county child welfare services programs; however, it is still slow to give counties written reports of their deficiencies and remiss in ensuring counties promptly submit corrective action plans (CAPs). These delays may extend the amount of time a county remains out of compliance with department regulations designed to ensure children are adequately protected.

We recommended that the department continue pursuing and implementing measures to reduce the amount of time it takes to issue compliance reports and to receive and respond to CAPs.

***Department Action: Partial corrective action taken.***

In its October 2000 response, the department stated that it continues to use the tracking tool it developed for compliance reports and CAPs to ensure these items are completed timely. It is also revising the CAP process to clarify what is expected from counties in order to facilitate their preparation of CAPs. It now immediately assigns corrective action specialists to provide technical assistance in developing and improving the quality of county CAPs. Finally, the department hired four new analysts to enhance its compliance-review efforts.

***Finding #2:*** *The department has not fully implemented our recommendations to improve the quality of its county compliance reviews.*

Although it implemented our recommendation to examine cases from county emergency response systems during its compliance reviews, the department does not always require corrective action when it notes deficiencies. It is important to review each county's emergency response system and to ensure problems are corrected because a system that is not working properly may prevent a county from responding quickly to allegations of abuse or neglect, leaving children at risk.

In addition, the department does not examine the administrative practices of child welfare services as part of its county compliance reviews. Because weak administration can hinder the delivery of key program services, the department is missing opportunities to better ensure children's health and safety.

We recommended that the department require counties to develop CAPs for all emergency response deficiencies noted during compliance reviews and that it review county administrative practices during compliance reviews.

***Department Action: Partial corrective action taken.***

The department reports that it implemented a requirement for CAPs for all emergency response deficiencies beginning in July 2000. Further, the department told us that it is working with

the County Welfare Directors Association to develop a process for reviewing county administrative practices that will be consistent with reviews the federal government will be conducting.

***Finding #3:*** *The department should begin assessing child abuse and neglect-fatality data currently available.*

The department does not yet analyze existing data on children's deaths from abuse and neglect. Until the department analyzes this data, it cannot identify potential systemic weaknesses in child welfare services or consider whether legislative or regulatory changes might prevent future deaths of children from abuse and neglect.

In addition, the department has not distributed procedures for counties to comply with Chapter 1012, Statutes of 1999, which requires counties to report all cases of child deaths suspected to be related to abuse or neglect through the child welfare services Case Management System (CMS). The reporting of all child deaths through the CMS would improve statewide data regarding the extent of these deaths.

We recommended that the department assess the data currently available regarding child fatalities from maltreatment and that it develop and disseminate procedures for counties to report all child deaths through CMS as soon as possible.

***Department Action: Pending.***

The department is exploring ways to improve the monitoring, analysis, and tracking of data on children who die from abuse and/or neglect in California. In addition, it is finalizing a procedure to facilitate the documentation on the CMS of all child deaths related to suspected maltreatment.

***Finding #4:*** *Although its Structured Decision-Making Project appears to have potential for statewide benefit, the department does not have plans to assess whether counties participating in the project achieve better outcomes for children and families than counties that are not participating.*

The department continues to provide leadership for statewide child welfare services by implementing its Structured Decision-Making Project. Although this pilot project is just getting started, initial indicators suggest it can benefit all child welfare services. However, the department presently does not plan to assess

whether counties participating in the pilot project achieve better outcomes for children and families than counties that are not participating. Without such a comparison, the department cannot easily confirm the project's benefits and advocate its expansion to all counties.

We recommended that the department conduct an outcome evaluation to determine if the pilot project results in better outcomes for children and families.

***Department Action: Pending.***

The department is continuing its review of data generated from the pilot project to evaluate its capacity to improve the decision-making capabilities of child welfare workers. The department is also continuing discussions regarding the possibility of hiring a contractor to conduct an outcome evaluation of the project. However, the department believes that such an evaluation should not be conducted before fiscal year 2002-03 in order to allow for a sufficient case sample size.

# Department of Insurance

## *Recent Settlement and Enforcement Practices Raise Serious Concerns About Its Regulation of Insurance Companies*

***Audit Highlights . . .***

***Our review of the settlement practices at the Department of Insurance (department) revealed that:***

- ☑ ***The former commissioner abused his authority by requiring companies to make "off-the-book" payments directly to third parties that were unrelated to the enforcement activities that led to the payments.***
- ☑ ***Other settlement payments made directly to third parties, while apparently legal, were imprudent because they were not subject to state purchasing and expenditure controls.***
- ☑ ***Many settlements failed to include any monetary penalties against insurance companies that violated the law.***
- ☑ ***The department deprived consumers of important information regarding insurance companies because settlement agreements omitted details of the insurers' illegal activities.***
- ☑ ***Insurers that violate the law may go unpunished because the department does not effectively manage its enforcement activities.***

### Report Number 2000-123, October 2000

The Joint Legislative Audit Committee asked us to determine the number of settlement agreements the Department of Insurance (department) reached with insurers between January 1996 and the end of May 2000. The committee also asked us to track payments ordered by the settlement agreements to determine if and when insurers made such payments. Finally, we evaluated the department's record keeping to determine whether it is adequate to ensure appropriate and prompt payment of settlement agreements.

***Finding #1:*** *The former insurance commissioner abused his discretionary authority in the settlement of enforcement actions.*

Between January 1, 1996, and May 31, 2000, the former commissioner entered into 96 settlement agreements requiring some form of monetary payment on the part of the insurance companies for various violations of the insurance code. However, the former insurance commissioner abused his authority by requiring insurance companies to make $12.3 million in outreach payments directly to vendors and nonprofit organizations when such payments did not relate to the regulatory activities that gave rise to them. These funds were not subject to the State's system of fiscal controls and were outside the Legislature's oversight. According to an attorney general's opinion, to be legal, an outreach payment to a third party must be related to the enforcement responsibilities of the department that led to the settlement agreement.

The department also omitted critical enforcement provisions from settlement agreements—such as the levying of fines and issuance of cease and desist orders when insurance companies engaged in unfair or deceptive business practices. Failure to assess penalties or ordering insurers to cease unfair or deceptive practices misleads the public and gives the appearance that no improper conduct occurred while precluding the department from using

stronger sanctions in the future if the insurer violated the same sections of law. In lieu of assessing penalties, the department required insurers to make outreach payments directly to third parties. In fact, the amount of outreach payments required of insurers generally increased in proportion to the amount of fines and penalties assessed to insurers during the 4.5-year period we examined.

Even when the department does impose a fine or penalty on an insurance company that violates the Insurance Code, it fails to consistently report such actions to the National Association of Insurance Commissioners (NAIC)—a voluntary association created to coordinate the regulation of multistate insurers. Between January 1, 1996, and May 31, 2000, we identified 78 settlement agreements that included fines or penalties. However, the department reported just four such cases to the NAIC. By failing to consistently report the fines and penalties it does impose, the department removes an effective deterrent against future violations.

Additionally, the department sometimes masked the purpose of outreach payments by omitting specific information from public settlement agreements. For example, settlement agreements that included an outreach component did not always stipulate the exact amount that was to be paid to the nonprofit organization or vendor. In these cases, the payment amount was specified in a separate letter, which the department agreed to keep confidential.

We recommended that the Legislature consider a change to the Insurance Code forbidding the insurance commissioner from requiring that payments be made to nonprofit organizations, foundations, or vendors as a part of a settlement agreement. We also recommended that the department make penalties a public component of the settlement in all instances involving egregious violations in which a penalty is justified. In addition, the department should include as part of any public settlement agreement the date each type of payment is due, provisions listing the alleged violations, an order to cease and desist from such activities, and any other pertinent terms of the agreement. Finally, we recommended that the department report all penalties assessed against insurers to the NAIC. These actions would ensure the appropriate public disclosure of the nature of the violations and provide the department with more enforcement power should repeat violations occur.

***Legislative Action: Corrective action taken.***

SB 2107, Chapter 1091, Statutes of 2000, prohibits the commissioner from ordering an insurer, agent, or broker to make settlement payments to a nonprofit entity, or direct funds outside the state treasury system.

***Department Action: Partial corrective action taken.***

The department noted it has implemented a policy whereby standardized language will be used in settlement agreements. Specifically, the language will include the terms of settlements, including monetary amounts to be paid and the time frame within which payment is due. Settlement agreements will also specify the code or regulatory provisions said to have been violated and include, where applicable, cease and desist orders.

Finally, the department stated it has implemented a policy whereby all penalties assessed against insurers will be reported to the NAIC.

***Finding #2:*** *The purposes of outreach payments made to entities outside state control were often questionable.*

Based on the attorney general's criteria, the settlement terms directing a total of $16.5 million in outreach payments to third parties appear to be legal. However, we believe this practice is imprudent because such payments fall outside the State's fiscal controls. As a result, the subsequent use of these funds can be for questionable purposes.

The Insurance Code requires that the fines and reimbursements the commissioner receives through settlement agreements or by order of an administrative law judge be deposited in the General Fund and Insurance Fund of the state treasury system. Such requirements enable the department to better track insurers' adherence to settlement provisions. In addition, funds deposited in this manner are subject to state purchasing and expenditure controls, and their disbursement must be reviewed and approved according to state laws and regulations. The funds must also be included in the department's budget process, which allows for legislative oversight and public disclosure. Absent these fiscal controls, more than $1.4 million in settlement funds directed to one nonprofit organization were spent for purposes wholly unrelated to the department's regulatory responsibilities.

To ensure that all activities and expenditures funded by settlement payments relate to the department's regulatory responsibilities that prompted the payments and adhere to the State's fiscal controls, we recommended that the department:

- Require insurers to direct all settlement payments to the department.

- Deposit these funds in the state treasury system.

- After depositing such funds, the department could either conduct outreach activities itself or contract for these activities so as to increase its direct control over the expenditures made for outreach and ensure that they clearly relate to the regulatory responsibilities that initiated the payments.

***Department Action: Corrective action taken.***

The department stated it has implemented a policy specifying that settlements with insurers and other regulated entities will not include provisions for outreach payments. Rather, the accounting bureau will receive all sums of money to be paid pursuant to any settlement, other than money to be paid directly to victims for restitution. The department's legal branch will provide information to the accounting bureau as to the proper characterization of the monies, and whether the funds should be deposited into the Insurance Fund or General Fund.

While the department did not specifically address our recommendation concerning conducting outreach activities itself or contracting out for these activities, the changes it addressed in its response sufficiently address our concern over the direct control of expenditures.

***Finding #3:*** *The department does not effectively manage its enforcement activities.*

Insurers that have committed Insurance Code violations may go unpunished because the department does not effectively manage its enforcement activities. Specifically, the department is unable to compel insurance companies to correct identified violations promptly because of significant delays by the legal division in resolving cases. For example, according to the legal division's tracking system, as of April 2000, 183 (33 percent) of the 554 open cases in the legal division's compliance bureau have yet to be assigned to an attorney for resolution. Thirty-seven of these cases have been open for more than one year, even though

several are designated as high priority. Additionally, bureaus that have initiated enforcement actions cannot quickly determine the status of cases referred to the legal division because the department's systems for monitoring cases are not integrated. We identified at least five separate systems used by the department to track the status of enforcement actions, none of which are capable of sharing information. Finally, poor controls over the remittance of fines, reimbursements for the costs of enforcement activity, and outreach payments do not ensure the prompt receipt and deposit of funds or the appropriate use of settlement payments.

To improve the effectiveness of its enforcement activities, we recommended that the department:

- Develop an integrated system for tracking enforcement activities and establish protocols for the consistent recording of key information.

- Periodically review open enforcement cases and determine why the legal division is taking so long to resolve cases referred to it and correct the situation.

- Instruct insurance companies to remit settlement payments directly to the accounting division or establish cashiering units in the bureaus initiating enforcement actions and the legal division to better safeguard these funds.

- Communicate settlement terms to the accounting division upon approval of settlement agreements so that appropriate accounts receivable can be established to track and monitor payments.

- Strengthen controls in the accounting division to ensure that all settlement payments are collected promptly and deposited in the appropriate state funds.

***Department Action: Partial corrective action taken.***

The department stated it is committed to the establishment of a coordinated enforcement program that will track actions from complaint intake to resolution and will provide interdivisional communication to prioritize enforcement activities and resolve the cases that are referred to the legal branch. To accomplish this, the department plans to reinitiate its case-tracking project and follow prescribed control agency guidelines to develop a feasibility study report and budget change proposals. Additionally, the department will establish a standard protocol

for data input fields to allow uniform functionality of case management and time-keeping systems.

The department further stated it has reinstituted combined enforcement meetings among the Consumer Services and Market Conduct, Criminal Investigations, and Legal branches for the purpose of reviewing, prioritizing, and assigning all matters. These meetings are intended to provide information on the status of open cases and allow participants to evaluate proposed actions.

The department also implemented new procedures to improve controls over the collection and accounting of proceeds of settlements. Specifically, all settlement funds will be invoiced by and remitted directly to the accounting bureau. Additionally, language will be included in the commissioner's orders informing insurers that they will be invoiced and asking them to wait for the invoice before remitting payment.

The department has developed a new standard form to be completed by the legal branch that will require attaching a copy of the settlement agreement. The form will be sent to the accounting bureau, where an accounts receivable will be established and delinquent payments will be tracked. Finally, a new cross-referencing procedure will be implemented by the accounting bureau to ensure the accurate and complete accountability.

# Dymally-Alatorre Bilingual Services Act

## *State and Local Governments Could Do More to Address Their Clients' Needs for Bilingual Services*

**Report Number 99110, November 1999**

***Audit Highlights . . .***

***Our review of state agencies' compliance with the Dymally-Alatorre Bilingual Services Act (act) reveals:***

- ☑ ***State agencies have not fully complied with certain provisions of the act.***
- ☑ ***Most state agencies were not aware of their responsibility to translate certain materials explaining services.***
- ☑ ***The State Personnel Board (SPB) does not fully analyze and process data state agencies collect regarding bilingual services.***
- ☑ ***The SPB could provide better technical assistance to state agencies.***

As requested by the Joint Legislative Audit Committee, we audited state and local agency compliance with the Dymally-Alatorre Bilingual Services Act (act). The act intends to ensure that individuals who do not speak or write English are not prevented from using public services because of language barriers. Under the act, the State Personnel Board (SPB) must inform state agencies of their responsibility to provide information and services in their clients' languages, provide technical assistance, and oversee a statewide language survey. Local agencies must also comply with the act, but the act does not provide for the local agencies' oversight. This summary is limited to our findings at the 10 state agencies identified below:

- Department of Motor Vehicles (DMV)
- Department of Forestry and Fire Protection (Forestry and Fire Protection)
- California Highway Patrol (CHP)
- Department of Health Services (Health Services)
- Department of Social Services (Social Services)
- Unemployment Insurance Appeals Board (Appeals Board)
- Department of Aging (Aging)
- Department of Toxic Substances Control (Toxics)
- California Department of Corrections (CDC)
- Department of Housing and Community Development (HCD)

***Finding #1:*** *State agencies are not complying with certain provisions of the act and most are unaware of their responsibilities.*

We reviewed the practices at 10 state agencies and found that:

- Eight lack a formal means of periodically assessing the languages in which they need to provide services. As a result, these agencies cannot ensure they are meeting the language needs of their clients.

- Only two agencies were aware of the requirement to provide materials explaining services, and only one agency has formal procedures for identifying materials it should translate into other languages.

- Only three agencies have procedures to continuously monitor the implementation of corrective action plans designed to address program deficiencies.

As a result, not all state agencies are providing the bilingual services their constituents need or are legally entitled to.

We recommended that state agencies develop procedures to conduct regular assessments of their clients' language needs and on a continuous basis, internally monitor their compliance with the act and the implementation of corrective action plans.

***Department Action: Corrective action taken.***

The HCD implemented our recommendation. The HCD adopted a policy that when 2.5 percent of its public contacts speak a particular language it will examine the need for translating documents, staffing, and other bilingual services. It has also taken numerous actions designed to address program deficiencies. These actions include conducting an interim survey to identify significant increases in the languages spoken by its clients, identifying materials requiring translation, and developing a form to facilitate and track the translation of documents.

***Department Action: Partial corrective action taken.***

The CHP plans to annually assess its clients' language needs. Its first survey is scheduled for August 2001. The CHP has essential material and forms translated into Spanish. In addition, it awarded a contract to translate written materials into another five languages identified during the 1999-2000 statewide language survey.

The CDC stated that the 1999-2000 statewide language survey identified minimal bilingual staffing deficiencies. In addition, the CDC stated that it provides equitable services to its clients speaking other languages by using such tools as bilingual documents, interpreter services, and translation software. The CDC further stated that although the act does not provide additional funding to administer the requirements, it continues to address the bilingual needs of its clients.

The DMV plans to semi-annually survey its local offices to ascertain any demographic changes that may affect the bilingual needs of its clients. When significant changes are identified, the DMV will modify its service levels—bilingual staff, interpretation services, and translation of materials—to meet its clients' language needs. In addition, the DMV has assembled a team to track compliance with the act and implementation of its bilingual services plan.

➲ ***Department Action: None.***

Health Services, the Appeals Board, Aging, and Toxics were four of the eight state agencies that lacked a formal means of periodically assessing the languages they need to provide services. These state agencies have not responded to our recommendation.

***Finding #2:*** *The SPB's language survey report lacks substance and meaning.*

The SPB prepares a survey report for the Legislature but fails to present a complete and accurate picture of the State's bilingual program. Specifically, the SPB:

- Hinders the survey's usefulness by aggregating the results for each state agency rather than summarizing data by each agency's field office locations. Consequently, regions where bilingual needs are not being met cannot easily be identified.

- May skew results with the formulas it uses to annualize data the departments have reported in the biennial surveys. For example, using the formula, Forestry and Fire Protection overstated its need for bilingual employees.

- Does not report important information about state agencies' alternative bilingual resources or vacancies in public contact positions.

We recommended that the SPB ensure that state agencies report all information they collect during the biennial surveys, including expected vacancies in public contact positions for the coming year. In addition, the SPB should revise the format and content of the statewide language survey report to present information that is more representative of the State's bilingual resources and more useful to the reader.

***SPB Action: Partial corrective action taken.***

As part of the 1999-2000 statewide language survey, the SPB advised departments to report required information such as expected vacancies in public contact positions. The SPB further advised departments to submit information about bilingual resources available in field offices and through contracted services to present a more complete picture of the State's bilingual program. Using such information, the SPB plans to make changes in the structure and content of its 1999-2000 statewide language survey report to the Legislature. Moreover, with the addition of six staff positions effective July 1, 2000, the SPB plans to make more substantive changes to its 2001-02 report.

***Finding #3:*** *The SPB should provide continuous technical support for implementing the act.*

Although it provides appropriate technical assistance when agencies request it, the SPB provides limited guidance otherwise. In addition, it neither evaluates nor monitors corrective action plans developed by state agencies. Because the SPB does not review the corrective action plans, it cannot ensure that state

agencies are taking appropriate steps to provide bilingual services.

We recommended that the SPB assist state agencies in improving their performance and the quality of the State's bilingual program by:

- Informing state agencies of the act's requirements.

- Establishing practices for evaluating and monitoring corrective action plans.

- Revising its training for survey coordinators to include guidance on how to identify all the provisions applicable to state agencies.

***SPB Action: Corrective action taken.***

The SPB reported that it currently informs departmental bilingual services coordinators of the act's requirements during its training program and will continue to do so. In addition, it annually notifies department directors in writing of the act's requirements. Further, the recent addition of six staff to administer the program will allow the SPB to analyze corrective action plans and monitor their implementation.

# Kern County Economic Opportunity Corporation

## *Poor Communication, Certain Lax Controls, and Deficiencies in Board Practices Hinder Effectiveness and Could Jeopardize Program Funding*

***Audit Highlights . . .***

***The Kern County Economic Opportunity Corporation had poor communication, internal control weaknesses, and problems with board practices. Specifically, we found that:***

- ☑ ***Poor communication between the board and some members of management, including the former executive director, led to the dispute over $581,000 in payments and leave taken for CTO.***
- ☑ ***Certain weak controls have allowed $90,000 in questionable costs, the potential write-off of $642,000 in health center billings, and inappropriate loans between grants.***
- ☑ ***Vacancies and poor attendance plague the board, limiting its effectiveness. The board also violated open-meeting laws and its own bylaws.***

### Report Number 99136, June 2000

At the Legislature's request, we reviewed the management-compensation practices of the Kern County Economic Opportunity Corporation (KCEOC), a nonprofit community action agency that administers various programs for low-income, elderly, and disadvantaged residents. The review sought to determine the reasons behind the board and management dispute over $581,000 of payments and leave taken for compensatory time off (CTO) for management employees. In addition, we reviewed internal controls and board practices to determine whether the KCEOC was managing its operations effectively. We found the following:

***Finding #1:*** *Poor communication led to the dispute over CTO.*

The KCEOC board and certain members of management disagreed on the past policy for CTO payments to management and the extent to which the board knew of the payments. We found that on numerous occasions some members of KCEOC management, including the former executive director, failed to fully disclose these payments and other compensation practices to the board even though they knew the board relied upon them for accurate and complete information. The board shared responsibility for the miscommunication because it did not adequately review and question information received. Further, the KCEOC's independent auditor knew of the payments, but failed to disclose them to the board. The disagreement disrupted

KCEOC's operations and resulted in the executive director's resignation. Another problem facing KCEOC is that federal and state agencies providing some of its funding could require repayment of the CTO payments and leave taken, which totaled $581,000, because they violated agency policy.

To improve the communication and relationship between the board and management, we recommended that the board make clear requests for information, identify the key issues for its review, and document its actions and decisions for future members. Management, in particular the executive director, should keep the board fully informed by being forthright and disclosing all relevant information on crucial topics. In addition, the board and management should clarify their understanding of any issue so both sides know each other's position. KCEOC should also contact funding agencies to determine if they will require repayment of the CTO paid and work out a repayment plan if necessary.

***KCEOC Action: Partial corrective action taken.***

KCEOC reports that to improve communication and foster good relations, most of the board and all management staff attended a two-day seminar to amend KCEOC's strategic plan. In addition, KCEOC is developing a process to document board requests to ensure that the board receives accurate and timely information from management. Further, KCEOC has established set times within each month for all board subcommittee meetings, and its policy is to have primary staff, including the executive director, at all these meetings. KCEOC is also developing a policy binder that will include all board and executive director policies, and it revised the employee policy manual to clarify management compensation practices. By February 2001, the executive director plans to have met with all funding agencies to discuss whether they will require repayment of the $581,000 in CTO payments and leave taken.

***Finding #2:*** *KCEOC spent grant funds for unallowable costs.*

KCEOC improperly spent $90,000 of grant funds to pay costs that granting agencies have disallowed for not meeting the requirements of the federal grants. The costs include $60,000 of accountant and attorney fees related to the CTO issue and $30,000 to repay disallowed bonuses it had previously granted to Head Start employees. Granting agencies could require KCEOC to repay these costs.

We recommended that KCEOC contact granting agencies to discuss the allowability of these costs and, if needed, work out a repayment plan. Further, we recommended that KCEOC train board and management on federal cost principles and grant requirements, require staff to carefully review proposed expenditures for adherence to these guidelines, and obtain permission in advance for questionable charges.

***KCEOC Action: Partial corrective action taken.***

KCEOC indicates it is negotiating with granting agencies to discuss the allowability of these specific expenditures. It has also begun training managers on how to more effectively monitor program expenditures and cash needs and provided managers with better financial reports on their programs. KCEOC reports that it is now contacting granting agencies before making any questionable expenditures.

***Finding #3:*** *Mismanagement of the KCEOC health center's billings may result in a loss of $642,000.*

Mismanagement at the health center resulted in a backlog of approximately $642,000 in billings that were old and possibly uncollectible. In addition, even though the board was concerned about the health center's finances, neither management nor KCEOC's independent auditor disclosed the billing problems to the board. These uncollected billings aggravated KCEOC's cash-flow problems because it had to provide subsidies totaling $1.1 million to the health center since 1993.

To address the backlog and prevent future problems, we recommended that KCEOC contact private and governmental insurers to recoup at least part of the old billings, promptly bill for services and follow up on overdue payments, and, if needed, add staff to alleviate the billing workload. We also recommended that the board receive regular reports on billings along with an estimate of how much is collectible.

***KCEOC Action: Partial corrective action taken.***

KCEOC reports that it has hired a new health center manager with extensive experience in health care management. It has also contacted insurers to determine if they will honor billings that are over one year old and, so far, has been told that its old Medi-Cal billings, which totaled $498,000, will not be paid. Further, its new external audit firm has begun a review of older billings to determine if KCEOC can submit them for payment. By adding

two billing staff and implementing a new billing approach, KCEOC reports that billings are now current. KCEOC also developed new monthly reports to allow management and the board to better monitor outstanding billings, and has arranged to provide training to staff in appropriate charges to clients based on their provider. Finally, it is developing written policies and procedures for management of the health center.

***Finding #4:*** *KCEOC made inappropriate loans between grants to cover temporary cash deficits.*

Because KCEOC did not manage its cash to ensure a steady flow of funds to each program, it inappropriately lent funds from grant programs with positive cash balances to meet the demands of others with temporary deficits. Our review of program cash balances found eight occasions during 1998 when KCEOC appears to have used funds from other grants for programs with deficit cash balances. In addition, KCEOC regularly lent grant funds held in reserve to other grants with temporary cash deficits. By lending restricted cash balances, KCEOC was violating its grant agreements and risking sanctions by granting agencies.

We recommended that KCEOC discontinue lending funds between grants, develop procedures to better anticipate the cash needs of programs, limit cash expenditures of grants to their existing cash balances, and provide program managers with the financial information needed to better manage their cash needs.

***KCEOC Action: Partial corrective action taken.***

KCEOC does not report whether it has discontinued lending funds between grants. However, it has begun training managers on how to more effectively monitor program expenditures and cash needs and provided managers with better financial reports on their programs.

***Finding #5:*** *Other control weaknesses, including lack of an effective inventory system at the food bank, place assets at risk.*

The food bank lacked an effective inventory system to keep track of donated foods and to properly manage donated food. Further, some food bank volunteers inappropriately consumed or set aside donated foods and the food bank did not always secure or segregate valuable items to reduce the risk of theft. Minor control weaknesses that were not individually significant, but collectively weaken internal controls, included a failure to establish and update formal accounting policies, a lack of appropriate

approvals for some expenditures, security lapses, weaknesses in personnel practices, and costs that were questionable under federal guidelines.

We recommended that KCEOC take steps to strengthen inventory controls at the food bank and implement controls to address the other weaknesses that we found.

***KCEOC Action: Partial corrective action taken.***

To address our concerns at the food bank, KCEOC implemented a new inventory system, fenced a portion of the warehouse to secure valuable food items, and is developing formal policies to govern volunteer staff. In regards to the other minor control issues we noted, KCEOC is in the process of identifying a consultant to develop an accounting policies and procedures manual. In addition, the director of finance is conducting training sessions on fiscal responsibilities for program managers.

***Finding #6:*** *KCEOC has weak internal oversight of its operations.*

We found that internal oversight of KCEOC's operations was weak for several reasons. Because program managers lacked fiscal training and reports for their grants, too much responsibility for fiscal monitoring rested with KCEOC's director of finance. In addition, the KCEOC board placed too much reliance on external reviews to perform oversight of agency operations. These reviews are supposed to ensure that funds are being spent according to regulations and to identify significant control problems. However, these reviews are not comprehensive and KCEOC had not regularly changed the audit firm it used for its annual single audit to ensure a fresh look at KCEOC's operations. Finally, the board had not always ensured that management followed up on problems identified during external reviews.

To address the overreliance on the director of finance, we recommended that KCEOC provide fiscal training to managers and board members and provide managers with more informative financial reports about their programs. In addition, we recommended that the board consider creating an internal auditor position that would report to the board to follow up on problems noted in external reviews and work to improve and maintain the control environment of the organization. Finally, KCEOC should change auditors regularly to ensure that the annual single audit adds value and provides a fresh perspective on agency operations.

***KCEOC Action: Partial corrective action taken.***

To improve internal oversight of operations, the director of finance is conducting training sessions on fiscal responsibilities for program managers. In addition, to hold these managers more responsible for the fiscal aspects of their programs, the executive director is developing performance goals for budget management. The board is studying the need for an internal auditor. To improve its oversight ability, the board is revising its training manual and has sent several board members to training seminars related to grant management practices. Finally, KCEOC has hired a new audit firm to conduct its annual single audit.

***Finding #7:*** *Persistent absences and vacancies hinder the board's oversight.*

The KCEOC board had persistent problems with member absences and vacancies. Since 1994, board meetings had an average absence rate of 30 percent, which may be a result of the failure to adequately enforce its absence policy. Vacancies consistently occurred in positions designated for representatives of the county's low-income and private sectors. The absences hindered the board's ability to provide effective oversight, while the persistent vacancies could jeopardize the agency's funding because the board must have adequate representation on its board as a condition of receiving certain grant funds.

To address the absences, we recommended that the board counsel members with excessive absences and remove any members that continue to violate the absence policy. Because the board had recently begun to actively recruit new members, we recommended that it continue with these efforts, and if unsuccessful, consider reducing the number of seats.

***KCEOC Action: Partial corrective action taken.***

The board reports it is monitoring absences and that current board members are complying with its absence policy. The board is actively recruiting for new members, but reports that it still has three vacancies on its 15-member board. It anticipates making recommendations about board size by May 2001.

***Finding #8:*** *Board practices need improvement.*

Certain board practices needed improvement to ensure that it complied with laws, minimized the risk that officers act inappropriately, and provided more effective oversight. Specifically, the board violated open-meeting laws that apply to local agencies when it held six meetings during August, September, and October 1999 without proper notice to the general public. The board also neglected to keep minutes for five of these meetings—a violation of a bylaw requirement. KCEOC also exposed itself to the risk that the officers may act inappropriately when it changed the bylaws in January 2000 to allow officers to act on the board's behalf. Although the new bylaws require officers to report their actions for consideration and ratification at the next regular board meeting, they do not specify the circumstances under which officers can take these actions. Finally, board members have received little training on how to conduct proper oversight of the agency.

We recommended that the board comply with open-meeting laws and its bylaws by giving advance notice of meetings and keeping minutes of all closed sessions. In addition, the board should explicitly define the circumstances under which officers may act on the board's behalf between meetings. Finally, the board should provide appropriate training to its members to allow them to carry out their responsibilities.

***KCEOC Action: Partial corrective action taken.***

In regards to how it conducts meetings, the board reports it is properly noticing all meetings. Further, a board member is keeping a record of all closed sessions, but the board plans to formalize this process in the near future. To address our concern about board officers' actions between meetings, the bylaws were revised to define the responsibilities and actions of officers between meetings. To improve its oversight ability, the board is revising its training manual and has sent several board members to training seminars related to grant management practices.

# Department of Finance

## *The State-County Property Tax Administration Program: The State and the Counties Continue to Benefit, but the Department of Finance Needs to Improve Its Oversight*

### Report Number 99142, April 2000

***Audit Highlights . . .***

***The State-County Property Tax Administration Program (program) should be continued because:***

- ☑ ***Loans to assessors generate a significant amount of new property tax revenues that benefit the State, the counties, and other local governments.***
- ☑ ***Assessors' offices continue to rely on loan funds to reduce or prevent backlogs of work.***
- ☑ ***The program is successful during recessions as well as during times of prosperity.***

***Despite the program's success, oversight from the Department of Finance (department) has been weak. As a result:***

- ☑ ***The department often makes loans based on insufficient and unverified information.***
- ☑ ***The department loses track of unspent county loan funds.***

The California Legislature established the State-County Property Tax Administration Program (program) through Assembly Bill 818 (Chapter 914, Statutes of 1995). This program, administered by the Department of Finance (department), allows county assessors to receive performance-based loans from the State to help reduce their backlogs and improve their administration of the property tax system. The Joint Legislative Audit Committee requested that we review the program to see if it is still needed and whether the department and counties have operated the program as intended by the law.

We concluded that continuing the program makes good business sense because the program continues to generate a significant amount of new property tax revenues that benefit the State and the counties. However, despite the program's success, the department needs to make improvements.

***Finding #1:*** *The department's oversight of the program has been inadequate.*

The department is not managing the program well enough to ensure that loan decisions are based on sufficient information because it does not require the counties to submit the necessary data. The department's oversight has been deficient because there has been so little clear guidance to the counties about reporting information critical to making good loan decisions. As a result, the department cannot be sure it is making prudent decisions in awarding loans. Further, to the extent that counties do not report sufficient data, the department cannot be sure they are using the loan funds for property tax administration and that the counties invest the appropriate share of county resources in these efforts.

We recommended that the department improve its oversight by requiring that counties use a standard process for reporting incremental accomplishments, revenues, and expenditures related to loan funds, including evidence to demonstrate an appropriate county investment of resources in property tax administration. In addition, the loan agreements with the counties should specify how these are calculated.

***Department Action: Partial corrective action taken.***

The department has recently developed and is using a standard worksheet that is used to identify additional accomplishments and revenues received due to loan funds. Additionally, the department stated that it would recommend statutory changes to address our remaining recommendations if the Legislature continues the program on a more permanent basis.

***Finding #2:*** *County-reported data is insufficient and unverified.*

Information that counties report is not always sufficient to determine workloads accomplished and revenues generated with the loan money. In particular, we found that 9 of the 47 counties in the program reported total rather than incremental workload and revenue data, thus obscuring the accomplishments funded via state loans.

Additionally, the department awards loans to counties based on unverified information. Agreements with counties do not require county auditors to verify the county's use of loan funds and its compliance with maintenance of effort requirements.

To ensure the department is receiving accurate and reliable information from the counties, we recommended that it require each county auditor to validate, according to the agreement language, the following: incremental accomplishments, revenues, and expenditures resulting from loan funds; the amount of county revenues spent on property tax administration; and the amount of unused loan funds from prior years and how the county used those funds.

***Department Action: Partial corrective action taken.***

The department responded that the nine counties we identified above are now either reporting incremental accomplishments and revenues or are using the methodology identified in our report to determine the incremental increase in property tax revenues as a result of the loan. Additionally, the department stated that it

would recommend statutory changes to address our remaining recommendations if the Legislature continues the program on a more permanent basis.

***Finding #3:*** *The department loses track of unspent funds.*

Some counties carry over loan funds unspent in one loan period to succeeding loan periods. When counties do this without explaining how and when they plan to spend the excess, the department jeopardizes its ability to determine that loan funds ultimately are spent on property tax administration. In addition, carrying over funds suggests that the department's awards are larger than necessary.

To ensure that counties use loan funds only for property tax administration and that reported revenues are attributable to loan funds actually spent, we recommended that the department require the counties to explain how they plan to use any excess loan funds, report the actual amount of loan funds they spent during the loan period, and calculate additional revenues generated from their actual use of loan funds using one of the acceptable methods described in our report.

***Department Action: Partial corrective action taken.***

The department is now requiring counties to identify if they have any carryover funds and to explain how they plan to use them. Additionally, the department stated that it would recommend statutory changes to address our remaining recommendations if the Legislature continues the program on a more permanent basis.

# San Diego Unified Port District

## *Local Government, Including the San Diego Unified Port District, Can Improve Efforts to Reduce the Noise Impact Area and Address Public Dissatisfaction*

### Report Number 2000-126, October 2000

***Audit Highlights . . .***

***Our review found that:***

- ☑ ***Delays in implementing sound-attenuation programs, combined with the city of San Diego's (city) failure to implement certain provisions of a land-use plan, have prevented further decreases in incompatible land use within the San Diego International Airport at Lindbergh Field's noise-impact area.***
- ☑ ***The cessation of public meetings by the county of San Diego's Noise Control Hearing Board may have lessened the community's trust of the port district.***
- ☑ ***There have been numerous studies about relocating the airport, but thus far, there has been no final decision to move or expand it.***

The Joint Legislative Audit Committee requested that we examine the accuracy of the noise-monitoring data that the San Diego Unified Port District (port district) reports to the Department of Transportation (Caltrans). We were also asked to evaluate the San Diego International Airport at Lindbergh Field's (Lindbergh Field) noise-monitoring and flight-tracking system and the port district's use of that system to respond to complaints. Finally, we were asked to determine the extent to which Caltrans monitors the port district's noise complaint process. We found that state regulations limit Caltrans' role to ensuring that the port district's noise-monitoring system meets state standards, and to reviewing quarterly noise-monitoring data for the purpose of assessing progress towards reducing Lindbergh Field's noise-impact area. Numerous entities have a role in planning, monitoring, or overseeing the noise impact area. We found that:

***Finding #1:*** *Implementation of sound-attenuation programs has been slow.*

Although the port district has funded improvements to school districts within the San Diego Unified School District, delays in the startup of its residential and military sound attenuation programs have slowed its ability to further reduce Lindbergh Field's impact area. The port district intended to begin upgrading eligible homes in its residential sound-attenuation program in 1999, but was delayed when the city of San Diego's Historical Resources Board voiced concerns about the preservation of homes within the noise-impact area. The port district expects more than 200 residences to receive upgrades by January 2002. However, the port district has made little progress toward

implementing its military sound-attenuation program, which is similar to the residential program. In 1999, the port district began working on a potential exchange of property with the U.S. Marine Corps. If the property exchange is approved, the port district could begin addressing some of the noise issues at the Marine Corps Recruit Depot within two to three years.

We recommended that the port district continue negotiations with the U.S. Marine Corps to resolve noise-related issues at the Marine Corps Recruit Depot.

***District Action: Pending.***

The district reports that negotiations are still underway with the U.S. Marine Corps.

***Finding #2:*** *The port district discontinued reporting certain data despite a provision in its current variance to do so.*

In 1972, San Diego County (county) declared Lindbergh Field a "noise problem airport" in accordance with state regulations. The port district applied to Caltrans for a variance to the noise standards. In accordance with the requirements of the most recent variance, the port district must include in its quarterly reports information such as a report of operations by airline, aircraft type, and stage classification for each quarter and cumulative period ending June 30 and December 31. This data allows interested parties to track the number of aircraft considered to be excessively noisy. In 1999, the port district stopped reporting on operations by airline and aircraft type.

We recommended that the port district continue to report on operations by airline and aircraft type, as the variance requires.

***District Action: Corrective action taken.***

The district states that information on operations by airline and aircraft type for January 1 through March 31, 2000, has been provided to Caltrans, the county, and when requested, to community members. Further, it states this information will continue to be included in its quarterly noise reports to the county and Caltrans.

***Finding #3:*** *The county is not properly monitoring the port district's progress.*

State law requires the county to enforce the noise regulations established by Caltrans. The county established its Noise Control Hearing Board (noise board) to enforce the terms and conditions of Lindbergh Field's variance to the noise standards and submit quarterly reports to Caltrans based on information provided by the port district. The noise board also reviews and audits the port district's noise-monitoring data and serves as a forum for public discussion of airport noise issues.

The noise board has not met since April 1999 and, as a result, the port district has been submitting the quarterly reports directly to Caltrans without independent verification. Unless the noise board resumes its oversight responsibilities, there is no independent, local governing body to ensure that the port district is meeting the terms and conditions of Lindbergh Field's variance and that progress toward reducing the noise impact area is acceptable. Moreover, community members affected by Lindbergh Field's noise no longer have an independent verification of the port district's noise-monitoring data.

We recommended that the county reactivate its noise board. It should also ensure that the noise board meets quarterly and submits regular and complete reports to Caltrans.

***District Action: Partial corrective action taken.***

The county reports that it has increased its efforts to ensure that the noise board will maintain a regular meeting schedule to review quarterly reports from the port district about the operation of Lindbergh Field. The noise board met on November 13, 2000, to clear the backlog of quarterly reports and to address other agenda items such as the reestablishment of a meeting schedule and the current renewal of the variance.

***Finding #4:*** *The city of San Diego (city) has failed to enforce certain provisions of Lindbergh Field's comprehensive land-use plan.*

The comprehensive land-use plan that the San Diego Association of Governments (SANDAG) adopted in February 1992, with a subsequent amendment in April 1994, directs the city to prohibit the development of any further incompatible land uses within the area surrounding Lindbergh Field and to require new projects to be consistent with the plan. In certain instances, property owners must file an avigation easement with the county recorder and the port district to obtain building permits. Avigation easements are

one way of converting land use from incompatible to compatible. However, the city has not consistently obtained avigation easements when required. In fact, it was not until October 2, 2000, that the city council amended an ordinance to include supplemental regulations for Lindbergh Field's land-use plan and update its avigation easement requirements. The ordinance still requires the approval of the Coastal Commission, which oversees local coastal programs.

We recommended that the city should develop procedures to ensure that property owners obtain the necessary avigation easements for new developments within the noise-impact area. It should also make certain that its general and community plans, zoning, and regulations and ordinances are consistent with the comprehensive land-use plan.

***City Action: Partial corrective action taken.***

The city reports that its ordinance became effective November 1, 2000, for areas outside of the coastal zone. The city is still awaiting approval from the Coastal Commission to implement its ordinance for areas within the coastal zone.

The city said it has developed procedures to ensure that property owners obtain the necessary avigation easements for new developments within the noise-impact area. Staff reviewing environmental documents for certain development projects must ensure that there is a requirement for granting an avigation easement to port districts when an increase in the number of dwelling units or an increase in the noise above a certain level occurs. Further, staff monitor all proposals for development and review residential projects in accordance with its regulations. If necessary, staff will direct the applicant to the port district to grant the avigation easement.

***Finding #5:*** *SANDAG did not ensure that all the city's regulations were consistent with the comprehensive land-use plan.*

SANDAG also bears some responsibility for ensuring that certain provisions of the land-use plan are met. Specifically, the plan requires SANDAG to monitor the city's general and community plans, zoning ordinances, and building regulations. Five years after the adoption of the plan, port district staff recognized the omission of Lindbergh Field from the city's ordinance. Although the omission eventually was corrected, SANDAG's failure to ensure that all the city's regulations were consistent with the plan

before 1997 contributed to the city's delays in seeking the necessary avigation easements to reduce incompatible land developments.

We recommended that SANDAG comply with the plan requirements for ensuring that the city's general plan and ordinances agree with the comprehensive land-use plan.

***SANDAG Action: Partial corrective action taken.***

The SANDAG reports that it has met with staff from the port district and the city to review the procedural and substantive issues related to the city's ordinances and the comprehensive land-use plan. The SANDAG states that it will continue to monitor the city's actions.

***Finding #6:*** *The port district can improve its community relations.*

The public can register complaints through a hotline established by the port district's Airport Noise Management Office. Another forum for residents to voice their concerns is the Airport Noise Advisory Committee (committee), established by the port district in 1981 and composed of 14 voting members from various agencies, industries, and other interested groups. The committee meets at least once each calendar quarter. Any community members wishing to address the committee must do so within a time limit of three minutes.

At the committee's September 14, 2000, meeting, emotions ran high and involved outbursts that were not conducive to rational discussion. The existing format, similar to that of a public meeting, did not appear to generate constructive communication between the port district and the public.

We recommended that the port district encourage more community involvement, such as using working groups that include local citizen representation.

***District Action: Pending.***

The port district reports that it is working toward developing a process that, where appropriate, will include small group forums to enhance its community outreach program.

***Finding #7:*** *The port district can do more to encourage voluntary restrictions of noisier retrofitted stage 3 aircraft.*

Significant noise differences exist among the aircraft that comply with stage 3 noise levels. New stage 3 aircraft, such as Boeing 757s, are much quieter than older Boeing 727s with "hushkits," which reduce aircraft engine fan and compression noise through engine modification, acoustic treatment, and noise-suppression technology. The Federal Aviation Administration's position is that hushkit modification is an appropriate method to comply with stage 3 aircraft noise standards. The port district is not able to restrict the access of hushkitted aircraft from Lindbergh Field. However, the Airport Noise Capacity Act of 1990 does allow the port district to seek the air carriers' concurrence to implement voluntary restrictions. In response to a request from the committee, the port district plans to send a letter to aircraft operators urging them to voluntarily substitute noisier hushkit stage 3 planes with quieter stage 3 planes.

We recommended that the port district proactively participate in finding ways to reduce or minimize the use of stage 3 certified aircraft at Lindbergh Field.

***District Action: Partial corrective action taken.***

The port district informs us that it recently corresponded with a number of aircraft operators to request their voluntary reduction of hushkitted aircraft operations. The district also states that while awaiting responses from those operators, it will continue to proactively research ways to reduce or minimize the use of hushkitted aircraft at Lindbergh Field.

***Finding #8:*** *Despite projected increases in aircraft operation, no conclusion has been reached concerning the relocation of Lindbergh Field.*

In 1996, aircraft operations at Lindbergh Field totaled 220,000 arrivals and departures. Total aircraft operations at Lindbergh Field are projected to grow at an average annual rate of 2 percent through 2020. At this rate, Lindbergh Field will reach its maximum airport capacity of 275,000 by 2011.

SANDAG, in its role as the regional transportation planning agency, is primarily responsible for siting San Diego's commercial airport. SANDAG, community groups, and private individuals have conducted about 30 studies concerning the

relocation of Lindbergh Field but have not reached any conclusion.

We recommended that SANDAG, local agencies, and citizen's groups effectively address the anticipated growth in Lindbergh Field's aircraft operations by deciding whether to relocate the airport.

***SANDAG Action: Partial corrective action taken.***

The SANDAG reports that it met with the port district to review the results of a public outreach program, accept a final airport economic analysis report, and approve moving forward on an Air Transportation Action Program. The objective of the program is to find a solution to meet the San Diego region's future air passenger and cargo demand.

# Department of Corrections

## *Poor Management Practices Have Resulted in Excessive Personnel Costs*

### Report Number 99026, January 2000

***Audit Highlights . . .***

***Our review of personnel management practices at the California Department of Corrections' (department) prison facilities disclosed:***

- ☑ ***It would save between $17 million and $29 million a year by being more effective in curbing excessive sick leave use.***
- ☑ ***Additional savings of at least $5.5 million a year could be realized by optimizing its mix of full-time relief officers and permanent intermittent employees to fill in for predictable absences.***
- ☑ ***The department has no strategy for ensuring that custody staff take time off for holidays and other leave they earn each year. As a result, it is faced with a $79 million liability that is growing by more than $8 million each year.***
- ☑ ***Poor management information has hindered the department's ability to better control and contain personnel costs.***

As required by the Budget Act of 1999, we reviewed the management of personnel at prison facilities operated by the California Department of Corrections (department). Specifically, we were asked to review personnel practices at a sample of state prisons and recommend what changes, if any, were warranted to hold down state overtime and other personnel costs, comply with state civil service laws and professional management practices, and ensure good employee relations.

Our audit revealed problems in the department's management of sick leave usage and leave programs and addressed high overtime costs largely driven by the significant use of sick leave at the department's prison facilities. To determine the department's progress in implementing our recommendations and improving its management of personnel resources we made limited inquiries and performed a limited review of documents at department headquarters. We found that the department has not fully implemented the majority of our recommendations. In addition, the actions the department has taken to address its problems have been ineffective, as both sick leave usage and overtime costs have increased since we conducted our audit. Below we present the findings and recommendations from our initial report followed by a description of actions the department has taken and our assessment of those actions based on our follow-up review.

***Finding #1:*** *Poor sick leave management practices have caused excessive overtime costs.*

Specifically, we found that the department is not effective in disciplining employees who use excessive sick leave. In addition, the institutions do not analyze sick leave data sufficiently and are not optimizing the use of permanent full-time relief employees and permanent intermittent employees to fill in

when certain custody employees are out sick. By being more effective in curbing excessive sick leave, the department could save between $17 million and $29 million a year.

We recommended that the department take progressive disciplinary action against employees it believes use excessive sick leave, negotiate with the bargaining unit to establish financial incentives for employees who use less sick leave and disincentives for those whose use is excessive, and collect more information regarding leave usage. In addition, the department should determine an appropriate number of full-time relief employees to cover for sick leave and optimize the use of permanent intermittent employees.

***Department Action: Partial corrective action taken.***

Contrary to what the department reported in its six-month response to our audit, sick leave usage has continued to rise at the institutions. In its six-month response the department indicated that sick leave usage had declined when comparing the months of January to June 2000. However, the data the department used in its calculations included hours used by administrative employees whose positions do not need to be filled when they are absent. Instead of simply comparing sick leave usage for two separate months, we calculated an annual average using the first nine months of 2000 and found that sick leave usage by custody staff has increased overall when compared to fiscal year 1998-99. Although the yearly average for sergeants decreased slightly by about 2 hours, the averages for correctional officers increased by about 6 hours and lieutenants by about 13 hours. Because the number of correctional officers is so much larger than the number of sergeants and lieutenants, sick leave use overall increased.

The department indicated that overall the institutions have used disciplinary tools, such as the extraordinary use of sick leave list and counseling, to curtail the use of sick leave. However, we found that some institutions are not as aggressive as others in their use of the tools. In fact, the institutions that have used these tools less extensively are generally paying higher amounts of overtime to cover for sick leave absences.

Regarding the establishment of financial incentives for employees who use less sick leave and disincentives for those whose use is excessive, a department representative indicated that internal discussions have occurred, but there have been no formal negotiations with the union representing custody staff on this issue. The current agreement between the State and the union will expire in July 2001.

The department has been collecting from its institutions additional data regarding sick leave usage and the resources and its associated costs. While the department has used this data to generate tables and reports on the amount of sick leave and the various types, the fact that sick leave usage has increased indicates that the department has not successfully utilized the information to better manage sick leave.

When sick leave usage is high, the use of permanent intermittent employees (PIEs) to fill in for absences is an important part of keeping overtime costs down. Although the institutions have begun tracking the hours PIEs' work, department headquarters has only recently started to obtain this information. The department also established new procedures requiring wardens or their designees to conduct a daily meeting to discuss the previous day's overtime, PIE usage, and sick leave. However, these meetings do not appear to be having the desired effect. For example, we found that one institution incurred about $500,000 in overtime costs even though its reports on PIE usage for the period indicated there were PIEs available almost every day.

Furthermore, the department has not developed scheduling methods that encourage PIEs to work when they are needed, and has not taken steps to eliminate nonresponsive PIEs from the hiring pool. The department reported it is still considering whether to develop different scheduling methods for PIEs. In addition, the department is reluctant to dismiss nonresponsive PIEs because of the 16 weeks it invests in training them. Finally, although it acknowledges more should be done to understand why PIEs are nonresponsive, the department has issued no instructions to the institutions regarding how to deal with this situation.

***Finding #2:*** *The department is facing a large liability related to unused leave balances.*

We found that the department allows employees to exceed maximum vacation and annual leave balances. In addition, the department has not established practices to ensure that staff use all or most of the leave they earn each year. As a result, the department is faced with a $79 million liability, with holiday leave alone growing at $8 million per year. Furthermore, inadequate funding for vacation leave relief and the department's inflexible leave practices related to approving time off curtail opportunities for staff to use their leave time.

We recommended that the department develop a plan to eliminate its significant leave liability, enforce mandatory limits on

accumulation of vacation and annual leave, and develop strategies to ensure holiday leave is used during the year it is earned. In addition, the department should seek to adjust its funding for sick and vacation leaves to ensure that its budget is appropriately and sufficiently aligned with the expenditure of personnel resources. The department should also develop more flexible practices for authorizing time off.

***Department Action: Pending.***

Based on information from the State Controller's Office leave accounting system, total accrued leave balances for custody staff decreased almost 2 percent between March and July 2000. This was mostly attributable to a 3 percent (86,900 hours) decrease in accrued holiday leave. However, accrued vacation increased by 27 percent (49,800 hours) and annual leave by 12 percent (10,300 hours). The department could provide no explanation for the overall decrease in leave balances during this period as it had taken no specific actions targeted at reducing the balances.

In particular, the department has not required employees with large leave balances to take time off. According to department officials, there is a case that has gone to arbitration over whether management can direct employees to take time off. The California Correctional Peace Officer Association filed a grievance stating the department did not have the right to force employees exceeding or projected to exceed leave caps to use the leave. The arbitrator has yet to rule.

In addition, the department indicated it has not been able to hire additional staff to cover for leave absences because the number of PIEs graduating from the academy has not been sufficient to meet additional needs.

Furthermore, the department submitted a proposal to the Department of Finance and Department of Personnel Administration to allow for the buying back of leave. Although its proposal was not approved, the department was included in a statewide leave buyback for all supervisors and managers for fiscal year 2000-01. As of November 30, 2000, custody staff had cashed out 46,040 hours of leave. While this helped in decreasing leave balances, the correctional officer position was not eligible to participate. As a result, leave balances for the largest group of custody employees was not affected. The department stated that it plans to seek approval for another leave buy-back opportunity.

The department disagreed with our recommendation to reduce funding for sick leave usage. According to its six-month

response, the department believes that 72 hours of sick leave per year for each posted position is reasonable based on its survey of six metropolitan jails. Accordingly, it asked for and obtained approval for funding at that level. It also received increased funding for vacation relief to match the amount that custody staff earn in a year.

Finally, the department acknowledges that its leave practices have been inflexible. However, it has done little so far to provide staff additional opportunities to take time off. The department has changed the timelines related to requesting leave days on short notice. Previously, some institutions required that bids for leave days on short notice be received as much as 90 days in advance. Since September 2000, all institutions are allowed to accept requests for days off 30 days before the desired date. While this allows staff a better chance to obtain an extra leave day on short notice, it does nothing to increase the number of requests that can be granted. To make matters worse, in researching leave practices at the institutions, the department found that holiday and vacation relief officers are not always being used for the assigned purpose. This practice further limits the opportunity for staff to get days off.

***Finding #3:*** *Poor management information prevents the department and its institutions from controlling personnel costs and effectively allocating personnel resources.*

Institutions have not adequately studied daily staffing needs and leave patterns to determine the level of relief needed to cover predictable absences. Nor does the department sufficiently link the use of personnel resources to the institutions' budget. In addition, we found that the institutions do not always accurately record the regular overtime activities of their employees, which diminishes the effectiveness of management information.

We recommended that the institutions study their daily resource needs, determine baseline staffing levels, and hire enough permanent full-time employees to meet these minimum daily needs. In addition, we recommended that the department develop an institution-wide system that compares the personnel budget for its major activities to the actual level of effort spent using full-time employees, permanent intermittent employees, and overtime

in carrying out those activities. We also recommended that the institutions accurately track and record the regular and overtime activities of their employees.

***Department Action: Partial corrective action taken.***

The department directed each institution to create an overtime avoidance pool (OTAP). The OTAP is designed to fill vacancies and reduce overtime costs. The number of employees to be included in the OTAP is based on the smallest number of daily sick absences each institution incurred over and above the budgeted relief over the last 6 to 12 months, plus the fewest number of other posts to generate overtime over the past 3 months. However, department data shows that some institutions have not filled all the needed OTAP positions that were identified and overtime costs increased for the fourth consecutive year.

The department indicated in its 6-month response that overtime had decreased when comparing the month of January 2000 to the month of June 2000. However, we found that the department's own data showed that overtime increased on the whole for fiscal year 1999-2000 to the highest level in the last four fiscal years. Further, the data the department used for its calculations included other costs besides the overtime paid to custody staff. When using data on actual overtime paid to custody staff, we found that overtime actually increased from January to June, not decreased as the department reported.

While we recommended the department develop an institution-wide system to compare budgeted personnel for its major activities to the actual level of effort spent using overtime, permanent intermittent employees, and its permanent full-time employees, the department has yet to do so. By not having a process to provide this type of information, managers at institutions cannot know how their resources are being used and how their use compares with the budget.

Finally, to improve the accuracy of information on employee activities, the department indicated that it provided training to staff responsible for recording this information.

# Wasco State Prison

## *Its Failure to Proactively Address Problems in Critical Equipment, Emergency Procedures, and Staff Vigilance Raises Concerns About Institutional Safety and Security*

### Report Number 99118, October 1999

***Audit Highlights . . .***

***Our review of Wasco State Prison concludes that:***

- ☑ ***Wasco has a considerable backlog of incomplete maintenance and repairs on its critical equipment.***
- ☑ ***Its failure to repair defective equipment nearly four years ago resulted in a complete loss of power in April 1999.***
- ☑ ***Because of a lack of training and specific emergency plans, some of its staff were unprepared during the recent power outage.***

***And finally, unsupervised inmates gained access to confidential information because of poor vigilance by staff.***

We evaluated Wasco State Prison's (Wasco) procedures concerning the security of confidential information and its readiness for emergencies, including those related to year 2000 (Y2K) computer problems. We found the following deficiencies at the prison:

***Finding #1:*** *Wasco has not promptly completed scheduled maintenance or emergency repairs.*

At the end of May 1999, 34 top-priority and 2,268 second-priority repairs were 30 days past due. Moreover, since January 1995, Wasco failed to complete nearly 900 top priority and 12,000 second priority repairs within 30 days of due dates. In fact, the prison's complete power outage in April 1999 was due to Wasco's failure to repair emergency equipment that had been identified as defective nearly four years earlier. By not completing emergency repairs and scheduled maintenance in a timely manner, Wasco cannot ensure the effective operation of its emergency equipment.

We recommended that Wasco identify all top- and second-priority repairs for its emergency equipment and develop a staffing plan to quickly eliminate the repair backlog and keep the equipment in working condition.

***Wasco Action: Corrective action taken.***

Wasco Plant Operations staff have implemented the Standard Automated Preventative Maintenance System (SAPMS) which improves its ability to track work orders and more efficiently allocate staff resources. In addition, Wasco reported that it has filled the seven positions it identified as critical to the SAPMS.

As of October 2000, Wasco indicated that all Priority 1 work orders are acted upon within 24 hours, and Priority 2 work orders within 30 days.

***Finding #2:*** *Inadequate emergency plans and training left Wasco staff unprepared for a total power outage.*

Wasco's emergency plans do not adequately address procedures for staff to follow in the event of a complete power failure. Additionally, a lack of training and drills left many staff unprepared for Wasco's April 1999 power outage. Although emergency procedures are required for other types of emergencies, the California Department of Corrections (CDC) does not require its institutions to have emergency procedures for power outages. Without such procedures, institutions risk confusion and possible breaches of security during power failures.

We recommended that Wasco conduct training and drills to ensure staff are prepared to perform necessary functions during an institution-wide emergency. Also, the CDC should require each correctional facility to develop a plan that covers institution-wide emergencies such as power failures and ensure that this plan is included in each facility's emergency operations manual.

***Wasco Action: Corrective action taken.***

Wasco's management continues to conduct ongoing training and drills to prepare staff for emergencies. In addition, Wasco is participating in a substation upgrade project with Pacific Gas and Electric Company requires scheduled power outages which provide the opportunity to train staff and test the emergency generators. Finally, a plan for an institution-wide power outage has been developed and is now included in Wasco's Emergency Operation Manual.

***CDC Action: Corrective action taken.***

The CDC developed a supplement to its emergency operations plan that addresses power failures and requires each institution to develop site-specific procedures. As of June 2000, all CDC institutions had submitted their procedures to headquarters.

***Finding #3:*** *Testing emergency plans could have revealed deficiencies in Wasco's equipment.*

The loss of power at Wasco during April 1999 disclosed deficiencies relating to the supply of flashlights, lanterns, and radio batteries. As a result, some officers were forced to work in situations with minimal or no light and their ability to communicate or receive orders was impeded.We recommended that Wasco ensure that its supplies of emergency equipment are adequate and fully functional.

***Wasco Action: Corrective action taken.***

Wasco substantially upgraded its emergency lighting and power backups; this equipment is tested regularly. For example, all emergency response batteries are tested every six months.

***Finding #4:*** *Although Wasco's management failed to safeguard confidential information, once management knew that inmates had gained access to it, they acted quickly to resolve the crisis.*

Wasco inmates were able to obtain personal information on correctional officers and administrative staff and sensitive information about the prison that could jeopardize the safety of the staff and their families. In addition, because staff did not keep logs of the documents that were shredded after this breach in security was discovered, we were unable to determine the volume and nature of the confidential information to which inmates had access. Nonetheless, Wasco acted promptly in issuing a series of memoranda to all staff that reiterated the prison's policies regarding the proper handling and storage of confidential information that, if followed, should reduce the risk of inappropriate access and use.

To safeguard prison staff, we recommended that Wasco's supervisors and managers closely monitor staff interactions with inmates, and intervene when they observe staff displaying lax behavior while working. Wasco should also ensure that staff use control logs to record documents scheduled for shredding. We also recommended that Wasco incorporate the recent management directives concerning the storage and duplication of confidential information into its procedural manual.

***Wasco Action: Corrective action taken.***

Wasco issued a memorandum on November 8, 1999, regarding the policy for securing sensitive documents and information. All Wasco employees were required to sign a certification attesting

that they understand and acknowledge the policy. The certification has been incorporated into the institutional procedures manual and new employee orientation packets. Wasco has also developed a new operational procedure for logging, tracking, and controlling all shredded documents.

***Finding #5***: Inmates in Wasco's vocational education program had access to a detailed map of the institution and surrounding area.

In our view, inmates having access to such detailed information represents a serious security threat.

We recommended that the CDC amend its policy to prevent allowing inmates access to maps of the institution.

***CDC Action: Corrective action taken.***

Wasco reported that the CDC issued a statewide policy memorandum on inmate access to plot plans and blueprints in April 2000. While the policy allows inmates access to some plans for performing maintenance and construction work, access to security-sensitive elements of these plans is restricted. Wasco requires staff to review this policy as part of annual training.

***Finding #6:*** *Wasco still has work to do before its systems and equipment are all Y2K compliant.*

Wasco had not completed the remediation and testing of its high-priority Phase I equipment and systems prior to the release of our audit report in October 1999, and had yet to begin this same process for its Phase II equipment and systems.

We recommended that Wasco complete the remediation and testing of its Phase I and Phase II embedded chip systems for Y2K compliance as soon as possible.

***Wasco Action: Corrective action taken.***

Wasco reported that plant operations staff continue to actively monitor, test, and repair all systems that rely on microprocessors. These systems are included in the standard automated preventative maintenance system and are maintained in accordance with the preventative maintenance schedule.

# Department of Corrections

## *Investigations of Improper Activities by State Employees, Report I2000-1*

### Allegation I960094, April 2000

We investigated and substantiated allegations that parole agents in the interstate parole unit failed to adequately safeguard the public by improperly recommending the discharge of two parolees, failing to conduct appropriate reviews of parolees' status, and failed to properly document or justify their recommendations that parolees be discharged. Specifically:

***Audit Highlights . . .***

***Employees of the interstate parole unit engaged in the following improper governmental activities:***

- ☑ ***Improperly recommended discharge of two parolees.***
- ☑ ***Failed to conduct appropriate reviews of parolees.***
- ☑ ***Failed to properly document or justify the discharge of parolees.***

***Finding #1:*** *A parole agent improperly recommended discharge for two employees.*

One parole agent improperly recommended the discharge of two parolees by reporting that their criminal history reports were clear of new arrests. However, documents in the parolees' files showed they had been arrested for serious new crimes since their last discharge review: battery in one case and possession of a firearm in the other. Because of the serious and violent nature of the new crimes with which the parolees were charged, community safety was jeopardized.

***Finding #2:*** *Parole agents failed to conduct the appropriate reviews of parolees.*

Because three parole agents failed to conduct appropriate reviews of parolees between October 1995 and December 1996 and forward the reviews to the California Board of Prison Terms (board) within the time period established by law, the department had to discharge six individuals from parole. The crimes for which these parolees had been convicted included child molestation and making terrorist threats. After the department discharged the six individuals from parole, two of them were arrested: one for assault with a deadly weapon, the other for burglary.

***Finding #3:*** *Parole agents did not properly document or justify the discharge of parolees.*

Of the 217 files we reviewed for December 1997 to April 1998, 41 (19 percent) lacked evidence that parole agents obtained information on parolees' status from out-of-state supervising agents or obtained criminal history reports. Decisions or recommendations as important as discontinuing supervision of convicted felons should be properly documented.

***Department Action: Corrective action taken.***

The department concluded that it was unable to take any administrative or criminal action against the parole officers because of statute-of-limitations provisions. However, it established new policies and procedures and trained its staff in them. Also, the department reported that it would routinely monitor parole officer caseloads to ensure compliance.

# California State Prison, San Quentin

***Investigations of Improper Activities by State Employees, Report I2000-2***

## Allegations I990090, August 2000

***Audit Highlights . . .***

***An employee engaged in the following improper governmental activities:***

- ☑ ***Made improper representations to other governmental entities when establishing a nonprofit organization (association) affiliated with the prison.***
- ☑ ***Used more than $1,300 of the association's funds for personal purposes and made other questionable expenditures from the association's account.***
- ☑ ***Failed to withhold payroll taxes and make payments to tax authorities for employees of the association's museum.***

While employed at the California State Prison, San Quentin (prison), an employee improperly established a museum on prison grounds and, as an officer of a nonprofit organization (association), used more than $1,300 of the association's funds for personal benefit, and paid wages to the association's employees without withholding required taxes.

***Finding #1:*** *An employee misrepresented the prison's role in the management of the association.*

Specifically, the employee led the secretary of state, the Internal Revenue Service, and the Franchise Tax Board to believe that the prison's warden would oversee the association and its museum. He made these representations when filing documents with those entities to establish the association as a nonprofit public benefit corporation, thereby implying that the State and the prison accepted responsibility for the association. However, the employee never told the wardens that they were named as having responsibilities related to the association. Instead, through casual remarks to them, he led them to believe they had no such responsibilities.

***Finding #2:*** *Contrary to state law and the association's articles of incorporation, the employee spent $1,338 of the association's cash for his own benefit from April 1998 through January 1999.*

In addition, the employee inappropriately wrote at least three checks totaling $1,300 on the association's account for parties. The employee claimed that he inadvertently used the association's funds for his personal benefit and, in mitigation, he made donations to the association that total more than the amount of funds he used. Although the employee made approximately

$3,265 in donations to the association, it was improper for him to use the association's funds as he did.

***Finding #3:*** *The employee paid association wages to at least five employees of the museum from 1995 through 1998, but did not withhold required taxes or remit them to the Employment Development Department as required.*

The employee told us he considered the employees to be independent contractors rather than employees. The wardens in charge at the time told us they thought the individuals were volunteers, not paid employees.

***Department Action: Pending.***

The Department of Corrections is further investigating the issues raised in our report. After it has completed its investigation, it will decide what action to take.

# Office of Emergency Services

## *Investigations of Improper Activities by State Employees, Report I2000-1*

### Allegation I980041, April 2000

***Audit Highlights . . .***

***Employees of the fire and rescue branch engaged in the following improper governmental activities:***

- ☑ ***Falsified reports to obtain overtime and travel costs to which they were not entitled.***
- ☑ ***One employee used his position as a state employee for personal gain.***
- ☑ ***Failed to detect abuses, and mismanaged the use of overtime and emergency employees.***

Along with the California Highway Patrol (CHP), we investigated and substantiated allegations that employees of the fire and rescue branch of the Office of Emergency Services (OES) misused state time and property. We also substantiated other improper activities by the employees. Specifically:

***Finding #1:*** *Employees falsified attendance and travel reports.*

Because of loose supervision and an inadequate system of controls, the OES provided employees opportunities to falsify travel claims and attendance reports to improperly receive thousands of dollars in travel and overtime payments. For example, one employee reported on six different attendance and travel expense reports from November 1996 through August 1997, that he had been on travel status within the State. However, he had actually attended unauthorized out-of-state training courses with all expenses paid by the event sponsor. The State paid this employee $1,129 for his falsely claimed expenses and $7,523 for questionable overtime hours. Another employee claimed that he worked 161 out of a possible 168 hours over a seven-day period in January 1997. The CHP concluded that even the simplest review of attendance and travel claims would have uncovered many of the discrepancies. However, supervisors did not question the claims, thus allowing their employees to obtain improper payments.

***Finding #2:*** *One employee misused the prestige of the State to obtain discounts and abused state-paid travel for personal benefit.*

An employee combined a personal order for items with an OES order to improperly receive a state discount. He also brought discredit to the OES by failing to pay for the full amount of the purchase. This same employee used the State's prestige to obtain state rates on 30 airline tickets that he used for his girlfriend's and his personal trips. And, he scheduled trips to Southern California that were not in the State's best interest and were primarily for his own benefit.

***Finding #3:*** *Gross mismanagement contributed to excessive overtime and travel costs, misuse of state property, and mishandling the use of emergency employees.*

Supervisors within the fire and rescue branch failed to maintain effective systems of control and allowed a lax environment that encouraged employees to claim excessive overtime and questionable travel, and to misuse state property. For example, two employees incurred thousands of dollars in overtime and travel costs by regularly scheduling themselves for nonemergency events, such as meetings or training, on regular days off or by claiming commute hours as work hours.

Because of one supervisor's blatant disregard for administrative review, one employee was able to make or receive at least $987 in personal telephone calls using a state-issued calling card and cellular telephone.

In addition, a branch manager bypassed state laws designed to limit the length and conditions of employing emergency hires. The manager improperly allowed the emergency hires to artificially extend the length of their employment and work on nonemergency tasks to receive additional pay.

***Department Action: Corrective action taken.***

The OES reported that:

- One employee who resigned was convicted of a misdemeanor and ordered to pay restitution.
- Another employee paid restitution in exchange for the court dropping grand theft charges against him. The OES terminated this employee.

- Two other employees resigned.
- Two employees took voluntary demotions.
- The OES developed and implemented a new administrative control system for overtime and travel costs.

# Department of Justice

## *It Is Beginning to Address Our Recommendations to Improve Controls Over the California Witness Protection Program*

### Report Numbers 98024, February 1999; 99024, November 1999; and 2000-012, November 2000

***Audit Highlights . . .***

***The Department of Justice (department) has improved controls over the California Witness Protection Program (CWPP). Our most recent audit found that the department has made improvements that meet our previous recommendations. These improvements include:***

- ☑ ***Establishing a formal review process for approving applications and reimbursements.***
- ☑ ***Ensuring that staffing is sufficient to perform program activities.***
- ☑ ***Performing field audits of district attorneys' offices participating in the CWPP.***
- ☑ ***Updating the CWPP policies and procedures manual.***

As required by the 1998-99 Budget Act, we conducted an audit of the Department of Justice's (department) California Witness Protection Program (CWPP). In response to requirements of subsequent budget acts, in November 1999 and November 2000 we performed follow-up audits to examine the department's implementation of our recommendations. During these audits we noted the following conditions:

***Finding #1:*** *The CWPP does not have consistent management oversight.*

Because only one analyst operates the CWPP, program responsibilities are concentrated and the department may not detect errors or omissions. In addition, the department does not always ensure that it has all the proper documents before it pays program costs. As a result, the department may reimburse costs of services for ineligible witnesses.

We recommended that the department establish a formal management-review process for the approval of applications and reimbursement requests. The department should deny payments on claims when crucial documents, such as applications and witness agreements, are missing or incomplete.

***Department Action: Corrective action taken.***

The department has implemented a checklist system to ensure that all necessary documents are received before reimbursements are processed. Also, the department has implemented formal management oversight procedures. Now a division manager has final approval of all program applications and reviews each reimbursement request prior to payment.

***Finding #2:*** *The program may lack the necessary staff to handle anticipated growth.*

The program is assigned one analyst who performs all of its day-to-day activities. However, this analyst is already using limited overtime to complete the work. Any delays in processing claims or approving cases could delay payments to counties, or possibly place witnesses at risk.

We recommended that the department conduct a workload analysis to ascertain the CWPP's staffing needs. The department should also find staff who can back up the primary program analyst when necessary.

***Department Action: Corrective action taken.***

The department has hired a temporary analyst to serve as an immediate backup to the CWPP's primary analyst. We believe the staffing level of the CWPP is adequate for the current caseload.

***Finding #3:*** *The department does not independently ensure the propriety of expenditures at the district attorneys' offices.*

As a result, the department has no way of knowing with any certainty that underlying support for reimbursement claims actually exists, or that the claims comply with CWPP requirements. The department therefore risks paying improper or misstated claims.

We recommended that the department perform periodic field audits to ensure that the district attorneys' offices are:

- Only claiming allowable costs.
- Using other funding sources before applying to the CWPP.
- Administering the program consistently.

***Department Action: Corrective action taken.***

The department has begun to perform periodic field audits to ensure that district attorneys' offices are claiming only allowable costs and are using the CWPP consistently. As of October 2000, it had completed five audits of district attorneys' offices, and it planned to complete three more by December 31, 2000.

***Finding #4:*** *A formal reconciliation process between program and accounting records does not exist.*

As a result, after the program analyst forwards a claim to the accounting department for payment, she has no way of knowing whether the claim was paid and if so, whether the payment was correct, prompt, or recorded accurately.

To account for all CWPP transactions, we recommended that the department develop and perform periodic reconciliations between accounting and program records.

***Department Action: Corrective action taken.***

The department has developed procedures to periodically reconcile program and accounting records for all CWPP transactions.

***Finding #5:*** *The department has not adequately clarified certain policies in its manual to ensure consistent, appropriate use of CWPP funds.*

To promote consistent administration of the program and help ensure that the department and the district attorneys' offices properly account for and spend CWPP funds, we recommended that the department specify in its policies and procedures manual how the district attorneys' offices should account for housing and utility deposits and meal receipts. We also recommended that the department periodically review established program rates and make adjustments as needed. In addition, the department should hold an informational workshop for the district attorneys' offices regarding the administration of the CWPP.

***Department Action: Partial corrective action taken.***

The department updated its policies and procedures manual to require district attorneys' offices to retain meal receipts to match reimbursement requests for food and to return all unused portions of housing deposits. While conducting field audits, the department found it was impractical to expect the kind of documentation of costs the revised manual requires. Thus, the department has proposed further revisions to the manual, setting a monthly food allowance for witnesses, without requiring receipts, and establishing a $750 limit for monitoring and collecting housing deposits. We agree that a monthly allotment for food and a deposit limit are needed and believe that the currently proposed amounts are reasonable.

The department reports that it has also taken advantage of opportunities to inform representatives from the district attorneys' offices about the use of the CWPP. The program analyst indicated that, as of September 2000, she has presented 12 briefings and workshops explaining various aspects of the CWPP and has scheduled five more training sessions for the future at various counties.

***Finding #6:*** *The department has not documented its basis for denying certain cases.*

The program analyst has not maintained any records documenting the applications denied over the phone or the rationale for the decisions. Because the department has not documented these requests, it cannot ensure that its policies are consistently applied.

We recommended that the department maintain written records documenting the reasons that it denied certain applications.

***Department Action: Corrective action taken.***

The department has developed and implemented a case-denial form to document all cases it denies.

# Department of Transportation

## *Disregarding Early Warnings Has Caused Millions of Dollars to Be Spent Correcting Century Freeway Design Flaws*

### Report Number 99113, August 1999

***Audit Highlights . . .***

***Our review of the damaged Century Freeway and the Department of Transportation's (Caltrans) response found that:***

- ☑ ***Caltrans did not adequately test for groundwater conditions and the design lacked needed elements to counteract the effects of rising groundwater.***
- ☑ ***Emergency and permanent repairs will cost $67 million, not including the cost to dispose of the water.***
- ☑ ***Options under consideration for reuse of the water could add another $50 million in one-time costs and up to $5 million in annual expenses.***

In March 1995, less than two years after the opening of the Century Freeway (freeway) in Los Angeles County, problems arose when the Department of Transportation (Caltrans) discovered cracking and sunken sections in the below-ground shoulder areas of the freeway. By January 1996, Caltrans became aware that it had not designed these sections of the freeway to compensate sufficiently for rising groundwater. Our review of the circumstances surrounding the damage to the freeway focused on design errors and the cost and safety implications of the projects intended to correct the structural defects. We found that:

***Finding #1***: *Caltrans overlooked warning signs that may have affected the freeway design.*

Caltrans failed to adequately test the soil and groundwater where it planned to build the lowered section of the freeway. Further, Caltrans did not sufficiently take into account the changing groundwater levels under the freeway section. If Caltrans had performed adequate testing, it could have realized the rising groundwater would threaten the freeway as designed, and taken appropriate steps early in the project.

***Finding #2***: *Caltrans is spending $67 million to correct design flaws on the freeway.*

The cost of emergency and permanent repairs will add about $67 million to the $2.4 billion cost to construct the entire freeway.

***Finding #3***: *Caltrans must find a permanent solution for using the groundwater it pumps from beneath the freeway.*

To maintain the integrity of the roadway, Caltrans must keep groundwater levels three feet below the pavement. Caltrans has yet to determine what it will do with the groundwater and is reviewing a number of specific options, their feasibility, and the

costs associated with each. Options under consideration could add another $50 million in one-time costs and up to $5 million in annual expenses.

***Finding #4***: *Caltrans has acknowledged it could have done more over the past three years to inform the Legislature of problems on the freeway.*

Caltrans did disclose information about the problem to Los Angeles area legislators, the public, and the California Transportation Commission (commission). On the other hand, Caltrans was not always prompt in notifying the commission of emergency allocations to repair the freeway.

We recommended that Caltrans inform the Legislature and the commission about its progress in determining an environmentally sound and cost-effective method for reusing the groundwater pumped from under the freeway.

***Department Action: Partial corrective action taken.***

Caltrans continues to conduct periodic meetings with members of the commission and legislators. As part of Caltrans' effort to identify a groundwater-disposal plan for beneficial reuse of the extracted groundwater, Caltrans entered into an agreement with the city of Downey to prepare a feasibility study. Because the Department of Health Services is requiring an additional 12 months of water quality data before the proposal can be approved, the completion date for the feasibility study is now June 2001. The proposal from the Long Beach Water Department was cost-prohibitive and is no longer being pursued. In April 2000, Caltrans entered into an agreement with the Water Replenishment District of Southern California to determine the feasibility of a solution that returns as much as possible of the extracted water to the groundwater basin.

***Finding #5***: *Caltrans was slow to implement some procedural changes to address groundwater on future projects.*

Based on an investigation of the problems with the freeway, in June 1996, Caltrans' in-house independent analysis team recommended changes to the Construction Manual (manual). However, Caltrans' construction and maintenance units did not circulate the revised manual or complete assigned revisions for more than two years after the targeted completion date. As a result, Caltrans risks the potential of making similar mistakes on other projects.

To ensure that it properly puts into practice the recommendations from special in-house staff reports, we recommended that the unit designated to implement these recommendations periodically report its progress to Caltrans management.

***Department Action: Corrective action taken.***

Caltrans updated its manual to incorporate in-house staff report recommendations. Project managers will report significant project changes upward through departmental management.

# Department of Transportation

## *Has Improved Its Process for Issuing Permits for Oversize Trucks, but More Can Be Done*

### Report Number 99141, May 2000

***Audit Highlights . . .***

***Our review of the Department of Transportation's (Caltrans) process for issuing permits disclosed:***

- ☑ ***Roadway changes are not always promptly communicated to the permits branch.***
- ☑ ***Hundreds of field personnel report roadway changes to only two regional liaisons.***
- ☑ ***Policies and procedures for reporting roadway changes differ among reporting units.***
- ☑ ***Caltrans is taking steps to improve communication of roadway information.***
- ☑ ***The process for writing permits is inefficient, labor-intensive, and susceptible to human error.***

We evaluated the Department of Transportation's (Caltrans) process for approving travel routes and issuing permits that allow oversize trucks to move along specified routes on the state highway system. We found the following deficiencies:

***Finding #1:*** *Caltrans' reporting structure has too many individuals reporting to too few liaisons.*

Caltrans has too many personnel reporting changes in road conditions via e-mail, fax, and phone to only two individuals working as regional liaisons who have no authority to enforce reporting requirements. The permits branch relies on other Caltrans units—primarily the Construction, Maintenance, and Traffic Operations programs and the Office of Structures Maintenance and Investigations—to provide the required data and information for the routing database. At any given time, hundreds of individuals can be involved in projects requiring them to report changes to only two regional liaisons who have to evaluate all of the changes and update the database promptly so that permit writers have the most current information.

We recommended that Caltrans designate district staff to coordinate communication between the permits branch and personnel working in the field. Caltrans should require communication coordinators to work with the regional liaisons to develop a standard reporting format.

***Department Action: Partial corrective action taken.***

Caltrans plans to hire nine truck services managers who will serve as a focal point for reporting roadway changes throughout the 12 districts. As of November 20, 2000, Caltrans had hired one truck services manager and had selected another for hire. Caltrans reports that the remaining positions will be filled by the end of March 2001.

***Finding #2:*** *Caltrans lacks uniform policies and procedures for reporting roadway changes.*

The problem of poor communication of roadway changes is exacerbated by the fact that each of the reporting units—Construction, Maintenance, Traffic Operations and Structures Maintenance and Investigations—has its own policies and procedures governing the reporting of roadway change information to the permits branch. These policies are not uniform and do not always specify who is responsible for reporting roadway changes.

We recommended that Caltrans ensure that its policies clearly and consistently specify the types of roadway information that must be reported to the permits branch, and clearly communicate its policies and procedures to all responsible parties.

***Department Action: Corrective action taken.***

Caltrans reported that it issued a high-level policy directive that defines roles and responsibilities of various functional areas and various Caltrans functional program policies to strengthen reporting of roadway policies. In addition, Caltrans has contracted with a fax service provider to notify annual permit holders of highway changes.

***Finding #3:*** *Programs that report roadway changes have not always followed the policy for reporting such changes.*

The procedures for reporting temporary and permanent clearance changes clearly state that those responsible for reporting should notify the regional liaison 15 days in advance. However, those responsible sometimes report these changes to a district traffic manager, but do not report them to the regional liaison. Regional liaisons must gather information from other sources and do not always have enough lead time to update the routing database and ensure that permits are issued for appropriate travel routes.

We recommended that Caltrans establish a process and designate a position with authority to enforce the reporting policies. If personnel do not adhere to the policies and procedures, Caltrans should tie reporting to performance evaluations.

***Department Action: Partial corrective action taken.***

Caltrans' new truck services managers will play a key role in implementing policy that holds accountable personnel responsible for reporting roadway changes.

***Finding #4:*** *Caltrans' current permit-writing process is labor-intensive and susceptible to error.*

The current permit-writing process requires permit writers to manually process and review most permits by using maps and a roadway information database. This process is time-consuming, and it increases the risk of routing errors from transcription mistakes during the recording process or from a driver misreading an illegible permit. Another labor-intensive aspect of the current system is the practice of double-checking all overheight permits because the system does not have electronic controls that prevent the issuance of erroneous permits. Although this practice reduces the likelihood that Caltrans will contribute to accidents, performing this function manually is an inefficient and costly use of resources.

We recommended that Caltrans develop an automated routing system. If its current request for an automated routing system is not approved, Caltrans should seek approval again in the next budget cycle. In its new request, Caltrans should include an analysis of its staffing requirements and should also identify what the funding source would be.

***Department Action: Partial corrective action taken.***

Caltrans has received approval for funding a semi-automated routing system and plans to have a new system operational by April 2002.

***Finding #5:*** *Caltrans does not collect adequate data on permit errors.*

Caltrans does not track the number of roadway changes that were reported after the fact by truck drivers, the public, or other Caltrans employees; nor does it track changes that were reported late by those responsible. Moreover, Caltrans' current computer system does not allow it to identify all the erroneous permits and related incidents that may have resulted from late or unreported changes.

We recommended that Caltrans track and compile statistics on permit errors and use the information to identify problem areas.

***Department Action: Pending.***

Caltrans will incorporate the ability to track and compile statistics on permit errors into its new automated system. Caltrans will use this information to identify and address problem areas. Currently, Caltrans addresses permit errors on a case-by-case basis as it becomes aware that such a problem exists.

***Finding #6:*** *Caltrans does not enforce adequate, standardized procedures for requesting and writing permits.*

Caltrans is not actively enforcing its policy of requiring permit applicants to use its standard application forms. Mistakes in permits can arise because Caltrans accepts modified permit application forms from its customers. Differences in these forms make them more difficult for permit writers to review. Further, Caltrans does not have standardized procedures for permit writers to use when issuing permits. As a result, drivers and other permit writers may have difficulty understanding permit instructions.

We recommended that Caltrans require that customers use the standard permit application form. We also recommended that Caltrans develop a standard format for permit writing.

***Department Action: Pending.***

Caltrans currently requires all of its customers who do not use its Web-based permit system to use its standard permit application form. However, beginning in early 2001, Caltrans will require all of its customers to use the same application form. In addition, Caltrans' new automated system will produce permits using a standard format.

***Finding #7:*** *Caltrans does not provide enough training for its new permit writers, nor does it provide formal ongoing training or a refresher course for its experienced staff.*

Caltrans does not train new permit writers in the use of pilot car maps, standard terminology for writing a permit, and the routing database. Pilot car maps help a permit writer determine when a pilot car is needed. In addition, not all permit writers use the same abbreviations and wording to describe an approved route on a permit. Consequently, drivers and even other permit writers may have difficulty understanding routing instructions. Training will become even more important for the permit writers if Caltrans' new routing system is approved.

We recommended that Caltrans expand training for new permit writers to include instruction in standardized permit writing, use of pilot car maps, and use of the routing database, and develop an ongoing training program for experienced permit writers. In addition, Caltrans should assess the training needs of experienced permit writers and develop an ongoing training program.

***Department Action: Partial corrective action taken.***

Caltrans applied for additional resources through the budget process to hire a full-time employee to develop formal training for the permits branch staff. This request was unsuccessful, but Caltrans will apply for the funding again in the next budget cycle. Caltrans will continue to use a former permit writer to train staff on a continuous basis until a permanent trainer position has been secured.

***Finding #8:*** *Caltrans uses a job classification for permit writers that is no longer appropriate.*

One internal factor that might be contributing to high turnover may be a job classification that is no longer appropriate. Permit writers are classified as transportation engineering technicians, a category that requires certain technical skills and knowledge of transportation engineering principles that do not appear necessary for permit writers.

***Department Action: Partial corrective action taken.***

Caltrans completed an analysis of skill requirements for permit writers and plans to complete a process for developing options to create or modify existing civil service classifications that best fit the necessary skills for permit writers by the end of January 2002. Completion of this process depends on vender proposals for the

new automated routing system. The request for proposal for the new system requires that participating vendors identify the skills and knowledge necessary to operate the new system.

# Department of Transportation

## *Seismic Retrofit Expenditures Are in Compliance With the Bond Act*

### Report Number 2000-010, September 2000

Legislation passed in 1995 requires the California State Auditor to ensure that projects funded by the Seismic Retrofit Bond Act of 1996 (Bond Act) are consistent with that measure's purposes, which are to reconstruct, replace, or retrofit state-owned highways and bridges, including toll bridges. This is the fifth in a series of annual reports on the Department of Transportation's (department) revenues and expenditures, authorized by the Bond Act, for retrofitting California's highways and bridges.

We audited revenues and expenditures authorized by the Bond Act. We found that as of June 30, 2000, the department had spent $1.36 billion for projects on more than 1,150 bridges and 7 state-owned toll bridges, completing 97.4 percent of the retrofitting for highway bridges and having all of the toll bridges either in retrofit design or under construction. Since the inception of the seismic retrofit program, the State has issued eight general obligation bonds under the Bond Act, totaling approximately $1.09 billion.

Our review found that the department has done a good job of ensuring that seismic retrofit projects do meet the criteria for funding under the Bond Act. However, the department has not resolved a long-standing issue of reimbursing other accounts for interim funding obtained during fiscal years 1994-95 and 1995-96. During those years, the State Highway Account (highway account) and the Consolidated Toll Bridge Fund (toll bridge fund) provided a total of $114 million in expenditures and commitments for retrofitting California's bridges. The Bond Act requires that the department use bond proceeds to reimburse the highway account and the toll bridge fund for these prior expenditures.

In attempting to make these reimbursements, however, the department encountered opposition from the State Treasurer's Office, which pointed to a possible loss of the bonds' tax-exempt status. The Department of Finance objected that the department's source of the reimbursement funds could be used only for current expenditure. Although provisions in 1997 legislation removed both of these objections, the department had not taken any action as of June 30, 2000, to reimburse the expenses. The department recently prepared a reimbursement plan, which will take effect in fiscal year 2000-01.

# Department of Transportation

## *Inadequate Strategic Planning Has Left the State Route 710 Historic Properties Rehabilitation Project Nearly Without Funds and Less Than Half Finished*

***Audit Highlights…***

***Our review of the Department of Transportation's (department) State Route 710 historic properties rehabilitation project revealed that the department:***

- ☑ ***Did not use a strategic approach to ensure it would complete the project within the authorized funding.***
- ☑ ***Completed the rehabilitation of less than half of the properties at an average cost of more than $400,000 each, and has nearly exhausted the funding it received.***
- ☑ ***Cannot demonstrate that it used the most cost-effective methods when performing work and that it exercised the discretion allowed by federal guidelines.***
- ☑ ***Relied on an undocumented process to ensure work performed complied with applicable codes, and thus has limited assurance that all relevant code requirements were considered and applied properly.***

### Report Number 2000-127, December 2000

We reviewed the Department of Transportation's (department) expenditure of state funds to rehabilitate historic properties along the proposed State Route 710 corridor. Our review found the following problems concerning the department's historic properties rehabilitation project:

***Finding #1:*** *The department did not adopt a strategic approach to ensure that it would complete the project within authorized funding.*

The plan the department presented to the California Transportation Commission (CTC) in November 1996, when it requested $16 million to rehabilitate 81 historic properties, did not adequately consider or address all relevant information. The estimates it used in support of its funding request were neither well developed nor feasible. Further, after receiving the CTC's approval for the additional funds, the department did not manage the project as though $16 million was all the funding it would have to complete the 81 properties. Even when it became clear early in the project that funding was not adequate, the department did not raise this as a concern to the CTC or sufficiently explore other alternatives. In fact, it waited at least two years before it informed the CTC of its financial problems. As a result of not using a strategic approach, the department has rehabilitated only 39 of the 92 historic properties it currently owns and has nearly exhausted the $19.4 million in funding it received to complete the entire project.

We recommended that in the future when faced with similar projects with funding constraints, the department should ensure

that it assesses the needs of the entire project and prioritizes those needs. In addition, we recommended that the department notify funding authorities promptly when it becomes aware that existing funding will not be sufficient to meet project goals.

***Department Action: Pending.***

The department agreed to implement our recommendations.

***Finding #2***: *The department's failure to consider long-range rehabilitation plans seems questionable.*

When it requested federal participation in the State Route 710 extension project, the department proposed to the Federal Highway Administration millions of dollars in mitigation and rehabilitation efforts to minimize the adverse effects to the historic properties along the route. However, the department did not consider this as part of its planning process for the current historic properties rehabilitation project. The current rehabilitation project uses only state funds, but the extension project and subsequent rehabilitation will be funded primarily with federal funds. We question why the department would not have factored these future plans for rehabilitation into the decisions being made for the current rehabilitation project. Because it did not do so, the department lacks assurance that it made the most appropriate decisions on its current project and that it maximized the use of federal funds. Further, it does not appear as though the department was always clear with the CTC about its future mitigation plans when requesting state funds for the current project. Disclosure of the department's long-range plans and the impact of future federal funding is important information for the CTC to consider when it makes funding decisions.

We recommended that the department consider how future rehabilitation work to be performed as part of the department's long-range mitigation plans for the freeway will impact the proposed work.

***Department Action: Pending.***

The department agreed to implement our recommendation.

***Finding #3:*** *The department cannot demonstrate that it exercised the discretion allowed by federal guidelines to achieve the most cost-effective approach to its historic properties rehabilitation project.*

Although the department appears to have implemented certain cost-reduction measures, it could not demonstrate that it used the most cost-effective methods when performing work on the project. It is especially important for the department to be able to show that it was cost-effective to justify the significant amounts it spent rehabilitating its historic properties. On average, the department spent more than $400,000 per property for those it completed. However, the department cannot demonstrate that it implemented a systematic approach for the project to ensure that it fully explored its options or exercised discretion allowed by federal guidelines, such as focusing rehabilitation efforts on the features that are most important in contributing to the overall significance of the property. As a result of these shortcomings, the department lacks assurance that it performed work on the project in the most cost-effective manner.

We recommended that to ensure any future rehabilitation work that the department performs is as cost-effective as possible, the department should develop revised cost estimates for each property using condition assessments that assist the department in prioritizing its rehabilitation efforts. The department should focus its efforts on those historic features that are most important in contributing to the overall significance of the property and ensure that it takes advantage of the flexibility allowed by federal guidelines. In addition, it should consider the technical and economic feasibility of planned work when determining whether it has considered the least costly yet acceptable alternatives.

***Department Action: Pending.***

The department agreed to implement our recommendations to ensure any future rehabilitation work it performs is as cost-effective as possible.

***Finding #4:*** *The department did not consider expected selling prices when determining how much to spend performing work on each property.*

All the historic properties acquired for the State Route 710 corridor will eventually be sold. However, the department did not perform any analyses to determine a reasonable amount of funds to spend on rehabilitation costs for the properties based on the earnings it could expect from their sale once they were declared excess property. Given that the department had discretion regarding the extent of work performed on the properties, the expected selling prices for the properties would have been useful information to consider when setting a budget for work to be performed.

We recommended that the department take into account that the properties will ultimately be sold, some at less than fair market value, when determining to what extent the remaining historic properties should be rehabilitated.

***Department Action: Pending.***

The department agreed to implement our recommendations to ensure any future rehabilitation work it performs is as cost-effective as possible. The department added that when selling excess properties, the California Government Code, Sections 54235 through 54238, requires the department to sell at a price dictated by occupant income, which is most likely less than the market value and the department's cost.

***Finding #5:*** *Although the department is proposing options for vacating and preserving its historic properties, certain concerns need to be addressed.*

In response to the department's request for additional funding in March 2000, the CTC asked the department to develop alternatives for minimizing costs. The department prepared two alternative plans based on the mothballing preservation treatment approach prescribed by the Secretary of the Interior. However, mothballing is intended to be only a temporary measure, which is of concern because the department does not know how long it needs to maintain the properties. Further, we noted some specific concerns regarding the department's mothballing proposals. For example, the department's mothballing proposals do not address providing adequate ventilation, although this is considered to be one of the highest priorities according to federal guidelines. Also, the department did not consult with historical experts, including the Office of Historic Preservation, to ensure that all significant features will be stabilized and maintained. As a result of the various shortcomings we noted, the department cannot

ensure that it is presenting an accurate estimate of the level of funding necessary for mothballing, or that mothballing is appropriate under the circumstances.

We recommended that if it pursues either of its mothballing proposals, the department should ensure compliance with federal guidelines, and it should obtain approval from the Office of Historic Preservation as to their propriety.

***Department Action: Pending.***

The department agreed to implement our recommendations.

***Finding #6:*** *The department relied on the Department of General Services' (General Services) process, but did not require documentation to ensure the project complied with applicable codes.*

The department relied on its contractor, General Services, to ensure that the work on its State Route 710 historic properties rehabilitation project complied with applicable codes. General Services appears to have a process designed to ensure that it considers and applies codes relevant to the project. However, General Services did not document the key judgments it made in carrying out its process, such as identifying the specific code requirements applicable to this project because it is not its standard practice to do so. Additionally, it did not document its process for ensuring that code requirements were applied properly. Because the department neither required General Services to document its process nor conducted its own review to ensure compliance with codes, the department has limited assurance that staff considered and applied properly all relevant code requirements when performing work on the project. In fact, neither General Services nor the department considered the state code section that requires the department to conform to local building codes that were in effect at the time it acquired its properties.

We recommended that to ensure future work on this or any similar projects complies with all applicable codes, the department should develop a process to identify and evaluate all code requirements related to the project, including evaluating local codes to determine whether they apply, and if so, whether they conflict with applicable state codes. Additionally, the department should ensure that it can demonstrate it has considered and applied properly the relevant code requirements.

***Department Action: Pending.***

The department agreed to implement our recommendations and to develop a process to identify and evaluate all code requirements related to the project.

***Finding #7:*** *Questions have been raised about the project's compliance.*

Tenants raised concerns with local building inspectors that rehabilitation work on the project did not conform to codes. Local building inspectors inspected three of the properties that had been rehabilitated and discovered several violations of the city code and the Uniform Building Code. We questioned General Services about some of these apparent violations. Although General Services' explanations appear reasonable, they raise questions about how well the department has communicated with the tenants and local authorities regarding what they should expect from the department's rehabilitation work.

Both the department and General Services have indicated that they do not believe current local codes apply to the rehabilitation work. It seems apparent, however, that both tenants and local building inspectors expected these rehabilitated properties to meet local building codes. This gap between the community's expectation that the work would comply with local building codes and the department's assertion that those codes do not apply to the rehabilitation project illustrates a need for the department to provide better information about what the community can expect in rehabilitated historical properties and why.

We recommended that the department look for methods that will provide the community with better information about what they can expect in rehabilitated historic properties.

***Department Action: Pending.***

The department agreed to implement our recommendation.

# California Public Utilities Commission

## *Most of Its Transportation Regulation Costs Were Appropriate, but It Needs to Better Allocate Indirect Costs*

**Report Number 99021, December 1999**

***Audit Highlights . . .***

***Our review of the Public Utilities Commission's (commission) expenditures for its Transportation Reimbursement Account (transportation fund) finds that:***

- ☑ ***The commission spent fees collected from transportation and railroad companies for authorized purposes.***
- ☑ ***Fiscal year 1998-99 expenditures for the transportation fund were overstated by $348,000.***
- ☑ ***The fiscal year 1999-2000 cost-allocation plan will overallocate rental expenditures to the transportation fund by an estimated $202,000.***
- ☑ ***The commission cannot provide detailed support for adjustments that reduced its recorded cash balances by $297,000.***

The Public Utilities Code requires the Bureau of State Audits to audit the expenditure of fees paid by transportation companies to the Public Utilities Commission Transportation Reimbursement Account (transportation fund). We reviewed transportation fund expenditures to determine if they were reasonable, accurate, allowable, and properly recorded. We found that:

***Finding #1:*** *The Public Utilities Commission (commission) properly spent transportation fees.*

The commission's new accounting system properly identified fiscal year 1998-99 transportation fund expenditures. Direct costs were reasonable and accurately recorded, and indirect costs were reasonably and properly allocated and accurately posted. In addition, expenditures for the transportation funds' railroad operations included only allowable costs.

***Finding #2:*** *The commission inappropriately reallocated some indirect costs.*

The commission inappropriately reallocated $348,000 in indirect costs to the nonrailroad operations of the transportation fund. The reallocations caused the transportation fund's reported fiscal year 1998-99 expenditures to be overstated by about 5 percent. When the commission reallocates expenditures generated by its accounting system, it ignores the best information available on the actual costs of its funds.

We recommended that the commission avoid making unwarranted reallocations of system-generated expenditures.

***Commission Action: Corrective action taken.***

The commission agreed to avoid making reallocations of system-generated expenditures.

***Finding #3:*** *The commission's cost-allocation plan improperly allocates some indirect costs.*

The commission's fiscal year 1999-2000 cost-allocation plan does not properly allocate its headquarters rental costs. The plan will allocate these costs to only three of its six funds that use the building. We estimate that this will result in a $202,000 overallocation of rental costs to the transportation fund.

We recommended that the commission use a reasonable and consistent method for allocating indirect costs so that all funds pay an appropriate share of these costs.

***Commission Action: Corrective action taken.***

The commission said that in developing its 2001-02 budget it would allocate headquarters rental costs among all funds based on usage.

***Finding #4:*** *The commission made unexplained adjustments to its cash account.*

The commission reduced its recorded cash balances by $297,000 in July 1998 in preparation for converting its accounting data to a new accounting system. The adjustments brought the commission's recorded cash balances in line with those on its bank statement, but the adjustments were not justified by detailed support. The cash shortage could therefore be the result of an error on the part of the bank or the commission. The cause cannot be determined until the commission does further research.

We recommended that the commission research its cash transactions to substantiate purported errors and correct its records if necessary.

***Commission Action: Partial corrective action taken.***

The commission said that it reviewed bank, State Controller's Office, and internal records but could not identify the basis for the adjustment. It believes that the error likely arose prior to existing records. The commission, however, states that it has reconciled its cash accounts on a current basis under its new accounting system and therefore believes it will avoid such errors in the future.

# California Public Utilities Commission

## *Did Not Effectively Manage Its Contract for Investigating San Francisco's December 1998 Power Failure*

### Report Number 99117.1, May 1999

The California Public Utilities Commission (commission) consists of five commissioners who make policy, procedural, and program decisions guiding the regulation of energy, telecommunications, water, and transportation utilities. On December 8, 1998, PG&E's electrical system in the San Francisco Bay Area failed, leaving more than one million people without electricity. In that same month, the commission initiated an investigation of the power outage. The Joint Legislative Audit Committee requested that we review the commission's contract with its consultant, Performance Improvement International, in relation to the December 1998 power outage. We focused on whether the consultant's work and report conformed to the five-member commission's direction and found the following:

***Finding #1:*** *The jurisdictional lines between the commission and the California Independent System Operator (CAISO) were unclear during the power outage.*

The outage began with the transmission system (under CAISO jurisdiction) and ultimately affected the distribution system (under commission jurisdiction). As a result, the jurisdictional lines between the commission and CAISO were unclear.

To ensure that they address jurisdictional issues, we recommended that the commission and CAISO continue their discussions regarding oversight as it relates to the power failure in the San Francisco Bay Area and to any future outages of this type.

***Commission Action: Corrective action taken.***

The commission, CAISO, and the Electricity Oversight Board developed an initial draft of formal investigation protocols in April 1999. However, the commission stated that unforeseen electricity prices and reliability issues have emerged that now require resolution with not only the commission and CAISO, but all energy agencies cooperating with one another, the Legislature and the governor. This multi-agency effort is currently under way.

***Finding #2:*** *The commission poorly monitored its contract and cannot substantiate the costs of the investigation.*

Because it did not have staff available, the commission contracted with a consulting firm to investigate the December 1998 San Francisco Bay Area's massive power failure. Specifically, the commission:

- Could not demonstrate that it reviewed the majority of the consultant's team members' qualifications.

- Did not ensure the consultant's report conformed with contract requirements to provide a report suitable for litigation purposes. The consultant's report offered inadequate support for some conclusions.

- Relied on a peer reviewer, who was a subcontractor of the consultant, to ensure the quality of the consultant's report. This gave the appearance that the peer reviewer was not independent.

- Could not demonstrate that its $400,000 contract amount was reasonable.

- Did not require the consultant to submit invoices monthly, or adequately monitor contract expenditures.

Therefore, the commission could not ensure its contract amount was appropriate, that it was receiving all the services for which it contracted, or that all consultant charges were appropriate and complied with the contract provisions.

We recommended that the commission conduct another review of the investigative report and audit all the consultant's charges to determine their appropriateness and compliance with contract provisions before paying the consultant for services rendered.

***Commission Action: Corrective action taken.***

The commission audited the consultant's invoices to determine compliance with the contract provisions. As a result of the audit, the commission discovered that it overpaid the consultant by $12,563.17. The commission deducted this amount from the consultant's latest invoice. In September 1999, the commission reviewed its contracting processes to assure compliance with the State Administrative Manual and implemented the recommendations to improve its contracting process. Finally, the commission has identified project managers that are or may be involved in contracting and has arranged for training from the Department of General Services.

# California Public Utilities Commission

## *Weaknesses in Its Contracting Process Have Resulted in Questionable Payments*

### Report Number 99117.2, March 2000

***Audit Highlights . . .***

***Our review of the California Public Utilities Commission's (commission) contracting practices disclosed that:***

- ☑ ***The commission does not always adequately develop and manage its contracts, and as a result made more than $662,000 in questionable payments to its consultants.***
- ☑ ***Despite the Bureau of State Audits' previous scrutiny of a problematic contract, the commission overpaid the consultant $12,500 and paid another $330,000 without adequately reviewing the contractor's invoices.***
- ☑ ***The commission did not subject one of its contracts to the State's standard contracting process.***

The Joint Legislative Audit Committee requested that we review the California Public Utilities Commission's (commission) contracting practices. We determined that the commission does not adequately develop or manage some of its contracts and as a result has made more than $662,000 in questionable payments. We found the following:

***Finding #1:*** *The commission did not adequately develop some contracts.*

For example, reasonably detailed budgets were not always included in the contract and some contracts were not subjected to competitive bidding. As a result, the commission did not ensure that the contracts clearly established what was expected from the contractors and provided the best value.

We recommended that the commission take these actions:

- Include reasonably detailed budgets and progress schedules in its contracts.
- Solicit competitive bids whenever possible.
- Establish minimum requirements for the level of detail that its consultants must include in their invoices.
- Require contract managers to review consultant invoices to ensure that only proper payments are made.

***Commission Action: Corrective action taken.***

The commission has developed a contracting manual to guide its staff in developing and managing contracts. The manual includes guidelines for establishing contracts and standard forms and procedures for monitoring and reviewing the work of consultants.

***Finding #2:*** *Because it did not require supporting documentation for consultants' invoices, the commission made at least $662,000 in questionable payments for fiscal year 1998-99, and the commission paid another $330,000 without adequately reviewing the consultants' invoices.*

We recommended that the commission review its contracts and determine whether it had overpaid its consultants. The commission should attempt to recover any overpayments discovered.

***Commission Action: Corrective action taken.***

The commission reported that it reviewed each of its contracts, and where overpayments were identified, the commission requested repayment from the consultants.

***Finding #3:*** *The commission did not subject one of its contracts to the State's standard contracting process.*

The commission required several of its regulated utilities to enter into a contract on its behalf. As a result, the commission created an environment in which abuses could easily go undetected.

We recommended that the commission use the State's standard contract process for all contracts that it develops and manages.

***Commission Action: Corrective action taken.***

The commission told us that it will use the State's contracting process for all contracts it develops and manages.

# San Francisco Public Utilities Commission

## *Its Slow Pace for Assessing Weaknesses in Its Water Delivery System and for Completing Capital Projects Increases the Risk of Service Disruptions and Water Shortages*

**Report Number 99124, February 2000**

***Audit Highlights . . .***

***Our review of the San Francisco Public Utilities Commission (commission) disclosed:***

- ☑ ***It has been slow to assess its water delivery system and has made little progress in completing capital projects.***
- ☑ ***Since 1994, the commission has known that it needs to identify additional sources of water, yet it did not begin to develop a water supply plan until 1996.***
- ☑ ***Several factors contribute to the commission's slow pace for completing capital projects.***
- ☑ ***The success of the commission's capital improvement program is uncertain because it is still developing some plans while it has only recently implemented others.***

The San Francisco Public Utilities Commission (commission) has been slow to assess and upgrade its water delivery system to survive catastrophic events such as earthquakes, fires, or floods. Some parts of the system, such as critical pipelines, are nearly 75 years old and are in dire need of repair or replacement. The commission has also been slow to estimate the amount of water that it will need to meet future demands and to seek additional sources of water. As a result, the nearly 2.4 million people in the city and county of San Francisco, and in the counties of Alameda, San Mateo, and Santa Clara who rely on the commission for their drinking water are at a greater risk of disruptions or water shortages if an emergency or drought occurs.

The commission's capital improvement plan lists about 200 projects requiring more than $3 billion to complete. The commission plans to complete most of these projects over the next 15 years. In the past 10 years, however, the commission has completed only 54 projects at a cost of about $270 million. Several factors contributed to the commission's inability to complete capital projects more quickly. Specifically, we found:

***Finding #1:*** *The commission needed to identify alternatives for managing its capital improvement program.*

Recognizing that the water delivery system has significant weaknesses that will require large-scale improvements, the commission was seeking approval to contract for the services of a program management consultant. Basically, it was counting on the consultant to perform a major overhaul of the commission's engineering and construction operations so it could implement

the capital improvements necessary to ensure system reliability. At the time of our report, it was unclear whether the commissioners or San Francisco's board of supervisors would approve this contract. If they did not approve the contract, we believed that commission staff might be ill-equipped to handle such a large, complex capital improvement program.

We recommended that the commission be prepared to take alternative action if the commissioners or the board of supervisors decide to not approve the contract for its program management consultant.

***Commission Action: None.***

On August 28, 2000, San Francisco's board of supervisors approved a four-year contract to provide program management services for the commission's capital improvement program.

***Finding #2:*** *The commission was slow to assess weaknesses in its water delivery system and to create a comprehensive water supply master plan.*

The commission was slow to assess the ability of its water delivery system to survive catastrophic events. Since at least mid-1993, staff members had raised concerns about the ability of portions of the water delivery system to survive a major earthquake. However, despite starting a review of the system's reliability in 1994, the commission had completed only two of the three planned phases of the study by January 2000. The commission had also been slow in identifying additional sources of water. Droughts in the late 1970s and early 1990s indicated that the commission could not provide the amount of water it believed it could. Peak summer water demands and suburban population growth pointed to the need for additional water supplies. Having started a study to identify new water sources in 1996, the commission expected to complete a water supply master plan by early 2000. Delays in completing these studies contributed to delays in improving system reliability.

We recommended that the commission complete its facilities reliability study and the water supply master plan.

***Commission Action: Partial corrective action taken.***

The commission states that it has included elements of the third phase of the reliability study into the scope of the August 2000 contract with the program management consultant. The commission also reports that its water supply master plan was

approved in May 2000 and that it is implementing projects in accordance with its capital improvement program plan and available funding.

***Finding #3:*** *Staff shortages contribute to project delays.*

The commission's former general manager stated that a shortage of qualified personnel led to delays in project schedules. The commission took some measures to address its staff shortages such as increasing the number of personnel staff and providing them with training on San Francisco's personnel processes, suggesting improvements to the hiring procedures for engineers used by San Francisco's department of human resources, and obtaining approval for several contracts to supplement its engineering staff. Although the commission did not provide sufficient data to substantiate its staff shortages, we believed that the commission must ensure that it has sufficient staff to complete its capital projects.

We recommended that the commission continue pursuing ways to attract and retain qualified engineering staff.

***Commission Action: Partial corrective action taken.***

The commission reports that it continues to hire staff to meet the needs of its divisions. Since April 2000, it has hired 20 engineers and 12 new project managers. The commission further indicates that it has taken other steps to attract staff such as participating in job fairs to recruit engineers and working with San Francisco's department of human resources to encourage more flexibility in hiring. Moreover, the commission states that it is receiving design services for some projects from another city department and that it has contracts with consultants to perform similar services. Finally, the commission states that it is meeting on a regular basis with the staff of other city departments that have significant engineering staffs to identify potential resources for projects.

***Finding #4:*** *The commission's contracting procedures are inconsistent.*

As early as May 1997, a consultant reported that the commission's contracting process took twice as long as another city department noting that the commission's decision-making process contributed to delays. We found that the commission had begun to address the consultant's concerns by establishing a policy that clarified the approval process for contracts, centralizing the contracting unit within the commission's utilities

engineering bureau, and submitting a budget proposal requesting the creation of a commission-wide contracting unit and the addition of more staff to expedite the internal handling of contracts. However, some commission staff members told us that the contracting process was still slow, adding unnecessarily to the time required to complete projects.

We recommended that the commission continue its efforts to improve its contracting procedures and to train new staff to understand the new procedures. We also recommended that the commission establish a commission-wide contracting unit.

***Commission Action: Partial corrective action taken.***

The commission states that it has streamlined contracting procedures and flowcharts, revised dispute-resolution procedures, developed a standard invoice, and conducted workshops on the various types of contracts used. It also reports that staff will continue to use these contracting procedures as well as conduct workshops for other operations. Finally, the commission states that a commission-wide contracting unit was established in April 2000.

***Finding #5:*** *Steps for completing projects lack uniformity.*

The commission lacks current project operations procedures. Its written procedures for managing capital projects are outdated and many of its forms and templates are no longer used. Implementing common procedures will enhance the consistency, coordination, and effectiveness of the commission's operations. The commission was updating its project operations manual during our audit and expected a final version to be completed by June 2000.

We recommended that the commission continue updating the manual its staff members are supposed to use for guidance during planning, design, or construction of capital projects. We also recommended that the commission ensure that applicable employees receive training and understand the new procedures.

***Commission Action: Partial corrective action taken.***

The commission reports that its manual is complete and has been distributed to staff as of August 2000. It also states that the next step will be to train staff on how to use the manual.

***Finding #6:*** *The commission does not have an effective tracking system to monitor preventive maintenance.*

In 1994, San Francisco's budget analyst criticized one of the commission's divisions for performing practically no preventive maintenance on some facilities, stating that the primary reason was that staff members were not fully implementing the automated maintenance-management system. More than five years later, we found that division staff members still were not using the automated system's tracking component. Routine preventive maintenance is essential for ensuring that existing water delivery system components last as long as possible. During our audit, the commission was in the midst of implementing a new automated system. It expected the new system to be fully implemented at the three water-related divisions by March 2000.

We recommended that the commission complete the implementation of its new automated maintenance management system at all three water-related divisions. We also recommended that the commission train its staff on the new system and ensure that they use it consistently and properly.

***Commission Action: Partial corrective action taken.***

The commission reports that the new automated maintenance-management system became operational in June 2000 and that training for staff in the operating divisions is complete. The commission did not address how it would ensure that its staff would use the new system consistently and properly.

***Finding #7:*** *Project managers receive little training.*

Although project managers typically receive on-the-job training, the commission does not have a formal program to train them. In fact, it had not provided formal project management training in the last 10 years. Ongoing, formal training is crucial for ensuring that commission staff members develop and improve their technical proficiency and project leadership abilities.

We recommended that the commission develop and implement a formal training program for project managers and ensure that they receive adequate training while this program is under development.

***Commission Action: Partial corrective action taken.***

The commission reports that it prepared a project management curriculum and manual and developed a formal training program. Weekly classes began in May 2000 and were to continue through October 2000. The commission also states that its staff will

receive additional training from the program management consultant.

***Finding #8:*** *The commission's long-range financial planning is incomplete.*

One of the commission's primary challenges is funding its large-scale capital improvement plans. A consultant developed a long-range financial report to assess financing options for capital projects for two of the commission's three water-related divisions. This report relied heavily on the commission's ability to obtain voter approval for revenue bonds without adequately addressing contingencies should voters reject future bond measures. This is important because, based on recent voter turnouts, fewer than 100,000 San Francisco voters could deny the commission's bond measures. Also, the projections used in the report were based on current interest rates; changes in these rates could affect the commission's ability to accomplish the plan. Finally, the long-range financial report for the third water-related division was still being developed. As a result, despite identifying many capital projects needed to upgrade its water delivery system, its plans remain incomplete regarding exactly how it will fund these projects.

We recommended that the commission complete and adopt a long-range financial plan for the three water-related divisions. We also recommended that the commission continue to monitor and adjust this plan as necessary. The plan should include more detailed descriptions of the steps the commission should take if San Francisco's voters fail to approve the bonds or if economic conditions change.

***Commission Action: Partial corrective action taken.***

The commission stated that, as of December 2000, its program management consultant is reviewing a consolidated plan that integrates the long-range financial plan and the capital improvement plan. The commission expects to present the consolidated plan to the commissioners in February 2001.

***Finding #9:*** *The commission's capital improvement plans are not complete.*

The commission's staff and its consultant have developed capital improvement plans for each of its water-related divisions. However, the commissioners have not adopted these plans. Further, the commission has not integrated these plans to obtain an accurate picture of the entire system's needs. Finally, the

capital improvement plan for the Hetch Hetchy Water and Power Division was incomplete because it lacked cost estimates for some of its water-related projects. This is significant because this division supplies about 85 percent of the commission's water. Without formal adoption and integration of these plans, we were concerned that other issues could divert the commission's attention from its goal of improving the reliability of the water delivery system by focusing on the most critical projects.

We recommended that the commission complete the missing cost and schedule estimates for the Hetch Hetchy Water and Power Division's capital improvement plan. We also recommended that the commission integrate its capital improvement plans for the three water-related divisions into one cohesive plan and seek formal approval from the commissioners.

***Commission Action: Partial corrective action taken.***

The commission reports that its staff is developing a draft comprehensive capital improvement plan that includes the Hetch Hetchy Water and Power Division. The commission was to integrate this plan with its long-range financial plan and present it to the commissioners for review and approval in November 2000. However, as of December 3, 2000, this integrated plan has not been included on the commission's agenda.

***Finding #10:*** *Most of the commission's plans are still in development, while others were only recently completed.*

To improve its water delivery system, the commission was still developing many plans while it had only recently completed others when we issued our audit report. These plans included the reliability study, the water supply master plan, the capital improvement plan, and the long-range financial plan. Because of the critical nature of all these plans, we were concerned that delays in completing or implementing any of the plans would jeopardize the commission's ability to upgrade its water delivery system.

To ensure that the commission followed through on plans that it was developing or that it had recently developed, we recommended that the commission report annually to the Legislature and to the Bay Area Water Users Association (BAWUA) for the next five years. We also recommended that these reports include descriptions of the progress the commission has made in implementing its plans and the accomplishments it has achieved.

***Commission Action: Pending.***

The commission states that it will submit an annual report to the Legislature and to the BAWUA in February 2001.

***Finding #11:*** *Executive vacancies and turnover present the commission with a unique opportunity.*

The commission recently experienced turnover among some of its executive positions. For instance, from December 1995 through December 1998, the position of manager of the utilities engineering bureau was filled by three different people and was vacant for a total of 13 months. This position leads more than 100 employees responsible for implementing the commission's capital improvement projects. A vacancy in this position contributed to the nearly 3-year gap between the end of the first phase and the beginning of the second phase of the facilities reliability study. Further, at the time of our report, the current manager of the utilities engineering bureau had been on board only 14 months. Other vacancies included the recent retirements of the commission's general manager and assistant general manager for operations. According to the commission's former general manager, it can take 6 to 12 months to fill these positions.

The commission faces significant challenges in the near future, including the need to implement a huge capital improvement program and to obtain additional water supplies. Without strong, consistent, and effective leadership, the chances that the commission will meet those challenges diminish greatly.

We recommended that the commission appoint to leadership positions individuals who have efficiently and effectively implemented large-scale capital improvement programs. We also recommended that the commission take measures to ensure it fills available positions promptly.

***Commission Action: Partial corrective action taken.***

The commission reports that recruitment efforts continue for the general manager, assistant general manager for operations, and director of finance positions. It anticipates the appointment of a general manager by early 2001 and appointments for its senior level positions by fall 2000.

# California Department of Veterans Affairs

## *The County Veterans Service Officer Program: The Program Benefits Veterans and Their Dependents, but Measurements of Effectiveness as Well as Administrative Oversight Need Improvement*

***Audit Highlights . . .***

***Our audit of California's County Veterans Service Officer program (CVSO program) revealed:***

- ☑ ***The CVSO program has played a key role in helping veterans, but reports of significant benefits and savings cited as program accomplishments should be viewed with caution.***
- ☑ ***Other indicators should also be used by county CVSO programs (CVSOs) and the California Department of Veterans Affairs (department) to gauge the effectiveness of the program.***
- ☑ ***The department does not ensure that its allocations of state and federal funds to counties are based on accurate data.***
- ☑ ***Furthermore, the department needs to improve its oversight of the training and accreditation process for CVSO personnel.***

### Report Number 99133, April 2000

At the request of the Joint Legislative Audit Committee, we audited the County Veterans Service Officer program (CVSO program). As part of this audit, we reviewed operations at the California Department of Veterans Affairs (department) as well as three counties that participate in the CVSO program (CVSOs). This report concludes that although the CVSO program benefits veterans, methods for measuring its effectiveness need improvement and the department should improve the administrative oversight of the program.

***Finding #1:*** *The department's reporting of certain benefits and savings is inaccurate.*

The department reports new and increased benefits to veterans as accomplishments of the CVSO program. However, some CVSOs that we visited erroneously reported the full amount of the new compensation they obtained for veterans. The CVSOs should have reported the incremental increase in those instances in which veterans received increases in the monthly compensation they were awarded previously. Also, when it estimates local tax revenues that occur because of the program, the department calculates these estimates using outdated and irrelevant data. Further, the amounts that the department reports as public assistance savings resulting from the program are not always actual savings. Finally, the department does not list savings to the Medi-Cal program as accomplishments of the CVSO program even though efforts by the CVSOs to verify veterans' income for the program are much the same as their efforts for the public assistance program. As a result, those who make decisions about

the CVSO program should view with caution the department's reports of benefits and savings achieved by the program.

We recommended that the department clarify instructions so that CVSOs report only the increase in a benefit award and develop an appropriate estimating technique for calculating local tax revenues resulting from veterans benefit awards if the department continues reporting these revenues as benefits of the program. Additionally, we recommended that the department ensure it reports accurate savings if it wants to continue reporting public assistance savings to counties and consider whether it should report savings for the Medi-Cal program. If identification of actual savings is too labor-intensive, the department should determine whether it can provide counties with a reasonable estimate of the savings.

***Department Action: Partial corrective action taken.***

The department stated that it changed the wording for the procedure for posting claim awards so that only the differential of the two amounts will be posted. The department also stated that it would immediately discontinue using its estimating technique for local tax revenue and expects to have a new method by April 2001. In May 2000, the department and the California Association of CVSOs (CACVSO) initiated discussions as to whether to continue reporting public assistance savings. The department states that further discussions with the CACVSO are required on this issue. The department did not address what it was planning to do in reporting savings for the Medi-Cal program.

***Finding #2:*** *CVSOs do not ensure the accuracy of the information reported.*

The CVSOs we visited lacked effective procedures for ensuring the accuracy of benefits and savings data they submit to the department. Because the department relies on this data when it prepares reports on the program's accomplishments, such reports may contain inaccurate information. Similarly, no CVSO we visited had adequate procedures for verifying the accuracy and completeness of the workload data it submitted to the department. All three CVSOs we visited submitted workload-activity reports that contained errors. Data errors have the potential to prevent CVSOs from obtaining equitable funding for their operations.

We recommended that to improve the accuracy with which they report program information to the department, all CVSOs should implement appropriate controls over the reporting of benefits, savings, and workload data.

***CVSO Action: Partial corrective action taken.***

The CVSOs we visited report that they have implemented or plan to implement controls over the reporting of information they submit to the department.

***Finding #3:*** *CVSOs should do more to analyze their own operations.*

Benefits and savings should not serve as the only measure of whether the CVSOs are serving veterans successfully. Counties should look directly to their CVSOs for evidence of their effectiveness, and CVSOs should supply their counties with key indicators of their performance. Each of the CVSOs we visited do, to varying degrees, furnish program performance data directly to their counties, but more analyses should be done using other effectiveness measures that all CVSOs have readily available. Further, CVSOs should analyze their operations and implement practices to improve their own operations. Establishing meaningful performance measures and periodically analyzing operations are important steps to ensure that the CVSO program is as effective as possible.

We recommended that CVSOs work with the department to develop goals and productivity measures for CVSOs. We also recommended that CVSOs report to their respective counties and the department annually their progress in meeting the goals and productivity measures. Finally, we recommended that the CVSOs analyze their own operations and implement practices to improve their operations.

***CVSO Action: Partial corrective action taken.***

The CVSOs we visited are working with the department, through the CACVSO, to develop goals and productivity measures for CVSOs. Additionally, the CVSOs report that they have either implemented or plan to implement our recommendation that they analyze their operations.

***Finding #4:*** *The department should establish statewide goals and investigate why county data vary.*

The department could do more to enhance the effectiveness of the CVSO program throughout the State. The department does not analyze the data it receives from CVSOs, does not perform comparative analyses, and does not attempt to determine reasons for differences in key performance indicators. Without such an analysis, it is difficult for the department to identify areas in which the CVSOs and the entire program can improve. In addition, although the CVSOs we visited state that many veterans who may be entitled to benefits are not aware of their eligibility, none of the CVSOs had established goals or a means to measure the effectiveness of outreach programs. We also noted that the department had not worked with the CVSOs to establish statewide goals and a means to measure progress toward the goals.

We recommended that the department work with CVSOs to develop program goals and productivity measures for CVSOs to report to their county governments, and that it require CVSOs to report annually to the department on their progress in meeting the goals and measures. Moreover, we recommended that the department set statewide goals for the CVSO program, such as goals for reaching out to veterans not yet served, and establish measures to determine their achievement. Finally, we recommended that the department analyze differences among counties using key information reported by CVSOs.

***Department Action: Partial corrective action taken.***

The department stated that it will work with CVSOs to develop program goals and activity measures with a target date of April 2001 for completion. In May 2000, the department and the CACVSO executive committee discussed potential options that could be used for program goals and potential ways to measure them. The department states that more discussions need to take place.

***Finding #5:*** *The department needs to improve how it distributes state and federal funds to counties with CVSOs.*

The department does not use an appropriate basis for distributing a portion of its subvention funds to CVSOs. The department also contracts annually with the Department of Health Services to obtain federal funds to reimburse CVSOs for a portion of their

costs for performing activities that result in savings to the Medi-Cal program. When the department allocates these funds, it uses figures for workload activities related to the cost-savings program for Medi-Cal. However, when the department allocates its subvention funds, it inappropriately uses some of the Medi-Cal workload activities reported by the CVSOs. Additionally, it does not ensure that its subvention allocation process meets limitations set by state regulations. When the department inappropriately allocates funds, some counties may not secure their fair shares of available funds.

We recommended that the department modify its allocation procedures for subvention funds to ensure it uses only appropriate workload activities as the bases for its allocations. We also recommended that the department comply with all allocation limitations set by state regulations.

***Department Action: Corrective action taken.***

The department states that it discontinued using Medi-Cal workload units when allocating subvention funds. The department also believes it is now complying with all subvention-allocation requirements.

***Finding #6:*** *The department does not verify the accuracy of data it uses in its decisions for allocating funds.*

Although the department bases its allocations of state and federal funds for veterans services on workload data from CVSOs, the department has not followed state regulations and audited CVSOs to ensure that such data are correct. In fact, although audits of selected CVSOs are required annually, the department has performed only one such audit since 1996. As a result, counties may not be receiving equitable funding for veterans benefits and services.

We recommended that the department audit CVSOs, as required by state regulation, to validate the workload activities it relies upon in the allocation process, or seek to change the regulation. If it chooses to change the regulation, the department should either establish an alternative process to ensure data accuracy or justify why an alternative is unnecessary.

***Department Action: Pending.***

The department states that it will seek to change the regulation and develop an alternate method to ensure data accuracy by April 2001.

***Finding #7:*** *The department needs to ensure that CVSOs receive appropriate reimbursements for cost-savings activities.*

The department may be missing an opportunity to obtain additional federal funds for CVSOs. Although the department has an agreement with the Department of Health Services to provide federal funding for CVSO activities that reduce Medi-Cal costs, the department does not have an agreement with the Department of Social Services to provide for federal reimbursement of similar CVSO activities that save public assistance dollars. Additionally, the department cannot demonstrate that the methodology used to compute the Medi-Cal funding—a methodology that includes workload estimates developed in fiscal year 1993-94—is still appropriate. As a result, the department cannot be sure it is receiving an appropriate level of reimbursement for the counties' cost-savings activities.

We recommended that the department seek to negotiate an agreement with the Department of Social Services that would reimburse counties with federal funds for CVSOs' efforts in reducing public assistance costs. We also recommended that the department review the workload estimates developed in fiscal year 1993-94 under its agreement with the Department of Health Services for claiming reimbursements for the Medi-Cal cost-saving activities so that the department confirms that the estimates are still appropriate.

***Department Action: Partial corrective action taken.***

The department has not yet contacted the Department of Social Services. In May 2000, the department initiated discussions with the CACVSO concerning the use of the fiscal year 1993-94 workload estimates for the Medi-Cal funding to determine if they are appropriate. According to the department, further discussions are required.

***Finding #8:*** *The CVSOs we visited did not use their increased state funding to expand or improve program services.*

Although the Legislature provided extra state funds for veterans services, the CVSOs missed an opportunity to use the increased funding to expand or improve program services. During fiscal year 1998-99, the Legislature increased its funding for the CVSO program by more than 30 percent. The Legislature did not state how the CVSOs were to use the augmentation. Thus, the counties had the latitude to use the money as they wished. The counties we visited used the augmentation to partially offset the funds they provided for CVSO operations rather than to expand or improve the services offered to veterans by increasing the total funding spent on the program.

We recommended that if the Legislature makes future budget augmentations, it should clarify whether it intends counties to use the money to decrease their funding of the CVSO program or to supply additional resources for CVSOs so they may expand or improve program services.

***Legislative Action: Unknown.***

We are unaware of any legislative action implementing this recommendation.

***Finding #9:*** *The department needs to improve its oversight of the training and certification process for CVSO personnel.*

The department, like the federal Department of Veterans Affairs (VA), recognizes that individuals who assist veterans in securing VA benefits must be knowledgeable in their field. It has a generally suitable accreditation process for training and certifying those who seek to represent veterans and their dependents. However, the department lacks procedures for identifying CVSO personnel who require such accreditation. In fact, at each of the three CVSOs we visited, we encountered at least one individual assisting and counseling veterans who had not earned accreditation from the VA. Although these individuals may possess adequate knowledge to represent and assist veterans effectively, their lack of accreditation exposes them to the potential criticism that they are unqualified.

Additionally, the department does not verify that those who have been accredited take required ongoing training. Further, the department has failed to demonstrate that it consistently updates or receives VA approval for its training manuals and

examinations. As a result of these conditions, the department increases the risk that CVSO staff who assist veterans may not have all the knowledge they need to perform their jobs.

We recommended that CVSOs ensure that those lacking VA accreditation seek it and that the department develop procedures to identify CVSO personnel who require accreditation and make sure they take proper steps to become accredited. In addition, we recommended that the department create procedures to verify that training materials, including manuals and examinations, receive necessary, regular updates that include information from department bulletins and other sources. In addition, the department should ensure that the VA approves all new instructional materials, including training manuals, updates to manuals, and each certifying examination. Finally, we recommended that the department review its training requirements and procedures to ensure that accredited CVSO personnel receive adequate ongoing training.

***CVSO Action: Pending.***

All three CVSOs we visited indicated that individuals seeking accreditation will be tested over the next year.

***Department Action: Partial corrective action taken.***

The department has developed an accreditation questionnaire that was sent to each CVSO to complete for each staff member who counsels and assists veterans. Completed questionnaires are returned to the department where a list of accredited and nonaccredited representatives is being compiled. All nonaccredited personnel are then contacted concerning training and testing. In addition, the VA approved the latest accreditation test in August 2000. Finally, the VA has reviewed and provided comments on the department's revised training manual.

# California Department of Veterans Affairs

## *Changing Demographics and Limited Funding Threaten the Long-Term Viability of the Cal-Vet Program While High Program Costs Drain Current Funding*

**Report Number 99139, May 2000**

***Audit Highlights . . .***

***Our review of the California Veterans Farm and Home Purchase Program reveals that:***

- ☑ ***By the end of the decade, eligibility for one type of loan and the limited funds available for the two remaining types of loans will severely diminish the program's value to most veterans.***
- ☑ ***Poor budget controls, improper administrative charges, and inefficient and inconsistent operations have raised program costs and further eroded funds otherwise available for loans.***
- ☑ ***Mismanagement of the implementation of a new integrated information system resulted in its failure to meet the needs of the program without an additional investment of time and program funds.***

At the request of the Joint Legislative Audit Committee (committee), we conducted a fiscal- and program-compliance audit of the California Veterans Farm and Home Purchase Program (Cal-Vet program). Specifically, given the aging population of eligible veterans, the committee was concerned about the program's future. The committee was also concerned with conclusions by the Legislative Analyst's Office that the Cal-Vet program was not competitive with other loan programs. Based on our review of the Cal-Vet program, we found the following:

***Finding #1:*** *A rapid decline in the population of eligible California veterans and limited funding threaten the long-term viability of the Cal-Vet program.*

The Cal-Vet program provides loans to thousands of qualified veterans at below-market interest rates. Because federal restrictions severely limit eligibility for the Cal-Vet program's major source of funding for loans, proceeds from tax-exempt Qualified Veterans Mortgage Bonds (QVMBs), demand for these loans will drop dramatically over the next 10 years. The Department of Veterans Affairs (department) has lobbied Congress over the years to modify the restrictions on QVMBs, but it has been unsuccessful. The program has two other sources of funding, Qualified Mortgage Bonds (QMBs) and unrestricted funds, but approval to issue QMBs is difficult to obtain and unrestricted funds are drying up.

The department's lending strategy is to increase the total value of its loan portfolio. For the eight-month period of July 1999

through February 2000, the Cal-Vet program loaned $361 million, $25 million above its goal for the entire fiscal year. During this period, the Cal-Vet program charged 5.95 percent for QMB loans and 6.65 percent for both QVMB and unrestricted loans. Because the program's interest rates are as much as 2 percent below market interest rates, it is attracting many loan applicants; however, the frequency at which the department is now making loans will substantially exhaust the available QMB and unrestricted funds by 2006, with only residual recycled principal and interest from unrestricted funds available for loans.

We recommended that the department should determine how to use its remaining funding to best serve veterans in purchasing farms and homes. If it decides to continue its present strategy of using available funds to provide loans at the lowest possible rates, it should plan for the future curtailment of new loan activity. If the department determines that veterans are best served with loans having interest rates closer to market rates and expands its pool of funds with alternate financing methods, it should maintain current demographic data to identify veterans eligible for, and likely to participate in, the Cal-Vet program and adapt the program to provide home loans to the greatest number of qualifying veterans for as long as possible.

In the absence of sufficient tax-exempt financing to ensure the continued viability of the Cal-Vet program, we recommended that the Legislature consider using state funds to establish a new program to aid California veterans in purchasing farms and homes.

***Department Action: Partial corrective action taken.***

The department reports it is taking actions to adapt the Cal-Vet program to provide a home loan benefit to the greatest number of veterans for as long as possible. Using veteran population demographic data collected from the federal Department of Veterans Affairs and the U.S. Census Bureau, together with information from its data system, the department is developing a projection model to estimate changes in the veterans population for the next 10 years. In addition, the department has gained approval from the California Veterans Board and the Veterans Finance Committee of 1943 for a rate setting methodology that will allow the Cal-Vet program to more quickly adjust its interest rates in reaction to fluctuations in market interest rates. Further, the department continues its efforts, along with other states with similar loan programs, to convince Congress to extend the

eligibility requirements for QVMBs to veterans of more recent combat actions.

The department reports it will also vigorously pursue additional sources of program funding to benefit as many veterans as possible, and has identified some new sources of funding. However, the department, along with its quantitative consultant, has determined that there is no immediate need to implement new sources of funding at the present time.

***Legislative Action: Unknown.***

We are unaware of any legislative action to implement our recommendation.

***Finding #2:*** *Improperly charged administrative expenses and inefficient loan processing deplete the already limited funds available for loans to veterans.*

Additional concerns in the Cal-Vet program are poor budget controls and a lack of consistency and efficiency in program operations. Most significantly, department records indicate as much as $1.3 million of Cal-Vet program funds in a single year were paid for the costs of administrative staff who did not provide service to the program or for staff whose service to the program had not been documented. The department has implemented improvements in the efficiency of its Cal-Vet program operations, such as centralizing loan contract servicing, adopting new loan underwriting standards, instituting mortgage insurance, and improving its management of delinquent and foreclosed loan contracts. However, it has not fully implemented other reengineering changes in the Cal-Vet program that it has identified as necessary to become more efficient in its operations. Because the department has not completed its reengineering efforts, which include the centralization of its loan-processing operations and implementation of workload standards for its field and headquarters offices, the average cost to process loan applications has increased, costs vary significantly by field office, and loan applications take longer to process than is common in the industry.

We recommended that the department ensure its direct and indirect administrative costs are properly and equitably charged to all programs served by administrative staff, that it identify the amount of Cal-Vet funds it has used for activities outside the program, and that it seek reimbursement from other appropriate state funds. In addition, to further increase the efficiency and consistency in the Cal-Vet program's operations, and thereby

reduce costs and improve loan-processing times, we recommended that the department complete its reengineering efforts.

***Department Action: Partial corrective action taken.***

The department reports it has completed the design for an automated data-collection system to be used to gather each employees direct time working on various agency activities. The new system meets the requirements of the federal Office of Management and Budget Circular A-87 for cost allocation, and the department intends to implement the system by March 2001. Using the new system, the department expects to be able to determine annual cost adjustments to ensure that direct and indirect administrative costs are charged to those programs served by administrative staff. In addition, the department reports that its consultant recently completed a study estimating the fund transfers needed to adjust administrative charges for the department's programs. Using the consultant's data and its own data, the department anticipates making the necessary cost adjustments for fiscal year 2000-01 by June 30, 2001. Once its indirect cost allocation plan is tested and in use, the department will be able to pursue discussions with appropriate legislative and finance officials for possible alternative funding sources, including the State's General Fund. However, the department does not believe it has reliable data from the past and cannot confidently identify the amount of Cal-Vet funds it has used outside the program in years prior to fiscal year 2000-01.

The department reports it is taking steps to further improve the efficiency of its Cal-Vet program operations. For example, the department has developed and approved plans to centralize the processing of loans. It expects to complete centralization by October 2001. Further, it is gathering task data from its own operations and industry standards to be used in developing workload standards for staffing its field and headquarters offices. The department's goal is to have the workload standards developed and implemented by July 2001. Other future efforts to improve efficiency reported by the department include steps to develop a field office staffing model; update its loan underwriting manual and employee training plan; and train, certify, and monitor mortgage brokers who process Cal-Vet loan applications.

***Finding #3:*** *Inadequate management of the Cal-Vet program's new integrated information system increases costs and creates doubt about the reliability of program data.*

Another obstacle the department faces in controlling excessive program costs is implementing the Cal-Vet program's integrated information system. This system is intended to provide reliable program and financial data needed to operate the Cal-Vet program. Even though the department has devoted significant time and money to get the system running, the system still does not meet its needs. The department cannot be certain that the system will properly maintain borrowers' file records and accurately accumulate program and financial data because it has not completed necessary testing. The implementation project has also been marred by problematic management. When key staff left in the middle of the project, management abandoned its original implementation plan and did not ensure staff adhered to prudent project implementation practices.

Furthermore, the department has not adequately safeguarded the data stored in its system by following prudent procedures for approving, testing, and documenting changes to the system software, or provided adequate security over authorized system access to prevent the loss or misuse of information in the system.

We recommended that the department convene a centralized implementation team to ensure the system functions reliably. As part of this effort, we recommended that the department contract with an outside consultant with experience in project management to oversee the team. The team should gather all data from prior implementation efforts, assess which tasks remain incomplete, and identify steps needed to properly test the modules and the system. We further recommended that the department adequately safeguard program data and assets by implementing a security policy to limit system access to employees who are properly authorized and ensuring access is not incompatible with their other duties.

***Department Action: Partial corrective action taken.***

The department reports it hired consultants to perform extensive tests of the accuracy of system data and outputs and to review the information technology and business processes employed. The department reports its consultants found that the system accurately calculates critical information and that the data within the system is reliable and can be used with confidence in the department's day-to-day farm and home loan program. In performing their testing, the consultants also identified some

processes and procedures that should be strengthened to assure the department does not repeat some of its earlier implementation errors. These include improving the system's user manual and increasing training, and changing control procedures, security policies, and central documentation files. The department anticipates completing these corrective actions in late February or early March 2001.

# California's Wildlife Habitat and Ecosystem

## *The State Needs to Improve Its Land Acquisition Planning and Oversight*

***Audit Highlights . . .***

***Although various entities acquire land for ecosystem restoration and wildlife habitat preservation, the State does not have a comprehensive land use policy that provides a common vision of goals and objectives that these entities can follow.***

***The two state departments that are acquiring the most land for these purposes—the Department of Fish and Game and the Department of Parks and Recreation—have not performed key tasks for managing these properties. Specifically, they:***

- ☑ ***Have not prepared management plans for at least one-third of their properties.***
- ☑ ***Use outdated management plans for many properties.***
- ☑ ***Inadequately manage some land because they have not achieved certain management objectives or undertaken specific projects.***
- ☑ ***Insufficiently document their management efforts.***

### Report Number 2000-101, June 2000

At the request of the Joint Legislative Audit Committee, we reviewed the state entities that acquire land for ecosystem restoration and wildlife habitat preservation, both within and independent of the CALFED Bay-Delta Program (Calfed). However, Calfed does not acquire land for these purposes. State entities that do acquire land for environmental purposes include the Department of Fish and Game (Fish and Game) and the Department of Parks and Recreation (DPR). Each of the many entities that acquire land, including state and federal agencies and private and nonprofit organizations, has a process for selecting and acquiring land to accomplish its individual mission and objectives, but a uniform statewide process for acquiring land does not exist. Our review revealed the following:

***Finding #1:*** *The State does not have an overall plan for coordinating acquisition of land for wildlife habitat preservation and ecosystem restoration.*

As early as 1970, the Legislature directed the Governor's Office of Planning and Research (OPR) to oversee land use planning and to prepare a statewide environmental goals and policies report. However, the OPR has not developed a comprehensive land use policy, and it has not issued a new or updated goals and policies report since 1978, despite state law requiring that such a report be produced every four years. Without a statewide land use policy, the state entities have no clear central vision to ensure that their decisions for acquiring land are compatible with the State's goals and objectives for preserving and restoring the environment.

To ensure that it fulfills its responsibility for developing a statewide land use policy, we recommended that the OPR:

- Develop and implement a comprehensive approach for addressing statewide land use planning. Inherent in this mission should be the development of an overall plan for the State to acquire land for ecosystem restoration and wildlife habitat preservation.

- Identify resources it can use from projects and studies already performed by other entities and consider this data when developing its approach.

- Project staffing and resource requirements it needs to fulfill its mandates, and seek additional staff and resources as necessary.

- Update the statewide environmental goals and policies report and continue to update this report every four years as state law dictates.

***OPR Action: Partial corrective action taken.***

The OPR plans to undertake a comprehensive interagency approach to future state land use issues, as part of a new environmental goals and policies report. Although this report will include much broader issues than wildlife habitat and restoration alone, plans for acquiring and managing state land for ecosystem restoration and wildlife habitat preservation will be addressed.

The OPR has begun its investigation of related projects and studies by other entities. The OPR staff have met with several government entities and other organizations to initiate coordinated approaches to land use policy. The OPR will continue to seek opportunities to coordinate with additional entities on this issue. In addition, the OPR developed the California Planning Information Network (CalPIN), a web-based tool to gather information from local government planning agencies regarding local land use issues and trends.

In August and September 2000, the OPR hired two additional land use planners, bringing the total number of planners to four. OPR also hired a director for the rural policy task force program in January 2001. In addition, the OPR reported that it has intensively recruited policy analysts for the policy unit but has been unsuccessful in hiring any to date.

The OPR reports that it will begin initial planning for the new environmental goals and policy report and will allocate as many resources as possible to this effort. The OPR stated that the environmental goals and policy report should be an ongoing effort, with periodic updating of background information and studies. The resources OPR is able to allocate to the program initially should remain available on an ongoing basis.

***Finding #2:*** *The State does not have a comprehensive inventory system to facilitate statewide land use planning.*

Many state entities maintain inventories of land they own. But the State does not have a comprehensive system to facilitate statewide land use planning by readily identifying land acquired for specific purposes, including ecosystem restoration and wildlife habitat preservation.

We recommended that the OPR work with other state entities to ensure that a composite inventory of land the State owns exists and that the inventory includes information on the purpose for which each property was acquired.

***OPR Action: Partial corrective action taken.***

The OPR reported that it recently renewed its contacts with the Department of General Services (DGS) and is exploring opportunities to assist in improving DGS's Statewide Property Inventory database to make it a more useful tool for the identification and management of state properties. The OPR will continue discussions with DGS, in conjunction with the Resources Agency, about possible ways to improve the usefulness of their existing property inventories for habitat management purposes. In addition, the OPR commissioned a preliminary study, including a survey, of all state agencies, boards, and commissions to learn more about the state land inventories and databases maintained by each of these entities. The OPR expects to have the results of this study by May 2001.

***Finding #3:*** *Neither Fish and Game nor the DPR prepare a management plan for each property they acquire and they do not regularly update existing management plans.*

Fish and Game and the DPR have not completed management plans for 318 (50 percent) of their 632 properties and parks. Management plans, the essential first step of proper land management, identify the natural resources present and the goals or strategies for maintaining each property for the purpose it was intended. In addition, although Fish and Game requires a review of its land management plans at least every 5 years, 128 (86 percent) of its 149 completed plans were more than five years old. Similarly, almost half of the DPR's 165 existing general plans had not been updated for more than 15 years and 51 were more than 20 years old. By not updating these plans, the departments cannot ensure that they are complying with relevant environmental laws or considering other relevant factors relating to the proper use of the land.

We recommended that Fish and Game and DPR prepare final plans for all of their properties and parks that describe goals and strategies for managing the land. We also recommended that Fish and Game and DPR update their older land management or general plans.

***Department Action: Partial corrective action taken.***

According to Fish and Game, updating and completing management plans for all existing properties is an ongoing high-priority task for the department's Lands and Facilities Branch. In August 2000, Fish and Game started developing a database to catalog management activities on its properties and produce standardized data for management plans. In addition, another database used to extract and enter baseline biological data into the plans, is almost complete. Fish and Game expects that these two databases will expedite plan development. Fish and Game reported that 28 management plans are currently being developed with anticipated completion dates for draft plans in 2001. In addition, Fish and Game's regional staff are scheduled to revise 55 existing plans during 2001 that are more than 10 years old. Plans for the remaining areas will be developed using existing staff based on work priorities throughout 2001.

The DPR has begun the management plan development and update process. The current budget provided an increase in funding and 11 positions in the department's planning capability to prepare management plans. In addition, a full planning team was added to the existing two teams for fiscal year 2000-01. The DPR is also pursuing augmenting its unit general planning

efforts through outside contracts and partnerships with other agencies.

***Finding #4:*** *Fish and Game and DPR did not adequately manage some land.*

For three of four properties managed by Fish and Game and three of the six DPR restoration projects we reviewed, the departments did not meet certain objectives. Consistent and thorough management of acquired land is essential for ongoing benefits. Moreover, delays in restoring or maintaining land may also result in additional problems. In the past, insufficient funding has hampered the departments' management efforts. However, Fish and Game and the DPR have recently received additional funds for certain land management activities.

We recommended that Fish and Game and the DPR perform restoration, rehabilitation, and improvement projects, as well as periodic inspections of all land, in accordance with their land management or general plans. In addition, Fish and Game and the DPR should continue to request additional funding to ensure that land acquired for ecosystem restoration and wildlife habitat preservation is kept in its desired condition.

We also recommended that the Legislature consider establishing a mechanism in future bond acts involving land acquisitions that sets aside a portion of the proceeds for major maintenance projects. Moreover, the Legislature should consider establishing a mechanism to ensure that ongoing management of land acquired with the bond money is funded; for example it could create a designated revenue stream or require the departments to establish a plan for demonstrating how those ongoing costs will be met before acquiring the land.

***Department Action: Partial corrective action taken.***

Fish and Game did not specifically address our recommendation to perform restoration, rehabilitation, and improvement projects, as well as periodic inspections of all land in its six-month response. However, Fish and Game did report that its fiscal year budgets proposes an additional $1,148,000 for land stewardship and maintenance of department land.

The DPR has hired additional staff to help manage park improvement projects that were funded for fiscal year 2000-01. In addition, the DPR has developed procedures for conducting

periodic, routine inspections of natural resource conditions. The DPR's fiscal year 2001-02 budget for ongoing natural resource maintenance proposes an increase of $11,000,000, as well as proposed increases for cultural and natural resources stewardship activities of $1,246,000 and $1,327,000, respectively.

***Legislative Action: Unknown.***

We are not aware of any legislative action implementing this recommendation.

***Finding #5:*** *Fish and Game and the DPR maintain insufficient documentation of their management efforts.*

Although Fish and Game developed a standard monitoring report for inspecting progress, the report does not capture information on whether staff are meeting the goals and objectives of land management plans. During our audit, Fish and Game told us that it recognizes that its land managers use varying methods and it plans to develop a statewide reporting format to foster greater consistency. Until it completes this tool and incorporates a component that addresses whether its management activities meet the goals and objectives of land management plans, it cannot ensure that sufficient documentation exists to verify its land management activities. Similarly, the DPR does not have uniform standards for monitoring its parks. The DPR was aware of this problem and had prepared a draft natural resource inventory monitoring and assessment guideline. Without standard procedures, park district staff cannot track and maintain information in a uniform manner, and the DPR cannot properly oversee its land management efforts.

We recommended that Fish and Game should develop and implement procedures for documenting its land management activities that address goals and objectives of its land management plans. We also recommended that the DPR should complete and implement its draft guidelines for standard, uniform monitoring procedures.

***Department Action: Partial corrective action taken.***

In August 2000, Fish and Game began developing a database to catalog management activities on its lands and produce standardized data for management plans.

While the DPR is continuing to develop a system-wide inventory and monitoring program, implementation of a working guideline containing procedures for actually conducting standard inventory

and monitoring projects has been delayed until March 1, 2001. Funding to expand the monitoring program beyond the pilot units and to provide annual support is included in the fiscal year 2001-02 Governor's Budget as part of the DPR's natural resource park maintenance program augmentation.

# Water Replenishment District of Southern California

## *Weak Policies and Poor Planning Have Led to Excessive Water Rates and Questionable Expenses*

### Report Number 99116, December 1999

***Audit Highlights . . .***

***The Water Replenishment District of Southern California has:***

- ☑ ***Consistently overestimated the amount it needs to collect from ratepayers for replenishment and clean water programs.***
- ☑ ***Not taken into consideration unused cash balances to offset replenishment assessments.***
- ☑ ***Maintained excessive cash reserves and cannot explain how much is attributable to capital improvement projects.***
- ☑ ***A flawed process for determining the economic feasibility of its capital projects, which could result in one major project not generating predicted cost savings.***

***Furthermore, it failed to maintain controls over administrative functions and spending.***

The Water Replenishment District of Southern California (the district) is a special water district meant to counteract the effects of overpumping of groundwater in Los Angeles County. A five-member board of directors governs the district; the board acts by adopting resolutions. No state or other agency oversees this district. We performed an audit to determine whether the district had abused its statutory authority in the manner by which it sets assessments and uses public funds. Our report concludes that the district consistently collected too much from ratepayers for replenishment and clean water programs. In addition, the district has poor administrative and spending controls. Specifically, we found the following conditions:

***Finding #1:*** *Assessment rates are not calculated appropriately, and millions of dollars collected for water purchases and clean water programs remain unspent.*

The district lacks a consistent policy for using cash left over from prior-year collections to offset the next year's cost of operations. Between fiscal years 1990-91 and 1997-98, for water purchases alone, the district annually collected excess net revenues ranging from $1.8 million to $10.9 million. In addition, over the past seven years, the district collected $5 to $15 per acre-foot more than it spent for clean water programs. However, the district did not incorporate these excess net revenues into its calculation of the subsequent years' rates. As a result, the district assessed its ratepayers much higher fees than it needed to pay for its costs of operations.

We recommended that the district amend the way it determines its assessment rate to require that prior-year estimates be compared with the actual cost of the replenishment water it purchased and clean water programs it operates. If there is a surplus, then it should be used as carryover to reduce the assessment rate in the subsequent year.

***District Action: Corrective action taken.***

The district reported that on May 5, 2000, it adopted an assessment rate of $112, a $27 per acre-foot reduction, by applying its anticipated fiscal year 1999-2000 "surplus" as a carryover to reduce the fiscal year 2000-01 assessment rate.

***Finding #2:*** *The district's targeted reserve is unsubstantiated and excessive.*

The district keeps $5 million in its operating reserve fund and $15 million in its rate-stabilization reserve fund. Based on our assessment, the operating reserve is excessive as $2 million is sufficient to cover two months of the district's operating costs. Further, the district could not provide us with the calculation it used for setting its rate-stabilization reserve of $15 million. A reserve of $8 million is more appropriate based on the district's history of water purchases and estimates of future needs.

We recommended that the district's board reassess its policy regarding a prudent reserve and reduce its target reserve to $10 million to more closely reflect its budgeted operations.

***District Action: Corrective action taken.***

The district stated that its fiscal year 2000-01 budget contains a target reserve of $10 million.

***Finding #3:*** *Funding for capital projects is not documented.*

We could not determine exactly how much the district has collected for capital projects because of vague and incomplete documentation. Proposed budgets and board resolutions were not linked to clearly explain how the district determined its final rate. Further, the board's resolutions do not provide a breakdown of the specific capital improvement projects and their costs for which the district is collecting money. As a result, this information is not available to the public and the board may not be using funds collected for capital projects as intended.

We recommended that the district determine the amount each capital project contributes to the annual rate. In addition, in its resolution adopting the rate, the board should specifically reference these amounts.

***District Action: Partial corrective action taken.***

The district reported that no portion of its fiscal year 2000-01 assessment is being used to fund capital projects, so the recommended language does not appear in the rate resolution. The actual costs for each capital project, however, are detailed in the fiscal year 2000-01 budget.

***Finding #4:*** *The cost-benefit analysis of the Alamitos Barrier Recycled Water Project is questionable.*

The district erred in its determination of the economic feasibility of the Alamitos Barrier Recycled Water Project (the Alamitos project) because it did not use the long-range forecast of water rates developed by the Metropolitan Water District of Southern California (Metropolitan). The district projected savings of nearly $1.2 million by 2020 using its own methodology. However, when Metropolitan's forecast rates are substituted for the district's assumptions, the Alamitos project could lose at least $4 million by 2020.

We recommended that the district implement and refine a long-term plan and standardize its approach for preparing cost-benefit analyses and for budgeting capital projects. We also recommended that the district reevaluate the feasibility of the Alamitos project specifically using a cost-benefit analysis that includes a more reasonable assumption of future water costs.

***District Action: Corrective action taken.***

The district formally adopted a three-year capital improvement plan in April 1999 as part of its fiscal year 1999-2000 budget and multi-year forecast. The district reported that it used the plan to provide a framework and guidance during its fiscal year 2000-01 budget process. In addition, the district agrees to continue performing feasibility studies for its projects and programs. However, the district reevaluated the Alamitos project and stands by its assessment of the project's feasibility. It stated that the construction of the Alamitos project is now supported even by the cities within the Central Basin, particularly considering the

board's February 2000 decision to not use debt proceeds to finance this project.

***Finding #5:*** *The district has not resolved a critical element in its West Coast Basin Desalination Program.*

The district has started construction on its West Coast Basin Desalination Project (the desalter project) on the assumption that the water pumped from the basin would not be considered groundwater because of its high salinity. However, other organizations with similar projects have set a precedent of petitioning the court to exempt such projects from the judgment awarding groundwater rights. The district is preparing documents to petition the court. Nonetheless, the district has not established a contingency plan if its petition is unsuccessful and may lose some project funding if its assumptions are wrong.

We recommended that the district move expeditiously to petition the court to clarify the water rights issue since the subsidy from Metropolitan is dependent on this action.

***District Action: Partial corrective action taken.***

The district reported that it filed such a petition in the Los Angeles Superior Court. The court, however, denied the district's motion—without prejudice—because, among other reasons, the court directed the parties to try to resolve the matter by mutual agreement. Since that time, the district has formed a "Desalter Work Group," which includes all the key water purveyors. The work group has met several times and the district is hopeful that a resolution can be reached in the very near future.

***Finding #6:*** *The district's procurement policies are deficient and its administrative policies are not always followed.*

The district's procurement policies offer only minimal guidance and do not provide district staff with procedures to follow in several important areas of procurement. Specifically, the district

has no policy prohibiting writing proposals that limit the number of bidders or that describes how it will resolve protests of contract awards or disputes. Further, the district has paid consultants for services for which no contracts existed and changed contract terms without formally amending the documents. Finally, the district pays expenses without first receiving documentation that the expense is appropriate. Because of its lax procurement and administrative policies, the district may not be able to protect itself if its procurement procedures are questioned and may not be receiving the services it pays for.

We recommended that the district amend and expand its administrative code to incorporate additional guidelines related to contracting policies and procedures. The district should also reaffirm its commitment to following the policies in its administrative code and ensure that its staff abides by its policies. Finally, the district should require support for expenses before they are paid and direct its independent auditor to annually review the propriety of the district's operating expenses.

***District Action: Partial corrective action taken.***

On January 21, 2000, the district's board adopted, by resolution, the numerous portions of the State's Public Contracts Code to govern its procurements. In addition, the district has been reviewing further amendments in its administrative code in order to comply with the procurement requirements of AB 1834. The district expects to adopt such amendments in January 2001. In addition, the district has implemented a policy to ensure that contracts are in place before payment is made. Finally, the district reports that its next audit will reflect the recommendation that the independent auditor review the propriety of the district's operating expenses.

***Finding #7:*** *The district has not placed appropriate limits on some expenses.*

The district's administrative code sets limits on the amount it will reimburse for meals, however, the administrative code only limits lodging expenses to "moderate." Consequently, we found that the district paid lodging rates ranging from $99 to $235 per night. Further, the administrative code is silent on the reimbursement amount for telephone calls and paying for board members to

attend conferences. We found that a board member attended a tropical water conference in Puerto Rico—a conference that appears to have little relevance to the district's purpose. Because the district's administrative code is vague or provides no guidance on paying or incurring certain expenses, the district runs the risk of paying for expenses incurred inappropriately or expenses that are higher than necessary.

We recommended that the district's board amend and expand its administrative code to incorporate additional guidelines related to the expenses it will reimburse. In addition, all travel expenses should be supported and matched to approved travel documents. Finally, the district's board should limit reimbursements to travel within a specific geographic area and approve all travel outside of the specified area.

***District Action: Corrective action taken.***

The district stated that it has revised administrative code policies to include the recommendations made in the audit report. In addition, regarding our recommendation that the district match travel expenses with approved travel documents, the district indicated it had implemented this recommendation in accordance with its administrative code. Finally, the district implemented limitations on travel to specific geographic regions through a board resolution effective on February 14, 2000.

***Finding #8:*** *The district should assess its use of consultants.*

The district is currently obtaining services from 10 consulting firms that provide lobbying and public relations services. In one month alone, the district paid 6 of the firms $75,000 for services. We question the district's need for such a large number of lobbying and public advocacy firms.

We recommended that the district critically assess the need for 10 legislative and public advocacy consulting firms.

***District Action: Corrective action taken.***

The district stated that it reassesses its need for advocacy firms every two months and makes adjustments based on the nature and extent of legislative activity. The district currently retains two lobbying firms for legislative services in Sacramento.

***Finding #9:*** *The district must think regionally.*

Although the district would like to undertake many large and apparently worthy projects, it must continue to work with the other regional agencies. Some of these agencies have prepared forecasts of the region's water needs, and many of the district's projects will have an impact on the work these agencies perform. Rather than setting its priorities independently, the district should work cooperatively with these agencies to identify regional and basin-wide priorities and to determine which agency should take the lead role in individual activities.

We recommended that the district continue to work with other water agencies in the region to identify basin priorities and to delegate responsibilities for each activity to a lead agency.

***District Action: Corrective action taken.***

The district agrees and stated it will continue to work with other water agencies to identify basin priorities and delegate responsibilities for each activity to a lead agency, where circumstances warrant.

# California Integrated Waste Management Board

## *Limited Authority and Weak Oversight Diminish Its Ability to Protect Public Health and the Environment*

***Audit Highlights . . .***

***The California Integrated Waste Management Board (board) cannot fully achieve its mission to protect public health and safety and the environment because it:***

- ☑ ***Does not have the authority to object to a permit if it believes that additional landfill capacity is unnecessary or that the local governments are not addressing concerns about environmental justice.***
- ☑ ***Has approved expansions for landfills even when the landfill owners or operators were continually violating state minimum standards.***
- ☑ ***Allows operators who are violating the terms and conditions of their existing permits to continue to do so while seeking approval for revised permits.***
- ☑ ***Allows operators to delay closure for extended periods and therefore bypass federal and state regulations.***

### Report Number 2000-109, December 2000

The California Integrated Waste Management Board (board) lacks appropriate authority to fully protect the environment and public safety through its oversight of the State's 176 active solid waste landfills (landfills). Also, the board has weakened its ability to properly regulate landfills by adopting policies that contradict state law, not effectively monitoring landfill activity, and allowing extensive delays in landfill closures. These findings concern all Californians because weakly regulated landfill operations carry the potential to contaminate groundwater, release harmful gases into the air, and spread disease through animals and insects that are naturally attracted to landfills. Specifically, we found:

***Finding #1:*** *The board does not have the authority to reject permit proposals when additional capacity is not needed.*

The board has no express authority to object to an application for a landfill expansion if it determines that additional landfill capacity is unnecessary. However, before it can consider capacity in its permitting process, the board would need to research and resolve certain issues. For example, because the U.S. Supreme Court has found that solid waste is a commodity, the board would need to consider capacity in a manner that would not inadvertently discriminate against the free flow of that commodity on interstate commerce. Furthermore, even if it had the authority, the board does not possess sufficient data to facilitate its decision-making process because its database is incomplete and often contains erroneous and inconsistent data. Additionally, there is no standard method of reporting data, because some landfills report available capacity in tons, while others use cubic yards.

We recommended that the board explore its options for taking into account the necessity for increased landfill capacity as a factor in granting permits. The board also needs to update its database and require local governments to report accurate landfill capacity information on an annual basis in a consistent manner.

➲ ***Board Action: Pending.***

The board did not specifically address these recommendations.

***Finding #2:*** *The board has no authority to reject permit proposals that have environmental justice concerns.*

Environmental justice is the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies. Although federal law and recent state legislation attempt to prohibit discrimination in this area, the board does not have the authority to consider or address environmental justice concerns when approving permits, nor does it maintain sufficient data to be able to do so. However, if the board fails to incorporate environmental justice concerns in its permitting process, it cannot ensure that it complies with federal and state laws prohibiting discrimination.

We recommended that the board develop a proposal for incorporating environmental justice into its permitting process and submit the proposal to the California Environmental Protection Agency for its approval. If the proposal is approved, the board should seek legislative authority to object to permit proposals if environmental justice concerns exist. The board should also track demographic information on the communities in which solid waste facilities are located, and make this information available to the public.

***Board Action: Pending.***

The board indicates that it is working toward completing a mission statement and strategic plan that will incorporate environmental justice considerations into all programs and activities. The board also states that it has directed staff to prepare maps correlating the locations of solid waste facilities with the locations of low-income and minority populations.

***Finding #3:*** *The board's permit policy does not ensure that landfill operators comply with state minimum standards.*

State law requires the board to object to provisions of a permit revision that are not consistent with state minimum standards for solid waste handling, transferring, composting, and disposal, and to return any such proposal to the Local Enforcement Agency (LEA). However, in 1994, the board adopted a policy that it would concur with a permit revision even though violations of state minimum standards might exist. The policy allows landfill owners or operators with long-term violations—those that take longer than 90 days to correct—to continue to operate so long as they demonstrate that the LEA has issued a Notice and Order, the violations do not pose an imminent threat to public health and safety and to the environment, and the operators are making a good faith effort to correct the violations. Despite the board stating that the policy would only apply to long-term violations with no threat to the environment or public health and safety, it has concurred with expansion for four landfills with long-term explosive gas violations that have the potential to harm public health and safety and the environment. Moreover, the board does not have a thorough understanding of whether its 1994 policy significantly affects the environment. In June 2000, it entered into a contract with a consultant to perform a study of the environmental impacts of landfills on air, water, and gas.

We recommended that the board discontinue the use of its 1994 policy. If the board believes this policy is necessary, it should request the Legislature to grant it the authority to issue permits to long-term violators under defined circumstances. Furthermore, the board needs to complete its study of the environmental impacts of landfills in the State.

***Board Action: Pending.***

In November 2000, the board directed staff to develop recommendations relative to several issues within its 1994 policy. It plans to further address the use of this policy in February 2001.

***Finding #4:*** *The board's enforcement policy allows operators to circumvent the law.*

In 1990, the board adopted a permit enforcement policy to resolve a statewide problem with out-of-date permits. The policy required LEAs to issue Notice and Orders to landfill owners or operators to bring landfills into compliance with the terms and conditions of their existing permits no later than August 1, 1992. Terms and conditions generally specify daily tonnage limits, height limits, and the types of solid waste a landfill can receive. However, since August 1, 1992, the board has continued this policy, and has allowed owners and operators of 56 landfills to violate their terms and conditions while seeking approval for revised permits from the LEAs and the board to address the violations.

By following this policy, the board will continue to allow operators to circumvent the law. For example, as part of the permit application process, a landfill owner or operator must provide evidence that it has complied with the California Environmental Quality Act, which requires the preparation of an environmental analysis and proper disclosure to decision makers and the public. However, because the 1990 policy does not require landfill owners or operators to file permit applications, they also do not prepare environmental analyses or seek comments from the public. Moreover, the board does not have a thorough understanding of whether its 1990 policy significantly affects the environment. In June 2000, it signed a two-year contract with a consultant to perform a study of the environmental impacts of landfills on air, water, and gas.

We recommended that the board discontinue the use of its 1990 enforcement policy. As previously stated in Finding #3, the board also needs to complete its study of the environmental impacts of landfills in the State.

***Board Action: Pending.***

The board reports that it has initiated a process to identify and implement appropriate change. The board also indicates that it will consider staff recommendations relative to this policy in February 2001.

***Finding #5:*** *The board's oversight of the LEAs is weak.*

The board's ineffective monitoring of landfill activity creates further environmental and health risks. The board did not monitor each landfill every 18 months, as state law requires, to ensure that the LEAs were adequately enforcing state minimum standards. Since 1995, the board was between 1 month and 4 years late in performing inspections at 132 of 176 active landfills. However, in the last year, it has made significant strides toward reducing the number of overdue inspections. The board also does not ensure that LEAs enforce landfill violations in a timely and effective manner. According to the board's database, as of August 31, 2000, LEAs had issued 64 active Notice and Orders to 47 landfill operators. Our analysis shows that for 43 of these orders, the operators have not met their deadlines and are overdue from 114 to 2,710 days. The board stated that its database may not be up-to-date because state law does not require LEAs to report on the final compliance deadlines or expiration dates of orders. Therefore, the board is in the process of revising its regulations to require them to do so.

Board staff told us that only one monetary penalty has been assessed in the past 10 years. By not assessing penalties against operators that fail to comply with orders, the board and LEAs allow them to continue to violate standards without consequences. Although the board believes that the statutory process for imposing civil penalties is cumbersome and that it often takes several years to resolve, it has not sought revisions to the statutes and modifications to regulations to address this issue.

Without appropriate board oversight, potential conflicts of interest between LEAs and landfill owners or operators cannot be mitigated and long-term violations can continue without correction. Conflicts of interest are possible because LEAs, which have enforcement responsibilities, are often part of the same local governments that receive revenues from owning and operating landfills.

We recommended that the board take the following actions:

- Continue to improve its performance in conducting landfill inspections every 18 months, as state law requires.

- Continue its efforts to modify regulations relating to tracking compliance with Notice and Orders.

- Ensure that LEAs require operators to comply with Notice and Orders by the date specified in the order, and issue penalties to those that do not comply.

- Seek legislation to streamline the current process for imposing civil penalties.

➲ ***Board Action: Pending.***

The board reports that since 1999, it has modified the inspection program so that every landfill is inspected within 18 months of the last inspection, with allowances for seasonal variation. The board has also adopted enforcement regulations that are pending approval by the Office of Administrative Law. These regulations will require LEAs to report the status of their Notice and Orders to the board within 30 days of the compliance date included in the order. However, the board did not address our recommendation related to streamlining the current process for imposing penalties.

***Finding #6:*** *Current laws and regulations allow landfills to remain open for long periods.*

The board is allowing landfill operators to delay closure for extended periods. As a result, they are bypassing federal and state closure regulations established to address the fact that landfills not properly closed could threaten public health and the environment. Although state regulations require operators to submit final closure plans two years before completely ceasing operations, in 36 out of 289 instances, landfills had ceased operations before the board received the plans. Additionally, landfills are accepting only small amounts of waste, a process called "trickling waste," to delay final closure and post-closure maintenance. Our telephone survey of landfill operators for 38 landfills in the State revealed that operators for 9 of the landfills want to close down but are unable to do so because they lack the financial resources they need to pay closure costs.

Before regulatory changes were made in 1997, the board was responsible for coordinating the review and approval of closure plans. However, currently, neither the board nor any other entity

serves as the coordinating agency, and the board has limited authority in directly ensuring that closure plans are submitted and implemented as required. Consequently, the board believes that the lack of coordination, consistency, and cooperation with other agencies on certain issues hinders effective closure activities. However, the board has taken no action either to change regulations to prevent LEAs from extending deadlines for closure plan submission indefinitely or to assume the role of coordinating agency.

We recommended that the board modify its regulations to prevent LEAs from indefinitely extending deadlines for submitting closure plans and to reestablish its role as the coordinating agency for the review and approval of closure plans. It should also seek legislation that will allow it to offer loans or grants to landfill operators in need of financial assistance to close landfills.

➲ ***Board Action: Pending.***

The board did not address our first two recommendations. However, the board did state that it is continuing to explore potential loan or grant programs to assist in the closure of landfills, primarily those owned and operated by rural jurisdictions that have the highest financial needs.

***Finding #7:*** *Local governments' diversion rates are questionable.*

State law requires local governments to divert 25 percent of waste away from landfills by 1995 and 50 percent by 2000. However, the Legislature and the public may not be able to rely on the diversion rates local governments report to the board because those reported figures might not be accurate. The formula local governments use to calculate their diversion rates requires a reliable estimate of the amount of solid waste generated in a base year. However, the amounts of solid waste generated have been inaccurate in the past because of erroneous estimates in the base-year numbers as well as a waste stream that constantly changes as population and economics vary. If local governments are reporting inaccurate diversion rates, the board cannot tell if they are complying with the law and cannot project California's future needs for landfills.

We recommended that the board modify its regulations to require local governments to revise their base-year figures at least every five years. Then, it should identify local governments that need to perform new base-year solid waste-generation studies and require them to do so.

➲ ***Board Action: Pending.***

The board states that it cannot comply with the recommendation to modify its regulations requiring local governments to periodically revise their base-year figures without prior legislative authorization. However, we believe that the board has sufficient authority to require this change. Nevertheless, if the board believes it needs to seek legislative authorization, then it should do so.

***Finding #8:*** *Revisions to the board's diversion study guidelines can create inconsistencies in local governments' diversion rates.*

Although the board did create a guide that contains various tools, strategies, and indicators for local governments to use in their efforts to meet the State's diversion goals, some suggestions outlined in the guide have received criticism. The act provides a broad definition of diversion to allow local governments flexibility to develop their own data for managing their programs and meeting diversion goals. In providing guidance to local governments, the board identified the types of materials they may count as diversion and have outlined some simple methods to quantify the amounts. When some board members and others expressed concern about the appropriateness of some of these methods, the board made revisions to its guide, but the result of these revisions can lead to inconsistent reporting of diversion data by local governments.

We recommended that the board should decide on the appropriate types of materials local governments can count as diversion and the methods to quantify those amounts. It should also seek concurrence from the Legislature as to whether its approach meets the original intent of the law.

➲ ***Board Action: Pending.***

The board did not specifically address this recommendation.

# Department of Toxic Substances Control

## *The Generator Fee Structure Is Unfair, Recycling Efforts Require Improvement, and State and Local Agencies Need to Fully Implement the Unified Program*

### Report Number 98027, June 1999

***Audit Highlights . . .***

***Our review of the Department of Toxic Substances Control (department) revealed that:***

- ☑ ***The generator fee structure is not equitable. As a result, some businesses pay a disproportionate share of the fees for regulation compared to the waste they generate.***
- ☑ ***Laws intended to encourage recycling have limited impact on a business's decision to recycle or not.***
- ☑ ***State agencies are not meeting their oversight responsibilities in the 15 counties without Certified Unified Program Agencies certification.***

The Department of Toxic Substances Control (department) is the lead agency responsible for protecting the public and the environment from harmful exposure to hazardous substances. In addition, Certified Unified Program Agencies (CUPAs) deliver environmental services at the local level through the Unified Hazardous Waste and Hazardous Materials Management Regulatory Program (unified program). We were asked to review and evaluate the fee structure for generators of hazardous wastes (generators) and the hazardous waste fees charged by CUPAs. This report concludes that generator fees are not equitable and do little to reduce the amount of waste produced. Further, the impact of waste recycling laws is limited and the unified program has not been fully implemented. Specifically:

***Finding #1:*** *The current generator fee structure is not equitable.*

The fees that some generators pay to the unified program do not correspond to the proportion of waste they produce. Thus, some businesses are paying a disproportionate share in support of the hazardous waste regulatory process.

We recommended that the Legislature consider modifying the generator fee structure to ensure that fees are fair and reasonable for all hazardous waste generators.

***Legislative Action: Unknown.***

We are unaware of any legislative action implementing this recommendation.

***Finding #2:*** *The department's efforts to promote and enforce hazardous waste recycling are poor.*

The department is required to identify and make a list of recyclable wastes available to the public. However, it has not amended its list of recyclable wastes since 1979. As a result, businesses may be disposing of wastes they could otherwise recycle. In addition, because the department's reporting system cannot adequately track the disposal of recyclable waste, the department never assessed penalties against businesses that dispose of recyclable hazardous wastes.

Furthermore, although the department told generators it could pay refunds for recycling, it did not include potential refunds in its planning for fiscal year 1998-99. Thus, the department may have created a false expectation that generators will receive generator fee refunds if they recycle.

We recommended that the department:

- Increase its efforts to promote recycling of hazardous waste.
- Develop a reporting system to identify recyclable hazardous waste.
- Complete and update annually its list of recyclable hazardous wastes.
- Identify and penalize generators that do not recycle.

***Department Action: Partial corrective action taken.***

The department stated that it is required by Chapter 606, Statutes of 1999, to revise the list of recyclable hazardous waste types on or before January 1, 2002. Additionally, the department is forming an advisory committee to advise it on development of regulations for recyclable hazardous waste. Further, the department has evaluated alternative methods for identifying disposal practices for recyclable hazardous waste and has conducted recycling training for the industry, the public, and the regulatory community in three cities in Central and Southern California. It continues to collect and disseminate information regarding recycling technologies and opportunities.

***Finding #3:*** *Some CUPAs have not implemented all elements of the unified program. As a result, there is no assurance that regulations regarding hazardous materials and wastes are being enforced.*

We recommended that the California Environmental Protection Agency (CalEPA) confirm that each CUPA implements all unified program elements. In addition, we recommended that the CalEPA promptly complete and issue the CUPA's triennial evaluations.

***CalEPA Action: Partial corrective action taken.***

CalEPA reviews annual summary reports submitted by the CUPAs to identify CUPAs that are not implementing all six unified program elements. In addition, CUPA evaluators use each CUPA's self-audit report to identify any deficiencies, including the lack of a program element.

As of May 15, 2000, CalEPA had conducted 64 percent (44 of 69) of the CUPA evaluations. It plans to complete evaluations of the 25 remaining CUPAs by May 2001. Of those evaluated, the CalEPA drafted 25 reports and released 10 final reports. Also, it conducted 8 of 15 evaluations of non-CUPA counties.

***Finding #4:*** *The department does not ensure that the CUPAs promptly remit the State's service charge.*

The department does not properly track receipts or follow up with CUPAs that have not remitted the State's service charge. Consequently, the amount of funds available to support state agencies' efforts to monitor implementation of the unified program at the local level are less than they should be.

We recommended that the Legislature consider modifying the Health and Safety Code to allow the CalEPA to penalize CUPAs that do not collect or remit the State's service charge. We also recommended that the CalEPA and the department make certain that CUPAs collect and promptly remit to the department the State's service charge.

***Legislative Action: Unknown.***

We are unaware of any legislative action implementing this recommendation.

***CalEPA and Department Action: Partial corrective action taken.***

The department has collected the State's service charge from 8 of the 12 CUPAs that had not remitted any service charge payments to the State at the time of the audit. It continues to pursue payment from the remaining 4 CUPAs that have not remitted any service charge.

***Finding #5:*** *The State Fire Marshal (Fire Marshal) is not participating in the unified program as required by statute.*

The Fire Marshal is required to oversee the Uniform Fire Code Hazardous Materials Management Plans and the Hazardous Materials Inventory Statement program, but has not done so since fiscal year 1996-97. The Fire Marshal contends that there was no funding. As a result, the public may be at risk from poorly designed and constructed hazardous waste storage facilities and inadequate emergency response planning.

We recommended that the Fire Marshal fulfill its responsibilities in the unified program as required by statute.

***Fire Marshal Action: Corrective action taken.***

The Fire Marshal responded that as of July 1, 1999, it has been participating in the unified program.

***Finding #6:*** *The Office of Emergency Services (OES) and the State Water Resources Control Board (Water Board) are not evaluating unified program activities in counties without CUPAs as required.*

Although 15 counties do not have CUPAs, each implements some portion of the unified program. However, without sufficient monitoring by the OES or Water Board, the State cannot ensure the public is protected from leaks and releases of hazardous materials.

We recommended that the OES and the Water Board monitor the counties without CUPAs to ensure consistent implementation and enforcement of the unified program.

***Water Board Action: Corrective action taken.***

In May 1999, the Water Board, together with the other state agencies, began unified program inspection and enforcement efforts of all large quantity hazardous waste generators and selected other hazardous waste generators in all counties without CUPAs.

***OES Action: Corrective action taken.***

In its last response to the audit, the OES stated that it would assess the 15 counties without CUPAs to determine their level of implementation and enforcement of its program. In addition, OES reported that it, together with other state agencies, would begin formal program evaluations starting in September 1999 as a means of monitoring these counties.

***Finding #7:*** *The department does not regulate hazardous waste generators in counties without CUPAs.*

Because the department claims it lacks the resources to do so, in counties without CUPAs, hazardous waste generators and on-site treatment facilities are not adequately identified, inspected, or made to comply with laws and regulations.

We recommended that the department routinely inspect businesses in counties without CUPAs.

***Department Action: Corrective action taken.***

The department's statewide compliance division planned to inspect all large quantity hazardous waste generators and selected other hazardous waste generators in all 15 counties without CUPAs during fiscal year 1999-2000.

***Finding #8:*** *Fifteen counties do not have CUPAs to implement the unified program.*

Since the State is not enforcing certain elements of the unified program in 15 counties, there is no assurance that businesses that generate, treat, store, or dispose of hazardous waste in those counties comply with state requirements.

We recommended that CalEPA continue to work with the 15 counties that do not have CUPAs to assist each in attaining CUPA certification.

***CalEPA Action: Partial corrective action taken.***

CalEPA continues to work with those counties that have indicated an interest in certification. CalEPA and the department provided technical support on legislative proposals (SB 1824 and AB 2872) to provide alternative methods for implementing unified program elements in non-CUPA counties. These methods include designating or contracting with one or more State or local agencies to implement one or more program elements, allowing the county to participate in a joint power agency, and allowing the county to enter into agreements with other counties to assume unified program responsibilities.

# Franchise Tax Board

## *Its Revenue From Audits Has Increased, but the Increase Did Not Result From Additional Time Spent Performing Audits*

### Report Number 98118.2, March 1999

***Audit Highlights . . .***

***Our review of the Franchise Tax Board's (board) budget augmentation for audit staff revealed the following:***

- ☑ ***Although audit revenues increased overall by $558 million, this increase did not result from the additional staffing.***
- ☑ ***Revenues actually decreased by $128.6 million from prior years in those areas where we would expect the board to assign new staff.***
- ☑ ***Despite adding 100 to 130 new audit staff, hours spent actually performing audits dropped from fiscal year 1992-93 to 1997-98.***

***Finally, the board anticipates that changes in Internal Revenue Service (IRS) operations will result in a significant decrease in revenues from IRS leads.***

At the request of the Joint Legislative Audit Committee, we reviewed the Franchise Tax Board's (board) audit program and its return on investment in 362 additional audit positions. We found that:

***Finding #1:*** *The addition of new staff did not increase audit revenues, and the board's analysis of program costs and benefits did not reflect this outcome.*

Although board revenues increased $558 million over the seven years ending in fiscal year 1997-98, the increase related to audits that would have been performed by existing, rather than new, audit staff. In fact, revenues from audits that could be attributed to the 362 staff added during this period actually decreased by $129 million. A significant reason for the drop in these revenues is that the board is not spending additional time on these revenue-generating audits.

The board's analysis of program costs and benefits did not fully describe the actual impact of new staff on revenues because it did not exclude the effects of Internal Revenue Service (IRS) leads and other high-return audits that existing staff would have completed regardless of staffing increases.

We recommended that the board change its budget documents to clearly show how the time of additional staff will be split between mandatory activities such as tax return processing and discretionary audit activities. When new staff are assigned audits, the budget documents should also show projected revenues by type of audit, with and without new staff. In addition, the board should compare projected hours and revenues to actual hours and revenues by type of audit to demonstrate the benefit of additional staff. Finally, the board should dedicate new

staff approved for discretionary auditing activities to those activities and notify the Legislature of any plans to shift those staff to other activities.

***Board Action: Corrective action taken.***

In April 1999, the board established an updated staff work plan that presents the level and type of detail we recommended. The board also stated that it would include projected and actual audit hours and revenues in its future budget documents. Additionally, the board said it would obtain approval from the Legislature before making changes in the use of discretionary audit resources.

According to its one-year response to the audit, received in March 2000, the board met with the Department of Finance (DOF) in December 1999, to review the specifics of its 1999-2000 and 2000-01 workplan. The board also distributed a copy of the workplan to the legislative analyst. Finally, the board indicated that the workplans would be updated and resubmitted to DOF during the May revise process later in 2000.

***Finding #2:*** *The board generates significant audit assessments from IRS leads at minimal cost, but leads may drop substantially.*

A large portion of the board's audit assessments stem from IRS leads, which are relatively inexpensive to pursue compared to the board's independent audit effort. Audit assessments from IRS leads for the seven years ending in fiscal year 1997-98 averaged $374 million, but cost the board only $12 million annually. According to the board's annual operating reports, it averaged $28 in revenues for every $1 of costs for Personal Income Tax audits stemmed from IRS leads, while its independent efforts averaged $4 in revenues for every $1 of cost.

The board anticipates that changes in IRS operations will result in fewer leads and a 30 percent decline in audit revenues in fiscal year 1998-99 and in each of the next few fiscal years. Fiscal year 1997-98 data indicate that a 10 percent decline in IRS leads could result in a $41 million drop in the board's annual audit revenues.

We recommended that the board continue to monitor the effect of fewer IRS leads on its audit revenues and propose a shift of staff from activities related to IRS leads to other productive audits.

***Board Action: Corrective action taken.***

The board stated that it will continue to monitor changes in the IRS related audits and will notify the Department of Finance and the Legislature as staffing shifts are necessary.

The Legislature asked the board to report on the benefits and costs of its audit program; however, it did not request information specific enough to fully assess the revenues resulting from the board's 362 additional audit positions.

We recommended that the Legislature tailor any future request for program information to more specifically address its concerns. By doing so, the Legislature can gather relevant information that is more valuable to it and other interested parties.

***Legislative Action: Unknown.***

We are unaware of any legislative action implementing this recommendation.

# Franchise Tax Board

## *Its Tax Settlement Program Remains an Important Alternative for Dispute Resolution*

### Report Number 98017.2, July 1999

Chapter 138, Statutes of 1994, required that we report to the Legislature concerning the merits of the Franchise Tax Board's (FTB) Tax Settlement Program (settlement program). This report followed up on our prior report issued in March 1994. We found that the settlement program has remained more efficient than and generally as effective as the FTB's other methods of resolving tax disputes.

***Audit Highlights . . .***

***Our review of the Franchise Tax Board's (FTB) tax dispute settlement program found that the program continues to have value. Specifically, it has:***

- ☑ ***Resolved tax disputes more quickly than the other tax dispute resolution processes.***
- ☑ ***Sustained taxes at a rate of at least 61 percent since the program was initiated, recovering $1.52 billion in taxes.***

***Finding #1:*** *Settlement program cases require fewer months to resolve.*

Between fiscal years 1993-94 and 1997-98, the FTB closed settlement program cases related to bank and corporation tax disputes in 10.5 months versus 31.2, 32, and 42.9 months for protest, appeals and litigation cases, respectively. For tax disputes related to personal income taxes, settlement program cases lasted 10.5 months compared to 19 months for both protest and appeal cases and 26.6 months for litigation cases.

***Finding #2:*** *The settlement program sustains taxes at a favorable rate to the State.*

For fiscal years 1993-94 through 1997-98, the average tax-sustained rate for settlement cases related to bank and corporation tax disputes was 62.7 percent, compared to 37.5 percent, 74.7 percent, and 79.1 percent for protest, appeal, and litigation cases, respectively. The tax-sustained rate is the ratio of taxes agreed upon by both parties to be paid to the State divided by the total taxes in dispute. For personal income tax disputes, the settlement case average tax-sustained rate was 65.6 percent versus 46.1 percent, 48.8 percent, and 92.1 percent for protest, appeal, and litigation cases, respectively. During this period, the settlement program sustained taxes totaling $1.52 billion out of $2.43 billion in disputed taxes.

The settlement program has merit and should be continued. However, the FTB should perform annual reviews of the settlement program and compare it to the other administrative dispute resolution processes to ensure its continued viability. Further, the FTB should report to the Legislature every two years on the results of its review. This monitoring will ensure the settlement program continues to resolve tax disputes more efficiently than, and as effectively as, its other administrative appeal processes do.

***Board Action: Corrective action taken.***

The FTB reports that it is maintaining total labor costs, amounts in dispute, cash collections, and potential refunds retained with regard to settlement cases. However, it has not yet completed compiling the data for fiscal year 1998-99. The FTB intends to provide a comparison of settlement program revenues to program operating costs and to report other settlement program results and trends to the Legislature on a five-year cycle with the first report following the close of the 2002-03 fiscal year.

# State Board of Equalization

## *Its Tax Settlement Program Continues to Have Merit*

### Report Number 98017.1, July 1999

Chapter 138, Statutes of 1994, required that we submit a report to the Legislature concerning the merits of the State Board of Equalization's (BOE) Tax Settlement Program (settlement program). This report followed up on our prior report issued in March 1994. We found that the settlement program has remained both more efficient than, and as effective as, the BOE's other methods of resolving tax disputes.

***Finding #1:*** *Settlement program cases generally require fewer months to resolve.*

For fiscal years 1995-96 through 1997-98, settlement program cases took an average of 19 months to resolve versus 8 months for petition cases and 28 and 39 months for appeals and hearings before the Board of Equalization, and 66 months for litigation cases. This, however, represents a 1-month increase for tax settlement cases since our last audit.

***Finding #2:*** *The settlement program sustains taxes at a favorable rate to the State.*

For fiscal years 1995-96 through 1997-98, the average tax-sustained rate for settlement cases, at 71 percent, is superior to the rates of 28 percent to 65 percent for the BOE's other tax dispute processes. The tax-sustained rate is the ratio of taxes agreed upon by both parties to be paid to the State divided by the total taxes in dispute. This also represents an improvement over the 43 percent rate for tax settlement cases reported in our last audit. Nevertheless, total tax sustained amounts have decreased since our prior audit because the size of disputed amounts has decreased over time.

***Audit Highlights . . .***

***Our review of the State Board of Equalization's (BOE) tax dispute settlement program found that the program continues to have value. Specifically, it has:***

- ☑ ***Generally resolved tax disputes more quickly than the other tax dispute resolution processes.***
- ☑ ***Sustained taxes at 71 percent as compared to 28 percent to 65 percent in the BOE's other tax dispute processes. However, total taxes sustained in settlements have decreased since fiscal year 1992-93.***
- ☑ ***Increased its cash collections at the time of settlement from an initial $2.4 million to an average of $6.8 million in the past three years.***

***Moreover, the settlement program may create a better working relationship between the taxpayer and the BOE.***

***Finding #3:*** *Cash collections from the settlement program increased.*

For fiscal years 1995-96 through 1997-98, average cash collections on settlements amounted to $6.8 million per year versus $2.4 million reported in our last audit. Much of the difference was because of a lower rate of payment on disputed amounts before final settlement in the later years.

***Finding #4:*** *The BOE's costs to administer the settlement program increased to an average of $637,000 annually for fiscal years 1995-96 through 1997-98. In our March 1994 report, we reported an annual cost of $315,000 to administer the program.*

The increase in cost appears reasonable given the increases in caseload; the costs should be monitored.

The BOE's settlement program has merit and should be continued. However, given the mixed results of the settlement program, we recommended that the BOE perform annual reviews and compare the program to other administrative dispute resolution processes to ensure its continued viability. In addition, the BOE should report to the Legislature every two years on the results of its reviews. This monitoring will determine whether the settlement program continues to resolve tax disputes more efficiently and effectively than do the BOE's other dispute resolution processes.

***Department Action: Partial corrective action taken.***

The BOE has completed its annual follow-up report to us on its settlement program for fiscal year 1998-99. According to this report, the time to resolve settlement cases has increased from 10 months to 14 months while its other dispute resolution processes, except litigation, have remained generally consistent with those in our original report. The program's tax sustained rate increased from 71 percent to 75 percent, still above those of its other resolution processes. Settlement program costs have decreased slightly while both cases settled and completed have increased slightly from those we originally reported. At the same time, program revenue, including both sustained and additional cash collections, increased to $23.8 million compared to the three-year average of $17.9 million reported in our original report. Although the BOE completed its annual review as we recommended, it does not agree with our recommendation that it report every two years to the Legislature on the results of its reviews.

# State Board of Equalization

## *Budget Increases for Additional Auditors Have Not Increased Audit Revenues as Much as Expected*

### Report Number 98118.1, March 1999

***Audit Highlights . . .***

***The Board of Equalization's (board) audit revenues for an additional 250 auditor positions fell $123 million short of projections because of the following actions:***

- ☑ ***Audit hours have returned to earlier levels despite additional staff.***
- ☑ ***Half of the additional positions were deployed to support functions.***
- ☑ ***Revenue projections contain flaws.***

***The board's report to the Legislature adequately responded to the request. However, the request did not require data in sufficient detail to assess the impact of the additional positions.***

The Joint Legislative Audit Committee requested that we independently verify the costs and benefits of the Board of Equalization's (board) audit programs to determine the impact of adding 250 new audit staff. In addition, the committee asked us to assess the accuracy and reliability of information the board submitted to the Legislature.

We found that despite receiving $77.6 million for 250 additional auditors since 1992-93, the increased audit revenues attributed to those auditors is $123 million less than the board projected. Further, the board received only a return of $2 for every $1 spent on these new auditors, instead of the 5-to-1 return that it had originally suggested. The board did not meet its revenue projections for several reasons. Specifically:

***Finding #1:*** *Despite budget augmentations, audit hours have not increased.*

In fiscal year 1993-94, audit hours peaked at 1.4 million, but have since decreased to 1.1 million, approximately the same number of hours spent before the board received its budget augmentations. Only half of the 250 audit positions conducted sales tax audits because the board transferred the other positions to support functions. This transfer of positions was a major factor contributing to the reduction of audit hours.

We recommended that if the board requests funding for auditors to increase audit revenues, it should use its increased resources to supplement, rather than supplant, the auditors it has in the field. In addition, if the board later determines that the resources are more beneficial in support functions, it should report the reassignment to the Legislature.

***Board Action: Corrective action taken.***

The board has agreed with the Department of Finance to obtain its approval before redirecting any positions from direct auditing and collection activities. If the Department of Finance were to approve a redirection, it would report them to the Joint Legislative Budget Committee within 30 days after approval. In addition, if the board requests any permanent redirections of these positions, the board has agreed to make these requests through a Budget Change Proposal (BCP). Since the release of our audit, no redirections have occurred, and, at this time, the Department of Finance does not intend to approve any future redirections of the board's positions from auditing and collection activities.

***Finding #2:*** *The board's projections for revenue enhancements contain flaws.*

In its projections, the board failed to consider that new, inexperienced auditors make limited contributions during their first year of employment, charging only 800 hours rather than the board's 1,600-hour estimate. In addition, we found that experienced auditors charge an average of 1,400 hours per year, not 1,600 as the board estimated. Finally, the board's BCP did not factor in vacancies into its revenue projections. Consequently, the revenue the board expected did not materialize.

We recommended that the board realistically estimate the time that auditors devote to audit-related activities—accounting for staff training and vacancies—to make more accurate projections of audit revenue.

***Board Action: Corrective action taken.***

The board states it has changed its revenue projection methodology for new auditors to the one recommended by the Bureau of State Audits and that it began using this methodology when preparing its fiscal year 1999-2000 budget.

Finally, the Legislature asked the board to report on audit program revenues, costs, and staffing. We found that the board's report is sufficiently responsive and generally accurate. However, the information requested for inclusion in the report was not specific enough to allow readers to fully assess the additional revenues resulting from the additional audit positions.

We recommended that the Legislature tailor its future requests for information from the board to address specific concerns.

***Legislative Action: Unknown.***

We are unaware of any Legislative action implementing this recommendation.

# Board of Chiropractic Examiners

## *Investigations of Improper Activities by State Employees, Report I2000-2*

### Allegation I990006, August 2000

With the California Highway Patrol (CHP), we investigated and substantiated that an employee of the Board of Chiropractic Examiners (board) engaged in the following improper activities:

***Finding #1:*** *In 1998, the employee used approximately $5,200 in state funds to purchase two laptop computers but never used the computers for board business. Instead, he kept one computer and gave the other to his girlfriend as a birthday gift.*

***Finding #2:*** *On 11 occasions from November 1997 to May 1998, the employee checked out state vehicles from the state garage for his personal use. For example, on November 10, 1997, the employee checked out a car from the state garage, stating it was for local use and that he would return the car on the same day. However, he did not return it until November 25, after driving 350 miles.*

***Finding #3****: In April 1998, the employee requested a $500 travel advance, using a Social Security number that was not his. The employee later filed a travel expense claim for $555 using his correct Social Security number. The board paid him the $555 and the employee kept both the advance and the reimbursement.*

***Department Action: Corrective action taken.***

The board fired the employee and the CHP arrested him, charging him with grand theft, receiving stolen property, embezzlement, and defrauding others of money and property.

***Audit Highlights . . .***

***An employee engaged in the following improper governmental activities:***

- ☑ ***Stole two new laptop computers that cost approximately $5,200.***
- ☑ ***Misused state vehicles at a cost of more than $2,000 to the State.***
- ☑ ***Failed to pay back a travel advance of $500.***

# California Public Employees' Retirement System

## *Its Policies for Foreign Investing Are Consistent With Its Mission and With Legal Guidelines*

***Audit Highlights . . .***

***Our review of the California Public Employees' Retirement System's (CalPERS) foreign investment policies found that:***

- ☑ ***CalPERS uses a reasonable process to contract for external managers who research and administer its international investment portfolio.***
- ☑ ***CalPERS investment policy is primarily based on financial factors, which is consistent with state and federal law.***
- ☑ ***CalPERS uses a screening process to identify foreign financial markets in which its external managers can invest.***
- ☑ ***The external managers invested in the five questioned companies because they believed the investment would be profitable.***
- ☑ ***The federal government has not prohibited or restricted investment in any of the questioned companies.***

### Report Number 99138, December 2000

The California Public Employees' Retirement System (CalPERS) manages and administers the retirement benefits of more than one million public members. The largest public pension fund in the United States, CalPERS had net assets at June 30, 2000, of more than $172 billion. Its investment portfolio is divided into asset classes that include international and domestic stocks and international and domestic fixed income investments (primarily bonds). We reviewed CalPERS policies and procedures related to foreign investments and the rationale for investing in the five companies specified in the audit request. Specifically, we found that:

***Finding #1:*** *CalPERS uses reasonable procedures to select, contract with, and oversee its external managers.*

Because it does not have the expertise and specialized skills required to invest in foreign markets, CalPERS contracts with external managers to research and administer all of its international investments. To choose those external managers, CalPERS follows a process that assures fair competition among a range of qualified applicants. To protect its assets, CalPERS then develops for each external manager a contract that specifies unique investment guidelines, contains repercussions for unsound investment practices, and requires the manager to achieve returns at least equal to a benchmark level. In addition, to make sure the external manager uses appropriate methods to invest and account for funds, CalPERS has a comprehensive oversight process.

Although in most respects CalPERS oversees its external managers adequately, CalPERS can improve the timeliness of its assessment of its general pension consultant's performance. The general pension consultant helps CalPERS determine the investment needs of the portfolio and is responsible for various monitoring procedures related to the external managers. The contract between the general pension consultant and CalPERS does not have a set duration; instead, the contract continues in perpetuity at an annual cost of $1.9 million until one of the parties cancels it. The general pension consultant is subject, however, to a yearly review, which CalPERS has not been performing in a timely fashion. The first year of the current contract expired on June 30, 2000, but CalPERS was just beginning its review as of October 1. We recommended that CalPERS finish its review of the consultant for the year ended June 30, 2000, and establish controls so that it performs the review promptly each year.

***Department Action: Corrective action taken.***

The department stated that the review is completed and scheduled for presentation to the investment committee at the December 11, 2000, meeting. The annual review requirement will be incorporated into the contracts database that CalPERS maintains, allowing CalPERS to complete timely reviews in the future.

***Finding #2:*** *CalPERS bases its foreign investment policy primarily on financial considerations, and this practice is consistent with state and federal laws.*

CalPERS' policies concerning international investments protect members' retirement benefits by directing the external managers to base their investment decisions primarily on the financial merits of the investments. To that end, CalPERS had its general pension consultant create a permissible country list of countries with financial markets that are suitable for CalPERS investment. In creating this list, the general pension consultant considered factors that make a country's market financially suitable, such as a fair, stable legal system and prudent requirements for companies to be listed on the market.

CalPERS is not the only public retirement system that bases investment decisions primarily on financial factors. Other public retirement systems in the State of California and in other states use financial criteria, rather than social or political criteria, when making investment decisions. Further, for the other asset classes within its portfolio, CalPERS also generally relies on financial criteria when making investment decisions even in instances that

arise from socially motivated events. Examples of these types of decisions are the CalPERS Board of Administration's decisions to invest in some redevelopment projects, and the board's recent decision to divest the retirement system's investment in tobacco-related stocks.

If CalPERS were to eliminate a specific country from its permissible country list based on actions of that country's government, CalPERS could be challenged as infringing on the federal government's power to set foreign policy. Specifically, in the foreign policy arena, even if a federal law does not say that it preempts state law, state law must yield to a federal law if Congress intends to enact policy measures or if state law conflicts with federal law. Moreover, the United States Supreme Court has consistently upheld the federal government's exclusive powers in setting foreign policy.

In April 1999, the CalPERS investment committee believed it found possible shortcomings in the methods the general pension consultant used to create the most current list, so CalPERS is amending these methods. These possible shortcomings may have led CalPERS to improperly classify some countries as "limited exposure" or "prohibited." Because it did not promptly create a new screening process after identifying the possible shortcomings in the procedures to develop the original list, CalPERS may be using a list that classifies countries inaccurately. Moreover, CalPERS and its general pension consultant differ in their views of the list's purpose, so the investment committee is working to establish clear objectives for the list. We recommended that CalPERS finish revising the process for developing its permissible country list and create a timetable for the review of existing criteria.

***Department Action: Partial corrective action taken.***

CalPERS stated that its staff will continue to work with the CalPERS board to finalize the permissible country process. An agenda item is scheduled for the investment committee meeting on December 11, 2000, for this purpose. Although there may be further discussions at future board meetings, CalPERS believes it will make progress in completing the criteria in the near term.

***Finding #3:*** *CalPERS evaluated financial returns and followed federal law when investing in companies considered potential security risks.*

Investments by CalPERS in five foreign companies have been questioned as having a possible effect on national security issues. Four of these companies are based in Hong Kong, but either the parent company is located in mainland China or the major shareholder is a company based in mainland China. The remaining company, based in Canada, is developing and constructing oil fields and pipelines in the Sudan. Our audit covering fiscal year 1999-2000 revealed that CalPERS and its external managers did not violate state or federal laws or its own policies by investing in the five companies. In each case, the managers determined that the investments would be profitable for the retirement system. Investments in these companies were purchased on either the New York Stock Exchange or the Hong Kong Stock Exchange, both designated unrestricted markets on the CalPERS permissible country list.

Based on the information we obtained, investments by CalPERS in the five questioned companies did not violate any federal laws. Investments in four of the five questioned companies were legal under federal law because the United State government does not prohibit or restrict investment in China or in companies based in China. Investment in the other company, which is based in Canada, was also legal according to federal law because although the company was doing business in the Sudan, the company was not on a federal list of companies in which the United States prohibits investing.

We recommended that if the CalPERS Board of Administration believes that the actions of a specific country's government may be contrary to international standards of human rights or may compromise national security, CalPERS should work with the State Legislature to communicate those concerns to Congress through a legislative resolution.

***Department Action: Corrective action taken.***

CalPERS stated that where the CalPERS board concludes, after due diligence, that any issue—including human rights and national security—financially impacts CalPERS investments, it will adjust investment policy accordingly. If that financial link is absent, however, and if concerns about the quality of a country's standards exist, CalPERS will communicate these concerns to the State Legislature and work with the State Legislature in communicating them to Congress.

# California Science Center

## *The State Has Relinquished Control to the Foundation and Poorly Protected Its Interests*

### Report Number 98115, April 1999

***Audit Highlights . . .***

***Our review revealed these conditions at the California Science Center (Science Center):***

- ☑ ***In its attempt to utilize a public-private partnership, the Science Center has essentially relinquished control to the California Science Center Foundation (foundation).***
- ☑ ***State funds are the primary source of support for the Science Center's programs and capital improvements.***
- ☑ ***State-appointed executives do not protect the Science Center because they neither enforce agreements with the foundation nor ensure the foundation reimburses the State for certain expenses.***
- ☑ ***Its management has failed to conduct the State's business in a fiscally responsible and legal manner.***

The Joint Legislative Audit Committee requested that we assess the operations and management of the California Science Center (Science Center) and examine its relationship with its auxiliary, the California Science Center Foundation (foundation). We found the following:

***Finding #1:*** *Governance over the Science Center has shifted from the State to the foundation.*

Because of an increase in the number of management positions partially or fully funded by the foundation and vacancies in those fully funded by the State, the foundation's authority over the Science Center outweighs the State's. Specifically, six of the Science Center's seven top management positions are partially or fully affiliated with the foundation and one top management and three midlevel management positions funded by the State are vacant. The imbalance in management positions reduces the State's ability to protect its interests.

We recommended that the Legislature reexamine California Government Code, Section 18000.5 and determine whether allowing state employees to render services to a nonprofit corporation for additional compensation continues to serve the State's best interest.

We also recommended that the Science Center adhere to all civil service hiring requirements, use civil servants in management positions, and expand its hiring practices to fill vacant positions quickly.

***Legislative Action: Unknown.***

We are unaware of any legislative action implementing this recommendation.

***Department Action: Partial corrective action taken.***

The Science Center is committed to using civil servants in management positions to the extent that positions are authorized by the Department of Personnel Administration and included in the State budget. The Science Center filled the deputy director of administration position. For the purpose of ensuring the Foundation's compliance with its agreements with the Science Center , including but not limited to the gift shop and conference center, the deputy director of administration will report directly to the Board of Directors Finance Committee and the undersecretary of the State and Consumer Services Agency.

***Finding #2:*** *The foundation used restricted funds for its general operations and inappropriately collected other revenues.*

By agreement with the Science Center, the foundation runs the gift and conference centers, and is to place proceeds from these operations into restricted funds. However, the foundation has not earmarked the proceeds and appears to have used them for its general operations. Further, state law requires the Science Center to deposit all revenues it receives for parking, facilities rental, or other business activities into the Exposition Park Improvement Fund. These revenues, however, have been withheld from the fund because of agreements with the foundation. Meanwhile, the Legislature has appropriated additional funds for Exposition Park. In addition, over an 11-month period, the foundation collected $479,000 from interactive exhibit and reservation fees and visitor donations even though it does not have authority to levy exhibit fees or retain donations.

We recommended that the Science Center ensure that the foundation retains the proceeds from gift and conference center operations in restricted funds and limits the use of net profit from these operations for Science Center exhibits and educational programs.

We also recommended that the Science Center submit current and future agreements with the foundation to the State and Consumer Services Agency for review and approval. Also, the Science Center should submit the agreements to the Joint

Legislative Budget Committee so the committee can determine whether a certain portion of net income from the Science Center's business enterprises should be deposited into the Exposition Park Improvement Fund for specified purposes. In addition, we recommended that the Science Center prepare memorandums of understanding (MOUs) for all current and future exhibits. The MOUs should clearly outline the location, timing, and subject of exhibits, responsibility for exhibit installation, operation and maintenance, and the collection and use of exhibit fees.

***Department Action: Partial corrective action taken.***

The foundation established new budgetary and accounting procedures to separate exhibit and education programs from administrative and operating support budgets. The Science Center will continue to gain the approval of its board of directors, the State and Consumer Services Agency, and the Department of General Services (DGS) for its agreements with the foundation. The Science Center will also continue to submit contracts to the Joint Legislative Budget Committee. Finally, although the Science Center stated that it had developed MOUs for all exhibits, it has not provided MOUs for exhibits other than those that generate revenue and are designated as special exhibits. In addition, the Science Center has not provided its policies and procedures describing how the deputy director for exhibits will monitor these exhibit agreements.

***Finding #3:*** *The State is paying to maintain exhibits owned by the foundation and does not always bill the foundation for certain services.*

By general agreement, the foundation may install and manage exhibits in the Science Center, but must pay to maintain those exhibits. However, contrary to the agreement, the State currently pays for exhibit maintenance. From February through December 1998, the State expended more than $1 million for this purpose. In addition, the foundation is to pay for janitorial and security services for its events. Nonetheless, the Science Center inconsistently charges the foundation for these.

We recommended that the Science Center charge the foundation for exhibit maintenance and for janitorial and security services.

***Department Action: Partial corrective action taken.***

The Science Center stated that it obtained a legal opinion from the Office of the Attorney General (attorney general) indicating that the foundation is not required to pay exhibit maintenance costs. However, our review determined that the document the attorney general prepared was not a formal legal opinion and therefore, as recommended, the Science Center should charge the foundation for exhibit maintenance. Additionally, although the Science Center claimed it billed the foundation for all janitorial and security services, it has not provided documentation demonstrating a complete accounting for amounts the foundation owes for events services including janitorial and public safety.

***Finding #4:*** *The foundation has not complied with all aspects of the law concerning dual compensation.*

California Government Code, Sections 18000.5 and 19990.5 allow Science Center employees to be compensated by both the State and a nonprofit corporation such as the foundation. However, the foundation has not fully disclosed to the Department of Personnel Administration (DPA) or the State Controller's Office (SCO) the compensation it paid to Science Center executives. Without complete information, these oversight agencies are hindered in assessing the foundation's relationship to the Science Center and in determining whether compensation remains reasonable.

We recommended that the State and Consumer Services Agency ensure that the foundation fully discloses to the DPA and the SCO the compensation it provides to Science Center employees including all perquisites such as car allowances and club memberships. In addition, we recommended that the foundation annually report this same information to the SCO.

***Agency and Foundation Action: Corrective action taken.***

The foundation will fully disclose the compensation it provides to Science Center employees to the DPA and will submit the required reports to the SCO by September 30 of each year.

***Finding # 5:*** *The Science Center paid public safety officers for false overtime claims.*

Twelve of 27 overtime payments for public security that we tested were duplicates of payments already made. In other words, public security officers submitted claims and were paid twice for the same work.

We recommended that the Science Center establish an overtime-approval process to review and reconcile overtime worked before overtime is paid.

***Department Action: Corrective action taken.***

The Science Center revised its policies to include procedures for the approval and disposition of overtime worked. It also established an automated overtime tracking and reconciliation system to ensure that employees are only paid for approved overtime they actually worked.

***Finding #6:*** *The Science Center is not ensuring that the State receives all parking revenues.*

The Science Center oversees several parking lots within Exposition Park. At the time of the audit, the Science Center used an outside vendor to collect fees and maintain the parking lots. However, the Science Center has not had valid contracts with that vendor since 1995 because the Science Center had not submitted contracts to the DGS for approval or had failed to make the necessary changes DGS requested before it would grant approval. In addition, we found that the vendor had not abided by its agreement with the Science Center and the State may not be receiving all of the revenue that it is due and may not have recourse for reclaiming the lost revenue.

We recommended that the Science Center competitively bid its parking operations and work with the DGS to ensure that it completes a valid and enforceable contract. In addition, we recommended that the Science Center take the necessary steps to recoup parking revenues lost during the past several years, establish procedures to monitor the parking lot operator to ensure that all terms and conditions of the parking contract are followed, and develop a process to periodically verify the accuracy of the parking lot revenue.

➲ ***Department Action: Partial corrective action taken.***

In its one-year response to our audit, the Science Center stated it has a new parking contract that the Department of General Services (DGS) approved. Upon further review, we determined that the Science Center changed the scope of the parking contract we used as audit evidence and that is the contract the DGS approved. Additionally, although it collected $39,000 from its parking contractor, the Science Center has failed to determine how the parking contractor developed that figure and if additional revenue is due the State. Finally, in September 1999, the DGS initiated an audit of the parking contractor's adherence to the terms and conditions of the contract, the Science Center was relying on this review to identify needed improvements and waiting for its completion to implement changes. We are unaware of the outcome of this audit and whether the Science Center implemented any changes to its parking procedures.

***Finding #7:*** *The Science Center violated state controls in administering contracts.*

The Science Center violated State contracting rules by:

- Splitting a project into smaller pieces to avoid review by the DGS.
- Allowing the same person to approve contracts and payments for those contracts.
- Overpaying some contracts and paying other contract invoices through its revolving fund.
- Allowing contractors to complete work before contracts were approved.

We recommended that the Science Center follow all applicable state contracting rules and regulations such as advertising, competitive bidding, DGS approval, and the payment of contractors.

➲ ***Department Action: Partial corrective action taken.***

The Science Center revised its policies and procedures to ensure compliance with state contracting rules and regulations. It also noted that the DGS reviewed its contracting efforts in September 1999 and confirmed the changes the Science Center made. However, we reviewed the DGS' report on the Science Center's contracting practices and it was inconclusive. The

DGS' review was based on interviews, a "limited review of supporting information," and it was admittedly performed at a time when many of the Science Center's new policies "were still in the implementation stage." Therefore, one year after the completion of our audit, we are not able to determine if the Science Center has fully complied with this recommendation.

***Finding #8:*** *The Science Center has failed to properly monitor and collect its accounts receivable.*

According to accounting records, the Science Center had $211,000 of accounts receivable as of February 1, 1999. However, some of the accounts dated back as far as fiscal year 1988-89. Science Center staff stated that they did not have standard procedures for collecting overdue receivables.

We recommended that the Science Center establish processes to actively monitor and collect its accounts receivable. If it determines some accounts are not collectable, the Science Center should seek the Board of Control's approval to write them off.

***Department Action: Partial corrective action taken.***

The Science Center has revised its policy on accounts receivable and is working to collect outstanding debts. However, at the time of its one-year audit response, the Science Center had not sought Board of Control relief for those debts it had determined were uncollectible.

***Finding #9:*** *Science Center board members and managers may be violating conflict-of-interest rules.*

State board members of the Science Center also serve on the foundation's executive committee or on the Coliseum Commission. In addition, the Science Center's executive director is also the foundation's executive vice president. By serving in governing or administrative roles in organizations that deal closely with each other, these individuals have put themselves in positions where they may have conflicting duties and responsibilities.

We recommended that the Legislature review the structure of and the relationships among the state board, the foundation's board of trustees, and the Coliseum Commission and determine whether membership on more than one board or commission potentially compromises state board members' ability to protect the State's interests.

We also recommended that Science Center administrators review and abide by conflict-of-interest laws in their dealings with the foundation.

***Legislative Action: Unknown.***

We are not aware of any legislative action concerning this recommendation.

***Department Action: Corrective action taken.***

The Science Center revised its policies to ensure that no employee also compensated by the foundation may sign contracts with the foundation. Further, on June 6, 1999, the Science Center revised its policy on incompatible activities to ensure that no state officer or employee engages in any employment, activity, or enterprise which is clearly inconsistent, incompatible, or in conflict with his or her duties as a state officer or employee.

# California Science Center

## *It Does Not Ensure Fair and Equitable Treatment of Employees, Thus Exposing the State to Risk*

**Report Number 98115.1, August 1999**

***Audit Highlights . . .***

***The California Science Center has mismanaged its personnel function by:***

- ☑ ***Ignoring state requirements and prudent practices when hiring employees.***
- ☑ ***Failing to enroll employees in the State's retirement system.***
- ☑ ***Allowing employees to work more hours than allowed by law.***
- ☑ ***Exceeding its budgetary authority for temporary help and overtime by more than 140 percent.***
- ☑ ***Failing to establish a system for addressing employee complaints or properly informing employees of their rights.***

***Moreover, only 41 percent of current employees received any training, with most opportunities offered to higher-level staff.***

The Joint Legislative Audit Committee requested that we examine the personnel practices of the California Science Center (Science Center) and review a specific claim of racial discrimination lodged against it. The Science Center is a downtown Los Angeles state-of-the-art museum highlighting science, industry, and economics. Our audit focused on the Science Center's personnel structure to determine whether the Science Center adheres to the State's personnel policies, provides adequate training and protects the civil rights of employees. We found that the Science Center has poorly managed its personnel responsibilities, creating a work place in which employees are not assured fair and equitable treatment. For example:

***Finding #1:*** *The Science Center does not adhere to mandated testing and hiring procedures.*

Specifically:

- Employment applicants who missed filing dates should have been considered ineligible. However, the Science Center placed some late applicants on eligible lists and therefore may have unfairly hired some employees.
- The Science Center could not provide eligibility lists for two of eight employees appointed to permanent positions between October 1997 and March 1999. When it does not maintain hiring documents, the Science Center leaves itself open to charges of favoritism.
- In two instances, employees were selected to fill vacancies before exams for those positions were over or filing dates had passed. Preselection inhibits employment opportunities for others who may be equally or better suited for the position.

We recommended that the Science Center:

- Continue its current practice of date-stamping all applications and accept only those applications received on time.

- Retain appropriate records to demonstrate that it hires staff in accordance with state laws and considers all qualified applicants before making appointments.

- Schedule its personnel staff for training on the State's testing and hiring procedures.

➲ ***Department Action: Partial corrective action taken.***

The Science Center stated that it would continue its practice of date-stamping all applications and accept only those applications received on time. As of December 8, 2000, the Science Center still could not demonstrate that it date-stamps all applications or that it only accepts applications received on or before the final filing date. The Science Center also stated that it reorganized its personnel files to ensure that it properly retains all appropriate records, including eligibility lists. Although it appears that the Science Center reorganized its personnel files, we found that it still could not demonstrate that it retains all appropriate records related to testing and hiring, including eligibility lists.

Moreover, the Science Center maintained that it is adhering to State rules and regulations in appointing employees to vacant positions and will conduct periodic reviews to ensure compliance. However we found that the Science Center could not demonstrate that it considers all qualified applicants before making appointments. Finally, the Science Center asserted that it has developed a comprehensive training plan for all of its employees and that the personnel staff will be an integral part of this plan and will receive additional training on the State's testing and hiring procedures. We found evidence of a training plan that includes scheduled training for its personnel staff. However, as of December 8, 2000, the Science Center could not demonstrate that it distributed the training plan to all of its employees.

***Finding #2:*** *Some employees have not received the benefits due to them.*

The Science Center failed to enroll 12 intermittent and temporary employees in CalPERS. As a result, the State did not make retirement or Social Security contributions for these employees and inaccurately withheld employee pay.

In addition, the Science Center employed some intermittent, temporary, and retired annuitant workers for more than the maximum number of hours allowed each year. Consequently, it denied fringe benefits to staff who were essentially permanent workers and jeopardized one employee's retirement allowance.

We recommended that the Science Center appropriately enroll all eligible employees in CalPERS and develop a system to track the time worked by intermittent, temporary, and retired annuitant staff.

➲ ***Department Action: Partial corrective action taken.***

The Science Center enrolled the 12 employees in CalPERS and stated that it revised its procedures to ensure that it enrolls all eligible employees in CalPERS and has implemented a computerized tracking system to account for the number of hours or days worked by intermittent, temporary, and retired annuitant employees. Further, the Science Center stated that its personnel office initiated a post hire, 10-day electronic and telephonic notification procedure for all intermittent/temporary employees that informs them of expiration dates to ensure compliance and that limitations will not be exceeded. However, as of December 8, 2000, the personnel office was not aware of any 10-day notification procedure that informs intermittent and/or temporary employee of their expiration dates either by telephone or electronic means.

***Finding #3:*** *The Science Center significantly exceeded its budget for overtime and temporary help costs.*

During fiscal year 1998-99, the Science Center exceeded its budget for overtime costs by at least 140 percent and its budget for temporary help costs by at least 270 percent. When it significantly exceeds authorized spending, the Science Center absorbs the extra costs, thereby reducing funds for other operating needs. In addition, overtime can lead to increased employee absences and turnover, and reduced productivity.

We recommended that the Science Center obtain additional permanent positions to reduce temporary help and overtime costs and address its ongoing workload.

***Department Action: Corrective action taken.***

The Science Center requested staffing increases for fiscal year 2000-01 to meet increased workload demands. The 2000-2001 Governor's Budget includes 17 staff augmentations to address increased workloads. The Science Center also states that it will continue to review its staffing and resource needs and will request augmentations through the normal budget process.

***Finding #4:*** *The Science Center failed to adequately protect employee rights.*

Specifically:

- The Science Center could not demonstrate that it informed employees of sexual harassment policies or provided employees with their bargaining unit contracts prior to May 1999. As a result, the Science Center left itself open to lawsuits stemming from inappropriate employee behavior.

- The Science Center does not track employee complaints or monitor complaint resolution. Consequently, the Science Center cannot demonstrate that it effectively resolved complaints.

- The Skelley Officer, or employee assigned to make recommendations regarding proposed disciplinary actions, has not been trained. Thus, the Science Center remains vulnerable to lawsuits challenging the appropriateness of its disciplinary decisions. Further, few rank-and-file employees have attended any kind of training and the Science Center lacks a comprehensive training program. Without proper training, the Science Center cannot ensure that employees are prepared to perform their jobs.

We recommended that the Science Center continue its recently established practice of informing all staff of discrimination and sexual harassment policies and procedures and give staff copies of bargaining unit contracts. We also recommended that the Science Center establish a tracking system and central file for employee complaints and monitor their resolution. The Science Center should provide necessary training to its Skelley Officer and establish a comprehensive training program for all employees.

➲ ***Department Action: Partial corrective action taken.***

The Science Center stated that it would continue to inform all staff of discrimination and sexual harassment policies and procedures. However, as of December 8, 2000, the Science Center still could not demonstrate that it does so for all of its employees. Further, the Science Center stated that it has developed a centralized tracking system for employees' complaints and routinely monitors and follows up on such complaints. Although we found evidence of an employee complaint-tracking log, we found that the people responsible for tracking these complaints are not always notified when employees have filed complaints. In addition, although the Science Center told us that its personnel office checks and documents the status of complaints by the 5th and 20th of each calendar month, it has not informed the personnel office of this and other responsibilities such as informing the parties involved of any resolution efforts. In fact, as of December 4, 2000, only five entries had been made to the complaint log for calendar year 2000. Two of these five entries were made as a result of our inquiries. Finally, Skelley Officers have completed appropriate training courses. However, although the Science Center states that it has developed a comprehensive training program, we found that it still could not demonstrate that all employees have received training in required classes.

# California Science Center

## *Investigations of Improper Activities by State Employees, Report I2000-1*

### *Audit Highlights . . .*

***California Science Center public safety employees engaged in the following improper governmental activities:***

- ☑ ***Filed duplicate claims for overtime hours to receive $4,224 for 168 hours they did not work.***
- ☑ ***Claimed $74,638 for 2,325 overtime hours even though they were not entitled to overtime compensation as managers.***
- ☑ ***Claimed $730 for meals for which they were not entitled to receive reimbursement.***

***Personnel department staff engaged in the following improper activities:***

- ☑ ***Allowed one managerial employee to accumulate 476 hours of compensatory time off even though managerial employees are not entitled to compensatory time.***
- ☑ ***Failed to charge employees' leave balances for absences.***

## Allegation I990031, April 2000

During the course of a 1999 audit of the California Science Center (Science Center), we found that seven public safety employees falsely claimed overtime pay totaling $2,324. We conducted a follow-up investigation and substantiated that at least 13 more public safety employees filed duplicate overtime claims and improper claims for meal reimbursement, and that managerial employees claimed overtime payments even though they were not entitled to overtime compensation. Specifically:

***Finding #1:*** *Public safety employees filed false claims for overtime and meals.*

Between December 1997 and March 1999, at least 12 nonmanagerial employees in the Science Center's public safety department submitted duplicate overtime slips on 30 separate occasions and subsequently received $4,224 for overtime they had not worked. Eleven of these 12 nonmanagerial employees also improperly claimed and received $663 in payments for overtime meals.

In addition, four other employees, who because of their managerial status were not eligible for overtime, improperly claimed overtime payments. One of these managerial employees also claimed duplicate overtime payments and inappropriate claims for overtime meals. This employee was also allowed to improperly accumulate 782 hours of compensatory time off. In total, these four managerial employees received $74,706 in improper payments from July 1996 through March 1999, and the improperly accumulated compensatory time off cost the State more than $13,800.

***Department Action: Partial corrective action taken.***

The Science Center reported that:

- It has developed an automated tracking system that should eliminate duplicate processing of overtime slips and payments for public safety employees.

- It has obtained $1,326 in reimbursement for excess payment from five nonmanagerial employees and is still in the process of collecting another $2,475.

- It is still reviewing with counsel what action it should take with regard to the managerial employees.

***Finding #2:*** *The Science Center mismanaged its personnel function.*

The Science Center had a grossly inadequate system of controls related to timekeeping, particularly overtime documentation. In fact, neither the personnel nor the accounting departments detected the aforementioned improper payments.

Further, the personnel department failed to accurately account for leave, thereby allowing the State to pay employees thousands of dollars more than they should have received. Specifically, although Science Center employees continued to accumulate leave, the department failed to charge leave balances for absences from September 1998 through April 1999. After we brought this to the Science Center's attention, its personnel department updated leave records in May 1999. However, because of a shortage of staff, the Science Center did not again update leave balances until December 1999.

***Department Action: Corrective action taken.***

The Science Center reported that it has hired new personnel office staff and is now updating leave balances on a regular basis.

# Department of Consumer Affairs

## *Lengthy Delays and Poor Monitoring Weaken Consumer Protection*

### Report Number 2000-111, November 2000

***Audit Highlights . . .***

***Our review of Department of Consumer Affairs' (department) disclosed that:***

- ☑ ***The department has not fulfilled its oversight responsibility over its boards and bureaus, allowing weaknesses in licensing and complaint processing to continue undetected.***
- ☑ ***The department diverted its internal audit resources away from reviews of the licensing and complaint processes of its boards and bureaus, using them instead on lower-risk special projects.***
- ☑ ***Many boards and bureaus do not publicly disclose complaint information even though department policy requires such disclosures.***
- ☑ ***None of the four boards and bureaus we visited is promptly processing all complaints.***
- ☑ ***Nineteen of the 35 boards and bureaus we reviewed or surveyed had not established time goals they could use as a way to monitor their effectiveness in responding to complaints.***

The Joint Legislative Audit Committee requested that we determine whether the Department of Consumer Affairs (department) is properly overseeing its boards and bureaus and to assess board and bureau regulatory operations. We found that the department has not provided adequate oversight to its boards and bureaus, and as a result, has allowed weaknesses in their regulatory functions to continue.

***Finding #1:*** *The department had diverted its internal audit resources away from reviewing the licensing and complaint processes of its boards and bureaus and instead used them on lower risk special projects.*

The department's oversight efforts instead have relied heavily on information reported by the boards and bureaus themselves, such as strategic plans, regulations, annual statistical reports, and results from the Joint Legislative Sunset Review Committee process. This self-reported information, while useful, should not be the department's exclusive source of assurance that the boards and bureaus are protecting consumers.

We recommended that the department establish a plan to periodically review and evaluate the licensing and enforcement functions of its boards and bureaus. Additionally, we recommended that the department better utilize the resources of its internal audit office to review the boards and bureaus and ensure that they have adequate monitoring systems and established processing goals.

☑ ***The Bureau for Private Postsecondary and Vocational Education temporarily discontinued investigating some complaints including allegations of serious violations of law.***

☑ ***Disciplinary cases requiring legal representation by the Attorney General's office frequently take more than a year to resolve.***

***Department Action: Partial corrective action taken.***

The department reported it has hired additional staff for its internal audit office and has established an audit committee to guide the activities of its internal audit office. The department stated that its 2000-2001 audit plan includes a review of selected licensing and enforcement processes at the boards and bureaus.

***Finding #2:*** *Boards and bureaus do not consistently comply with the department's complaint-disclosure policy.*

Department policy requires boards and bureaus to publicly disclose complaints that are determined to involve probable violations of licensing laws and regulations, such as warning letters, citations, and license suspensions or revocations. However, 19 of the boards and bureaus we surveyed indicated that they do not publicly disclose complaints that result in warning letters. When boards and bureaus do not disclose complaint information in conformity to the department's policy, consumers are deprived of information they need to make informed decisions.

We recommended that the department ensure that its boards and bureaus are consistent in releasing complaint information to the public.

***Department Action: Pending.***

The department reported that it will monitor the boards and bureaus to determine whether the release of complaint information to the public is in compliance with established policy.

***Finding #3:*** *The Bureau for Private Postsecondary and Vocational Education (BPPVE) has not provided adequate guidance to its licensing and enforcement staff nor does it adequately monitor these processes.*

As a result, it cannot ensure that consumers are well protected from the institutions it regulates. Additionally, the BPPVE temporarily discontinued investigating complaints that it was unable to mediate, and overcharged institutions for license certifications.

We recommended that the BPPVE:

- Develop policies and procedures to guide staff in carrying out its regulatory activities.

- Establish a system to monitor its licensing and complaint processes to ensure they are prompt and effective.

- Ensure that it investigates all consumer complaints, especially the ones it cannot mediate.

- Continue its efforts to identify and reimburse those institutions that were overcharged for licensing fees.

***BPPVE Action: Partial corrective action taken.***

The BPPVE reported it has developed policies and procedures to guide its licensing and enforcement staff. It is developing monitoring systems to ensure that its licensing and complaint activities are prompt and effective. The BPPVE reestablished its relationship with the department's division of investigations to handle complaints that it cannot mediate, and is continuing its efforts to identify institutions that were overcharged license fees.

***Finding #4:*** *The Dental Board of California (board) does not adequately monitor its licensing and enforcement process to ensure they are timely and effective. The board has not established timelines for the prompt resolution of complaints, and has several weaknesses in its internal controls over cash receipts.*

We recommended that the board develop a system to monitor its licensing and enforcement processes and develop time goals for resolving complaints. We also recommended that the board identify causes of delays in resolving consumer complaints and take action to minimize them. Finally, we recommended that the board strengthen its controls over cash receipts.

***Board Action: Partial corrective action taken.***

The board reported it is in the process of establishing time standards for the processing of complaints. It has developed a manual monitoring system to assess how quickly it processes licenses and complaints. The board is continuing to address the causes of delay in its complaint processing by hiring an additional consultant and evaluating the sufficiency of other staffing. Finally, the board stated that it had instituted several control processes to better safeguard cash receipts.

***Finding #5:*** *The Bureau of Automotive Repair's (bureau) licensing operation, handled by the department prior to July 2000 when the bureau assumed control, has a flaw in its tracking system that caused some significant delays. Additionally,*

*complaints received for the bureau's auto repair consumer protection program are taking too long to resolve.*

We recommended that the bureau develop a system to monitor its licensing activities and to take actions to ensure that it promptly responds to consumer complaints.

***Bureau Action: Corrective action taken.***

The bureau reported it has developed a system, scheduled to be operational by December 2000, to monitor all license applications to ensure that they are processed promptly. The bureau also stated that it has developed new computer programs and hired additional staff that will assist it in speeding up the response time to resolve consumer complaints.

***Finding #6:*** *The Contractors State License Board (CSLB) has experienced delays in processing consumer complaints as a result of its reengineering efforts.*

We recommended that the CSLB continue to monitor the results of its reengineered complaint-handling process to ensure that it responds promptly to consumer complaints and that consumers have adequate access to its services.

***CSLB Action: Corrective action taken.***

The CSLB stated it would continue to monitor its complaint process to insure that it promptly responds to consumer complaints and that consumers have adequate access to its services.

***Finding #7:*** *Disciplinary cases requiring legal action through the Attorney General's Office (AGO) experience long delays, with some taking up to three years to resolve. However, because neither the AGO nor the boards and bureaus track the information, we were not able to identify the cause of the delays.*

We recommended that if the AGO is able to determine the cause of the delays using its new time management system, it should work with the department to resolve the causes of delay. If it is unable to determine the causes, the department should recommend to the Legislature an alternative to the current system of AGO representation.

***Department Action: Pending.***

The AGO is still in the process of implementing its new time management system.

# Department of General Services

## *The California Multiple Award Schedules Program Has Merit but Does Not Ensure That the State Gets the Best Value for Its Purchases*

### Report Number 99500, August 1999

***Audit Highlights . . .***

***Although the California Multiple Award Schedules (CMAS) program may have reduced administrative costs and improved the flexibility of procurements of information technology, it does not ensure that purchases represent the best value. Specifically:***

- ☑ ***CMAS prices are merely ceiling prices, not the best prices available.***
- ☑ ***The Department of General Services' assertion that CMAS prices are fair and reasonable is based on several faulty assumptions, resulting in higher prices than necessary.***
- ☑ ***Comparison shopping is essential to optimize the benefits of the CMAS program.***

We audited the California Multiple Award Schedules (CMAS) program as developed and managed by the Department of General Services (department) to follow up on our October 1998 report titled *State Contracting: The State Can Do More to Save Money When Acquiring Goods and Services.* The CMAS program provides state agencies access to contracts with vendors who agree to sell specific products and services at approved prices. Although CMAS appears to have reduced administrative costs and improved procurement flexibility, we found that the program does not ensure that purchases represent the best value. Specifically:

CMAS customers do not always benefit from the level of price protection intended by the department, and procedures do not ensure that CMAS purchases achieve the best possible value.

We found numerous examples where CMAS prices exceeded those that the same vendors charged other customers. In other cases, we found that vendors charged the State more than the contracted CMAS price. The department does not assert that published or quoted CMAS prices necessarily represent the best prices available to state agencies, but does assert that CMAS prices are fair and reasonable. However, vendors may not offer the correct CMAS price, and because CMAS catalogs are often outdated, state agencies cannot rely on them to verify that prices quoted by vendors are valid. As a result, unless state agencies comparison shop before making purchases, they may not identify the best price available among CMAS vendors.

The department strongly encourages, but does not require, state agencies to comparison shop. To ensure that the State receives the best value for CMAS purchases, we recommended that the department require state agencies to comparison shop for goods and services over $2,500. Specifically, state agencies should determine the latest available federal program price, obtain three quotes from competing CMAS vendors, and negotiate for the best value available.

➲ ***Department Action: Partial corrective action taken.***

The department disagrees with our recommendation that state agencies be required to comparison shop. Rather, it believes that additional auditing, training, and the implementation of the "Cal-Buy" system will sufficiently address the concerns noted in our report.

According to its one-year response to the audit, received in August 2000, the department is considering a budget-change proposal to authorize three new positions to its supplier compliance review function. The department is also still in the process of developing the California Acquisition Manual (CAM) that is intended to provide customers a resource in making acquisitions of commodities and information technology goods and services. Finally, the department's earlier plan to develop the California Statewide Procurement Network has yielded to a broader plan called "Cal-Buy" that is to include the CMAS program, statewide contracts, and master agreements. The department asserts that the "Cal-Buy" system will provide customers with an additional tool for easier comparison shopping. The department anticipates that development of the CMAS system phase will be started in spring 2001.

We believe that although these activities may be beneficial, they are not substitutes for mandatory comparison shopping. State agencies that do not take advantage of CMAS's rich competitive environment through comparison shopping defeat the purpose of value-based procurement.

# State Personnel Board

## *Its Management of Disciplinary Hearings Has Improved, but Further Changes Are Necessary*

### Report Number 98114, March 1999

***Audit Highlights . . .***

***The following was revealed during our review of the State Personnel Board (SPB):***

- ☑ ***Although the SPB has reduced the time it takes to review evidentiary appeals, it does not complete review of nonevidentiary appeals within time limits.***
- ☑ ***The SPB can further streamline the appeals review process and reduce its work by fully implementing an abbreviated approach to minor actions and probationary appeals.***

The Joint Legislative Audit Committee requested an audit of the State Personnel Board's (SPB) management of its appeals caseload as well as its ability to conduct fair, unbiased hearings, reviews, and investigations of these appeals.

***Finding #1:*** *The SPB does not consistently meet time limits for resolving appeals.*

Although the board is generally meeting the statutory time limit of 180 days for completing its review of evidentiary appeals, it is not meeting similar time limits for its nonevidentiary appeals. We identified several factors that contributed to these delays, including obsolete caseload standards and an ineffective caseload tracking system.

We recommended that the SPB update caseload standards so that it can more effectively monitor staff performance to identify potential inefficiencies as soon as possible. We also recommended that the SPB continue its efforts to obtain and implement a new caseload tracking system.

***SPB Action: Partial corrective action taken.***

The SPB continues to work with a consultant to develop full caseload standards and expects to implement fully developed caseload standards by June 2001. The SPB issued a Request for Proposal for its new tracking system in November 1999. The successful bidder proposed a first-year cost of $1.5 million, which exceeds available funding by $1.1 million. The SPB is working on how to address this funding shortfall.

***Finding #2:*** *The SPB slows the review process by performing more work than required.*

Specifically, the SPB limits its expedited process for reviewing appeals of minor disciplinary actions to employees excluded from collective bargaining. The expedited process was designed to reduce resources spent on minor disciplinary action appeals and match workload with case severity. Likewise, the SPB processes probationary period terminations as full evidentiary hearings. These types of appeals are often settled or withdrawn before the hearing. As a result, the SPB is spending unnecessary resources to schedule and prepare for hearings that ultimately are canceled. To further streamline its appeals processes, we recommended that the SPB:

- Expand its expedited process to encompass all employee appeals of minor disciplinary actions.

- Use its nonevidentiary process for appeals by employees whose departments terminated their employment during the employees' probationary periods.

- Require that employees appealing rejections that occurred during their probationary periods establish merit for their appeals before scheduling hearings.

- Require appellants and disciplining departments to confirm attendance for all hearings.

***SPB Action: Partial corrective action taken.***

The SPB completed its evaluation of the expanded expedited process and determined that there are no significant gains in using an expedited process for minor adverse actions. Additionally, the SPB completed its review of 271 probationary rejection appeals for fiscal year 1998-99 and found that all but 44 were resolved without an evidentiary hearing. Because of the lower amount of staff time used under the current process to handle these appeals as compared to the recommended process and the lack of substantive complaints from the parties, the SPB plans to continue with its current process. In response to our recommendation to require employees to establish merit for probationary rejection appeals, the SPB stated that this would

require more resources than are required by the current system. This is because the SPB would be required to conduct an investigation concerning most of these appeals. Finally, the SPB conducted a pilot project from November 1, 1999, through February 1, 2000, using a written confirmation process for evidentiary appeal hearings. Based on this pilot project, the SPB found little direct efficiency gained by using the written confirmation process.

# California Trade and Commerce Agency

## *It Has Not Demonstrated Strong Leadership for the Manufacturing Technology Program, Collected Data Necessary to Measure Program Effectiveness, or Ensured Compliance With Program Requirements*

**Report Number 99025, December 1999**

***Audit Highlights . . .***

***The Trade and Commerce Agency has not taken an active leadership role over the Manufacturing Technology Program. Specifically, it has not:***

- ☑ ***Developed a comprehensive statewide strategy.***
- ☑ ***Collected consistent and meaningful data necessary to measure program effectiveness.***
- ☑ ***Ensured that centers meet all program requirements.***

As required by the Budget Act of 1999, we audited the Trade and Commerce Agency's (agency) Manufacturing Technology Program (program), administered by the agency's Office of Strategic Technology (OST). The program provides funding to public agencies and nonprofit organizations (centers) that assist small- and medium-sized California manufacturing companies with improving their technology and developing new, commercially viable products and services. Since 1996, this program has been funded jointly by the state and the federal government. During our audit we found the following:

***Finding #1:*** *The OST has not taken an active leadership role in managing the program.*

Specifically, the OST has failed to establish statewide goals and performance measures for the program. As a result, the OST cannot evaluate the program's success or failure. In addition, although it collects some data from the centers, it has failed to standardize the manner in which centers report the data, making this information inconsistent and useless to assess program effectiveness. Further, the OST has not ensured that the centers comply with some state funding requirements. The OST's lack of comprehensive oversight could adversely affect future funding for the centers and ultimately service delivery to the manufacturing companies the program is intended to serve.

We recommended that the OST:

- Develop a statewide strategy identifying program goals, objectives, and specific performance measures.

- Develop a standard reporting format for the centers and use the quarterly reports to monitor their performance.

- More closely monitor the center's compliance with program funding requirements.

***Agency Action: Corrective action taken.***

The agency stated that it has issued a report that identifies areas of need for California-based manufacturers, outlines strategic objectives and guiding principles for the State, describes stakeholder linkages and requirements, and recommends specific performance measures to gauge program success. The agency stated that for fiscal year 1999-2000, it required the centers to report their progress quarterly on two performance measures and may expand this requirement to include other measures in the future. The agency also stated that for fiscal year 2000-01, it is requiring the centers to report their progress monthly so that it can quickly address any program deficiencies. Finally, the agency stated that the centers' compliance with program funding requirements is being reviewed on an ongoing basis and that it is working with the centers to determine whether the inaccuracies in financial reporting identified by the Bureau's audit still exist.

***Finding #2:*** *Two of the three centers in the State did not spend public funds appropriately.*

For example, one center used $1,300 to purchase alcohol. This center also paid a consultant $120,000 after the expiration of a written contract. The second center paid more than $5,100 in unauthorized bonuses to external consultants.

We recommended that the centers reimburse the federal government for disallowed costs.

***Agency Action: Partial corrective action taken.***

The agency did not specifically address this recommendation. However, its response to the Bureau's previous recommendation indicated that if the agency determines that the centers' financial reporting is inaccurate, it will advise the centers of their obligations under state law and work with them to correct any problems.

# CAL-Card Program

## *It Has Merits, but It Has Not Reached Its Full Potential*

### Report Number 2000-001.3, July 2000

***Audit Highlights . . .***

***Our review of the State's use of its purchasing card (CAL-Card) program found that:***

- ☑ ***Personal use of the program is not widespread.***
- ☑ ***High numbers of card-holders and a large volume of transactions have created unanticipated inefficiencies.***
- ☑ ***CAL-Card sometimes inappropriately supplants other procurement methods.***
- ☑ ***Departments that train their staff and enforce their policies have fewer problems with their CAL-Card program.***
- ☑ ***Certain control features built into the CAL-Card program are not working as intended, which reduces their usefulness.***

The Department of General Services (General Services) created the State of California's purchasing card (CAL-Card) program in 1992 to streamline the process that state departments use to make small purchases. Under this program, state employees are issued credit cards to make work-related purchases. Between December 1998 and November 1999, CAL-Card purchases among state departments other than the California State University system totaled nearly $107 million. We reviewed the administration of the CAL-Card program at the seven state departments that used the program most heavily during this period. These seven departments are listed in the box on the following page. Although our review did not identify widespread personal abuses, we found 401 errors out of a total of 4,964 tests, an error rate of 8.1 percent. These errors included purchases with no detailed receipt or purchases specifically prohibited by departmental policies. We concluded that departments can more effectively use the program by integrating it into their overall procurement practices. In addition, some of the control features built into the CAL-Card program are not working as originally intended. Specifically, we found the following conditions:

***Finding #1:*** *Some departments may have more cardholders than needed.*

Although the CAL-Card program has helped streamline the procurement process by providing departments with greater flexibility and a convenient mechanism for making purchases of less than $15,000, not all departments are using the CAL-Card program efficiently. Specifically, of the seven departments we visited, two—the Department of Parks and Recreation (Parks and Recreation) and the Department of Fish and Game—have issued cards to more than 40 percent of their employees, while another two, including the California Conservation Corps, have issued cards to more than 30 percent of their employees. We question whether this many employees should have procurement as one of their duties.

***Finding #2:*** *Small purchases are not always well planned.*

About 4 percent of the transactions in our sample were for purchases that totaled less than $10 each and were made primarily for photo processing and single videotapes. The average transaction was less than $200 in 19 of the 31 largest departments (61 percent) participating in the CAL-Card program, and in 4 it was less than $100. Departments could improve the effectiveness of the CAL-Card program by planning and coordinating their purchases, especially very small purchases.

***Finding #3:*** *Growth in CAL-Card volume has increased administrative workload.*

We reviewed the use of Cal-Cards at the following departments:

- ✓ Department of Transportation
- ✓ Department of General Services
- ✓ Department of Parks and Recreation
- ✓ Department of Forestry and Fire Protection
- ✓ Department of Fish and Game
- ✓ Employment Development Department
- ✓ California Conservation Corps

One of the benefits the CAL-Card program was to provide a reduction in more labor-intensive purchasing methods. However, of the seven departments we visited, at least two—Parks and Recreation and the Department of Transportation (Transportation)—have not experienced the expected decrease in these other methods. Additionally, due to the high volume of CAL-Card purchases, low staff levels at some departments, and the short time frame for payments to the sponsoring bank, some departments must redirect staff from other tasks to process the payments. Moreover, the high volume of CAL-Card transactions has proven a burden for cardholders, approving officials, and payment units when reconciling and processing CAL-Card statements. As a result, payments are sometimes delayed. We found that delays at various processing points have caused some departments to take longer to pay than the 45 days after the statement date that the CAL-Card contract requires. Planning and coordinating purchases, and limiting the number of cardholders might reduce the high volume of monthly transactions, which could lead to more prompt and efficient payment processing.

We recommended that departments determine the benefits they want to receive from the CAL-Card program, the level of resources they are willing to devote to managing and maintaining the program, and the benchmarks they will use to determine whether they have met their goals. Based on these assessments,

the departments can determine how many cardholders and approving officials should participate in the program.

***Department Action: Partial corrective action taken.***

Transportation reported in its 6-month response that it is currently conducting an internal audit to assess its requirements related to the number of cardholders and approving officials. Transportation will adjust these numbers as necessary based on the audit results.

In its 6-month response, the Resources Agency, which oversees four of the departments we audited—Parks and Recreation, the Department of Forestry and Fire Protection, the Department of Fish and Game, and the California Conservation Corps—reported all of its reporting departments completed a review of their CAL-Card usage. This work included a review of the internal allocations of CAL-Cards. Although most of the departments were satisfied with their allocations, Parks and Recreation has reduced the number of its cardholders by 7 percent.

In its 60-day response, the Employment Development Department (Employment Development) indicated that it would complete an analysis of its existing CAL-Card program and report its conclusions in its 6-month response, which it has not yet provided to us.

***Finding #4:*** *CAL-Card sometimes supplants other more appropriate procurement methods.*

Two departments—the California Conservation Corps and General Services—used the CAL-Card for purchases of more than $15,000 that would have been better handled by standard procurement methods. In addition, cardholders at Transportation and General Services had vendors split purchases to circumvent spending limits. We also found 61 purchases totaling $55,503 where cardholders used the CAL-Card for travel-related purchases for which the State has established other procurement methods. These purchases, such as lodging, meals, airfare, gasoline, and car rentals, are in direct violation of statewide CAL-Card guidelines.

We recommended that departments reemphasize to their cardholders and approving officials that the CAL-Card program has specific procedures and controls and is only one of several procurement methods available.

***Department Action: Partial corrective action taken.***

General Services reported in its six-month response that it has created an internal task force to review existing policies, procedures, and practices. Its current plans are to issue a draft handbook with the updated policies and procedures to all stakeholders for review and comment.

To increase knowledge of CAL-Card procedures and alternatives to the use of the CAL-Card program for procurement, Transportation has trained more than 2,000 cardholders and approving officials on its new automated system for the purchasing card. Training on these processes will continue until all appropriate personnel complete the training.

The Resources Agency reported that its departments are providing refresher training to all existing cardholders, as well as thorough training to new cardholders.

Employment Development indicated in its 60-day response that it has an ongoing process to communicate the CAL-Card program's role in procurement through its CAL-Card manual and the initial training of cardholders. It also noted that it would develop an electronic mail database of all CAL-Card cardholders and approving officials to facilitate the communication of updated CAL-Card information. This project was to be completed within 6 months.

***Finding #5:*** *Departments can improve controls over their CAL-Card programs.*

Effective CAL-Card programs have four key components: policies, training, monitoring, and enforcement. Every department is responsible for training participants in the program, yet of the seven departments we tested, neither Transportation, the California Conservation Corps, nor General Services makes training mandatory for cardholders and approving officials. Cardholders at these departments made prohibited purchases, circumvented CAL-Card policies, and failed to provide supporting documentation for their purchases more frequently than cardholders at the other four departments. In addition, poor implementation of the review process at some departments has weakened it as a control. We found that the initial review by the approving official is the most significant review a department performs. However, our testing indicated that reviews by

approving officials do not always identify purchases of prohibited commodities and services. Moreover, the reviews do not always detect purchases that are not supported, that are missing required preapproval, or that violate other departmental policies.

We recommended that departments institute initial and ongoing training for cardholders and approving officials and develop monitoring systems that include reviews of policies specific to the CAL-Card program and department-specific elements, such as preapprovals. In addition, departments should develop and use enforcement policies that consist of warnings, reduction of credit limits, and removal of cardholders and approving officials that violate CAL-Card program policies.

***Department Action: Partial corrective action taken.***

General Services' task force is developing a comprehensive CAL-Card training program for cardholders and approving officials. Improved monitoring systems will be addressed in the training course. General Services' audit section will include coverage of CAL-Card usage in its biennial review of the department's systems of internal control.

Transportation has addressed training through a training program and monthly CAL-Card newsletters. In addition, Transportation has begun using electronically generated information from its automated purchasing card system for post-payment monitoring and enforcement. Further, Transportation's ongoing internal audit will assess the implementation of the post-payment and enforcement procedures.

The Resources Agency reported that its reporting departments have reviewed and improved their monitoring and enforcement procedures. The Department of Water Resources, Forestry and Fire Protection, and Fish and Game have redirected staff to these functions. In addition, consequences for violating the procedures developed for use of the card have been reemphasized to all cardholders.

In its 60-day response, Employment Development noted that it has an ongoing process that requires training of all new cardholders and approving officials. In addition, it has a system of post-payment monitoring and enforcement currently in effect.

***Finding #6:*** *Control features provided by the bank are not working as intended.*

Two primary controls that the sponsoring bank installed in the program—dollar limits and merchant category restrictions—are meant to prevent the misuse of the CAL-Card. However, dollar limits can be circumvented, and the use of merchant category restrictions actually limits the ability of cardholders to make legitimate purchases. We found three instances in our testing where cardholders were able to circumvent either the single purchase limit or the 30-day purchase limit. Further, because of the way the bank has grouped vendor types into merchant codes, two departments have found that using these codes hampers their normal operations and have lifted all vendor restrictions. At least two merchant codes include such a wide variety of vendor types that their effectiveness as a control is diminished. For example, one merchant code includes 82 separate vendor types that encompass stores selling computer equipment, hardware, office supplies, jewelry, flowers, and cigars. Although many of the vendors in this code provide goods that are appropriately obtained with the CAL-Card, others are much less likely to sell items that staff can legitimately purchase. However, because one merchant code includes all these vendors, departments cannot block the inappropriate vendors without also blocking the appropriate ones.

We recommended that General Services, as the State's CAL-Card coordinating agency, negotiate with the bank for revised groupings of vendor types into merchant codes to allow departments to more effectively block inappropriate vendors.

***Department Action: Partial corrective action taken.***

General Services recognizes the need for the capability to restrict uses of the CAL-Card through the merchant coding system and included this issue in its request for proposals for the new contract. The current contractor was the successful competitor. However, the contractor did not propose significant improvements to the merchant coding system because of limitations as to what could be reasonably provided without significant cost to the State.

# Office of the Attorney General

## *It Diligently Investigated the Legality of Downey Community Hospital Foundation's Transactions, but Questions Remain About Sound Business Practices*

### Report Number 99101, July 2000

***Audit Highlights . . .***

***Our review of the Office of the Attorney General's (attorney general) investigation of the Downey Community Hospital Foundation (foundation) revealed that:***

- ☑ ***The attorney general's investigation adequately determined whether foundation officers or board members committed a breach of charitable trust, breach of duty, or other unlawful acts.***
- ☑ ***Although not within the scope of its investigation, the attorney general needs to perform additional work to determine whether foundation directors and officers used sound business judgment in certain ventures.***

The Joint Legislative Audit Committee requested that we review the investigation of the Downey Community Hospital Foundation (foundation) by the Office of the Attorney General (attorney general). We found that:

*The attorney general diligently investigated the foundation; however, law forbids public disclosure of the results.*

The attorney general properly carried out its duties in investigating the foundation. Specifically, the attorney general's investigation appropriately determined whether officers and directors of the foundation committed any unlawful acts that resulted in a loss of foundation assets. State law, however, prohibits both the attorney general and the Bureau of State Audits (bureau) from publicly reporting any details of the investigation.

*Officers and directors of charitable corporations must adhere to duties specified in the Corporation Code.*

We asked the attorney general about the necessary duties of officers and directors of charitable corporations as defined by the California Corporations Code (code). According to the attorney general, these individuals must adhere to the following prescribed duties when making decisions that affect a nonprofit corporation: (1) duty of care, (2) duty of loyalty, (3) duty of good faith, and (4) duty to carry out the charitable purpose of the corporation. If the officers and directors of a charitable corporation breach any of the aforementioned duties, courts generally will not hold them

liable unless the corporation actually suffered monetary damage because of the breach.

*The Corporations Code allows the foundation to form partnerships with for-profit entities.*

The foundation entered into an alliance with the CareMore Medical Group (medical group) and the CareMore Medical Management Company (management company), two for-profit entities, to form an integrated delivery system (IDS). The attorney general said the code allows this as long as all such arrangements are intended to further the charitable purposes of the corporation.

*The Corporations Code allows the foundation to use charitable resources to partner with the medical group and management company.*

We asked the attorney general several questions about the appropriateness of lending the assets of a charitable corporation. According to the attorney general's response to our questions, the board of directors of a charitable corporation may loan funds to for-profit entities that the corporation partly or wholly owns. Further, although the charitable corporation's board must adhere to the standards of good faith, due care, and loyalty when making the loans, the law does not require that such loans be secured by assets of the entity receiving them if those loans directly further the corporation's charitable purposes.

*The Corporations Code allows governing boards of charitable corporations discretion in setting salaries for officers and directors.*

According to the attorney general, California law generally allows a charitable corporation board discretion in fixing compensation for its officers and directors. However, in establishing the compensation, the board must be able to demonstrate it acted in good faith and that the compensation is reasonable and in the best interests of the corporation. Because the fixing of compensation is generally within the business discretion of the board of directors, courts ordinarily will not interfere with or second-guess such decisions.

*Further review would have been needed to evaluate management's business judgment in using the foundation's charitable resources.*

The attorney general's investigation was limited to determining whether sufficient evidence exists to file suit against the officers and directors of the foundation for any breach of charitable trust, breach of duty, or other unlawful acts, and to recover damages on behalf of the charity's beneficiaries. Additional evaluation would have been necessary to determine whether the foundation's business practices allowed it to adequately consider risk when it committed charitable resources in some business transactions.

# Overtime for State Employees

## *Some Departments Have Paid Too Much in Overtime Costs*

### Report Number 99001.1, July 1999

***Audit Highlights . . .***

***Our review of the overtime payments by several state departments revealed isolated problems, including:***

- ☑ ***Rather than using less-costly alternatives, one department relied heavily on overtime to cover vacations and training.***
- ☑ ***Two departments incurred higher salary costs because they inappropriately paid $74,000 in overtime to ineligible employees.***
- ☑ ***Two departments could not always provide documentation showing that management had properly authorized the overtime worked by their employees.***
- ☑ ***One university campus made keypunch errors that resulted in $5,700 in overpayments to two employees.***

Excessive amounts of overtime can be detrimental to the State as well as to its employees. To assess overtime paid to state employees from July 1997 through March 1999, we examined several departments that had paid high amounts of overtime, had paid high percentages of their payroll in overtime, or had paid overtime to ineligible employees during this 21-month period. Although our review disclosed no widespread pattern of excessive use of overtime, we did find isolated problems indicating that some departments should take steps to improve their management of overtime including the following:

***Finding #1:*** *The Department of Corrections (Corrections) did not always comply with internal controls pertaining to overtime.*

In 30 of about 110 instances, Corrections paid overtime to employees even though supervisors had not properly approved it. When it does not follow established internal controls, Corrections cannot assure that overtime was necessary or actually worked.

We recommended that Corrections ensure that its staff is aware of and abide by the payroll requirements of the State Administrative Manual.

***Department Action: Corrective action taken.***

Corrections issued several directives regarding the certification of time sheets. In addition, a supervisory signature will be required on all timesheets. Furthermore, since September 1999, it provided five training sessions for timekeepers and overtime-related training for officers at correctional facilities. Finally, Corrections' personnel are reviewing forms for proper authorization before requesting overtime payments.

***Finding #2:*** *Corrections overtime practices conflict with agreements.*

In 24 instances, Corrections allowed employees to work more than 16 hours per day or to work 16-hour shifts on more than two consecutive days in violation of their bargaining agreements. Without sufficient rest periods, Corrections may increase the risk of injury to employees or inmates and is creating an environment for employee exhaustion.

We recommended that Corrections comply with the staffing requirements contained in agreements between the State and employee unions.

***Department Action: Corrective action taken.***

Corrections states that it continues to advise supervisors not to work employees on back-to-back 16-hour shifts. It also adds that it ensures compliance with this requirement by monitoring the activity through audits. Corrections' review of the memorandum of understanding (MOU) with the bargaining unit did not identify the need to issue further memorandums or to revise existing policies. Corrections did, however, submit several proposed MOU changes to its Labor Relations Branch for possible revision during the upcoming collective bargaining sessions.

***Finding #3:*** *Corrections routinely paid overtime to three ineligible employees.*

Corrections inappropriately paid about $16,000 in overtime to three 4C employees despite the State's policy that overtime payments to 4C employees are prohibited. Typically, 4C employees are administrative, executive, professional, managerial, or supervisory staff.

We recommended that Corrections seek reimbursement from the three affected employees. Further, to ensure that it does not inappropriately pay 4C employees overtime in the future, Corrections should ensure that all applicable employees sufficiently understand that, with few exceptions, 4C employees cannot receive overtime pay.

***Department Action: Corrective action taken.***

Corrections states that one employee has repaid all overpayments while it continues to collect overpayments from the other two. Because of the size of one overpayment, it will take another two

years to collect it. Corrections is also reviewing quarterly reports to identify inappropriate overtime payments. It states that it will pursue immediate collection of smaller amounts.

***Finding #4:*** *Corrections inappropriately paid employees overtime for lunch breaks.*

To entice its staff to work overtime on weekends, Corrections' case records sections allow staff to follow the lunch "on-the-run" policy that gives some Corrections employees no preset, unpaid lunch breaks. We believe that it is neither reasonable nor appropriate to allow case records' staff to observe the lunch on-the-run policy for overtime work and can conceive of few situations arising on weekends that would prevent employees from taking their regularly scheduled unpaid lunch.

To avoid paying employees for their lunch breaks unnecessarily, we recommended that Corrections cease the lunch "on-the-run" practice in operations where lunch breaks are unlikely to be interrupted.

***Department Action: Corrective action taken.***

Corrections gave notification to management at one of its case records offices that the practice of lunch "on-the-run" is to stop immediately. It also directly counseled the supervisor and staff, reminding them of the policies governing overtime.

***Finding #5:*** *The Department of Forestry and Fire Protection (Forestry) did not effectively apply efforts to reduce substantial overtime.*

Although some individual units implemented less-costly alternatives to overtime, Forestry did not apply these alternatives as effectively as it could throughout the department. Not using cost-cutting measures more effectively contributed to Forestry spending $46 million (or 11 percent of its payroll) in overtime during the 21 months from July 1997 through March 1999.

To help reduce the amount of overtime it incurs, we recommended that Forestry explore alternatives to relying on overtime for nonemergency situations and implement those alternatives that can best achieve cost savings.

***Department Action: Corrective action taken.***

Forestry completed its study of alternatives to overtime, concluding that overtime was the least costly of all alternatives.

***Finding #6:*** *Forestry's ranger units do not always follow internal control procedures for overtime.*

In 9 of 94 instances we reviewed covering July 1997 through March 1998, Forestry was unable to provide documentation showing who authorized overtime and why. In 16 other instances, neither the employee nor the supervisor signed the employee's time records. When ranger units do not comply with established internal controls, Forestry is not taking sufficient steps to assure that it pays only for overtime that was necessary and actually worked.

To ensure that it pays only for overtime that is necessary and actually worked, we recommended that Forestry ensure that its ranger units properly enforce their staff's compliance with internal control procedures for overtime.

***Department Action: Corrective action taken.***

Forestry states that it is in the final development stages of a new time-keeping system to be used strictly for monitoring and tracking overtime and the associated costs. Forestry believes that the new system has many more controls. For instance, it has an online process for approving and tracking the number of overtime hours worked and the specific reasons for the overtime. Forestry states that the new system is 95 percent functional as of November 2000.

***Finding #7:*** *The Department of Mental Health (Mental Health) inappropriately paid overtime to a 4C employee.*

From July 1997 through March 1999, Mental Health routinely paid overtime to one of its 4C employees. In this case, Mental Health's employee compensation costs were $57,000 higher than they should have been.

We recommended that Mental Health continue its efforts to reduce the work demands placed on this employee. Further, if it believes that the work deserves additional compensation, we recommended that Mental Health explore legitimate alternatives for increasing the employee's pay.

***Department Action: Corrective action taken.***

Mental Health has discontinued its practice of paying overtime to the employee, who is a pharmacist. Furthermore, a number of alternatives have been instituted to ensure after-hours availability of medication.

***Finding #8:*** *The Department of Transportation (Caltrans) reallocated employees from one workweek group to another without approval from the Department of Personnel Administration (DPA) and failed to properly allocate overtime costs for these employees.*

Caltrans temporarily reallocated 33 senior engineers from workweek group 4C into another workweek group without formal approval from DPA. This move was made in order to pay the senior engineers overtime. Caltrans paid the 33 senior engineers overtime totaling almost $400,000, with 17 of the engineers receiving at least $10,000 each. State policy prohibits overtime pay to employees in workweek group 4C. In addition, rather than allocating the $400,000 in overtime costs to specific projects as it should have, Caltrans treated the overtime as indirect costs and distributed this expense among all of its projects. For those projects funded by federal and local governments, this could lead to overpayment or underpayment of true project costs.

To comply with state policy concerning staff, we recommended that Caltrans promptly seek formal approval from DPA to reallocate the senior engineer positions. To ensure that federal and local governments and the State pay their fair share of costs associated with Caltrans' projects, we recommended that Caltrans route all overtime payment documentation through its fiscal analysis branch to properly allocate the overtime costs to the applicable projects.

***Department Action: Corrective action taken.***

A September 1999 agreement between the bargaining unit and the State resolved the issue because it affirmed that these employees were no longer entitled to overtime pay. Further, Caltrans completed its identification of the engineers to whom it paid overtime and the pay periods, amounts, and projects involved. It also identified and processed the applicable correcting entries to its accounting records.

***Finding #9:*** *The DPA has yet to settle its disagreement with the union representing senior Caltrans engineers.*

The DPA was in negotiations to settle a disagreement with the professional engineers in the California government union regarding overtime and reclassification. Negotiations over this issue started before the bargaining unit agreement expired on

June 30, 1995. However, as of June 21, 1999, nearly four years later, the DPA and the union had still not settled their disagreement.

We recommended that the DPA make all efforts to resolve its disagreement with the union concerning the classification of employees.

***Department Action: Corrective action taken.***

The DPA and the union agreed to permanently move applicable engineering staff to a new workweek group that does not receive overtime.

***Finding #10:*** *California State Polytechnic University, Pomona (Pomona) mistakenly overpaid two employees $5,700.*

Rather than pay two employees a shift differential of less than 70 cents per hour for 170 hours of work, Pomona mistakenly paid them one and one half times their normal hourly rates. This resulted in an overpayment of $5,700.

To correct the overpayment, we recommended that Pomona continue to pursue reimbursement from the affected employees until the overpayment has been liquidated. Further, to ensure that it does not repeat similar errors, Pomona should review the internal controls over its payroll system.

***Department Action: Corrective action taken.***

Pomona stated that it has started payroll deductions to recover the overpayments to the two employees. Pomona further stated that it had trained the payroll technician who made the data-entry errors and informed other payroll staff of the errors so they could prevent similar errors from happening in the future. Finally, Pomona stated that it revised its internal controls so that it could identify excessive or erroneous overtime payments.

# Prison Industry Authority

## *Investigations of Improper Activities by State Employees, Report I2000-2*

### Allegation I980123, August 2000

A Prison Industry Authority (PIA) manager abused the State's procurement system and improperly awarded PIA projects to a vendor without considering alternative sources and without following the Public Contract Code requirements. Specifically, the manager did the following:

***Finding #1:*** *The manager allowed the vendor (company A) to work on a PIA project under the authority of another vendor's (company B) contract because company A was not a state-approved vendor and company B was.*

Although the State generally requires its agencies to use a competitive procurement process, agencies can opt to select from an established pool of prequalified vendors. The State's Department of Personnel Administration established the Office of Statewide Continuous Improvement (OSCI) to assist state agencies by creating this pool of prequalified vendors and by recommending vendors from this pool to agencies for specific projects. However, any contracts awarded under this option, including amendments, are limited to no more than $100,000 per project. For its part, the OSCI assesses a fee of 10 percent of the total amount of each selected vendor's bill.

The PIA manager abused this system when he suggested that company A perform work related to its wooden furniture product line under a subcontract with company B. The manager did this knowing full well that company A was neither on the State's approved vendor list nor a prequalified vendor with the OSCI. And, the manager selected company B to be the prime contractor from a list of four because company B agreed to allow company A to perform the work in exchange for another 10 percent fee.

***Audit Highlights . . .***

***A Prison Industry Authority (PIA) manager engaged in the following improper governmental activities:***

- ☑ ***Allowed one company to work on a PIA project, at a cost of approximately $271,000, under the auspices of a second company's contract because the first company was not a state-approved vendor.***
- ☑ ***Awarded two other PIA projects, totaling over $146,000, directly to the first company without following state-required procedures.***

The original agreement between the PIA and the OSCI, including company B's work and OSCI's fee, was $19,350. However, from November 11, 1996, through January 31, 1999, the agreement was amended three times. Ultimately, the PIA agreed to pay $271,780 to obtain company A's consultation services, about $50,000 of which went to the OSCI and company B for their parts in this scheme.

***Finding #2:*** *The manager improperly awarded two other PIA projects to company A. Although PIA claimed it had obtained competitive bids for one of the projects, the bids it recorded were not credible. The PIA did not even claim that it sought competitive bids for the other project.*

The first project the manager awarded to company A was for design, layout, reproduction preparation, and printing of 20,000 16-page catalogs of the PIA's freestanding office screens. The State allows noncompetitive procurement when an emergency condition exists and defines such a condition as "one which would not have been avoided by reasonable care and diligence or [which carries] an immediate threat of substantial damage or injury to . . . employees of the agency, . . . [to] the general public, or to property for which the agency is responsible." The PIA claims that this was an emergency procurement, saying that the catalog was needed in time for a 1998 government technology conference. However, we concluded that the situation did not meet the definition of an "emergency condition." And, it appears that even the PIA did not really believe that an emergency condition existed, because it claimed to have obtained competitive bids. Because of several inconsistencies in the PIA's documentation of the bids, we concluded that the bids were not credible. In total the PIA paid company A $121,811, or more than $6 each, for the 16-page catalogs. And, it appears that PIA paid more than twice as much as necessary for the printing alone.

The other PIA project the manager awarded to company A was for the design and setup of an exhibit booth at the 1998 government technology conference. In the seven previous years, the PIA had used internal resources for these booths. Nevertheless, without issuing a request for proposal or obtaining any competitive bids, the PIA paid company A almost $25,000 for the project.

***Department Action: Corrective action taken.***

After the Department of Corrections did a follow-up investigation, the PIA terminated the manager's management appointment. The manager then opted to retire from state service. In addition, the PIA revised its policies and procedures for purchasing services and commodities with the objective of complying with state requirements.

# State of California

## *Unnecessary Administrative Fees Increase the State's Cost of Contracting With California State Universities*

### Report Number 2000-001.4, November 2000

***Audit Highlights . . .***

***Our review of the State's contracts with the California State University (CSU) system revealed that:***

- ☑ ***While the contracts with CSU entities appear appropriate, state departments have unnecessarily paid or agreed to pay fees to administer these contracts.***
- ☑ ***State departments will pay the CSU Board of Trustees $1.5 million to simply act as an intermediary between the State and the CSU foundations.***
- ☑ ***State departments could have saved $1.4 million in administrative fees had they negotiated the average 15 percent rate for more of the contracts.***
- ☑ ***By allowing CSU foundations to purchase goods and services for them, rather than doing it themselves, state departments paid $102,000 more than necessary.***

State departments (departments) contract for billions of dollars of services every year. To obtain needed services, departments sometimes contract with entities in the California State University (CSU) system for the expertise of the faculty, staff, and students at various CSU institutions. From July 1998 to February 2000, state departments had contracts worth $143 million with the CSU system. We reviewed a sample of 183 contracts worth $93 million and found CSU faculty and students appropriately performed the majority of the work. Furthermore, when subcontractors were hired, they were properly selected through a competitive bid process, if bidding was required. While the contracts with CSU entities appear appropriate, we did find that some state departments have unnecessarily paid or agreed to pay the university system $3 million in fees to administer these contracts. Specifically, we found:

***Finding #1:*** *Contracting with the Board of Trustees of the CSU is more costly to the State.*

Many departments are paying more than necessary for administrative fees because they are contracting with the CSU Board of Trustees (board) instead of negotiating contracts directly with the campuses. The board acts as an intermediary for departments and the CSU foundation that provides the services. It establishes master agreements with CSU foundations, enters into an interagency agreement with departments, and then issues work authorizations to the foundation that will provide the contracted services. Based on the terms of existing agreements, departments will pay the board about $1.5 million for this limited service.

We recommended that departments avoid contracts using fiscal intermediaries, such as the board, that add little value.

***Department Action: Pending.***

Although we addressed this recommendation to all departments, we only elicited a formal response from the Department of Health Services because we discussed certain details regarding one of its contracts as an example of the condition we noted.

The Department of Health Services stated that it plans to instruct department programs to contract directly with individual CSU campuses and foundations to avoid incurring unnecessary administrative costs charged by the trustees.

***Finding #2:*** *Understanding the actual costs underlying administrative fees could enable departments to negotiate lower rates.*

Some departments negotiate rates for administrative fees without sufficient knowledge of the cost the CSU campuses actually incur for administrative activities. For example, rather than inquiring about the level of administrative activities needed for a particular agreement, many times departments simply agree to pay an administrative rate equal to the maximum rate allowed in other contracts CSU foundations have with the federal government. This leaves the departments ill-equipped to bargain for more competitive rates.

In our sample of 183 contracts, fees generally ranged from 8 percent to 25 percent of the contracts' direct costs and covered expenses for administrative support as well as for managing personnel, finances, and facilities. The average administrative fee for the contracts reviewed was 15 percent of total direct costs. However, state departments often paid more than 15 percent. Taking into account only those 36 contracts not brokered by the board in which the administrative fee exceeded 15 percent, the State could have saved $1.4 million had the contracting department negotiated the average 15 percent fee.

We recommended that state departments negotiate rates for administrative fees based on a fuller understanding of the actual costs comprising the rate.

➔ ***Department Action: None.***

Although we addressed this recommendation to all departments, we only elicited a formal response from the Department of Transportation (department) because we discussed certain details regarding one of its contracts as an example of the condition we noted.

The department stated that it accepts the federal rate for administrative costs in cases where the agreements are financed by federal funds. The department believes its current process of relying on the federal indirect cost rate-setting process, pre-award, and periodic post-audits ensures that indirect costs charged on contracts are reasonable. However, according to a representative of the federal Department of Health and Human Services, the federal cognizant agency for the department, the federal indirect cost rate represents a maximum administrative fee rate that an entity such as a CSU can charge in federally funded contracts. There is no prohibition for an organization to negotiate a lower administrative fee rate when appropriate. Therefore, we believe the department should negotiate rates based on a fuller understanding of the actual costs comprising the rate rather than simply accepting the maximum federal rate.

***Finding #3:*** *Departments may pay fees unnecessarily if CSUs procure goods and services from subcontractors.*

Departments pay more in fees because CSU campuses hire subcontractors and purchase goods for them, although the departments could procure these services and goods more cheaply themselves or seek to avoid the amount of administrative fees tacked on to the cost of these items. We identified eight contracts in which campuses entered into large subcontracts for printing services and training materials that the departments could easily have procured themselves—and saved the State $102,000 in administrative fees.

We recommended that departments contract directly with third parties for goods and services when it is more cost-effective, or avoid payment of the administrative fees tacked on to the cost of goods and services departments could procure at reduced costs on their own.

***Department Action: Partial corrective action taken.***

Although we addressed this recommendation to all departments, we only elicited a formal response from the Commission on Peace Officer Standards and Training (commission), the Department of Health Services, and the Department of Parks and Recreation because we discussed certain details regarding their contracts as examples of the conditions we noted.

The commission agrees to consider our recommendation. However, it expressed concern regarding additional costs it would incur if it purchased materials directly. We contend that such costs would be minimal in comparison to the savings that would be achieved.

The Department of Health Services stated that it plans to instruct department programs to evaluate the necessity of using subcontracts under university agreements and to eliminate their use whenever it is more practical and cost-effective for the department to directly secure the services of a third party.

The Department of Parks and Recreation indicated that it concurs with our recommendation and will implement improved processes to ensure the most cost-effective contracting alternative is used.

# State-Owned Intellectual Property

## *Opportunities Exist for the State to Improve Administration of Its Copyrights, Trademarks, Patents, and Trade Secrets*

### Report Number 2000-110, November 2000

***Audit Highlights . . .***

***Our review of the administration of state-owned intellectual property disclosed the following:***

- ☑ ***A lack of sufficient knowledge by state agencies of the intellectual property that they own can hamper the State's protection of its interests.***
- ☑ ***Not only is state-level direction for administering intellectual property limited, but state agencies have either no or incomplete policies for its management.***
- ☑ ***Although our survey of state agencies and other work we performed identified more than 113,000 items of state-owned intellectual property, the State likely owns more.***

Intellectual property typically consists of copyrights, trademarks, patents, and trade secrets. We concluded that many state agencies were not sufficiently knowledgeable about the intellectual property they own. Lacking adequate knowledge of their intellectual property ownership and rights, state agencies could fail to act against those who use the State's intellectual property inappropriately. Inappropriate use includes unauthorized use of state trademarks and improperly profiting on products developed at state expense. Further, we noted that state-level direction for administering intellectual property was limited. The few state laws that addressed intellectual property did so in piecemeal fashion. We also pointed out that state agencies had either no or incomplete written policies for managing their intellectual property. Finally, although our survey of state agencies and other work we performed identified more than 113,000 items of state-owned intellectual property, the State likely owns more. We reported the following specific findings:

***Finding #1a:*** *State agencies do not always know about the intellectual property they own or their rights to own it.*

Our survey of state agencies and other work we performed revealed that many agencies do not realize they own intellectual property, are not aware of the quantity of intellectual property they own, or are unclear or incorrect about their ability to own or formally protect through registration their intellectual property. Not being knowledgeable about intellectual property increases the risk that state agencies will not act against others that misuse

their protected material. Indications that all state agencies may not be aware of all intellectual property they own and that the State actually owns more intellectual property than we disclose in our report include:

- Some state agencies did not identify all intellectual property they own in their survey responses. Although our search of the copyright database of the federal Copyright Office disclosed approximately 1,600 registered copyrights owned by 60 state agencies, only 23 agencies identified 400 such copyrights in their survey responses.

- Some agencies either did not or could not tell us how much intellectual property they own. For instance, despite acknowledging that it possesses intellectual property, one state agency reported that it did not have the resources to quantify its holdings. The Copyright Office database shows that this agency in fact owns 303 registered copyrights.

- Some state agencies appear to be unclear or incorrect about their ability or right to own or register intellectual property. Although decisions in two courts cases support state agencies' legal authority to own and protect their intellectual property, nine state agencies stated in their survey responses that they had either no legal authority to formally register their intellectual property or no authority to own it.

- Some state agencies indicated that they own more intellectual property than they disclosed in their survey responses. For example, one department stated that because of the vast array of its programs and the extensive number of contracts and grants awarded, it is difficult to provide an exact count of the intellectual property it owns.

- Our reviews at seven state agencies to verify information on their survey responses, although limited in scope, resulted in the identification of additional intellectual property.

***Finding #1b:*** *State-level direction for administering intellectual property is limited, and state agency policies are generally incomplete.*

State law does not expressly authorize all state agencies to own and protect all their intellectual property. When it does address intellectual property, it typically allows a specific state agency to

own a certain type of intellectual property or authorizes state agencies to protect certain products such as software that can be safeguarded by copyrights. Further, statewide policies, such as those found in the State Administrative Manual or the State Contracting Manual, do not address intellectual property. When it comes to internal policies, only 43 of the 220 state agencies report having written policies concerning intellectual property. Interestingly, none of these policies provides state agencies with complete guidance for, among other things, identifying products that could be intellectual property, determining whether to formally protect intellectual property, and enforcing their rights against those infringing on the intellectual property. These findings indicate a need for centralized state guidance concerning intellectual property administration and a campaign to educate state agencies on their intellectual property rights and responsibilities.

To help resolve the above concerns, we recommended that the Legislature designate a single state agency as the lead for developing overall policies and guidance related to state-owned intellectual property. This lead agency should also, as necessary, recommend any statutory clarifications necessary to better protect the State's intellectual property. This agency should also have the ability to issue guidelines that all state entities could follow. The lead agency should be responsible for, among other tasks:

- Developing an outreach campaign informing state agencies of their rights and responsibilities concerning intellectual property.

- Establishing guidelines for use by state agencies in administering their intellectual property, including establishing policies concerning the criteria for determining which products will be treated as intellectual property and which should be placed into the public domain.

We also recommended that the Legislature clarify state law to specifically allow state agencies to own, and if necessary, formally register intellectual property they create or otherwise acquire when it is deemed to be in the public's best interest.

***Legislative Action: Unknown.***

We are unaware of any legislative action implementing this recommendation.

***Finding #2:*** *Possible conflict between intellectual property laws and information access laws can be addressed.*

A concern arising from state ownership of intellectual property is that ownership conflicts with the principle of open government—as embodied in the California Public Records Act—by restricting the dissemination of information. The argument is that state agencies could use intellectual property laws to deny access to information they create that would otherwise be accessible. Although this threat seems remote in California, it could be addressed by the Legislature's declaration that intellectual property law protection does not necessarily preclude state agencies from disclosing information. The State could also address this issue by structuring its ownership rights to encourage information dissemination while discouraging unauthorized economic gain or other inappropriate use. For example, the State could provide the public with information that is subject to a license or terms-of-use agreement. This license or agreement would restrict the information's use to private, noncommercial purposes. Consequently, the license or agreement would allow public access to the information and, indeed, the right to use the information in any acceptable manner.

We recommended that the Legislature clarify existing law to declare its intent that protection of state-developed products under intellectual property laws does not preclude state agencies from disclosing information otherwise accessible under the California Public Records Act. We also recommended that the agency designated by the Legislature to be the lead for issuing intellectual property-related policies and guidance be responsible for developing sample language for licenses or terms-of-use agreements that state agencies can use to limit the use of their intellectual property by others to only appropriate purposes.

***Legislative Action: Unknown.***

We are unaware of any legislative action implementing this recommendation.

***Finding #3:*** *Poor patent practices could prove costly to the State.*

The State does not have a statewide policy for patents to help ensure that it retains ownership of the rights to potentially patentable products or processes developed by its employees working on state time using state resources. Under some

circumstances, state employees could secure the patent rights to inventions created on the job and require the State to acquire licenses to use them. To avoid the possible loss of patent rights, private-sector firms and research universities can require their employees to sign documents acknowledging that the rights to any patentable products developed as part of their jobs belong to the employers. These documents are called invention assignment agreements. These agreements can help the State preserve its rights to assert patent ownership and could help strengthen the State's claim of ownership in court should a patent dispute arise.

We recommended that the agency designated by the Legislature to be the lead for issuing intellectual property-related policies and guidance be responsible for developing sample invention assignment agreements that state agencies can consider if they believe it is necessary to secure the rights to potentially patentable items created by their employees on state time using state resources.

***Legislative Action: Unknown.***

We are unaware of any legislative action implementing this recommendation.

***Finding #4:*** *Standard contract language raises questions that should be considered further.*

During our review, we noted standard contract language regarding intellectual property rights that raises questions as to whether it is in the public's best interest. The State's inclusion of this language in its contracts may result in missed opportunities to either lower contract costs or, if a licensing arrangement can be made, to establish additional revenue sources. The Department of General Services requires state funded contracts for the development of information technology that exceed $500,000 to include standard language that essentially gives the contractors a free license to use and sell intellectual property developed under these contracts. Thus, it raises the question as to why the State is apparently giving a portion of its intellectual property rights to contractors without considering the potential value of these rights.

The chief counsel of the Department of General Services comments that the existing language is an appropriate balance of certain financial factors plus others, including the unknown value of the rights to intellectual property before contracts are begun and the need for contractors to use incremental discoveries for other customers without being burdened by costly tracking and

accounting procedures. Although the chief counsel's arguments against changing the standard language may have merit, it still seems questionable to us that the State would enter the competitive process for selecting contractors having already given them a free license to use and sell intellectual property they ultimately develop for the State.

We recommended that the Legislature consider whether the interest of the public is best served when the State uses standard contract language that essentially gives contractors a free license to use and sell intellectual property they develop for the State.

***Legislative Action: Unknown.***

We are unaware of any legislative action implementing this recommendation.

# The State's Real Property Assets

## *The State Has Identified Surplus Real Property, but Some of Its Property Management Processes Are Ineffective*

**Report Number 2000-117, January 2001**

***Audit Highlights . . .***

***Our review of the State's management of its real property assets reveals:***

- ☑ ***Although there are numerous properties in the State's surplus property inventories, many are not available for disposal and the disposal process is slow.***
- ☑ ***The State's approach for identifying surplus property remains flawed.***
- ☑ ***State agencies' inventory systems do not provide effective property management tools or reliable reports.***
- ☑ ***General Services can improve its management of the State's office space, including space leased out for child care facilities.***

In requesting this audit, the Legislature expressed an interest in the availability of surplus state properties in high-cost counties for public use, such as housing, parks, or open space. Therefore, our audit focuses on how much surplus or underused state-owned real property exists in 15 of the State's counties where the cost of real estate is relatively high and housing is relatively scarce and whether agencies are adequately managing their property. Specifically, we assessed the property management procedures for the two agencies primarily responsible for disposing of the State's surplus property: the Department of General Services (General Services) and the Department of Transportation (Caltrans). We also reviewed the property management practices of eight other agencies with large landholdings in high-cost counties. We found that the State has many surplus properties in high-cost areas. However, the State still does not use effective systems or processes to manage its real property despite the State's efforts in response to several past studies regarding its property management.

***Finding #1:*** *General Services has 27 properties located in 15 high-cost counties in its surplus property inventory; however, few of these properties are currently available for sale, and the disposal process can take years.*

General Services has contributed to delays in the disposal of surplus properties because it has not always maintained adequate staffing in its Surplus Sales Unit (Surplus Sales), which is the unit primarily responsible for selling surplus property. In addition, Surplus Sales has not always promptly assigned surplus properties to staff for disposal. When surplus properties sit idle, the State does not benefit from funds it would receive by selling or leasing these properties, and it may incur unnecessary

maintenance costs. Further, until leased or sold, these properties are not available for other purposes, such as housing.

To help dispose of the State's surplus real estate in a timely manner, we recommended that General Services fill the vacant positions in its unit responsible for selling, leasing, or exchanging surplus properties. We also recommended that General Services promptly assign to staff the properties that require disposal.

***General Services Action: Corrective action taken.***

General Services stated that when turnover occurs, prompt actions will be taken to fill vacancies in the unit. Further, if necessary, staff will be redirected to ensure adequate coverage in the unit. Moreover, General Services believes that current policies and procedures will ensure the prompt assignment of future surplus properties approved for disposition.

***Finding #2:*** *Caltrans' Excess Land Management System (ELMS), which serves as Caltrans' inventory of surplus properties, lists 1,928 properties in the 15 high-cost counties; however, the ELMS is incomplete.*

The ELMS also overstates the number of properties actually available for sale. Moreover, after Caltrans identifies a property as surplus, years may pass before the property is available for disposal. When delays occur in the sales of surplus properties, Caltrans, which retains the proceeds from such sales, does not have these funds available to address other needs of the department.

We recommended that Caltrans take the necessary steps to make certain that it properly accounts for and disposes of surplus property as rapidly as possible. These steps should include making sure that Caltrans staff promptly includes and correctly categorizes all surplus property in ELMS. In addition, Caltrans should develop methods to ensure that it completes all aspects of highway projects, including the prompt disposal of surplus property.

***Caltrans Action: Pending.***

Caltrans stated that it is committed to implementing our recommendations to correct the deficiencies we noted. However, Caltrans did not provide an action plan or identify expected dates of completion.

***Finding #3:*** *The State lacks oversight of property management activities designed to ensure landowning State agencies are diligently reviewing their property holdings and identifying property that is surplus to their program needs.*

Although these state agencies are responsible for conducting annual reviews of their property holdings to identify surplus property, they generally have not developed and implemented adequate procedures for doing so. Also, few incentives exist for most agencies to actively identify and dispose of surplus property because the proceeds from most property sales do not benefit the selling agency but are deposited in the State's General Fund. The State could improve its real estate management by implementing practices used by other governmental entities such as using an independent body to review property retention processes and criteria and to arbitrate property retention decisions. When surplus properties remain unidentified, the State does not benefit from funds it would receive by selling or leasing these properties, and it may incur unnecessary maintenance costs. Also, until leased or sold, these properties are not available for other purposes, such as housing, parks, or open space.

To provide consistency and quality control over the review of the State's real property holdings, we recommended that the Legislature consider empowering an existing agency or creating a new commission or authority with the following responsibilities:

- Establishing standards for the frequency and content of property reviews and land management plans.
- Monitoring agencies' compliance with the standards.
- Scrutinizing agencies' property retention decisions.

Alternatively, this entity could be responsible for periodically conducting reviews of the State's real property and making recommendations to the Legislature regarding the property's retention or disposal.

If the Legislature does not wish to establish such an oversight entity, it should consider replacing the current requirement for annual property reviews with a requirement for less frequent but more comprehensive reviews.

The Legislature should also consider providing incentives to state agencies to encourage them to identify surplus and underused property so that they free the real estate for better uses. Such incentives could include allowing agencies to retain the proceeds from the disposition of surplus properties for use either in funding current or planned capital outlays for new property or in improving and modernizing existing facilities when the need exists. Additionally, when agencies need to acquire or improve facilities, incentives for disposing of excess property could include guaranteeing agencies the market value for the surplus property they sell or transfer.

***Legislative Action: Unknown.***

We are not aware of any legislative action concerning this recommendation.

***Finding #4:*** *Caltrans has not performed adequate reviews of its property holdings.*

Unreliable inventory reports and weaknesses in its retention review guidelines hinder Caltrans' efforts to conduct property-retention reviews. Consequently, Caltrans cannot be certain that it has identified all surplus property, the disposal of which would generate funds that Caltrans could use to meet its other needs.

To ensure that it adequately reviews its real property holdings and identifies surplus properties, we recommended that Caltrans management improve its support for the retention reviews conducted by its districts. We recommended that Caltrans seek to improve the reviews in the following ways:

- Make certain that the various units at district offices adequately participate in and work together to administer effectively the annual reviews of real property retention.

- Ensure that district offices follow the retention-review guidelines and maintain asset managers to provide year-round coordination of the management of surplus property and to improve the quality of annual retention review efforts.

- Revise the retention-review guidelines so that they include the following elements:

  - Specific criteria for districts to evaluate the buildings and facilities listed in the Asset Management Inventory.

  - Procedures for ensuring that the ongoing monitoring of surplus property withheld from disposal is sufficient and appropriate.

  - Steps for reviewing noninventory property to ensure that the department needs the property for future highway projects.

***Caltrans Action: Pending.***

Caltrans stated that it is committed to implementing our recommendations to correct the deficiencies we noted. However, Caltrans did not provide an action plan or identify expected dates of completion.

***Finding #5:*** *The Statewide Property Inventory (inventory) is not yet an effective property management tool because reporting agencies do not cooperate with General Services to ensure that the inventory includes all property owned by the State. In addition, the inventory does not list required property characteristics and property use information.*

We recommended that General Services take the necessary actions to ensure that the inventory contains the information it requires to serve as the statewide property management tool intended by legislation. To accomplish this task, General Services should consider the following steps:

- Working with state agencies to identify the property characteristics the inventory must contain to serve as an effective property management tool and seek changes to the law if necessary.

- Developing changes to methods for operating the inventory system to promote efficiency. For example, new methods could give agencies the ability to enter required property

information into the system and to verify the accuracy of the inventory through real-time access to the inventory's data.

- Cooperating with land-owning state agencies to provide standard property identification elements that will facilitate the reconciliation of the inventory systems maintained by the agencies.

- Seeking to change the funding mechanism for the inventory to eliminate the current disincentive for state agencies to provide information to the system.

***General Services Action: Pending.***

General Services stated that during the next inventory reporting cycle, it will provide State agencies an opportunity to identify any additional information that they would like to see included in the inventory. General Services also stated that it has made significant progress in developing a real-time access application for inventory users and anticipates that this feature will be available by June 30, 2001. However, General Services does not plan to examine, until early 2002, the feasibility of allowing other agencies to have data entry capabilities for the inventory because it has determined this project will have significant costs and complexity. Moreover, General Services stated that the inventory already includes a cross-reference field that agencies can use to facilitate the reconciliation. General Services will communicate this feature to state agencies during the next inventory reporting cycle. Finally, General Services will determine if there are fair and practical alternatives to the current method for funding the inventory.

***Finding #6:*** *General Services lacks a complete central record of unused or underused property to assist in monitoring the department's progress in selling or enhancing the use of those properties.*

Insufficient mechanisms for monitoring excess state-owned property can result in oversights and unnecessary delays in disposing of this property and can make it difficult or impossible to measure and assess General Services' performance in carrying out the disposition of surplus property.

We recommended that General Services implement its plan to include in its surplus property database all unused or underused property assigned to its Surplus Sales and Asset Planning and Enhancement Branch and update the surplus property database monthly to assist in monitoring its progress in selling surplus property or enhancing its use.

***General Services Action: Pending.***

The management of Surplus Sales and the Asset Planning and Enhancement Branch are taking action to improve the accuracy and completeness of the surplus property database. However, General Services did not indicate when these improvements would be complete.

***Finding #7:*** *General Services did not promptly submit its most recent surplus property report to the Legislature, and the report does not provide detailed information about delays in selling several properties.*

The document also does not identify deficiencies in the State's system for identifying and disposing of surplus property or highlight the issues causing lengthy delays in disposing of excess properties and thus misses opportunities to bring these matters to the attention of policy makers. If they had more detailed information regarding these issues, the policy makers might be able to identify opportunities for legislative intervention that could hasten the disposal process.

To improve the value of reports to the Legislature regarding its surplus property inventory, we recommended that General Services submit these reports promptly and consider including additional detailed information on the status of surplus property. In these reports, General Services should also describe the weaknesses in the State's real property systems and include suggestions to improve the State's ability to identify and dispose of surplus property.

***General Services Action: Pending.***

General Services is taking action to ensure that its annual report on surplus property is submitted to the Legislature in a more timely manner. Its goal is to submit this year's report by the end of February 2001.

In addition, General Services will include more detailed information within the report on the status of surplus property that will assist in moving the properties towards disposition.

Finally, consideration will be given to providing additional information on the surplus property report related to program weaknesses and suggestions for improvement.

***Finding #8:*** *Caltrans does not maintain complete, current databases on real property. Consequently, the databases do not provide sufficient information to aid Caltrans districts in managing their real property.*

In addition, because Caltrans bases its real property reports, including reports to the Legislature and General Services, on information in these databases, the reports do not provide complete, current, or accurate data. Finally, Caltrans does not always produce the annual reports it is required to submit to General Services. Therefore, any decisions or conclusion reached by users of available inventory reports might be based on obsolete information.

To make certain it has reliable information available to manage its real property holdings, we recommended that Caltrans take the necessary steps to correct the information in its real property databases. In addition, until existing reporting requirements are rescinded, Caltrans should take the necessary steps to ensure that it provides accurate, timely annual reports on the status of its real property holdings.

***Caltrans Action: Pending.***

Caltrans stated that it is committed to implementing our recommendations to correct the deficiencies we noted. However, Caltrans did not provide an action plan or identify expected dates of completion.

***Finding #9:*** *General Services has not fulfilled all of its obligations to administer a state program to provide space for child care facilities in state-owned buildings.*

General Services does not always enforce the requirements of the program, such as executing lease agreements and collecting rent for building space occupied by child care providers. In addition to losing revenue by not collecting rent, General Services may be exposing the State to unnecessary liability because it has not always executed required building space leases.

To ensure that it complies with state laws governing child care facilities in state-owned buildings, we recommended that General Services take the following necessary steps to make certain it fulfills its oversight responsibilities:

- Improving its administrative controls over leases for child care facilities to ensure that required leases are in place and that nonprofit corporations established by employees to provide child care facilities meet all the terms and conditions of the leases, such as the nonprofits' making agreed-upon payments for the leased spaces.

- Developing and implementing a system to communicate among General Services' relevant units, such as those involved in building design, child care facility review, leasing, and accounting, to ensure that all affected units are aware of child care facilities under General Services' jurisdiction.

- Conducting the required initial reviews to determine whether state employees need child care facilities and, after the facilities have operated for five years, comparing state employees' continuing need for the facility to the State's need for additional office space.

In addition, General Services should make sure that it meets the requirements of the law when determining rents for employees' nonprofit corporations that seek to establish child care facilities in state-owned buildings and when enforcing the terms of lease agreements or seek to change the law's requirements.

***General Services Action: Pending.***

General Services expects to complete a written report by February 15, 2001, addressing how it is going to respond to key child care facility program issues. The report will address the areas of concern raised in the report including the execution and enforcement of lease agreements and the collection of rent payments from child care providers. General Services also stated that the 11 facilities identified in the report as lacking a current lease agreement have been or will be in the near future assigned to staff for the development or renewal of an agreement.

In addition, General Services will reanalyze its processes to ensure that relevant child care facility issues are being communicated to appropriate division staff.

With regard to assessing the initial and continuing need for child care facilities, General Services stated that its existing policies and practices provide for the conduct of initial child care need studies as required by statute. However, it will develop a methodology and criteria for performing needs assessments of child care centers that have been in operation for five years. General Services did not provide an expected completion date.

Finally, General Services will ensure rent is charged for child care facilities as provided by law. It plans to charge rent that is fair and reasonable and, at a minimum, recovers the State's administrative costs.

***Finding #10:*** *General Services does not conduct regional studies of office space occupied by state agencies and does not prepare plans to accommodate the State's office space needs as often as the department's procedures require. As a result, General Services cannot be sure that it is adequately managing the State's office space.*

We recommended that General Services perform planned regional office space studies to ensure that it provides an adequate strategy for consolidating the State's office space.

***General Services Action: Partial corrective action taken.***

General Services stated that its staff will create or update plans as operating priorities allow. It recently allocated staff to prepare four overdue regional plans.