

CALIFORNIA STATE AUDITOR

Bureau of State Audits

Recommendations Not Fully Implemented After One Year

The Omnibus Audit Accountability Act of 2006



January 2011 Report 2010-041

SPECIAL REPORT

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January 13, 2011

2010-041

Dear Governor and Legislative Leaders:

Consistent with the Omnibus Audit Accountability Act of 2006 (California Government Code, sections 8548.7 and 8548.9), the Bureau of State Audits (bureau) presents its special report to the Joint Legislative Audit Committee, Joint Legislative Budget Committee, and Department of Finance. This report notes that from January 2005 through October 2009, the bureau issued 78 reports on audits of state agencies. In those reports, the bureau made 770 recommendations and state agencies had implemented 633, or 82 percent. The remaining 137 recommendations made to 28 state agencies had been outstanding for at least a year and not fully implemented. However, based on recent responses obtained from those state agencies, the bureau determined that 41 have been fully implemented and only 96 remain outstanding. In addition to identifying which recommendations have and have not been fully implemented, this report contains written responses from each state agency explaining the status of each recommendation. For recommendations that have not been fully implemented, this report also provides agency responses regarding when these recommendations will be fully implemented.

Our audit efforts bring the greatest returns when agencies act upon our findings and recommendations. For example, in our 2003 report about the state mandates process, we recommended that the State Controller's Office (Controller) audit claims already paid under the Peace Officers Procedural Bill of Rights (peace officer rights) mandate to ensure that local entities have prepared their reimbursement claims consistent with the Commission on State Mandate's intent. In August 2010 the Controller reported to the bureau that it identified \$194 million in unallowable costs based on its audits of \$225 million in claims submitted by local agencies. The Controller noted that although some local agencies disputed the findings, none have formally appealed the audits. Additionally, the Controller reported that it analyzed the claims filed by the same 39 local agencies and found that except for the city of Los Angeles, the amounts claimed under the peace officer rights mandate have dropped substantially. As a result, the Controller reported that the State has realized savings through cost-avoidance totaling \$53 million over the past seven years. We see no reason why such a pattern of savings will not continue in the future.

If you would like more information or assistance regarding any of the recommendations or background provided in this report, please contact Margarita Fernández, Chief of Public Affairs, at (916) 445-0255.

Sincerely,



ELAINE M. HOWLE, CPA
State Auditor

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INTRODUCTION

As required by the Omnibus Audit Accountability Act of 2006 (Accountability Act), the Bureau of State Audits (bureau) presents its report on the status of recommendations that are more than one year old and have not been fully implemented by state agencies.

RESULTS IN BRIEF

From January 2005 through October 2009, the bureau issued 78 reports for audits of state agencies requested through the Joint Legislative Audit Committee, legislation, or as a result of an investigation.¹ The bureau made 770 recommendations to the audited state agencies in those reports.² While the state agencies implemented most of the recommendations, the bureau identified 137 recommendations made to 28 state agencies that had been outstanding at least one year and not fully implemented. Of the 137 recommendations, 91 appeared in last year's report. Based on recent responses obtained from state agencies, the bureau determined that 96 of the 137 recommendations remain not fully implemented.

The bureau's audits bring the greatest returns when auditees act upon findings and recommendations. For example, in our 2003 report about the state mandates process, we recommended that the State Controller's Office (Controller) audit claims already paid under the Peace Officers Procedural Bill of Rights (peace officer rights) mandate to ensure that local entities have prepared their reimbursement claims consistent with the Commission on State Mandate's intent. In August 2010 the Controller reported to the bureau that it identified \$194 million in unallowable costs based on its audits of \$225 million in claims submitted by local agencies. The Controller noted that although some local agencies disputed the findings, none have formally appealed the audits. Additionally, the Controller reported that it analyzed the claims filed by the same 39 local agencies and found that except for the city of Los Angeles, the amounts claimed under the peace officer rights mandate have dropped substantially. As a result, the Controller reported that the State has realized savings through cost avoidance totaling \$53 million over the past seven years. We see no reason why such a pattern of savings will not continue in the future.

State agencies' failure to fully implement the bureau's recommendations can inhibit needed improvements. For example, in a report issued in September 2005, the bureau made several recommendations to the Department of Corrections (Corrections)³ to improve inmate population projections. While Corrections has implemented some of the report's recommendations, it still has not fully implemented a number of recommendations aimed at achieving accurate and reliable

¹ Excludes the statewide single audit (financial and federal compliance audits), which is mandated as a condition of California receiving federal funding. The recommendations made in those audits are followed up and reported each year in the bureau's annual report on California's Internal Control and State and Federal Compliance.

² Excludes recommendations for legislative changes. We report such recommendations in a separate report to the Legislature. As of January 1, 2010, the bureau began reporting as required on the status of recommendations made in investigative reports. The 78 reports include two investigative reports issued during 2009.

³ The Department of Corrections is now the Department of Corrections and Rehabilitation.

inmate population projections. Accurate projections are important because Corrections uses them in part for long-term planning, such as determining when additional correctional facilities should be built.

Tables beginning on page 3 summarize and provide information on recommendations issued between January 2005 and October 2009. Table 1 shows recommendations that were not fully implemented as of the agencies' latest responses to the bureau. As indicated on this table, the bureau did not always agree with agency assertions that certain recommendations were fully implemented. Two columns in the table provide the bureau's reason for disagreement. Table 2, beginning on page 13, summarizes recommendations that have been fully implemented since last year's report or the agencies' one-year responses.

Table 1
Recommendations More Than One Year Old That Are Still Not Fully Implemented

| AUDITEE | REPORT TITLE, NUMBER, AND ISSUE DATE | RECOMMENDATION | NUMBER OF YEARS IN ANNUAL REPORT OF NOT FULLY IMPLEMENTED RECOMMENDATIONS | ESTIMATED DATE OF COMPLETION | BUREAU'S ASSESSMENT | | |
|-----------------------------------|---|--|---|------------------------------|---|---|-------------|
| | | | | | AUDITEE DID NOT SUBSTANTIATE ITS CLAIM OF FULL IMPLEMENTATION | AUDITEE DID NOT ADDRESS ALL ASPECTS OF THE RECOMMENDATION | PAGE NUMBER |
| K THRU 12 EDUCATION | | | | | | | |
| Department of Education | School Districts' Inconsistent Identification and Redesignation of English Learners Cause Funding Variances and Make Comparisons of Performance Outcomes Difficult 2004-120 (June 2005) | Review the evaluators' recommendations, subsequent to the submission of the final report in October 2005, and take necessary actions to implement those recommendations it identifies as having merit. | 4 | June 2012 | | | 19 |
| Department of Education | Although It Generally Provides Appropriate Oversight of the Special Education Hearings and Mediations Process, a Few Areas Could Be Improved 2008-109 (December 2008) | Education, in its oversight role, should continue to work with Administrative Hearings to ensure that it reports all the required information in its quarterly reports and that its database contains accurate and complete information for reporting purposes. | 1 | * | ● | | 23 |
| HIGHER EDUCATION | | | | | | | |
| California Student Aid Commission | Changes in the Federal Family Education Loan Program, Questionable Decisions, and Inadequate Oversight Raise Doubts About the Financial Stability of the Student Loan Program 2005-120 (April 2006) | <ol style="list-style-type: none"> a. Ensure that critical tasks, including the renegotiation of its Voluntary Flexible Agreement and the development of a diversification plan are completed. b. Ensure that the roles and responsibilities it delineates for itself and EDFUND do not inappropriately cede its statutory responsibilities to EDFUND. Require staff to independently verify the accuracy of the reports submitted by EDFUND. | 4 | NA [†] | | | 25 |
| California State University | It Needs to Strengthen Its Oversight and Establish Stricter Policies for Compensating Current and Former Employees 2007-102.1 (November 2007) [‡] | 1. Create a centralized information structure to catalog university compensation, and use the data to monitor the campuses' implementation of systemwide policies and to measure the impact of systemwide policies on university finances. | 4 | NA [†] | | | 25 |
| | | 2. Consider total compensation received by comparable institutions, rather than just cash compensation, when deciding on future salary increases for executives, faculty, and other employees. | 4 | NA [†] | | | 28 |
| | | 3. Work through the regulatory process to develop stronger regulations governing paid leaves of absence for management personnel. The university should also maintain appropriate documentation supporting any leaves of absence it grants. | 2 | Will not implement | | | 29 |
| | | 4. Strengthen its policy governing the reimbursement of relocation expenses. Additionally, the board should require the chancellor to disclose the amounts of relocation reimbursements to be offered to incoming executives. | 2 | 2011-12 | | | 30 |
| | | 5. Continue to work with California Faculty Association representatives during the collective bargaining process to strengthen its dual-employment policy by imposing disclosure and approval requirements for faculty, and impose similar requirements for other employees. | 2 | March 2011 | | | 30 |
| | | | 2 | March 2011 | | | 31 |
| | | | 2 | 2010-11 | | | 31 |

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| AUDITEE | REPORT TITLE, NUMBER, AND ISSUE DATE | RECOMMENDATION | NUMBER OF YEARS IN ANNUAL REPORT OF NOT FULLY IMPLEMENTED RECOMMENDATIONS | ESTIMATED DATE OF COMPLETION | BUREAU'S ASSESSMENT | | | PAGE NUMBER | |
|--|---|--|---|------------------------------|---|---|--|-------------|----|
| | | | | | AUDITEE DID NOT SUBSTANTIATE ITS CLAIM OF FULL IMPLEMENTATION | AUDITEE DID NOT ADDRESS ALL ASPECTS OF THE RECOMMENDATION | | | |
| California State University | It is inconsistent in Considering Diversity When Hiring Professors, Management Personnel, Presidents, and System Executives 2007-102.2 (December 2007) † | 1. Issue systemwide guidance that devises and implements a uniform method for campuses to use when calculating availability data. | 2 | Will not implement | | | | 33 | |
| | | 2. Issue systemwide guidance that directs campuses to develop hiring policies that establish consistency among searches and ensures that searches are conducted in a fair and equitable manner. | 2 | January 2011 | | | | | 34 |
| | | 3. Issue systemwide guidance that encourages campuses to identify alternatives to broaden the perspective of search committees and to ensure that women and minorities have equal opportunity to serve on search committees. | 2 | January 2011 | | | | | 34 |
| | | 4. Issue systemwide guidance that instructs campuses to compare the proportions of women and minorities in the total applicant pool with the proportions in the labor pool to help assess their outreach efforts. | 2 | January 2011 | | | | | 35 |
| | | 5. Issue systemwide guidance that advises campuses to compare and report the gender and ethnicity of their current workforce, and directs campuses to have search committees review affirmative action plans. | 2 | January 2011 | | | | | 35 |
| | | 6. Develop policies regarding the diversity of the trustees committee and the advisory committee and consider alternatives on the manner in which to increase committee diversity. | 2 | Will not implement | | | | | 36 |
| California Community Colleges | Affordability of College Textbooks: Textbook Prices Have Risen Significantly in the Last Four Years, but Some Strategies May Help to Control These Costs for Students 2007-116 (August 2008) | 1. Reevaluate bookstores' pricing policies to ensure that markups are not higher than necessary. | 2 | Spring 2011 | | | | 39 | |
| | | 2. Direct bookstores to publicly disclose on an annual basis any amounts they use for purposes that do not relate to bookstore operations. | 2 | Spring 2011 | | | | | 40 |
| HEALTH AND HUMAN SERVICES | | | | | | | | | |
| Department of Health Services ⁵ | Participation in the School-Based Medi-Cal Administrative Activities Program Has Increased, but School Districts Are Still Losing Millions Each Year in Federal Reimbursements 2004-125 (August 2005) † | 1. b. Require consortia and local governmental agencies to prepare annual reports that include performance measures Health Services determines to be useful. | 4 | Unknown | | | | 41 | |
| | | 1. c. Annually compile the content of these reports into a single, integrated report that is publicly available. | 4 | Unknown | | | | 42 | |
| | | 2. Develop policies on the appropriate level of fees charged by consortia to school districts and the amount of excess earnings and reserves consortia should be allowed to accumulate. | 4 | Will not implement | | | | | 43 |
| Department of Social Services | In Rebuilding Its Child Care Program Oversight, the Department Needs to Improve Its Monitoring Efforts and Enforcement Actions 2005-129 (May 2006) † | 3. Reduce the number of entities it must oversee and establish clear regional accountability by eliminating the use of local governmental agencies from Medi-Cal Administrative Activities. | 4 | Will not implement | | | | 43 | |
| | | 1. a. Continue its efforts to make all nonconfidential information about its monitoring visits more readily available to the public. | 4 | Unknown | | | | | 45 |

| AUDITEE | REPORT TITLE, NUMBER, AND ISSUE DATE | RECOMMENDATION | NUMBER OF YEARS IN ANNUAL REPORT OF NOT FULLY IMPLEMENTED RECOMMENDATIONS | ESTIMATED DATE OF COMPLETION | BUREAU'S ASSESSMENT | | | PAGE NUMBER |
|--|---|---|---|------------------------------|---|---|----|-------------|
| | | | | | AUDITEE DID NOT SUBSTANTIATE ITS CLAIM OF FULL IMPLEMENTATION | AUDITEE DID NOT ADDRESS ALL ASPECTS OF THE RECOMMENDATION | | |
| Department of Health Services [§] | It Has Not Yet Fully Implemented Legislation Intended to Improve the Quality of Care in Skilled Nursing Facilities 2006-035 (February 2007) | 1. Include information on any savings to the General Fund in the reports its licensing division is required to prepare. | 3 | Unknown | | | | 47 |
| | | 2. Begin recouping duplicate payments. | 3 | 2010-11 | | | | 48 |
| | | 1. Periodically evaluate the timeliness with which district offices initiate and complete complaint investigations. Based on this information, Health Services should identify strategies to address workload imbalances occurring among district offices. | 3 | * | ● | | | 49 |
| Department of Health Services [§] | Its Licensing and Certification Division Is Struggling to Meet State and Federal Oversight Requirements for Skilled Nursing Facilities 2006-106 (April 2007) [†] | 2. To ensure that district offices consistently investigate complaints and include all relevant documentation in the complaint files, Health Services should clarify its policies and procedures, provide training as necessary, and periodically monitor district office performance to ensure compliance. | 3 | * | | ● | | 50 |
| | | 3. Consider working with the Department of Personnel Administration to adjust the salaries of its staff to make them more competitive with those of other state agencies seeking similarly qualified candidates. | 3 | December 2011 | | | | 51 |
| | | 1. Work with the Department of Public Health and county agencies to gain access to the most accurate and complete statistics on abandoned babies. | 2 | January 2012 | | | | 53 |
| Department of Public Health | Safely Surrendered Baby Law: Stronger Guidance From the State and Better Information for the Public Could Enhance Its Impact 2007-124 (April 2008) [†] | 1. Begin complying with the Executive Order D-62-02 and develop dose-based decommissioning standards formally or ask the governor to rescind this 2002 executive order. | 2 | Will not implement | | | | 57 |
| | | 2. Develop and maintain adequate documentation related to data storage, retrieval, and maintenance. | 2 | 2011 | | | | 58 |
| | | 3. Evaluate the branch's current fee structure using analyses that consider fiscal and workload factors. | 2 | * | ● | | | 59 |
| | | 4. Develop a staffing plan for the branch based on current, reliable data. The plan should reevaluate the branch's assumptions about workload factors, assess backlogged work, and assess all currently required work and the human resources necessary to accomplish it. | 2 | * | ● | | | 60 |
| | | 5. a. Establish and communicate a timeline describing when the report required by Section 115000.1 of the Health and Safety Code will be available. The department should also discuss with appropriate members of the Legislature the specific information required by state law that it cannot provide. | 2 | * | ● | | | 61 |
| | 5. b. Develop an updated low-level waste disposal plan. | 2 | Will not implement | | | | 61 | |

continued on next page . . .

| AUDITEE | REPORT TITLE, NUMBER, AND ISSUE DATE | RECOMMENDATION | NUMBER OF YEARS IN ANNUAL REPORT OF NOT FULLY IMPLEMENTED RECOMMENDATIONS | ESTIMATED DATE OF COMPLETION | BUREAU'S ASSESSMENT | | |
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| | | | | | AUDITEE DID NOT SUBSTANTIATE ITS CLAIM OF FULL IMPLEMENTATION | AUDITEE DID NOT ADDRESS ALL ASPECTS OF THE RECOMMENDATION | PAGE NUMBER |
| Department of Health Care Services | Although Notified of Changes in Billing Requirements, Providers of Durable Medical Equipment Frequently Overcharged Medi-Cal 2007-122 (June 2008) | 1. Develop an administratively feasible means of monitoring and enforcing current Medi-Cal billing and reimbursement procedures for medical equipment. | 2 | * | ● | | 63 |
| | | 2. Design and implement a cost-effective approach that adequately addresses the risk of overpayment and ensures that all providers are potentially subject to an audit. | 2 | * | ● | | 64 |
| Department of Public Health | Laboratory Field Services' Lack of Clinical Laboratory Oversight Places the Public at Risk 2007-040 (September 2008) | 1. Perform its mandated oversight responsibilities, including inspecting licensed laboratories every two years, sanctioning laboratories, and handling complaints. | 2 | June 2013 | | | 65 |
| | | 2. Adopt and implement proficiency-testing policies and procedures regarding the review and notification of proficiency-testing results, timelines for responding to laboratories, monitoring of out-of-state laboratories, and verification of laboratories' enrollment and receipt of proficiency-testing scores. | 2 | June 2013 | | | 66 |
| | | 3. Update its regulations, including requirements such as time frames on the laboratory community. | 2 | June 2015 | | | 67 |
| | | 4. Continue its efforts to license California laboratories and take steps to license out-of-state laboratories that use specimens originating in California, as the law requires. | 2 | June 2013 | | | 68 |
| | | 5. Identify necessary controls and incorporate them into its complaints policies. Develop and implement corresponding procedures for each control, and establish procedures to ensure that it promptly forwards complaints. | 2 | June 2014 | | | 68 |
| | | 6. Maximize opportunities to impose sanctions; justify and document money penalties; ensure the collection of penalties; ensure corrective action is taken; and ensure that it notifies appropriate agencies. | 2 | June 2013 | | | 69 |
| | | 7. Ensure that Laboratory Services has sufficient resources to meet its oversight responsibilities. | 2 | June 2013 | | | 70 |
| | | 8. Work with appropriate parties to ensure that its data systems support its needs. Develop and implement appropriate controls if Laboratory Services continues to use its internally developed databases. | 2 | June 2014 | | | 70 |
| | | 9. Leverage existing processes and procedures, including developing a process to share state concerns identified during federal inspections. | 2 | June 2013 | | | 71 |

| AUDITEE | REPORT TITLE, NUMBER, AND ISSUE DATE | RECOMMENDATION | NUMBER OF YEARS IN ANNUAL REPORT OF NOT FULLY IMPLEMENTED RECOMMENDATIONS | ESTIMATED DATE OF COMPLETION | BUREAU'S ASSESSMENT | | |
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| Department of Health Care Services | Departments of Health Care Services and Public Health: Their Actions Reveal Flaws in the State's Oversight of the California Constitution's Implied Civil Service Mandate and in the Departments' Contracting for Information Technology Services 2009-103 (September 2009) | 1. To vet more thoroughly the Section 19130(b) justifications put forward by the departments' contract managers, to ensure the timely communication of board decisions to the contract managers, and to make certain that disapproved contracts have been appropriately terminated, legal services should review the Section 19130(b) justifications put forward by the contract managers for proposed personal services contracts deemed high risk, such as subsequent contracts for the same or similar services as those in contracts disapproved by the board. | 1 | March 2011 | | | 74 |
| | | 2. To comply with requirements in the <i>State Administrative Manual</i> , Health Care Services should refrain from funding permanent full-time employees with the State's funding mechanism for temporary help positions. | 1 | March 2011 | | | 74 |
| | | 3. To readily identify active IT and other contracts, Health Care Services should either revise its existing contract database or develop and implement a new contract database. | 1 | Unknown | | | 75 |
| Department of Public Health | Departments of Health Care Services and Public Health: Their Actions Reveal Flaws in the State's Oversight of the California Constitution's Implied Civil Service Mandate and in the Departments' Contracting for Information Technology Services 2009-103 (September 2009)† | 1. Continue its efforts to develop and implement a new contract database. | 1 | March 2011 | | | 77 |
| | | 2. Public Health should demonstrate its compliance with General Services' policies and procedures. Specifically, in its requests for offer, it should provide potential suppliers with the criteria and points that it will use to evaluate their offers. | 1 | March 2011 | | | 78 |
| Department of Mental Health | High Risk Update—State Overtime Costs: A Variety of Factors Resulted in Significant Overtime Costs at the Departments of Mental Health and Developmental Services 2009-608 (October 2009) | Mental Health should implement the Legislative Analyst's Office suggestion of hiring an independent consultant to evaluate the current staffing model for Mental Health's hospitals. The staffing levels at Mental Health should then be adjusted, depending on the outcome of the consultant's evaluation. | 1 | Unknown | | | 79 |
| CORRECTIONS AND REHABILITATION | | | | | | | |
| Department of Corrections ^{ll} | It Needs to Better Ensure Against Conflicts of Interest and to Improve Its Inmate Population Projections 2005-105 (September 2005)‡ | 1. The department should require contractor staff to complete statements of economic interests. | 4 | * | ● | ● | 82 |
| | | 2. If the department intends to continue using the projections for long-term decision making, it should ensure that it employs statistically valid forecasting methods and consider seeking the advice of experts in selecting and establishing the forecasting methods. | 4 | * | ● | ● | 82 |
| | | 3. To increase the accuracy and reliability of its inmate projection, the department should update its variable projections with actual information. | 4 | December 2011 | | | 82 |
| | | 4. The department should continue its recent efforts to enhance its communications with local government agencies to better identify changes that may materially affect prison populations. | 4 | Unknown | | | 83 |
| | | 5. The department should fully document its projection methodology and model. | 4 | * | ● | ● | 83 |

continued on next page...

| AUDITEE | REPORT TITLE, NUMBER, AND ISSUE DATE | RECOMMENDATION | NUMBER OF YEARS IN ANNUAL REPORT OF NOT FULLY IMPLEMENTED RECOMMENDATIONS | ESTIMATED DATE OF COMPLETION | BUREAU'S ASSESSMENT | | | PAGE NUMBER |
|---|---|--|---|------------------------------|---|---|----|-------------|
| | | | | | AUDITEE DID NOT SUBSTANTIATE ITS CLAIM OF FULL IMPLEMENTATION | AUDITEE DID NOT ADDRESS ALL ASPECTS OF THE RECOMMENDATION | | |
| California Department of Corrections and Rehabilitation | The Intermediate Sanction Programs Lacked Performance Benchmarks and Were Plagued With Implementation Problems 2005-111 (November 2005) | 1. a. Decide on appropriate benchmarks for monitoring performance, identify the data needed to measure performance against those benchmarks, and ensure that reliable data collection mechanisms are in place. | 4 | * | | ● | 85 | |
| | | 1. b. Analyze the data it has collected and, if relevant, use the data in existing databases to monitor and evaluate the program's effectiveness on an ongoing basis. | 4 | * | ● | 85 | | |
| California Department of Corrections and Rehabilitation | It Fails to Track and Use Data That Would Allow It to More Effectively Monitor and Manage Its Operations 2009-107.1 (September 2009) | 1. Corrections should ensure that its new data system will address its current lack of data available for statewide analysis, specifically data related to identifying the custody staffing cost by inmate characteristics such as security level, age, and custody designation. If implementation of its new system continues to be delayed, or if Corrections determines that the new system will not effectively replace the current assignment and scheduling systems used by the institutions, it should improve its existing data related to custody staffing levels and use the data to identify the related costs of various inmate populations. | 1 | December 2013 | | | 92 | |
| | | 2. Corrections should communicate to the Department of Personnel Administration—which is responsible for negotiating labor agreements with employee bargaining units—the cost of allowing any type of leave to be counted as time worked for the purpose of computing overtime compensation. | 1 | January 2011 | | | 93 | |
| | | 3. Corrections should encourage the Department of Personnel Administration to not agree to provisions in bargaining unit agreements that permit any type of leave to be counted as time worked for the purpose of computing overtime compensation. | 1 | January 2011 | | | 93 | |
| | | 4. Corrections should encourage the Department of Personnel Administration to negotiate a reduction in the amount of voluntary overtime a correctional officer is allowed to work in future collective bargaining unit agreements, in order to reduce the likelihood that involuntary overtime will cause them to work more than 80 hours of overtime in total during a month. | 1 | * | ● | 94 | | |
| | | 5. Corrections should better ensure that it prevents the instances in which correctional officers work beyond the voluntary overtime limit in a pay period. | 1 | * | ● | 94 | | |
| | | 6. Corrections should develop a staffing plan that allocates teacher and instructor positions at each institution based on the program needs of its inmate population. | 1 | July 2012 | | | 95 | |
| | | 7. Corrections should track, maintain, and use historical program assignment and waiting list data by inmate. | 1 | December 2013 | | | 95 | |
| | | 8. Corrections should continue its efforts to update its adult education program policies. | 1 | June 2011 | | | 96 | |

| AUDITEE | REPORT TITLE, NUMBER, AND ISSUE DATE | RECOMMENDATION | NUMBER OF YEARS IN ANNUAL REPORT OF NOT FULLY IMPLEMENTED RECOMMENDATIONS | ESTIMATED DATE OF COMPLETION | BUREAU'S ASSESSMENT | | |
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| | | | | | AUDITEE DID NOT SUBSTANTIATE ITS CLAIM OF FULL IMPLEMENTATION | AUDITEE DID NOT ADDRESS ALL ASPECTS OF THE RECOMMENDATION | PAGE NUMBER |
| California Prison Health Care Services | California Department of Corrections and Rehabilitation: It Fails to Track and Use Data That Would Allow It to More Effectively Monitor and Manage Its Operations 2009-107.1 (September 2009)† | 1. To minimize costs through the use of telemedicine, Health Care Services should review the effectiveness of telemedicine consultations to better understand how to use telemedicine. | 1 | March 2011 | | | 97 |
| | | 2. Health Care Services should perform a more comprehensive comparison between the cost of using telemedicine and the cost of traditional consultations, beyond the guarding and transportation costs, so that it can make informed decisions regarding the cost-effectiveness of using telemedicine. | 1 | January 2011 | | | 98 |
| | | 3. To increase the use of the telemedicine system, Health Care Services should continue to implement the recommendations that it has adopted from the consultant's review of telemedicine capabilities. | 1 | March 2011 | | | 98 |
| | | 4. Health Care Services should maintain a focus on developing and improving its computer systems, such as the Health Care Scheduling System, to increase the efficiency of using telemedicine. | 1 | December 2011 | | | 99 |
| BUSINESS, TRANSPORTATION AND HOUSING | | | | | | | |
| California Highway Patrol | It Followed State Contracting Requirements Inconsistently, Exhibited Weaknesses in Its Conflict-of-Interest Guidelines, and Used a State Resource Imprudently 2007-111 (January 2008) | Include as designated employees for filing the Form 700, all personnel who help to develop, process, and approve procurements. | 2 | Unknown | | | 102 |
| RESOURCES AND ENVIRONMENTAL PROTECTION | | | | | | | |
| Department of Parks and Recreation | Off-Highway Motor Vehicle Recreation Program: The Lack of a Shared Vision and Questionable Use of Program Funds Limit Its Effectiveness 2004-126 (August 2005)‡ | 1. Prepare and submit the required biennial program reports when they are due. | 4 | January 2011 | | | 103 |
| State Water Resources Control Board | Its Division of Water Rights Uses Erroneous Data to Calculate Some Annual Fees and Lacks Effective Management Techniques to Ensure That It Processes Water Rights Promptly 2005-113 (March 2006) | 1. Consider revising its emergency regulations to assess each fee payer a single minimum annual fee plus an amount per acre-foot. | 4 | Will not implement | | | 105 |
| | | 2. Revise its emergency regulations to assess annual fees consistently to all fee payers with diversion limitations. | 4 | Will not implement | | | 107 |
| Department of Fish and Game | Office of Spill Prevention and Response: It Has Met Many of Its Oversight and Response Duties, but Interaction With Local Government, the Media, and Volunteers Needs Improvement 2008-102 (August 2008) † | 1. Determine whether the postspill reviews are an effective means for identifying areas for plan improvement, and then take steps to either ensure the reviews are submitted or eliminate them from its regulations. | 2 | February 2011 | | | 111 |
| | | 2. Continue plans to develop qualification standards for liaison officers and to train more staff for that role, and ensure that staff in its operations center provide all necessary support to liaison officers in the field. | 2 | December 2011 | | | 112 |
| | | 3. Take steps to ensure that spill prevention wardens' time is charged appropriately. | 2 | March 2011 | | | 113 |

continued on next page ...

| AUDITEE | REPORT TITLE, NUMBER, AND ISSUE DATE | RECOMMENDATION | NUMBER OF YEARS IN ANNUAL REPORT OF NOT FULLY IMPLEMENTED RECOMMENDATIONS | ESTIMATED DATE OF COMPLETION | BUREAU'S ASSESSMENT | | |
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| | | | | | AUDITEE DID NOT SUBSTANTIATE ITS CLAIM OF FULL IMPLEMENTATION | AUDITEE DID NOT ADDRESS ALL ASPECTS OF THE RECOMMENDATION | PAGE NUMBER |
| Department of Fish and Game | Office of Spill Prevention and Response: Investigations of Improper Activities by State Employees (Case #2006-1125) 2009-1 (April 2009) | <p>1. To improve Fish and Game's review process for travel claims submitted to its accounting office, it should do the following:</p> <ul style="list-style-type: none"> Require all employees to list clearly on all travel expense claims their headquarters address and the business purpose of each trip. Ensure that the headquarters address listed on travel expense claims matches the headquarters location assigned to the employee's position. For instances in which the listed headquarters location differs from the location assigned to the employee's position, require a Fish and Game official at the deputy director level or above to provide a written explanation justifying the business need to alter the headquarters location. This justification must also include a cost-benefit analysis comparing the two locations and should be forwarded to Personnel Administration for approval. | 1 | * | ● | | 117 |
| STATE AND CONSUMER SERVICES | | | | | | | |
| State Athletic Commission | The Current Boxers' Pension Plan Benefits Only a Few and Is Poorly Administered 2004-134 (July 2005) | <p>1. a. Consider eliminating the break in service requirement and/or reducing from four to three the number of calendar years that a boxer must fight.</p> <p>2. a. Raise the ticket assessment to meet targeted pension contributions as required by law and promptly remit pension contributions to the boxers' pension fund.</p> <p>2. b. Require promoters to remit pension fund contributions on checks separate from other boxing show fees so that deposits of checks and subsequent remittances to the boxers' pension fund are not delayed.</p> | 4 | Unknown | | | 119 |
| Medical Board of California | It Needs to Consider Cutting Its Fees or Issuing a Refund to Reduce the Fund Balance of Its Contingent Fund 2007-038 (October 2007) | Consider refunding physicians' license fees or consider temporarily reducing them to ensure that its fund balance does not continue to significantly exceed the level established in law. | 3 | June 2011 | | | 121 |
| Franchise Tax Board | Nonprofit Hospitals: Inconsistent Data Obscure the Economic Value of Their Benefit to Communities, and the Franchise Tax Board Could More Closely Monitor Their Tax-Exempt Status 2007-107 (December 2007) | <p>1. Consider developing methodologies to monitor nonprofit hospitals. These methodologies should include a review of the financial data and other information on the Form 199 annually submitted by tax-exempt hospitals.</p> <p>2. Consider developing methodologies to monitor nonprofit hospitals. These methodologies should include activities that ensure that the annual Form 199 contains all the information required to determine eligibility for an income tax exemption in accordance with state law.</p> | 2 | August 2011 | | | 124 |
| State Personnel Board | Departments of Health Care Services and Public Health: Their Actions Reveal Flaws in the State's Oversight of the California Constitution's Implied Civil Service Mandate and in the Departments' Contracting for Information Technology Services 2009-103 (September 2009) | The State Personnel Board should explicitly state at the end of its decisions if and when state agencies must terminate disapproved contracts. Additionally, the board should obtain documentation from the state agencies demonstrating the terminations of disapproved contracts. | 1 | Unknown | | | 127 |

| AUDITEE | REPORT TITLE, NUMBER, AND ISSUE DATE | RECOMMENDATION | NUMBER OF YEARS IN ANNUAL REPORT OF NOT FULLY IMPLEMENTED RECOMMENDATIONS | ESTIMATED DATE OF COMPLETION | BUREAU'S ASSESSMENT | | | |
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| | | | | | AUDITEE DID NOT SUBSTANTIATE ITS CLAIM OF FULL IMPLEMENTATION | AUDITEE DID NOT ADDRESS ALL ASPECTS OF THE RECOMMENDATION | PAGE NUMBER | |
| GENERAL GOVERNMENT | | | | | | | | |
| Department of Veterans Affairs | Veterans Home of California at Yountville: It Needs Stronger Planning and Oversight in Key Operational Areas, and Some Processes for Resolving Complaints Need Improvement 2007-121 (April 2008)† | 1. Develop and update a plan that identifies areas of noncompliance with federal ADA regulations and includes the appropriate steps for achieving full compliance. In addition, the Veterans Home should develop grievance procedures and identify a specific employee as its ADA coordinator. | 2 | Five to 10 years | | | 133 | |
| | | 1. The board should address the structural and operational flaws that prevent identification of erroneous information and implement edit checks and other system controls sufficient to identify errors. | 1 | June 2012 | | | | 135 |
| | | 2. The board should develop and maintain system documentation sufficient to allow the board to address modifications and questions about the system more efficiently and effectively. | 1 | June 2012 | | | | 136 |
| Victim Compensation and Government Claims Board | It Has Begun Improving the Victim Compensation Program, but More Remains to Be Done 2008-113 (December 2008)‡ | 3. To ensure that the board appropriately carries out its outreach efforts, it should define the specific procedures to accomplish its action strategies for outreach and establish quantitative measures to evaluate the effectiveness of its outreach efforts. | 1 | Will not implement | | | 136 | |
| | | 1. Veterans Services should require the CVSOs to submit information on the number of claims filed for C&P benefits and information on their outreach activities. | 1 | February 2012 | | | | 142 |
| | | 2. As Veterans Services expands its efforts to increase veterans' participation in C&P benefits, it should use veterans' demographic information, such as that available through the U.S. Census Bureau, and the information it plans to obtain from the CVSOs using its SAIM system, to focus its outreach and coordination efforts on those counties with the highest potential for increasing the State's rate of participation in C&P benefits. | 1 | * | | ● | | 142 |
| California Department of Veterans Affairs | Although It Has Begun to Increase Its Outreach Efforts and to Coordinate With Other Entities, It Needs to Improve Its Strategic Planning Process, and Its Callnet Home Loan Program Is Not Designed to Address the Housing Needs of Some Veterans 2009-108 (October 2009) | 3. Continue its efforts to pursue the SAIM system to enable it to monitor the quantity and quality of claims processed by the CVSOs, and ensure it meets legal requirements regarding auditing CVSO workload reports and verifying the appropriateness of college fee waivers. To the extent that Veterans Services is unsuccessful in implementing the SAIM system, the department will need to develop other avenues by which to meet its legal requirements. | 1 | * | | ● | 143 | |
| | | 4. Conduct a formal assessment of veterans' needs, including soliciting input from the CVSOs. | 1 | January 2011 | | | 143 | |
| | | 5. Continue working with the Federal Housing Administration and the Ginnie Mae to lower its interest rates on loans. | 1 | Spring 2011 | | | | 144 |
| State Controller's Office | State Mandates: Operational and Structural Changes Have Yielded Limited Improvements in Expediting Processes and in Controlling Costs and Liabilities 2009-501 (October 2009) | To ensure that it can meet its responsibilities, including a heightened focus on audits of state mandates, the Controller should work with Finance to obtain sufficient resources. Additionally, the Controller should increase its efforts to fill vacant positions in its Mandated Cost Audits Bureau. | 1 | July 2011 | | | 145 | |

| AUDITEE | REPORT TITLE, NUMBER, AND ISSUE DATE | RECOMMENDATION | NUMBER OF YEARS IN ANNUAL REPORT OF NOT FULLY IMPLEMENTED RECOMMENDATIONS | ESTIMATED DATE OF COMPLETION | BUREAU'S ASSESSMENT | | |
|---|---|---|---|------------------------------|---|---|-------------|
| | | | | | AUDITEE DID NOT SUBSTANTIATE ITS CLAIM OF FULL IMPLEMENTATION | AUDITEE DID NOT ADDRESS ALL ASPECTS OF THE RECOMMENDATION | PAGE NUMBER |
| Commission on State Mandates | State Mandates: Operational and Structural Changes Have Yielded Limited Improvements in Expediting Processes and in Controlling Costs and Liabilities 2009-501 (October 2009) | To ensure that it resolves sufficiently its backlog of test claims, incorrect reduction claims, and the boilerplate amendment request, the Commission should work with Finance to seek additional resources to reduce its backlog, including test claims and incorrect reduction claims. In doing so, Commission staff should prioritize its workload and seek efficiencies to the extent possible. | 1 | Unknown | | | 147 |
| LEGISLATIVE, JUDICIAL, AND EXECUTIVE | | | | | | | |
| State Bar of California | It Can Do More to Manage Its Disciplinary System and Probation Processes Effectively and to Control Costs 2009-030 (July 2009)† | <ol style="list-style-type: none"> 1. Complete a cost-benefit analysis to determine whether the benefits associated with using collection agencies outweigh the costs. If it determines that the collection agencies are, in fact, cost-effective, the State Bar should redirect in-house staff to other disciplinary activities. 2. Research the various collection options available to it, such as the Franchise Tax Board's intercept program. 3. Continue acting on recommendations from our 2007 report related to taking steps to reduce its inventory of backlogged cases. 4. Continue acting on recommendations from our 2007 report related to improving its processing of disciplinary cases by more consistently using checklists and performing random audits. | 1 | February 2011 | | | 153 |
| | | | 1 | September 2011 | | | 154 |
| | | | 1 | Unknown | | | 154 |
| | | | 1 | * | ● | | 156 |

NA = Not applicable.

* Contrary to the Bureau of State Audits' determination, the auditee believes it has fully implemented the recommendation.

† Effective November 2010 the California Student Aid Commission is no longer a guaranty agency under the Federal Family Education Loan Program.

‡ Other recommendations pertaining to this audit, which have been fully implemented, can be found in Table 2.

§ On July 1, 2007, the Department of Health Services was reorganized and became two departments—the Department of Health Care Services and the Department of Public Health. The Department of Public Health is now responsible for monitoring skilled nursing facilities.

|| On July 1, 2005, the governor reorganized all departments under the Youth and Adult Correctional Agency, including the Department of Corrections, into the California Department of Corrections and Rehabilitation.

Table 2
Recommendations More Than One Year Old That Were Fully Implemented Since Last Year's Report or the Auditee's One-Year Response

| AUDITEE | REPORT TITLE, NUMBER, AND ISSUE DATE | RECOMMENDATION | NUMBER OF YEARS IN ANNUAL REPORT OF NOT FULLY IMPLEMENTED RECOMMENDATIONS | PAGE NUMBER |
|----------------------------------|---|---|---|----------------------------|
| K THRU 12 EDUCATION | | | | |
| Department of Education | Home-to-School Transportation Program: The Funding Formula Should Be Modified to Be More Equitable 2006-109 (March 2007) | Determine the actual costs of school districts that do not receive Home-to-School program funds and the funding sources they use to pay for transportation services. | 3 | 21 |
| HIGHER EDUCATION | | | | |
| California State University | It Needs to Strengthen Its Oversight and Establish Stricter Policies for Compensating Current and Former Employees 2007-102.1 (November 2007)* | 6. Monitor the chancellor's administration of the executive transition program to ensure that it is conducted in a prudent manner and that intended cost savings are achieved for the university. The board should also require the chancellor to include in the transition agreements clear expectations and reporting procedures. | 2 | 32 |
| California State University | It is Inconsistent in Considering Diversity When Hiring Professors, Management Personnel, Presidents, and System Executives 2007-102.2 (December 2007)* | 7. Issue systemwide guidance that directs campuses to broaden position descriptions and more fully consider how new positions will affect employment opportunities for women and minorities. 8. Issue systemwide guidance that directs campuses to have search committees review affirmative action plans, and addresses the purpose of placement goals and the affirmative action plans. 9. Issue systemwide guidance that encourages campuses to broaden the perspective of search committees, increases the reach of the search for professors, and ensures that minorities and women have equal opportunity to serve on search committees. 10. Issue systemwide guidance that instructs campuses to compare the proportions of women and minorities in the applicant pool and in the labor pool to help assess the success of outreach efforts. 11. Issue systemwide guidance that requires search committee members to receive training regarding the hiring process, federal regulations, Proposition 209, and other relevant state and federal laws. | 2 2 2 2 2 | 36 37 37 38 38 |
| HEALTH AND HUMAN SERVICES | | | | |
| Department of Health Services† | Participation in the School-Based Medi-Cal Administrative Activities Program Has Increased, but School Districts Are Still Losing Millions Each Year in Federal Reimbursements 2004-125 (August 2005)* | 1. a. Update its current invoicing and accounting processes so it can more easily collect data on the participation and reimbursement of school districts. | 4 | 41 |
| Department of Social Services | In Rebuilding Its Child Care Program Oversight, the Department Needs to Improve Its Monitoring Efforts and Enforcement Actions 2005-129 (May 2006)* | 1. b. Continue its efforts to rebuild the oversight operations of its child care program and assess the sufficiency of its current monitoring efforts and statutory requirements. 1. c. Develop sufficient automated management information to facilitate the effective oversight of its child care program regional offices. 2. Develop a plan to measure its random and required visits against its statutory requirement, assess its progress in meeting statutory requirements, and ensure that the data it uses to assess its progress are sufficiently reliable. | 4 4 | 45 46 |
| Department of Health Services† | Its Licensure and Certification Division Is Struggling to Meet State and Federal Oversight Requirements for Skilled Nursing Facilities 2006-106 (April 2007)* | 4. To reduce the predictability of its federal recertification surveys, Health Services should institute a practice of conducting surveys throughout the entire survey cycle, ensuring that each facility has a greater probability of being selected at any given time. 5. Document its rationale for determining the amounts charged when charging general support items to the citation account. | 3 3 | 51 52 |

continued on next page...

| AUDITEE | REPORT TITLE, NUMBER, AND ISSUE DATE | RECOMMENDATION | NUMBER OF YEARS IN ANNUAL REPORT OF NOT FULLY IMPLEMENTED RECOMMENDATIONS | PAGE NUMBER |
|---|---|---|---|-------------|
| Department of Social Services | Safely Surrendered Baby Law: Stronger Guidance From the State and Better Information for the Public Could Enhance Its Impact 2007-124 (April 2008)* | 2. Consider using a portion of existing funds to support future efforts related to the safe-surrender law and consider renewing its partnership with First 5 California, which Social Services can legally use for such efforts. | 2 | 54 |
| | | 3. Clarify the definition of safe surrender, and then disseminate and monitor its use among county and state agencies. | 2 | 54 |
| | | 4. Clarify the circumstances under which safe-surrender sites and counties must protect the identifying information on the individual who surrenders an infant. | 2 | 55 |
| | | 5. Require counties to correct records in the CWS/CMS that Social Services' staff believe are erroneous because counties have misclassified babies as either surrendered or abandoned. | 2 | 55 |
| | | 6. To provide surrendered babies and their health care providers as much information on their medical histories as possible, Social Services should consider ways to improve the availability of medical information. | 2 | 56 |
| | | 7. To continue promoting awareness of the safe-surrender law in the most cost-effective manner, Social Services should work with the counties to leverage models and tools currently in use in California. | 2 | 56 |
| | | 3. Public Health should obtain approval by its agency secretary and directors on contracts over specified dollar thresholds. In addition, Public Health should obtain approval from its IT division on all IT contracts, as specified in departmental policy. | 1 | 78 |
| CORRECTIONS AND REHABILITATION | | | | |
| Department of Corrections and Rehabilitation | It Does Not Always Follow Its Policies When Discharging Parolees 2008-104 (August 2008) | Finalize and implement the draft regulations and policy memorandum that will detail the policy and procedures governing its parole discharge process. | 2 | 89 |
| | | 5. Health Care Services should continue to move forward on its initiative to expand the use of telemedicine in Corrections' institutions. | 1 | 100 |
| California Prison Health Care Services | California Department of Corrections and Rehabilitation: It Fails to Track and Use Data That Would Allow It to More Effectively Monitor and Manage Its Operations 2009-107.1 (September 2009)* | | | |
| RESOURCES AND ENVIRONMENTAL PROTECTION | | | | |
| Department of Parks and Recreation | Off-Highway Motor Vehicle Recreation Program: The Lack of a Shared Vision and Questionable Use of Program Funds Limit Its Effectiveness 2004-126 (August 2005)* | 2. Complete a strategic plan for the state vehicular recreation area portion of the Off-Highway Motor Vehicle Recreation Program by performing a thorough assessment of external and internal factors; collecting the necessary data; completing the required reports; and developing action, spending, and performance monitoring plans. | 4 | 104 |
| | | 3. Develop and implement a process of evaluating land acquisition projects. | 4 | 104 |
| | | 1. Adhere to the regulations of the flood protection program requiring a hydrologic study as part of the grant application. | 2 | 109 |
| Department of Water Resources | Its Administration of Grants Under the Flood Protection Corridor Program Needs Improvement 2007-108 (November 2007) | 2. Develop a rationale for determining whether scope changes are significant enough to warrant another review of a project's merits or whether an unfunded project might be a better alternative. | 2 | 110 |
| | | 3. Develop policies and procedures to consistently evaluate whether proposed structural and recreational enhancements conform to the goals of the flood protection program and are the most effective use of funds. | 2 | 110 |
| | | 4. Develop policies and procedures to ensure that it regularly updates its project budget-tracking sheets to adjust for contract amendments and changes in budgeted tasks and to accurately track funds disbursed to grantees. | 2 | 110 |
| Department of Fish and Game | Office of Spill Prevention and Response: It Has Met Many of Its Oversight and Response Duties, but Interaction With Local Government, the Media, and Volunteers Needs Improvement 2008-102 (August 2008)* | 4. Collaborate with area committees in California to identify potential command centers. | 2 | 113 |
| | | 5. Develop protocols to ensure that key information, such as the role of volunteers, is disseminated to the public early in a spill response, and have public relations staff participate in spill drills. | 2 | 113 |

| AUDITEE | REPORT TITLE, NUMBER, AND ISSUE DATE | RECOMMENDATION | NUMBER OF YEARS IN ANNUAL REPORT OF NOT FULLY IMPLEMENTED RECOMMENDATIONS | PAGE NUMBER |
|---|--|---|---|-------------|
| Department of Fish and Game | Its Limited Success in Identifying Viable Projects and Its Weak Controls Reduce the Benefit of Revenues From Sales of the Bay-Delta Sport Fishing Enhancement Stamp 2008-115 (October 2008) | Work with the Fish Stamp advisory committee to develop a spending plan that focuses on identifying and funding viable projects and on monitoring revenues. | 2 | 115 |
| Department of Fish and Game | Office of Spill Prevention and Response: Investigations of Improper Activities by State Employees (Case #I2006-1125) I2009-1 (April 2009) | 2. Fish and Game should seek to recover the amount it reimbursed Official A for her improper travel expenses. If it is unable to recover any or all of the reimbursement, Fish and Game should explain and document its reasons for not seeking recovery. | 1 | 118 |
| STATE AND CONSUMER SERVICES | | | | |
| State Board of Chiropractic Examiners | Board Members Violated State Laws and Procedural Requirements, and Its Enforcement, Licensing, and Continuing Education Programs Need Improvement 2007-117 (March 2008) | Establish procedures that direct board management to monitor the status of open complaints regularly. | 2 | 125 |
| LABOR AND WORKFORCE DEVELOPMENT | | | | |
| Department of Industrial Relations | San Francisco-Oakland Bay Bridge Worker Safety: Better State Oversight Is Needed to Ensure That Injuries Are Reported Properly and That Safety Issues Are Addressed 2005-119 (February 2006) | Develop a mechanism to obtain employers' annual injury reports and design procedures to detect the underreporting of workplace injuries. | 4 | 129 |
| California Unemployment Insurance Appeals Board | Its Weak Policies and Practices Could Undermine Employment Opportunity and Lead to the Misuse of State Resources 2008-103 (November 2008) | 1. The appeals board should rescind its recently adopted, but legally unenforceable, policy that prohibits hiring a board member into any civil service position at the appeals board for a period of one year from the last day of that individual's term as a board member. Because this policy affects persons outside of the organization, the appeals board should submit a new version of this regulation to the Office of Administrative Law for approval. 2. The appeals board should not enforce its new nepotism policy against persons not presently employed by the appeals board. Because this policy affects persons outside of the organization, the appeals board should submit a new version of this regulation to the Office of Administrative Law for approval. | 1 | 131 |
| GENERAL GOVERNMENT | | | | |
| Department of Veterans Affairs | Veterans Home of California at Yountville: It Needs Stronger Planning and Oversight in Key Operational Areas, and Some Processes for Resolving Complaints Need Improvement 2007-121 (April 2008)* | 2. Consider adopting a formal policy for distributing overtime more evenly among nurses, establishing a cap on how much overtime nursing staff may work, and monitoring overtime usage for compliance with these policies. | 2 | 134 |

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| AUDITEE | REPORT TITLE, NUMBER, AND ISSUE DATE | RECOMMENDATION | NUMBER OF YEARS IN ANNUAL REPORT OF NOT FULLY IMPLEMENTED RECOMMENDATIONS | PAGE NUMBER |
|---|---|---|---|-------------|
| Victim Compensation and Government Claims Board | It Has Begun Improving the Victim Compensation Program, but More Remains to Be Done 2008-113 (December 2008)* | <p>4. The board should establish a complementary set of goals designed to measure its success in maximizing assistance to victims and their families. These goals should include, but not be limited to, one that focuses on the correlation of compensation payments to program support costs and one that establishes a target fund balance needed to avoid financial shortfalls. As it monitors the goals it has created, the board should ensure that its cost structure is not overly inflexible and that it is carrying out its support activities in the most cost-effective manner possible.</p> <p>5. To improve its processing time for making decisions on applications and for paying bills, the board should identify the primary problems leading to delays and take action to resolve them. Additionally, it should consistently document its reasons for any delays in processing applications or bills.</p> <p>6. The board should continue identifying and correcting problems with the systems as they arise.</p> <p>7. To increase the number of applicants who work through assistance centers, the board should emphasize the advantages of doing so whenever possible.</p> | 1 | 137 |
| LEGISLATIVE, JUDICIAL, AND EXECUTIVE | | | | |
| State Bar of California | With Strategic Planning Not Yet Completed, It Projects General Fund Deficits and Needs Continued Improvements in Program Administration 2007-030 (April 2007) | <p>1. a. Continue its efforts to reduce its backlog of disciplinary cases to reach its goal of having no more than 200 such cases.</p> <p>b. Ensure that staff use checklists of significant tasks when processing case files and fully implement its 2005 policy directive for random audits of case files by supervising trial counsel.</p> | 3 ‡ | 149 |
| Department of Justice | Electronic Waste: Some State Agencies Have Discarded Their Electronic Waste Improperly, While State and Local Oversight Is Limited 2008-112 (November 2008) | State agencies should ascertain whether the electronic devices that require disposal can go into the trash. Alternatively, state agencies could treat all electronic devices they wish to discard as universal waste and recycle them. | 1 | 151 |
| State Bar of California | It Can Do More to Manage Its Disciplinary System and Probation Processes Effectively and to Control Costs 2009-030 (July 2009)† | 5. The State Bar should ensure that it effectively communicates with and monitors attorneys on probation by continuing its efforts to determine the appropriate caseload level for its staff to effectively monitor probationers and adjust staffing as appropriate. | 1 | 157 |

* Other recommendations pertaining to this audit, which have not been fully implemented, can be found in Table 1.

† On July 1, 2007, the Department of Health Services was reorganized and became two departments—the Department of Health Care Services and the Department of Public Health. The Department of Public Health is now responsible for monitoring skilled nursing facilities.

‡ The Bureau of State Audits is statutorily required to audit the State Bar of California every two years. In a subsequent audit, Report Number 2009-030, *State Bar of California: It Can Do More to Manage Its Disciplinary System and Probation Processes Effectively and to Control Costs*, we reported that these recommendations were not fully implemented. We will continue to track these recommendations under the most recent audit. Please refer to recommendations 3 and 4 in Table 1 for report number 2009-030.

IMPLEMENTATION OF CHAPTER 452, STATUTES OF 2006 (SB 1452)

The Accountability Act requires state agencies audited by the bureau to provide updates on their implementation of audit recommendations. The bureau's long-standing practice, which is consistent with generally accepted government auditing standards, is to request audited state agencies to provide written updates on their implementing audit recommendations 60 days, six months, and one year after the audit report's public release date. As the bureau implemented the Accountability Act, it retained these prescribed time frames as the intervals at which agencies must report back on their implementation of audit recommendations.

As a courtesy, in May 2007, the bureau notified all state agencies of their responsibilities under the Accountability Act and the bureau's plans for implementing these requirements. In September 2007 the bureau provided written notice to relevant state agencies regarding recommendations issued since January 1, 2005, that were more than a year old and not fully implemented. The bureau made this determination using the agencies' one-year responses. The bureau requested that each of the affected agencies notify the bureau as to whether the agency had fully implemented the recommendation, planned to begin or continue implementation within 90 days and the estimated date of completion, or did not intend to implement the recommendation and the reasons for making that decision. Following this process, on January 16, 2008, the bureau published its first report on the status of recommendations that are more than a year old and not yet fully implemented.

FOURTH ANNUAL REPORT

In fall 2010 the bureau provided written notice to state agencies regarding recommendations that were more than a year old and not fully implemented related to audits issued from January 2005 through October 2009. Table 1, which appears on pages 3 through 12, summarizes and provides information on recommendations that the bureau determined have not been fully implemented. Table 2, beginning on page 13, summarizes information on recommendations that have been fully implemented since last year's report or since the agencies' one-year response.

On pages 19 through 157, the report provides high-level summaries of the scope of each respective audit and lists the recommendations that the bureau determined were not fully implemented as of last year's report or as of the agency's one-year response. Immediately following each recommendation is the bureau's assessment, based on the agency's response, supporting documentation and inquiries, of whether the agency has fully implemented the recommendation. Finally, the bureau includes each agency's verbatim response as to the current status of outstanding recommendations. This section of the report is organized by area of government to closely match the Governor's Budget. Because an audit may involve more than one area of government, audit details may be included in multiple locations within this report. For example, the bureau's audit report regarding contracting for information technology services involved both the departments of Health Care Services and Public Health as well as the State Personnel Board. Therefore, this report can be found in both the section on Health and Human Services and the section on State and Consumer Services.

K THROUGH 12 EDUCATION

DEPARTMENT OF EDUCATION

(Report Number 2004-120, June 2005)

School Districts' Inconsistent Identification and Redesignation of English Learners Cause Funding Variances and Make Comparisons of Performance Outcomes Difficult

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the administration and monitoring of state and federal English learner program (English Learner) funds at the Department of Education (department) and a sample of school districts. Specifically, the audit committee asked us to examine the processes the department and a sample of school districts use to determine the eligibility of students for the English learner programs, including an evaluation of the criteria used to determine eligibility for these programs and a determination of whether school districts redesignate students once they become fluent in English. In addition, the audit committee asked us to review and evaluate the department's processes for allocating program funds, monitoring local recipients' management and expenditure of program funds, and measuring the effectiveness of the English learner programs. Lastly, the audit committee asked us to, for selected school districts, test a sample of expenditures to determine whether they were used for allowable purposes. We focused our audit on the three main English learner programs whose funds are distributed by the department—federal Title III-Limited English Proficient and Immigrant Students (Title III), state Economic Impact (Impact Aid), and the state English Language Acquisition Program (ELAP).

The following table summarizes the department's progress in implementing the six recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the department had not fully implemented five of those recommendations. Based on the department's most recent response, one recommendation still remains outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 6 | 5 | 1 | 1 |

Below is the recommendation that we determined was not fully implemented, followed by the department's most recent response.

Recommendation #1:

The department should review the evaluators' recommendations, subsequent to the submission of the final report in October 2005, and take necessary actions to implement those recommendations it identifies as having merit to ensure that the state benefits from recommendations in reports on the effects of the implementation of Proposition 227 and ELAP.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

Although the department obtained a contractor to complete a non-comparative, descriptive study for identifying best practices and trends that have demonstrated success for English learners in achieving academic English proficiency, the study was terminated due to funding issues in 2010. Therefore, to continue to address the goals of the evaluation study designed to identify successful language acquisition practices and improve the identification and redesignation of English learners, the department is taking a multi-pronged approach which consists of the following activities:

1. The department published the English learners focused publication, "Improving Education for English Learners: Research Based Approaches", which encompasses a comprehensive, user friendly, review and analysis of the extensive research in the field of language acquisition and instructional practices for English learners. This focused language acquisition publication is the foundation for planning and improving instructional programs for English learners which will help to address the issues of identification and redesignation of language learners in California.
2. The department is currently reviewing and revising the guideline documentation related to the identification and redesignation of English learners. These revised guidelines will be submitted to the State Board of Education for consideration and adoption in 2011. Once approved, the department will provide the revised guidance to school districts through correspondence and posting on the department's website.
3. The department provides technical support for Title III local educational agencies via designated county offices of education. Over the next 15 months, the department intends to engage this existing support structure in reviewing the revised State Board of Education adopted guidelines related to the identification and redesignation of English learner students. This network will work in concert with the department to ensure that local education agencies fully understand the guidelines and will provide technical assistance in implementing the revised guidelines.

Estimated date of completion: June 2012

HOME-TO-SCHOOL TRANSPORTATION PROGRAM

(Report Number 2006-109, March 2007)

The Funding Formula Should Be Modified to Be More Equitable

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the Department of Education's (department) disbursement of Home-to-School Transportation (Home-to-School) program funds to identify any inequities. Specifically, we were asked to review the funding formula that the department uses to determine Home-to-School program payments to school districts. The audit committee also asked us to determine how the program is funded and what roles the department and school districts have in determining the funding levels. In addition, we were asked to compare data related to the number and percentage of students receiving transportation services, the amount paid for the Home-to-School program in total and per student, the actual cost of transporting students in total and per student, and the excess cost over Home-to-School program payments by school district and region for both regular and special education students to determine if and why variances exist. Further, the audit committee asked that we determine how school districts fund the difference between what is paid to them by the department and their actual cost, and evaluate, to the extent possible, whether this practice affects other programs. Additionally, the audit committee asked us to determine, to the extent possible, whether any correlations exist between higher transportation costs and staffing levels.

The following table summarizes the department's progress in implementing the recommendation the bureau made in the above referenced report. As shown in the table, as of its one-year response, the department had not fully implemented the recommendation. Based on its most recent response, the bureau determined the department has fully implemented the recommendation.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 1 | 1 | 1 | 0 |

Below is the recommendation that we determined was fully implemented, followed by the department's most recent response.

Recommendation #1:

To determine the fiscal impact on school districts that do not receive the Home-to-School program funds, the department should determine the actual costs of providing transportation services to their students for school districts that are not eligible to receive state funds for the Home-to-School program, and determine the funding sources they use to pay for the transportation services.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

The Department of Education utilized the Standardized Account Code Structure (SACS) reporting system to capture transportation data reported by local educational agencies that do not receive Pupil Transportation funding. Expenditure data were then cross-referenced with reported revenue to identify the source of funding used to pay for the reported transportation services.

CALIFORNIA DEPARTMENT OF EDUCATION

(Report Number 2008-109, December 2008)

Although It Generally Provides Appropriate Oversight of the Special Education Hearings and Mediations Process, a Few Areas Could Be Improved

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) examine how the Department of General Services’ Office of Administrative Hearings (Administrative Hearings) has conducted its operations since it began administering the special education hearings and mediations process. Specifically, the audit committee requested that we review and evaluate applicable laws, rules, and regulations specific to special education hearings and mediations and determine the roles and responsibilities of both the California Department of Education (Education) and Administrative Hearings, including any oversight responsibilities Education has related to Administrative Hearings’ performance under the interagency agreement. The audit committee also requested that we make recommendations related to the future provision of special education mediation and adjudication functions, as appropriate.

The following table summarizes Education’s progress in implementing the three recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, Education had not fully implemented one recommendation. Based on Education’s most recent response one recommendation is still not fully implemented.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|--|
| 3 | 1 | 1 |

Below is the recommendation that we determined was not fully implemented, followed by Education’s most recent response.

Recommendation #1:

To ensure that Administrative Hearings complies with state and federal law, as well as with the specifications in its interagency agreement, Education, in its oversight role, should continue to work with Administrative Hearings to ensure that it reports all the required information in its quarterly reports and that its database contains accurate and complete information for reporting purposes.

Bureau’s assessment of status: **Not fully implemented***

* Contrary to the bureau’s determination, the auditee asserted in its latest response to us that it believes it has fully implemented the recommendation. However, the auditee did not substantiate its claim of full implementation.

Auditee's Response:

To ensure that Administrative Hearings reports all the required information quarterly, Education routinely reconciles the data elements contained in the quarterly reports submitted by Administrative Hearings to the data elements required by the contract between Education and Administrative Hearings. To ensure that the Administrative Hearings database contains accurate and complete information, Education regularly conducts on-site reviews of Administrative Hearings' records and compares information from the electronic reporting "Practice Manager System" with hard copy files at Administrative Hearings' office in Sacramento; the initial file review took place on January 22, 2009. To date, Education has found that Administrative Hearings has accurately and completely reported the following information fields for those sample files reviewed: (1) student name; (2) case name; (3) subject matter type; (4) subject matter number; (5) date case opened; and (6) case jurisdiction.

HIGHER EDUCATION

CALIFORNIA STUDENT AID COMMISSION

(Report Number 2005-120, April 2006)

Changes in the Federal Family Education Loan Program, Questionable Decisions, and Inadequate Oversight Raise Doubts About the Financial Stability of the Student Loan Program

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review California Student Aid Commission's (Student Aid) governance and oversight of its auxiliary organization, known as EDFUND, including EDFUND's financial management and business practices. The audit committee was interested in ensuring the proper use of state assets in maximizing support for financial aid purposes.

The following table summarizes Student Aid's progress in implementing the eight recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, Student Aid had not fully implemented six of those recommendations. Based on Student Aid's most recent response, two recommendations remain outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 8 | 6 | 2 | 2 |

In September 2007 the bureau issued a follow-up report titled *California Student Aid Commission Follow-Up: Although Changes to the Commission's Business Model Have Produced Positive Results, Proposed Federal Changes Could Affect Federal Family Education Loan Program Revenues* (Report No. 2007-505). In this report the bureau performed additional audit work pertaining to the status of recommendations it issued in 2006.

Below are the recommendations that we determined were not fully implemented, followed by Student Aid's most recent response for each.

Recommendation #1:

- a. Student Aid should ensure that critical tasks, including the renegotiation of its Voluntary Flexible Agreement with the Department of Education and the development of a diversification plan are completed.
- b. Student Aid should ensure that the roles and responsibilities it delineates for itself and EDFUND do not inappropriately cede its statutory responsibilities to EDFUND.

Bureau's assessment of status: **Not Applicable** (Note: Effective November 2010 the California Student Aid Commission is no longer a guaranty agency under the Federal Family Education Loan Program.)

Auditee's Response to Recommendation (a):

With respect to the Voluntary Flexible Agreement (VFA), this Recommendation has been implemented and no future VFA's with the U.S. Department of Education (USDE) will occur. At the time the bureau issued Report Number 2005-120 in April 2006, the VFA that went into effect in 2001 had not been renegotiated. As has been noted previously, the USDE did not renegotiate VFAs with any of the guaranty agencies as a result of the College Cost Reduction and Access Act of 2007 (P.L. 110-84) which significantly reduced standard payments from the USDE to guaranty agencies. After reviewing the impact of these changes on the VFA, the USDE determined the VFA was no longer cost-neutral as required under 5428A of the Higher Education Act of 1965, as amended (HEA) and terminated the agreements effective January 1, 2008. The Commission did receive revenue under the VFA through the date of termination.

In March 2008, the Commission/EdFund submitted a new proposal for a VFA. This proposal was found to be cost-neutral and in July 2008, the Department of Education provided to the Commission a draft of the terms for the new VFA. Certain provisions of the draft were unacceptable as presented to the Commission and the Chair of the Commission asked the Commission's General Counsel to work with legal staff from USDE to develop mutually agreeable language. Before the language of the VFA could be finalized, certain other issues arose which prompted the USDE to delay the execution of the final VFA.

On March 17, 2010, parts of H.R. 3221, the Student Aid and Fiscal Responsibility Act (SAFRA), were incorporated into the budget reconciliation bill, the "sidecar" bill to health care reform legislation. On March 30, 2010, President Barack Obama signed H.R. 4872, the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), which ends the Federal Family of Education Loans Program (FFELP) and requires all new student loans to be issued through the existing William D. Ford Federal Direct Loan Program beginning July 1, 2010. The passage of this legislation makes it highly unlikely USDE will move forward to complete the negotiation of a new VFA with the FFELP guarantee agencies.

In addition, other actions by the USDE make the Commission's ability to implement this recommendation an impossibility. On July 20, 2010, USDE informed the Commission that it would be terminating the Commission's guaranty agreement no later than October 31, 2010. As of November 1, 2010, the Commission is no longer a guaranty agency under the FFELP and, as such, ineligible to enter into a new VFA with USDE.

With respect to the development of a business diversification plan, this Recommendation has not been implemented and will not be implemented within the next 90 days. As noted in the previous three responses to the status of the audit findings, funds in the Student Loan Operating Fund were insufficient to support any significant proposals for diversification prior to October 31, 2010 when the Commission's guaranty agency agreement with USDE was terminated.

Estimated date of completion: Unknown

Auditee's Response to Recommendation (b):

While major advances were made in implementing this recommendation, it has not been fully implemented. The Commission has developed Governance and Monitoring Policies and has continued to amend those policies as circumstances dictate. The Operating Agreement has also been amended as indicated in the April 23, 2007, response to the status of the audit findings.

Certain other action taken by the Commission to strengthen its statutory obligation to provide oversight to EdFund have been impacted by Senate Bill 89 (SB 89), which gave the Director of Finance the authority to sell the loan program assets. The Director of Finance has utilized his authority under SB 89 to overturn the following actions taken by the Commission at its September 4-5, 2008 meeting:

- The Commission acted to amend its own policy on EdFund Executive Compensation to protect the expenditure of state funds on severance, retention or other increased compensation packages for EdFund executives.
- The Commission acted to lessen the impact on the Student Loan Operating Fund of the Lease for EdFund's "Building B". EdFund originally leased two buildings with the intent that the Commission would occupy a portion of Building B. The Commission was later informed by the Department of Finance that it would not be occupying Building B, but would instead need to find alternate office space. No new tenant for Building B has been identified and the building remains vacant, with the attendant cost being charged to the Student Loan Operating Fund.
 - This action by the Department of Finance will have significant consequences. In October 2010, USDE informed the Commission that because the Commission was not the tenant of Building B that the costs associated with that portion of the lease were an inappropriate use of Student Loan Operating Funds and that the State may have to reimburse the Student Loan Operating Fund for that expenditure.
- The Commission acted to remove the EdFund Board of Directors and replace those individuals with the entire membership of the Commission. This action was taken so as to streamline governance efforts and resolve the communications breakdown between the Commission, the EdFund Board of Directors and the actions of the EdFund Executive Management Team. The need for this action was evidenced by several items on the September 2008 agenda that demonstrated EdFund had undertaken activity of significant importance to the loan program, and which obligated state funds, without informing either its Board or the Commission.

In addition, on July 20, 2010, USDE informed the Commission that it would be terminating the Commission's guaranty agreement no later than October 31, 2010. As of November 1, 2010, a successor guaranty agency has been designated and is transitioning the state's student loan guarantee program information and is hiring EdFund's current employees.

Estimated date of completion: Unknown

Recommendation #2:

Student Aid should require staff to independently verify the accuracy of the reports submitted by EDFUND.

Bureau's assessment of status: **Not Applicable** (Note: Effective November 2010 the California Student Aid Commission is no longer a guaranty agency under the Federal Family Education Loan Program.)

Auditee's Response:

The recommendation has not been fully implemented, and cannot be implemented within 90 days because the California Student Aid Commission's division Federal Policy and Programs Division (FPPD) responsible for EdFund oversight has, for several years, not had the resources to independently verify the accuracy of the reports submitted by EdFund. As part of the 2009–10 Budget, the governor reduced the FPPD budget from \$1,000,000 to \$500,000 indicating, "I am reducing \$500,000 from the FPPD to align funding with the FPPD's responsibilities and to preserve resources. The current funding level exceeds what is necessary to support the staff of the FPPD. Furthermore, any savings that can be achieved in the Student Loan Operating Fund will result in the program being more valuable and thus result in additional General Fund revenue upon the sale, or other transaction, involving EdFund that is authorized by Chapter 182 of the Statutes of 2007." As part of the 2010-11 Budget, the governor again reduced the amount of funding available for this workload to \$257,000. The current funding does not allow resources to fund approved staffing levels to perform the duties independently verifying the accuracy of the reports submitted by EdFund.

It should be noted, however, that after October 1, 2010 the reports submitted by EdFund to the Commission will significantly diminish with the transition of the Commission's guaranty agency functions to a successor guaranty agency.

Estimated date of completion: Unknown

CALIFORNIA STATE UNIVERSITY

(Report Number 2007-102.1, November 2007)

It Needs to Strengthen Its Oversight and Establish Stricter Policies for Compensating Current and Former Employees

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the compensation practices of the California State University (university).⁴ Specifically, the audit committee asked us to identify systemwide compensation by type and funding source, to the extent data are centrally maintained and reasonably consistent among campuses. The audit committee also asked us, subject to the same limitations, to categorize by type and funding source, the compensation of highly paid individuals receiving funds from state appropriations and student tuition and fees. In addition, for the most highly paid individuals, the audit committee asked us to identify any additional compensation or employment inducements not appearing in the university's centrally maintained records, such as those recorded in any employment agreements with the university. Further, the audit committee asked us to review any postemployment compensation packages and identify the terms and conditions of transitional special assignments for highly paid individuals, including top executives and campus presidents, who left the university in the last five years. Finally, the audit committee asked us to determine the extent to which the university's compensation programs and special assignments are disclosed to the board of trustees (board) and to the public, including the types of programs that exist, the size and cost of each, and the benefits that participants receive. To the extent that this information is available and is not publicly disclosed, the audit committee asked us to include these items in our report.

The following table summarizes the university's progress in implementing the six recommendations the bureau made in the above referenced report. As shown in the table, as of its latest responses, the university had not fully implemented five of the recommendations.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 6 | 6 | 6 | 5 |

Below are the recommendations that we determined were not and were fully implemented, followed by the university's most recent response for each.

Recommendation #1:

To provide effective oversight of its systemwide compensation policies, the university needs accurate, detailed, and timely compensation data. The university should create a centralized information structure to catalog university compensation by individual, payment type, and funding source. One possibility would be to upgrade and expand the Employee Salary Projection system to make it more complete and accurate. The chancellor's office should then use the data to monitor the campuses' implementation of systemwide policies, such as the prohibition against employees performing additional assignments that would cause them to work more than 125 percent of a full-time position. Additionally, the chancellor's office should use the data to measure the impact of systemwide policies on university finances.

Bureau's assessment of status: **Will not implement**

⁴ The audit committee also requested that we review the university's hiring practices and employment discrimination lawsuits. The results of our review of these areas were included in a separate report (2007-102.2), which we issued December 11, 2007.

Auditee's Response:

As explained in past responses, after management conferred with the CSU Board of Trustees in January 2008, the CSU opted not to create a new centralized data system that would require more than 100 additional support staff. Instead, the CSU required campus presidents to seek approval of initial compensation offers to new vice presidents and approval of changes in compensation for existing vice presidents. Reports were made to the CSU Board of Trustees in November 2008, in September 2009, and in September 2010. In addition, the CSU created and delivered a training program to 939 CSU personnel (both campuses and Chancellor's Office) involved in keying salary and payroll data. This training has also been converted to an online e-learning module and new employees involved in data entry relating to payroll and salary are required to take this training.

Recommendation #2:

The board should consider total compensation received by comparable institutions, rather than just cash compensation, when deciding on future salary increases for executives, faculty, and other employees. The university should work with interested parties, such as the California Postsecondary Education Commission and the Legislative Analyst's Office, to develop a methodology for comparing itself to other institutions that considers total compensation. If the university believes it needs a statutory change to facilitate its efforts, it should seek it.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

The CSU has not implemented across the board increases for the past three years. We are currently working with our outside consultant and will be presenting the results of the compensation survey study to the Board of Trustees at the January 2011 board meeting.

Estimated date of completion: 2010-11

Recommendation #3:

The university should work through the regulatory process to develop stronger regulations governing paid leaves of absence for management personnel. The improved regulations should include specific eligibility criteria, time restrictions, and provisions designed to protect the university from financial loss if an employee fails to render service to the university following a leave. For example, the regulations should require all employees applying for a paid leave of absence to submit a bond that would indemnify the university if the employee fails to render service to the university following a leave of absence. The university should also maintain appropriate documentation supporting any leaves of absence it grants. Finally, the board should establish a policy on the extent to which it wants to be informed of such leaves of absence for management personnel.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

As previously reported, this recommendation was implemented through an amendment to Title 5 adopted by the CSU Board of Trustees in September 2008. The amendment defined terms for paid leaves of absence for management personnel. Campuses are responsible for collecting and retaining appropriate documentation to adhere to state, federal, and CSU policy. However, the CSU will review its current leave of absence policy in the first quarter of 2011 and determine what changes need to be made to fully address the issues described above.

Estimated date of completion: First quarter of 2011

Recommendation #4:

The university should strengthen its policy governing the reimbursement of relocation expenses. For example, the policy should include comprehensive monetary thresholds above which board approval is required. In addition, the policy should prohibit reimbursements for any tax liabilities resulting from relocation payments. Finally, the board should require the chancellor to disclose the amounts of relocation reimbursements to be offered to incoming executives.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

As previously reported, this recommendation was acted upon in January 2008 and first reported to the CSU Board of Trustees in July 2008. It has been followed with the appointment of the vice chancellor for administration and finance, vice chancellor for human resources, vice chancellor for university relations and advancement, the executive vice chancellor/chief academic officer, the executive vice chancellor/chief academic officer, the interim president of San Jose State University, the interim president, San Luis Obispo, in September 2008, November 2008, May 2009, September 2010, July 2010, July 2010, and July 2010, respectively. Annual reports on executive relocation were made in November 2008, September 2009, and September 2010. However, in the first quarter of 2011, the CSU will review and amend its relocation policy accordingly to ensure the reimbursement of relocation expenses are monitored and appropriate approval is received.

Estimated date of completion: First quarter of 2011

Recommendation #5:

The university should continue to work with California Faculty Association representatives during the collective bargaining process to strengthen its dual-employment policy by imposing disclosure and approval requirements for faculty. It should also impose similar requirements for other employees, including management personnel. If the university believes it needs a statutory change to facilitate its efforts, it should seek it.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

This has to be vetted with the faculty. The CSU began successor contract negotiations with the California Faculty Association in August 2010. Compliance with the bureau recommendation is dependent on the outcome of and acceptance of the CSU's proposal to require disclosure of dual-employment of faculty.

Estimated date of completion: Fiscal year 2010–11

Recommendation #6:

The board should continue to monitor the chancellor's administration of the executive transition program to ensure that it is conducted in a prudent manner and that intended cost savings are achieved for the university. In addition, the board should require the chancellor to include in the transition agreements clear expectations of specific duties to be performed, as well as procedures for the former executives to report on their accomplishments and status of deliverables. Further, the board should require the chancellor to include information in his annual report on the status of accomplishments and deliverables associated with transition agreements.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

As previously reported, this recommendation was implemented through policy of the CSU Board of Trustees adopted effective January 2008. The initial annual report was made to the Board of Trustees at its meeting of November 2008. Mr. Don Kassing, president of San Jose State University, retired on June 30, 2009, and did not elect to participate in a transition program. A second annual report was provided to the Board of Trustees in September 2009. Dr. Gary Riechard, executive vice chancellor/chief academic officer, retired on June 30, 2009, and did not elect to participate in an executive transition program. Mr. Richard West, executive vice chancellor/chief financial officer, retired from his position in December 2008 and did not elect to participate in an executive transition program. A third annual report was provided to the Board of Trustees in September 2010. Dr. Jeronima Echeverria, executive vice chancellor and chief academic officer retired from her position in June 2010. She did not meet the eligibility criteria of the Transition II Program and was not eligible to participate in the program. Dr. Jon S. Whitmore, president of San Jose University, resigned on August 2010. He did not meet the eligibility criteria of the Transition II Program and was not eligible to participate in the program. Dr. Warren J. Baker, president at California Polytechnic State University, retired on July 2010. Dr. Baker will be a rehired annuitant for a period of two years. There have been no new transitions. The CSU has implemented a process that includes defining clear expectations of specific duties to be performed by the former executive a procedure for former executives to report their accomplishments and status of deliverables. This is collected on a yearly basis. In addition, the Chancellor verbally reported on the tasks and accomplishments of the one former executive active in a transition program in a closed session of the board meeting on September 21-22, 2010.

CALIFORNIA STATE UNIVERSITY (Report Number 2007-102.2, December 2007)

It Is Inconsistent in Considering Diversity When Hiring Professors, Management Personnel, Presidents, and System Executives

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the California State University's (university) practices for hiring to determine how it ensures that faculty and executives reflect the gender and ethnicity of the university they serve, the State, and the academic marketplace.⁵ As part of our audit, we were asked to determine how the university develops hiring goals and how it monitors progress in meeting those goals. In addition, we were to gather and review the university's statistics on its hiring practices and results over the last five years and, to the extent possible, present the data collected by gender, ethnicity, position, and salary level.

The following table summarizes the university's progress in implementing the 14 recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the university had not fully implemented 12 of those recommendations. Based on the university's most recent response, the university had not fully implemented six of those recommendations.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 14 | 12 | 11 | 6 |

Below are the recommendations that we determined were not and were fully implemented, followed by the university's most recent response for each.

Recommendation #1:

To ensure that campuses employ hiring practices that are consistent with laws and regulations and among campuses, the university should issue systemwide guidance on the hiring process for professors. In developing this guidance, the university should devise and implement a uniform method for campuses to use when calculating availability data to better enable the university to identify and compare availability and placement goals systemwide and among campuses. Additionally, direct campuses to compare and report the gender and ethnicity of their current workforce to the labor pool by individual department to ensure that placement goals are meaningful and useful to those involved in the hiring process.

Bureau's assessment of status: **Will not implement**

⁵ The audit committee also requested that we review the university's compensation practices. The results of our review of those practices were the subject of a separate report (2007-102.1) issued November 6, 2007.

Auditee's Response:

The university provided the same response as it did under Recommendation #7.

In response to our request for clarification, the university reported that a university task force concluded that, while some variation in analytical methodology from campus to campus exists, allowing campuses some flexibility in carrying out their analysis and developing the campus affirmative action plan was appropriate, and thus it did not recommend a systemwide mandate. The university noted that the training plan module it developed provides a step by step description of an availability analysis and the development of placement goals.

Recommendation #2:

To ensure that campuses employ consistent search processes and develop appropriate policies, the university should issue systemwide guidance on the hiring process for management personnel. In developing this guidance, the university should direct campuses to develop hiring policies for management personnel that address key steps to establish consistency among searches and to ensure that searches are conducted in a fair and equitable manner.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

The CSU has not issued a separate "guidelines" document specifically for management searches. However, we believe the training modules themselves serve the same purpose, laying out recommendations for the conduct of administrative as well as faculty searches. In addition, the resources provided in the training module as downloads include those system-wide policies that currently apply to management searches, including CSU policies on employment applications, background checks, and nepotism, the Executive Order on affirmative action and non-discrimination, and applicable state and federal resources. In order to fully comply with this recommendation we will amend the tenure-track recruitment guidelines to include recommendations for management searches as well as faculty recruitments and re-issue those guidelines by January 31, 2011.

Estimated date of completion: January 2011

Recommendation #3:

To ensure that campuses employ consistent search processes and develop appropriate policies, the university should issue systemwide guidance on the hiring process for management personnel. In developing this guidance, the university should encourage campuses to identify alternatives to broaden the perspective of search committees and increase the reach of the search for management personnel positions. For instance, campuses could appoint women and minorities to search committees lacking diversity. Additionally, to ensure that it is meeting its responsibilities under federal regulations, the university should provide guidance to campuses on special efforts to ensure that women and minorities have equal opportunity to serve on search committees.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

The university provided the same response as it did under Recommendation #2.

Estimated date of completion: January 2011

Recommendation #4:

To ensure that campuses employ consistent search processes and develop appropriate policies, the university should issue systemwide guidance on the hiring process for management personnel. In developing this guidance, the university should instruct campuses to compare the proportions of women and minorities in the total applicant pool with the proportions in the labor pool to help assess the success of their outreach efforts in recruiting female and minority applicants. To help ensure that they have sufficient data from applicants to effectively compare these proportions, campuses could send reminders to applicants requesting them to submit information regarding their gender and ethnicity.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

The university provided the same response as it did under Recommendation #2.

Estimated date of completion: January 2011

Recommendation #5:

To ensure that campuses employ consistent search processes and develop appropriate policies, the university should issue systemwide guidance on the hiring process for management personnel. In developing this guidance, the university should advise campuses to compare and report the gender and ethnicity of their current workforce to the labor pool by separating management personnel positions into groups based on the function of their positions to ensure that placement goals are meaningful and useful to those involved in the hiring process. Direct campuses to have search committees review affirmative action plans so they are aware of the availability and placement goals for women and minorities when planning the search process. The guidance should address the purpose of placement goals and the affirmative action plan in general so that the search committees have the appropriate context and do not misuse the information.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

The university provided the same response as it did under Recommendation #2.

Estimated date of completion: January 2011

Recommendation #6:

To broaden the perspective of the committees and increase the reach of the search for presidential positions, the university should develop policies regarding the diversity of the trustees committee and the advisory committee and consider alternatives on the manner in which to increase committee diversity.

Bureau's assessment of status: **Will not implement**

Auditee's Response:

It remains the position of the CSU that, because the composition of the Board of Trustees is determined by the governor, the CSU administration will likely never be in a position to fully implement this recommendation through a policy change. Regardless, a review of the three current presidential searches in progress indicates that in each case, the four-member Trustees Committee for that search includes at least one woman and at least one member of a minority group, evidence that the Trustees are mindful of the importance of diverse search committees and make efforts to achieve such diversity within the existing composition of the Board.

Recommendation #7:

To ensure that campuses employ hiring practices that are consistent with laws and regulations and among campuses, the university should issue systemwide guidance on the hiring process for professors. In developing this guidance, the university should direct campuses to have departments develop position descriptions as broadly as possible consistent with academic needs and to more fully consider during the position allocation phase of the hiring process how new positions being requested will affect employment opportunities for women and minorities overall and the resulting diversity of its professors.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

Two systemwide committees composed of campus and system managers were formed in spring 2008. The first was a task force to review the appropriate use of affirmative action plans and availability data as well as Proposition 209 issues for faculty searches, and develop a training program to disseminate this information to the campuses. This task force also addressed best practices in management searches. The second committee was composed of campus and system managers with responsibilities for faculty searches and developed system guidelines for faculty searches consistent with the Collective Bargaining Agreement. The guidelines, which were reviewed by campus faculty affairs managers, EEO officers, and the Office of General Counsel, were disseminated to the campuses in December 2008 and two webinars focused on affirmative action and non-discrimination in the CSU along with best practices in faculty and administrative recruitments were offered on December 4 and December 10, 2008. A recorded version of the webinar is available on the web at <http://centralstationu.calstate.edu/howthingswork/>. The title is "Valuing Diversity in Recruitments". The final element in the CSU's plan to implement the recommendations was development of on-demand web-based training for all participants in the search process. Development of this training was completed

in July 2010 and is now available to campuses. It is titled “Faculty and Administrative Searches in the CSU” and consists of two modules. The first module, *Non-Discrimination and Affirmative Action Programs*, looks at applicable state and federal laws, explains the concepts of non-discrimination and affirmative action, describes the development of campus affirmative action plans and the role of availability data, and discusses the roles and responsibilities of individuals involved in campus searches. The second module, *Conducting Successful Recruitments for Faculty and Administrators*, looks at each stage of the search process and provides strategies for effective recruiting as well as examples of practices that reflect good faith efforts to reach affirmative action goals and model the concepts of non-discrimination and equal employment opportunity. Both modules are available at: <http://centralstationu.calstate.edu/howthingswork/>.

Recommendation #8:

To ensure that campuses employ hiring practices that are consistent with laws and regulations and among campuses, the university should issue systemwide guidance on the hiring process for professors. In developing this guidance, the university should direct campuses to have search committees review affirmative action plans so they are aware of the availability and placement goals for women and minorities when planning the search process. The guidance should address the purpose of placement goals and the affirmative action plan in general so that search committees have the appropriate context and do not misuse the information.

Bureau’s assessment of status: **Fully implemented**

Auditee’s Response:

The university provided the same response as it did under Recommendation #7.

Recommendation #9:

To ensure that campuses employ hiring practices that are consistent with laws and regulations and among campuses, the university should issue systemwide guidance on the hiring process for professors. In developing this guidance, the university should encourage campuses to develop alternatives to broaden the perspective of search committees and increase the reach of the search for professors. One way could be to advise departments that lack diversity on their own faculty to appoint women and minority faculty members from outside the department to search committees. Additionally, to ensure that it is meeting its responsibilities under federal regulations, the university should provide guidance to campuses on special efforts to ensure that minorities and women have equal opportunity to serve on search committees.

Bureau’s assessment of status: **Fully implemented**

Auditee’s Response:

The university provided the same response as it did under Recommendation #7.

Recommendation #10:

To ensure that campuses employ hiring practices that are consistent with laws and regulations and among campuses, the university should issue systemwide guidance on the hiring process for professors. In developing this guidance, the university should instruct campuses to compare the proportions of women and minorities in the total applicant pool to the proportions in the labor pool to help assess the success of outreach efforts in recruiting these groups. To help ensure that they have sufficient data from applicants to effectively compare these proportions, campuses could send reminders to applicants requesting them to submit information regarding their gender and ethnicity when response rates are low.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

The university provided the same response as it did under Recommendation #7.

Recommendation #11:

To ensure that campuses employ hiring practices that are consistent with laws and regulations and among campuses, the university should issue systemwide guidance on the hiring process for professors. In developing this guidance, the university should instruct campuses to require search committee members to receive training offered at the campus level regarding the hiring process, federal regulations, Proposition 209, and other relevant state and federal laws.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

The university provided the same response as it did under Recommendation #7.

CALIFORNIA COMMUNITY COLLEGES

(Report Number 2007-116, August 2008)

Affordability of College Textbooks: Textbook Prices Have Risen Significantly in the Last Four Years, but Some Strategies May Help to Control These Costs for Students

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the affordability of college textbooks in California's public universities and colleges. As part of our audit, we were to evaluate the textbook industry and its participants—including faculty, students, and others involved with the three public postsecondary educational systems in the State—to determine how the participants' respective roles affect textbook prices. In addition, the audit committee asked that we survey a sample of publishers to ascertain as much as possible about the methods that publishers use to set prices and market textbooks, including any incentives offered and the publishers' decisions about textbook packaging and the need for revisions. Further, we were asked to determine and evaluate how the three postsecondary educational systems identify, evaluate, select, and approve textbooks for courses on their campuses. The audit committee also asked us to identify and evaluate the success of the processes and practices that the University of California (UC), California State University (CSU), and the California Community Colleges (community colleges) use to keep the costs of textbooks affordable.

The following table summarizes community colleges' progress in implementing the 10 recommendations the bureau made to it in the above referenced report. As shown in the table, as of its latest responses, community colleges had not fully implemented two recommendations.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 10 | 3 | 2 | 2 |

Below are the two recommendations that we determined have been not fully implemented, followed by community colleges' most recent response for each.

Recommendation #1:

Reevaluate bookstores' pricing policies to ensure that markups are not higher than necessary to support bookstore operations. If the campuses determine that bookstore profits are needed to fund other campus activities, the campuses should seek input from students as necessary to determine whether such purposes are warranted and supported by the student body, particularly when higher textbook prices result.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

Initial conversations with the Executive Board of the California Community College Association of Chief Business Officers (ACBO) were held on the topic of increasing transparency in textbook markup policy. However the discussions were placed on hold while chief business officers and other college leadership groups dealt with the unprecedented cuts sustained by college budgets. The Chancellor's Office will resume discussions with ACBO in January 2011 and hopes to issue guidance to colleges on this issue by early Spring 2011.

Estimated date of completion: Spring 2011

Recommendation #2:

Direct bookstores to publicly disclose on an annual basis any amounts they use for purposes that do not relate to bookstore operations, such as contributions they make to campus organizations and activities.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

The Chancellor's Office and the Board of Governors do not have the authority to *direct* colleges to provide this information, but the College Finance and Facilities Planning Division of the Chancellor's Office has initiated a conversation with the Association of Chief Business Officers (ACBO) on how this recommendation can be implemented voluntarily at local campuses. The discussions were placed on hold, however, while chief business officers and other college leadership groups dealt with the unprecedented cuts sustained by college budgets. The Chancellor's Office will resume discussions with ACBO in January 2011 and hopes to issue guidance to colleges on this issue by early Spring 2011.

Estimated date of completion: Spring 2011

HEALTH AND HUMAN SERVICES

DEPARTMENT OF HEALTH SERVICES

(Report Number 2004-125, August 2005)

Participation in the School-Based Medi-Cal Administrative Activities Program Has Increased, but School Districts Are Still Losing Millions Each Year in Federal Reimbursements

The Joint Legislative Audit Committee (audit committee) asked the Bureau of State Audits (bureau) to review the Department of Health Services' (Health Services)⁶ administration of the Medi-Cal Administrative Activities program (MAA). Specifically, we were asked to assess the guidelines provided by Health Services to local educational consortia (consortia) and local governmental agencies that administer MAA at the local level. Additionally, the audit committee asked us to evaluate the process by which Health Services selects consortia and local governmental agencies to contract with, how it established the payment rates under the terms of the contracts, and how it monitors and evaluates performance of these entities.

We were also asked to evaluate the effectiveness of a sample of consortia and local governmental agencies in administering MAA and in ensuring maximum participation by school districts. Furthermore, we were requested to conduct a survey of school districts regarding their participation in the program.

The following table summarizes Health Services' progress in implementing the seven recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, Health Services had not fully implemented three of those recommendations. Based on Health Services' most recent response, all three recommendations still remain outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 7 | 3 | 3 | 3 |

Below are the recommendations that we determined were not fully implemented and the recommendation we determined was fully implemented, followed by Health Services' most recent response for each.

Recommendation #1:

- a. Health Services should update its current invoicing and accounting processes so it can more easily collect data on the participation and reimbursement of school districts.
- b. Health Services should require consortia, and local governmental agencies should they continue to be part of MAA, to prepare annual reports that include participation statistics, outreach efforts and results, and other performance measures Health Services determines to be useful.

⁶ On July, 1, 2007, the Department of Health Services was reorganized and became two departments—the Department of Health Care Services and the Department of Public Health.

- c. Health Services should then annually compile the content of these reports into a single, integrated report that is publicly available.

Bureau's assessment of status: **Recommendations (b) and (c): Not fully implemented; Recommendation (a): Fully implemented**

Auditee's Response to Recommendation (b):

This recommendation has been partially implemented. The Medi-Cal Administrative Activities (MAA) automation project, which was expected to be implemented by March 2012, has been dropped due to funding cuts to the Local Educational Consortia (LECs) and local governmental agencies (LGAs). Currently, Health Care Services requires LECs and LGAs to maintain documentation in their audit files to support participation statistics and outreach efforts. These audit files are reviewed during site visits and audits. According to reports from the LECs, statewide total enrollment in MAA has grown from 31.86 percent in 1999 to 74.59 percent in 2005. This percentage reflects the total number of Medi-Cal students enrolled in Local Education Agencies. Consortia and LGAs are also required to conduct local site visits to each school district once every three years and report MAA measurement findings to Health Care Services.

Estimated date of completion: Unknown

Auditee's Response to Recommendation (c):

Health Care Services has not implemented this recommendation because the Medi-Cal Administrative Activities (MAA) automation project, which was expected to be implemented by March 2012, has been dropped due to funding cuts to the Local Educational Consortia and local governmental agencies.

Estimated date of completion: Unknown

Auditee's Response to Recommendation (a):

Recommendation #1(a) has been fully implemented. Health Care Services has updated its invoicing and accounting processes to more easily collect data on the participation and reimbursement of school districts. An in-house invoice tracking system/data collection tool known as the Medicaid Administrative Activities (MAA) Database has been implemented. This system allows Health Care Services to generate reports upon receipt of the actual invoices from the Local Educational Consortium and local governmental agencies. Tracking sheets can be sorted by reimbursement type, claiming unit, fiscal year, quarter, dates received and released, contract year and analyst. Automated reports can be run and data can be exported to Excel. Charts, contract balance reports, total invoice amounts for each county or Local Educational Consortia, as well as overall totals can be generated in report form from the automated queries.

Recommendation #2:

Health Services should develop policies on the appropriate level of fees charged by consortia to school districts and the amount of excess earnings and reserves consortia should be allowed to accumulate and it should do the same for local governmental agencies if such entities continue to be part of the program structure.

Bureau's assessment of status: **Will not implement**

Auditee's Response:

The recommendation to develop policies on the appropriate level of fees charged by consortia to school districts and to limit the amount of excess earnings and reserves the consortia should be allowed to accumulate limits local flexibility to administer programs. Health Care Services has no expressed authority to implement policies for the fees charged to school districts.

Recommendation #3:

Health Services should reduce the number of entities it must oversee and establish clear regional accountability by eliminating the use of local governmental agencies from MAA. Because current state law allows school districts to use either a consortium or a local governmental agency, Health Services will need to seek a change in the law. Additionally, Health Services should require school districts that choose to use the services of a private vendor, rather than developing the expertise internally, to use a vendor selected by the consortium through a competitive process. Depending on the varying circumstances within each region, a consortium may choose to use a single vendor or to offer school districts the choice from a limited number of vendors, all of which have been competitively selected. Health Services should seek a statutory change if it believes one is needed to implement this recommendation.

Bureau's assessment of status: **Will not implement**

Auditee's Response:

Health Care Services continues to disagree with the recommendations. Recommendations to eliminate the use of local governmental agencies from School-Based Medi-Cal Administrative Activities (MAA) and that school districts should be required to use a billing vendor selected by the consortium limits local flexibility to administer programs.

DEPARTMENT OF SOCIAL SERVICES

(Report Number 2005-129, May 2006)

In Rebuilding Its Child Care Program Oversight, the Department Needs to Improve Its Monitoring Efforts and Enforcement Actions

The Joint Legislative Audit Committee (audit committee) requested the Bureau of State Audits (bureau) to review the Department of Social Services’ (department) oversight of licensed child care facilities. Specifically, the audit committee requested that we assess the department’s progress in meeting facility inspection requirements and determine whether the department’s authority and resources were adequate to fully enforce the required health and safety standards in child care facilities. Additionally, we were asked to review the department’s process for investigating and resolving complaints regarding facilities. Further, the audit committee asked us to examine the department’s policies and procedures for categorizing health and safety risks identified at child care facilities and to review the reasonableness of the department’s processes and practices for informing parents of problems it had identified. Finally, the audit committee requested that we review the disciplinary process the department uses when it identifies deficiencies in facilities.

The following table summarizes the department’s progress in implementing eight recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the department had not fully implemented five of those recommendations. Furthermore, based on the department’s most recent response, one recommendation remains outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 8 | 5 | 2 | 1 |

Below are the recommendations that we determined were not and were fully implemented, followed by the department’s most recent response for each.

Recommendation #1:

- (a) The department should continue its efforts to make all nonconfidential information about its monitoring visits more readily available to the public.
- (b) The department should continue its efforts to rebuild the oversight operations of its child care program and assess the sufficiency of its current monitoring efforts and statutory requirements to ensure the health and safety of children in child care facilities.
- (c) The department should develop sufficient automated management information to facilitate the effective oversight of its child care program regional offices.

Bureau’s assessment of status: **Recommendation (a): Not fully implemented;**
Recommendations (b) and (c): Fully implemented

Auditee's Response to Recommendation (a):

The department has been unsuccessful in obtaining the necessary approvals and funding for this project. The department's technology is viewed as antiquated and needs replacement to meet the new Office of the Chief Information Officer's standards. The department will pursue a replacement system that has the capability to publish this information. However, project approvals and funding must be provided. In the mean time, the department has been proactive in developing standardized language for all licensing citations. The standardized language was developed in a way that the public will be able to fully and easily understand all citations issued. This foundation is necessary before reports or summary of the reports can be made available on the web.

Estimated date of completion: Unknown

Auditee's Response to Recommendation (b):

The department now has data to measure compliance with its annual and five year visit requirements. The Licensing Reform Automation Project (LRAP) had, as a component, the development of new automated management information which will facilitate the ability to assess Community Care Licensing Division's (CCLD) progress in meeting all of its statutory requirements. A new complaint tracking management report has been completed as part of that project and is now in use.

Auditee's Response to Recommendation (c):

The LRAP had, as a component, the development of new automated management information which will facilitate the ability to assess CCLD's progress in meeting all of its statutory requirements and to facilitate effective oversight of the regional offices. A new complaint tracking management report has been completed as part of that project and is now in use. Other case management reports were developed earlier that track virtually every part of the licensing workload at the regional office level. There are quality control staff in the child care program that pull data from these reports to ensure proper oversight of the regional offices.

Recommendation #2:

The department should develop a plan to measure its random and required visits against its statutory requirement to visit each facility at least once every five years, assess its progress in meeting this and other statutory requirements, and ensure that the data it uses to assess its progress in meeting the various requirements are sufficiently reliable.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

The department now has data to measure compliance with its annual and five year visit requirements. The LRAP had, as a component, the development of new automated management information which will facilitate the ability to assess CCLD's progress in meeting all of its statutory requirements. A new complaint tracking management report has been completed as part of that project and is now in use.

DEPARTMENT OF HEALTH SERVICES

(Report Number 2006-035, February 2007)

It Has Not Yet Fully Implemented Legislation Intended to Improve the Quality of Care in Skilled Nursing Facilities

The Skilled Nursing Facility Quality Assurance Fee and Medi-Cal Long-Term Care Reimbursement Act (Reimbursement Act), Chapter 875, Statutes of 2004, directed the Bureau of State Audits (bureau) to review the Department of Health Services' (Health Services)⁷ new facility-specific reimbursement rate system. Until the passage of the Reimbursement Act, facilities received reimbursements for Medi-Cal services based on a flat rate. The Reimbursement Act required Health Services to implement a modified reimbursement rate methodology that reimburses each facility based on its costs. In passing the Reimbursement Act, the Legislature intended the cost-based reimbursement rate to expand individual's access to long-term care, improve the quality of care, and promote decent wages for facility workers. The Reimbursement Act also imposed a Quality Assurance Fee (fee) on each facility to provide a revenue stream that would enhance federal financial participation in the Medi-Cal program, increase reimbursements to facilities, and support quality improvement efforts in facilities.

The Reimbursement Act required us to evaluate the progress Health Services has made in implementing the new system for facilities. It also directs us to determine if the new system appropriately reimburses facilities within specified cost categories and to identify the fiscal impact of the new system on the State's General Fund.

The following table summarizes Health Services' progress in implementing the six recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, Health Services had not fully implemented five of those recommendations. Furthermore, based on Health Services' most recent response, two recommendations remain outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 6 | 5 | 2 | 2 |

Below are the two recommendations that we determined were not fully implemented, followed by Health Services' most recent response for each.

Recommendation #1:

Health Services should include information on any savings to the General Fund in the reports its licensing division is required to prepare.

Bureau's assessment of status: **Not fully implemented**

⁷ On July 1, 2007, the Department of Health Services was reorganized and became two departments—the Department of Health Care Services and the Department of Public Health.

Auditee's Response:

As advised by the Department of Health Care Service's (Health Care Services) in-house legal counsel, General Fund savings associated with the Assembly Bill 1629 methodology and Quality Assurance Fee will not be provided at this time because of pending litigation.

Estimated date of completion: Unknown

Recommendation #2:

Health Services should begin recouping duplicate payments.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

Health Care Services continues to recover the duplicate payments for which the initial recoupment began September 14, 2007, under an Erroneous Payment Corrections (EPC) process. As of November 1, 2010, Health Care Services has recouped a total of \$5,565,405 and continues to pursue the recovery of \$15,608.18 from five remaining providers that were overpaid due to the faulty claim examiner instructions that were discovered through this audit. Full recovery will be achieved when the remaining overpaid providers reimburse Health Care Services' Third Party Liability Division by direct payment or offset against future adjudicated claims. If it is established that any one of the remaining providers are no longer in business, a discharge of accountability may be warranted after Health Care Services completes all required steps for discharging an unpaid liability.

Health Care Services continues to audit overlapping claims from 29 providers, out of a total of 267 providers that were previously identified as having the potential for being overpaid. An audit is required to determine whether a provider was overpaid when duplicate overlapping claims are detected between two different providers. Health Care Services' Audits and Investigations Division (A & I) has collected \$245,383 from 86 providers under these separate reviews. The remaining reviews will be completed by December 31, 2010. Full recovery of any additional overpayments will be completed by May 31, 2011.

Estimated date of completion: Fiscal year 2010-11

DEPARTMENT OF HEALTH SERVICES

(Report Number 2006-106, April 2007)

Its Licensing and Certification Division Is Struggling to Meet State and Federal Oversight Requirements for Skilled Nursing Facilities

The Joint Legislative Audit Committee requested the Bureau of State Audits (bureau) to conduct an audit assessing the Department of Health Services' (Health Services)⁸ oversight of skilled nursing facilities.

The following table summarizes Health Services' progress in implementing the nine recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, Health Services had not fully implemented five of the nine recommendations. Based on Health Services' most recent response, three recommendations remain outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 9 | 5 | 5 | 3 |

Below are the recommendations that we determined were not and were fully implemented, followed by Health Services' most recent response for each.

Recommendation #1:

To proactively manage its complaint workload, Health Services should periodically evaluate the timeliness with which district offices initiate and complete complaint investigations. Based on this information, Health Services should identify strategies, such as temporarily lending its staff to address workload imbalances occurring among district offices.

Bureau's assessment of status: **Not fully implemented**[†]

Auditee's Response:

From April 24, 2007 through October 29, 2010, Licensing & Certification (L&C) received 20,905 complaints and our initiation rate within prescribed statutory timeframes is 99.64%. L&C Headquarters runs weekly reports regarding long term care complaint initiation as a check to make sure District Offices initiate timely. Throughout the year, L&C runs routine statistics on complaint course and provides this information to District Offices as well. Given the success in initiating LTC complaints timely, sharing of staff between offices to initiate complaints is not necessary. Sharing of staff to close an open complaint is not appropriate. Complaint investigations can only be closed by those individuals who conducted the on-site investigation, reviewed the documents related to the investigation and interviewed staff/residents. LFS developed Attachment 1, Investigation Timeliness Report, to comply with a court order to initiate complaints within statutory timeframes. L&C Headquarters began running Investigation Timeliness Reports centrally to alert District office of approaching complaint initiation deadlines.

⁸ On July 1, 2007, the Department of Health Services was reorganized and became two departments—the Department of Health Care Services and the Department of Public Health. The Department of Public Health is now responsible for monitoring skilled nursing facilities.

[†] Contrary to the bureau's determination, the auditee asserted in its latest response to us that it believes it has fully implemented the recommendation. However, the auditee did not address all aspects of the recommendation.

Recommendation #2:

To ensure that district offices consistently investigate complaints and include all relevant documentation in the complaint files, Health Services should clarify its policies and procedures, provide training as necessary, and periodically monitor district office performance to ensure compliance. At a minimum, Health Services should:

- a. Clarify its 45 working-day policy for closing complaints by establishing target time frames for facility evaluators, supervisors, and support staff to complete key stages in the complaint process.
- b. Attempt to obtain mailing addresses from all complainants that do not wish to remain anonymous.

Bureau's assessment of status: **Not fully implemented**[†]

Auditee's Response:

Since the bureau's audit findings were released, License & Certification (L&C) has conducted 5 separate monitoring studies to ensure that offices are following established complaint Policies & Procedures (P&P). The studies do not specifically review if mailing addresses for complainants are secured. However, in Sept. 2008, L&C conducted state wide trainings for all surveyors on the complaint P&P. This training included elements of the bureau's audit report and staff were instructed to attempt to secure mailing address for individuals who did not wish to remain anonymous. These studies do review attempts made by L&C to contact the complainant prior to starting the investigation. In 2009, the L&C complaint policy underwent further revisions to clarify and more clearly establish when a complaint was completed and when complaints should be closed. The new P&P considers a complaint closed when the supervisor has approved the findings and written report of the investigation. This is the date L&C uses to notify the complainant within 10 days of the outcome of the investigation. The P&P allows 30 days from this date to complete notification to the complainant and to finally upload the complaint kit in our database. The P&P no longer references closing a complaint within 45 days of receipt.

Attachment 2 is a "Complaint Quality Assurance Report" which is a copy of the quality assurance tool L&C uses to periodically monitor District Office compliance with complaint investigation per our Policy and Procedure. It documents the elements of the complaint investigations process to ensure that a thorough investigation is completed. Attachment 3 "Complaint Revision/Rollout Summary" is a summary of the various training sessions provided by L&C's Training Unit to District Offices. Attachment 4 is a copy of current Complaint Policy & Procedure used to train L&C staff.

[†] Contrary to the bureau's determination, the auditee asserted in its latest response to us that it believes it has fully implemented the recommendation. However, the auditee did not address all aspects of the recommendation.

Recommendation #3:

To fill its authorized positions and manage its federal and state workloads, Health Services should consider working with the Department of Personnel Administration to adjust the salaries of its staff to make them more competitive with those of other state agencies seeking similarly qualified candidates. In addition, Health Services may want to consider hiring qualified candidates who are not registered nurses.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

Since 2007, Licensing and Certification (L&C) has worked to implement part of this recommendation. The Department of Personnel Administration (DPA) granted L&C permission to align supervisor salaries with Bargaining Unit 17 and to adjust salaries appropriately through a Pay Differential process. In order to make the salaries adjustments permanent, L&C conducted research to determine whether the current position classifications are appropriate based on the needs of the program. On October 1, 2010, L&C submitted a classification proposal to the DPA to align the Health Facilities Evaluator II (Supervisor) with the Bargaining Unit 17 and to adjust the salaries appropriately. The proposal is currently under review with DPA. L&C prepared, and submitted to the Department of Personnel Administration, the analyses in Attachments 6 and 7 (Classification Considerations, and Salary Analysis, respectively) to support our ongoing effort to reclassify our surveyor workforce. These documents show that we are working with DPA in an effort to retain our surveyor staff.

Due to the clinical nature of the surveys conducted to ensure patient safety, L&C's policy is that all surveyors must be registered nurses. L&C has considered the option to hire surveyor staff that are not registered nurses to conduct the federal and state surveys; however, L&C does not agree with the recommendation that "hiring qualified candidates who are not registered nurses" is a viable option. L&C does use non-clinical staff to conduct surveys that are not clinical, such as Fire and Life Safety.

Estimated date of completion: December 2011

Recommendation #4:

To reduce the predictability of its federal recertification surveys, Health Services should institute a practice of conducting surveys throughout the entire survey cycle, ensuring that each facility has a greater probability of being selected at any given time.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

Licensing and Certification (L&C) has met this recommendation through conducting Quarterly District Manager meetings to discuss both workload activities and the need to maintain an unpredictable survey schedule. Our unpredictable presence in skilled nursing facilities is enhanced by conducting off-hour surveys and through increased state licensing survey activities.

Recommendation #5:

When Health Services charges general support items to the citation account, it should be able to document its rationale for determining the amounts charged.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

The Licensing and Certification (L&C) program implemented the recommendation through establishing and executing the attached procedures (Attachment 5, Procedures for Citation Penalty Accounts Expenditure Verification). These measures have ensured that general support items do not erroneously charge to the citation penalty account. L&C Administration Branch developed and disseminated Attachment 5 to L&C Administration staff to ensure proper documentation of charges against the citation penalty account per the bureau's recommendation.

DEPARTMENT OF SOCIAL SERVICES

(Report Number 2007-124, April 2008)

Safely Surrendered Baby Law: Stronger Guidance From the State and Better Information for the Public Could Enhance Its Impact

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the Department of Social Services' (Social Services) administration of the Safely Surrendered Baby Law (safe-surrender law). The Legislature, responding to a growing number of reports about the deaths of abandoned babies in California, enacted the safe-surrender law, which became effective in January 2001. The law provides a lifesaving alternative to distressed individuals who are unwilling or unable to care for a newborn by allowing a parent or other person having lawful custody of a baby 72 hours old or younger to surrender the baby confidentially and legally to staff at a hospital or other designated safe-surrender site. The audit committee asked us to identify funding sources and review expenditures for the safe-surrender program since 2001 and determine how much has been used for public awareness, printing and distribution of materials, and for personnel. We were also asked to determine how Social Services sets its annual goals, examines its process for determining which outreach and public awareness strategies are the most effective, and identifies its plans for future and enhanced outreach to increase the public awareness of the law. In addition, the audit committee asked us to gather information regarding safely surrendered and abandoned babies and determine whether the public outreach efforts appear to be appropriately targeted in light of this information.

The following table summarizes Social Services' progress in implementing seven recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, Social Services had not fully implemented any recommendations. Based on Social Services' most recent response, one recommendation is still not fully implemented.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 7 | 7 | 7 | 1 |

Below are the recommendations that we determined were not and were fully implemented, followed by Social Services' most recent response for each.

Recommendation #1:

To ensure that it is aware of and can appropriately react to changes in the number of abandoned babies, Social Services should work with the Department of Public Health and county agencies to gain access to the most accurate and complete statistics on abandoned babies.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

Interdepartmental discussions continue regarding data sharing between the Department of Public Health (DPH) and Social Services, not only for abandoned baby information, but for other data that would be of benefit to Social Services. The sharing of databases is resource and time intensive, compromised by differing data collection methodologies, and subject to confidentiality limitations. Workgroup efforts have been impacted by the reduction of staff and other resources, in

addition to the reduced work time (furloughs) ordered by the governor. Assembly Bill (AB) 1048 passed during the 2010 legislative season and unless amended or ratified, will require on or before January 1, 2013 that Social Services report to the Legislature effects of the Safely Surrendered Baby (SSB) Law. Among other data, this report would include the number of children one year of age or younger that are found abandoned, dead or alive, in the state. The new reporting requirements are contingent upon availability of sufficient funding or resources for this purpose.

Estimated date of completion: January 1, 2012

Recommendation #2:

To support future efforts related to the safe-surrender law, including continuing outreach and improving the quality of the State's statistics, Social Services should consider using a portion of existing funds, such as those available in its trust fund, and should consider renewing its partnership with First 5 California, which Social Services can legally use for such efforts.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

Social Services used existing resources to fund a statewide hotline number providing callers with information about the location of safe surrender sites in their area. We are collecting data on the number of callers, the areas in which they reside, etc. We have also updated our outreach materials to display the new toll free number. In addition, AB 1983 was signed into law on September 30, 2010, which creates a new fund using tax check off donations that can be used for outreach and educational materials related to safely surrendered babies.

Social Services released All County Information Notice (ACIN) number I-19-10 introducing the statewide hotline on March 29, 2010. Also, ACIN I-88-10 was released on November 2, 2010. This letter clarifies the definition of a safe surrender and provides safe surrender intake procedures, including situations in which babies are born and surrendered in a hospital and situations that require clarity between safe surrender and relinquishment for adoption. The letter also addresses SSB confidentiality issues by reiterating confidentiality protocols at intake and during data entry into CWS/CMS. Further, the letter corrects erroneous instructions from ACIN I-16-04 regarding waiver of confidentiality for the surrendering individual. Last, the letter issues an updated form: the Safely Surrendered Baby Medical Questionnaire (new Social Services form SOC 861) for use by safe surrender site staff in order to improve availability of medical information that may be vital to the health of a surrendered child.

Recommendations #3:

Clarify the definition of safe surrender and then disseminate and monitor its use among county and state agencies. The clarified definition should address situations in which babies are born and surrendered in a hospital as well as those in which the individual surrendering the baby indicates that adoption is his or her ultimate goal. If Social Services believes statutory change is needed to do so, it should seek the requisite authority from the Legislature.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

Social Services released ACIN number I-88-10 on November 2, 2010. This letter clarifies the definition of a safe surrender and provides safe surrender intake procedures, including situations in which babies are born and surrendered in a hospital and situations that require clarity between safe surrender and relinquishment for adoption. The letter also addresses SSB confidentiality issues by reiterating confidentiality protocols at intake and during data entry into CWS/CMS. Further, the letter corrects erroneous instructions from ACIN I-16-04 regarding waiver of confidentiality for the surrendering individual. Last, the letter issues an updated form: the Safely Surrendered Baby Medical Questionnaire (new Social Services form SOC 861) for use by safe surrender site staff in order to improve availability of medical information that may be vital to the health of a surrendered child.

Recommendation #4:

Clarify the circumstances under which safe-surrender sites and counties must protect the identifying information on the individual who surrenders an infant. At a minimum, Social Services should revoke its erroneous guidance on the waiver of the privilege of confidentiality by individuals who safely surrender babies.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

Social Services provided the same response as it did under Recommendation #3.

Recommendations #5:

Require counties to correct records in the Child Welfare Services/Case Management System (CWS/CMS) that Social Services' staff believe are erroneous because counties have misclassified babies as either surrendered or abandoned. Because Social Services does not believe it presently has the authority to do so, Social Services should seek legislation to obtain this authority.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

When the law was enacted, previous CWPPD staff pursued such corrections during quarterly reviews of SSB data and recorded the information manually (stored in binders). Staff currently assigned to SSB have developed and maintained an electronic tool to complete the quarterly reviews. Additionally, in July 2008, staff developed a separate directory of referrals that require follow-up with assigned county personnel. This has enabled CWPPD staff to track correspondence when there are questions involving the correct classification of SSB cases, as well as other issues.

We are currently re-visiting electronic copies of quarterly review data back to July 2008 and have identified a small number of cases that, although CDSS contacted county personnel regarding the issue, require additional follow up for clarification. For each case identified, CWPPD staff will contact county personnel and track subsequent conversations.

Recommendation #6:

To provide surrendered babies and their health care providers as much information on their medical histories as possible, Social Services should consider ways to improve the availability of medical information.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

Social Services provided the same response as it did under Recommendation #3.

Recommendation #7:

To continue promoting awareness of the safe-surrender law in the most cost-effective manner, Social Services should work with the counties to leverage models and tools currently in use in California, such as existing middle and high school curricula and translated materials.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

Social Services currently has sufficient materials to promote the safe surrender of babies. We updated our existing materials to include the new statewide toll free number. We received a number of requests for the updated materials from counties and others, and the warehouse has actually run out of copies of some items. We have requested more copies be printed, which will be in stock shortly.

Social Services contacted the Santa Clara County child welfare agency and obtained outreach brochures drafted in Chinese and Vietnamese. Social Services determined these met the criteria for official distribution, but unfortunately the cost for our staff to translate existing outreach materials far surpassed current department resources. (Any official Social Services publication is required to be processed by our Language Services Bureau, as per the requirements of California Government Code, Section 7290). Should additional language translation services become available, Social Services is interested in possibly utilizing such materials. AB 1983 was signed into law on September 30, 2010 and creates a new fund using tax check off donations that can be used for outreach and educational materials related to safely surrendered babies. We will determine if we can use the funds from the check off for this translation service in order to expand the amount of materials in languages other than English and Spanish.

DEPARTMENT OF PUBLIC HEALTH

(Report Number 2007-114, June 2008)

Low-Level Radioactive Waste: The State Has Limited Information That Hampers Its Ability to Assess the Need for a Disposal Facility and Must Improve Its Oversight to Better Protect the Public

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) conduct an audit assessing the management and oversight of low-level radioactive waste (low-level waste) by the California Department of Health Services (now the Department of Public Health (department)), the Radiologic Health Branch (branch), and the Southwestern Low-Level Radioactive Waste Commission (Southwestern Commission). Although we reviewed the Southwestern Commission's policies and practices, we did not have recommendations for it and, as a result, we do not mention the Southwestern Commission further.

Public concern related to the disposal of low-level waste will likely increase in the near future because entities in California that generate this waste are losing access to one of the two disposal facilities they currently use. In June 2008 the disposal facility in Barnwell, South Carolina, is scheduled to cease accepting low-level waste from generators in many states, including California. Generators of low-level waste will need to consider alternative methods, including long-term or off-site storage, to deal with their most radioactive low-level waste. Unfortunately, for decision makers in California, the implications of this pending closure and what it means for the State's public policy are not clear-cut.

The following table summarizes the department's progress in implementing the six recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the department had not fully implemented any of the recommendations. Based on the department's most recent response, five recommendations remain outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 6 | 6 | 5 | 5 |

Below are the five recommendations that we determined were not fully implemented, followed by the department's most recent response for each.

Recommendation #1:

To provide greater public transparency and accountability for its decommissioning practices, the department should begin complying with the Executive Order D-62-02 and develop dose-based decommissioning standards formally. If the department believes that doing so is not feasible, it should ask the governor to rescind this 2002 executive order.

Bureau's assessment of status: **Will not implement**

Auditee's Response:

The California Department of Public Health (CDPH) has determined that it will not seek rescission of Executive Order D-62-02. The implementation of the Bureau of State Audits recommendation to develop a dose-based decommissioning standard following the California Environmental Quality Act (CEQA) process and the rescinding of Executive Order (EO) D-62-02 will not further enhance or improve current decommissioning standards upheld by the court in the Committee to Bridge the Gap lawsuit. The development of a new dose-based standard will likely result in protracted litigation and raise uncertainty as to the effectiveness of the standards currently in place to protect public health. It should be emphasized that following the Court's decision in Committee to Bridge the Gap, CDPH applied a decommissioning process standard under existing law that has consistently provided a more protective public health clean-up outcome measure than the U.S. Nuclear Regulatory Commission (NRC) decommissioning standard of 25 millirem (mrem)/year. None of the clean-up levels following the process required by CDPH approach the 25 mrem/year NRC federal decommissioning standard. California has been able to consistently achieve a decommissioning level of radioactive material under 10 mrem/year, with a large majority of the analyses in the nondetectable range. The current process has been proven to be protective of public health and has remained free from legal challenges as to the public health protective outcome of the current standard.

In June 2003, the Department explored the costs of promulgating a dose-based decommissioning standard. CDPH explored this option through an interagency agreement with the Department of General Services (DGS) to develop a CEQA-compliant decommissioning standard. This feasibility assessment continued through September 2004. Through this collaboration, the Department concluded by February 2005, that it would not move forward with this effort. This decision was informed by:

- The costs that DGS estimated for developing and promulgating the dose-based standard was approximately \$5 million, with the likelihood of additional annual costs. Program funding has remained insufficient to fully support the regulatory development while maintaining CDPH inspection and response operations; and
- CDPH's assessment that public and environmental health and safety are rigorously protected through the current decommissioning process and have been shown to be health protective and legally compliant, making pursuit of a CEQA-based decommissioning standard unwarranted.

Recommendation #2:

To ensure that the branch uses sufficiently reliable data from its future data system to manage its inspection workload, the department should develop and maintain adequate documentation related to data storage, retrieval, and maintenance.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

The California Department of Public Health (CDPH) will make functional system modifications to address data reliability and quality concerns with existing systems. CDPH has continued to take specific quality control steps on the existing data in the Health Application Licensing (HAL) system to identify and subsequently correct any anomalies:

- a. To assist in decisions on managing data reliability and quality
 - i. 75 HAL data and error reports have been developed and provided
 - ii. Five Requests for Information (RFI) have been completed or are in progress (including workaround for ITIN number, disassociation of license types and identifying necessary key entry validations). These RFIs could lead to a Change Request (CR)
 - iii. Completed CR to increase billing amount for Limited Permit Renewals and Delinquent Notices
 - iv. CR in progress include the following:
 1. Implementing Delinquent billing for Licentiatees
 2. Implementing Delinquent billing for Nuclear Medicine
 3. Correcting fee cap issue on facility renewals
 4. Correcting association issues with specific license types
 5. Inactivating expired certificate records

Estimated date of completion: 2011

Recommendation #3:

To ensure that the branch can sufficiently demonstrate that the fees it assesses are reasonable, the department should evaluate the branch's current fee structure using analyses that consider fiscal and workload factors. These analyses should establish a reasonable link between fees charged and the branch's actual costs for regulating those that pay specific fees. Further, the analyses should demonstrate how the branch calculated specific fees.

Bureau's assessment of status: **Not fully implemented**[‡]

[‡] Contrary to the bureau's determination, the auditee asserted in its latest response to us that it believes it has fully implemented the recommendation. However, the auditee did not substantiate its claim of full implementation and did not address all aspects of the recommendation.

Auditee's Response:

The California Department of Public Health (CDPH) Radiologic Health Branch (RHB) completed its evaluation of workload and staffing data. To ensure a reasonable link between fees charged and the actual costs associated for administering the program, CDPH-RHB initiated a thorough fiscal and workload analysis. Workload standards were developed that identified responsible classifications, tasks to be accomplished, time and allocated resources (e.g., on an average, one inspector can perform approximately 300 inspections annually). Based on this information, CDPH-RHB developed cost and revenue information for the various program components and demonstrated that the fees assessed are appropriate and have a link to the actual costs associated with administering the programs.

A historical review of CDPH-RHB revenues and expenditures commencing in Fiscal Year 2006-07 through 2008-09, continues to support the program assessment and the established fee schedule. As new program requirements are implemented, CDPH-RHB will ensure that public transparency and accountability is achieved when submitting any future fee proposals.

Recommendation #4:

To make certain that it can identify and address existing work backlogs and comply with all of its federal and state obligations, the department should develop a staffing plan for the branch based on current, reliable data. The plan should involve a reevaluation of the branch's assumptions about workload factors, such as how many inspections an inspector can perform annually. The plan should also include the following components:

- An assessment of all backlogged work and the human resources necessary to eliminate that backlog within a reasonable amount of time.
- An assessment of all currently required work and the human resources necessary to accomplish it.

Bureau's assessment of status: **Not fully implemented**[†]

Auditee's Response:

The California Department of Public Health (CDPH) Radiologic Health Branch has developed a plan that identified the existing inspection backlogs to ensure that CDPH can measure and validate compliance with federal and state inspection frequency and quality requirements. As the implementation of the Enterprise-wide On-line Licensing (EOL) project progresses, a timelier, more accurate, and more complete data analysis can be done. CDPH is currently able to review production and staffing information to a limited degree that reflects monthly management program inspection activities. In September 2009, CDPH completed its data backlog correction plan and continues to resolve backlog associated with the Health Application Licensing system. Both managers and staff continue to conduct data quality checks using independent and

[†] Contrary to the bureau's determination, the auditee asserted in its latest response to us that it believes it has fully implemented the recommendation. However, the auditee did not address all aspects of the recommendation.

computerized data edit checks. Management re-evaluates error rates and the need for new procedures or quality assurance checks to ensure an error rate of less than five percent. Using information technology tools and procedures, this error rate reduction has been achieved.

Recommendation #5:

- a. To inform the Legislature when it is likely to receive the information to evaluate the State's need for its own disposal facility, the department should establish and communicate a timeline describing when the report required by Section 115000.1 of the Health and Safety Code will be available. The department should also see that its executive management and the branch discuss with appropriate members of the Legislature as soon as possible the specific information required by state law that it cannot provide. Further, to the extent that the department cannot provide the information required by law, it should seek legislation to amend the law.
- b. Finally, when the branch has an understanding of the disposal needs for generators in California based on this data, it should develop an updated low-level waste disposal plan.

Bureau's assessment of status: **Not fully implemented for (a)[†] and will not implement for (b)**

Auditee's Response to Recommendation (a):

The 2007 annual reports required by Health and Safety (H&S) Code section 115000.1 were completed in April 2010. Pursuant to H&S Code Section 115000.1, the report summarized by type of generator and county of generation within the State, the nature, characteristics, and quantities of low-level radioactive waste (LLRW) generated in California. The report for public review is posted on the California Department of Public Health (CDPH), Radiologic Health Branch website, while the other confidential report contains specific information about the location of radioactive materials and is available to members of the Legislature upon request. The 2008 LLRW report was completed in October 2010 and is currently in the review process. CDPH intends for these reports to be generated annually.

Auditee's Response to Recommendation (b):

CDPH will continue to collect data from California's LLWR producers across the State and make that data available to legislators and interested parties. To date, that data has not provided a understanding of the disposal needs for LLRW generators in California that warrants an update to the 1984 plan provided to the legislature. CDPH remains committed to collecting data and working with the regulated community to inform any future updates that may be necessary to the LLRW disposal plan.

[†] Contrary to the bureau's determination, the auditee asserted in its latest response to us that it believes it has fully implemented the recommendation. However, the auditee did not address all aspects of the recommendation.

DEPARTMENT OF HEALTH CARE SERVICES

(Report Number 2007-122, June 2008)

Although Notified of Changes in Billing Requirements, Providers of Durable Medical Equipment Frequently Overcharged Medi-Cal

The Joint Legislative Audit Committee requested the Bureau of State Audits (bureau) to conduct an audit of the Department of Health Care Services' (Health Care Services) Medi-Cal billing system with particular emphasis on the billing instructions and coding for durable medical equipment (medical equipment). Although Health Care Services adequately notified medical equipment providers of changes to the reimbursement rates and codes for medical equipment, we noted other findings.

The following table summarizes Health Care Services' progress in implementing the three recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, Health Care Services had not fully implemented two of the recommendations. Based on Health Care Services' most recent response, two recommendations remain outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 3 | 2 | 2 | 2 |

Below are the recommendations that we determined were not fully implemented, followed by Health Care Services' most recent response for each.

Recommendation #1:

To maintain control over the cost of reimbursements, Health Care Services should develop an administratively feasible means of monitoring and enforcing current Medi-Cal billing and reimbursement procedures for medical equipment. If unsuccessful, Health Care Services should consider developing reimbursement caps for medical equipment that are more easily administered.

Bureau's assessment of status: **Not fully implemented***

Auditee's Response:

Health Care Services continues to use edits within the claims processing system, as well as a variety of post-payment audits to monitor and enforce Medi-Cal billing and reimbursement procedures for medical equipment

* Contrary to the bureau's determination, the auditee asserted in its latest response to us that it believes it has fully implemented the recommendation. However, the auditee did not substantiate its claim of full implementation.

Recommendation #2:

If Health Care Services continues using audits to ensure that providers comply with Medi-Cal billing procedures for medical equipment, including the upper billing limit, it should design and implement a cost-effective approach that adequately addresses the risk of overpayment and ensures that all providers are potentially subject to an audit, thereby providing a deterrent for noncompliance.

Bureau's assessment of status: **Not fully implemented***

Auditee's Response:

As a continuous process, Health Care Services' Medical Review Branch (MRB) performs a variety of post-payment reviews to monitor and enforce medical equipment billing and reimbursement procedures. Audits initially focused on high-value power wheelchairs; however, as a result of the State Auditor's findings MRB expanded its review to include all claims that are subject to the Upper Billing Limit (UBL). Through this expanded review, MRB confirmed that providers were billing incorrectly and identified 75 "problem" codes. MRB extracted payment summaries for the 75 "problem" codes to identify claiming that exceeded \$10,000 (The \$10,000 threshold is based on an estimate of audit costs versus the potential dollar recovery.) As a result, MRB identified 200 providers representing \$27,942,326 in Medi-Cal paid claims for the period July 1, 2009 to April 16, 2010. MRB is in the process of auditing these providers. To date, ten audits are near completion with identified overpayments totaling \$174,702. MRB is scheduled to complete the remaining audits within the next three months. The reports will be made available to the Bureau of State Audits upon request.

* Contrary to the bureau's determination, the auditee asserted in its latest response to us that it believes it has fully implemented the recommendation. However, the auditee did not substantiate its claim of full implementation.

DEPARTMENT OF PUBLIC HEALTH

(Report Number 2007-040, September 2008)

Laboratory Field Services' Lack of Clinical Laboratory Oversight Places the Public at Risk

Chapter 74, Statutes of 2006, required the Bureau of State Audits (bureau) to review the clinical laboratory oversight programs of the Department of Health Services (now the Department of Public Health and referred to here as the department). Specifically, the law directed us to review the extent and effectiveness of the department's practices and procedures regarding detecting and determining when clinical laboratories are not in compliance with state law and regulations; investigating possible cases of noncompliance, including investigating consumer complaints; and imposing appropriate sanctions on clinical laboratories found noncompliant. The law also specified we review the frequency and extent of the department's use of its existing authority to assess and collect civil fines and refer violators for criminal prosecution and bar their participation from state and federally funded health programs, and its use of any other means available to enforce state law and regulations regarding clinical laboratories. Laboratory Field Services (Laboratory Services) within the department is responsible for licensing, registering, and overseeing clinical laboratories.

The following table summarizes the department's progress in implementing the 11 recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the department had not fully implemented nine of the recommendations. Furthermore, based on the department's most recent response, nine recommendations still remain outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 11 | 9 | 9 | 9 |

Below are the recommendations that the bureau determined were not fully implemented, followed by the department's most recent response for each.

Recommendation #1:

Laboratory Services should perform all its mandated oversight responsibilities for laboratories subject to its jurisdiction operating within and outside California, including, but not limited to the following:

- Inspecting licensed laboratories every two years.
- Sanctioning laboratories as appropriate.
- Reviewing and investigating complaints and ensuring necessary resolution.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

Laboratory Field Services (LFS) has leveraged existing staff by utilizing the state portion of federal CLIA surveys to biennially inspect licensed laboratories. Between August 2008 and November 19, 2009, LFS performed 823 biennial inspections during CLIA surveys. In the last two years, LFS has inspected a total of 1439 federal CLIA Surveys (or 97.5 percent of the 1476 non accredited laboratories). In addition, LFS state surveyors conducted 107 validation inspections of accredited laboratories in California, and sixteen out of state laboratories.

In 2009, SB 744 (Strickland, Chapter 201, Statutes of 2009) authorized a sliding fee schedule for laboratory license fees based on the volume of testing performed by a laboratory and increased the registration fee for registered laboratories. SB 744 increased funding and improved LFS efficiency to allow better enforcement of clinical laboratory standards. The Department expects to use the additional 3.5 million dollars generated by SB 744 to fund additional staff positions needed to conduct initial and biennial inspections. Beginning January 2011, the Department will accept accrediting organization applications to conduct state surveys. In December 2010, the Department will add to the LFS web site submission information for the accrediting organizations. The Department must approve organizations meeting the approval qualifications within six months. The state will leverage its ability to perform biennial inspections through the use of accrediting organizations.

In 2010, LFS received budget change approval to add 35.5 additional Examiner and program support staff. In July 2010, LFS conducted written Examiner tests. Although a statewide hiring freeze has been imposed, LFS continues to identify new candidates and will move forward with hiring once the freeze is lifted. LFS submitted a recruitment and retention bonus proposal to the Budget Department, approval of which will enhance its ability to recruit and retain qualified candidates. LFS has begun work with DPA to remove the entry level Examiner requirement for supervisory experience to allow more scientists to qualify for the Examiner series.

LFS redirected staff to perform complaint investigation. In Fiscal Year 2009-10, LFS received 196 complaints, investigated and closed 114, referred 50 to other responsible agencies, and conducted two onsite complaint investigations. LFS will continue to monitor staff workload to ensure timely completion. One complaint investigation resulted in condition level deficiencies. LFS is currently reviewing a Notice of Intent to Impose Sanction.

Expected date of completion: June 2013

Recommendation #2:

Laboratory Services should adopt and implement proficiency-testing policies and procedures for staff to do the following:

- Promptly review laboratories' proficiency-testing results and notify laboratories that fail.
- Follow specified timelines for responding to laboratories' attempts to correct proficiency-testing failures and for sanctioning laboratories that do not comply.
- Monitor the proficiency-testing results of out-of-state laboratories.
- Verify laboratories' enrollment in proficiency testing, and ensure that Laboratory Services receives proficiency-testing scores from all enrolled laboratories.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

LFS continues to promptly review and notify laboratories of proficiency test (PT) results, and follows specified timelines for responding to laboratories attempts to correct first proficiency test failures. LFS monitors out-of-state laboratory proficiency test results once a year during the annual license renewal. LFS will verify laboratory enrollment in proficiency testing appropriate to the testing performed when it conducts biennial inspections. Since September 1, 2008, LFS has conducted 1,439 biennial inspections by using the state portion of the federal CLIA surveys to staff inspections of licensed laboratories and perform validation inspections of accredited laboratories.

In, 2009, SB 744 (Strickland, Chapter 201, Statutes of 2009), authorized a sliding fee schedule for laboratory license fees based on the volume of testing performed by a laboratory and increased the registration fee for registered laboratories. SB 744 increased funding and improved LFS efficiency to allow better enforcement of clinical laboratory standards. The Department expects to use the additional 3.5 million dollars generated by SB 744 to fund additional staff positions needed to conduct initial and biennial inspections. Beginning January 2011, the Department will accept accrediting organization applications to conduct state surveys.

In December 2010, the Department will add to the LFS web site submission information for the accrediting organizations. The Department must approve organizations meeting the approval qualifications within six months. The state will leverage its ability to perform biennial inspections through the use of accrediting organizations

In 2010, LFS received budget change approval to add 35.5 additional Examiner and program support staff. In July 2010, LFS conducted written Examiner tests. Although a statewide hiring freeze has been imposed, LFS continues to identify new candidates and will move forward with hiring once the freeze is lifted. LFS submitted a recruitment and retention bonus proposal to the Budget Department, approval of which will enhance its ability to recruit and retain qualified candidates. LFS has begun work with DPA to remove the entry level Examiner requirement for supervisory experience to allow more scientists to qualify for the Examiner series.

Expected date of completion: June 2013

Recommendation #3:

To update its regulations, Laboratory Services should review its clinical laboratory regulations and repeal or revise them as necessary. As part of its efforts to revise regulations, Laboratory Services should ensure that the regulations include requirements such as time frames it wants to impose on the laboratory community.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

LFS submitted changes to the HIV regulations and the regulations were signed by the Secretary of State on October 15, 2009. These regulations are now in effect. In addition, LFS leveraged resources by hiring the former LFS Chief and Section chief as retired annuitants to draft regulation changes to the personnel certification and licensing requirements. LFS is reviewing results of the 45 day comment period.

In, 2009, SB 744 (Strickland, Chapter 201, Statutes of 2009), authorized a sliding fee schedule for laboratory license fees based on the volume of testing performed by a laboratory and increased the registration fee for registered laboratories. SB 744 increased funding and improved LFS efficiency to allow better enforcement of clinical laboratory standards. The Department expects to use the additional 3.5 million dollars generated by SB 744 to fund additional legal staff to perform review of the regulations. The normal regulatory review process is 3 years from the start of the regulation draft.

Expected date of completion: June 2015

Recommendation #4:

Laboratory Services should continue its efforts to license California laboratories that require licensure. Further, it should take steps to license out-of-state laboratories that perform testing on specimens originating in California but are not licensed, as the law requires.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

LFS continues its efforts to license California laboratories. Since September 2008, LFS has licensed 270 new laboratories and registered 2,677 new registered laboratories. As of November 4, 2010, LFS has registered 9,805 of the estimated 12,266 laboratories required to be registered.

In, 2009, SB 744 (Strickland, Chapter 201, Statutes of 2009), authorized a sliding fee schedule for laboratory license fees based on the volume of testing performed by a laboratory and increased the registration fee for registered laboratories. SB 744 increased funding and improved LFS efficiency to allow better enforcement of clinical laboratory standards. The Department expects to use the additional 3.5 million dollars generated by SB 744 to fund additional staff positions needed to identify and license laboratories within and outside of California.

In 2010, LFS received budget change approval to add 35.5 additional Examiner and program support staff. In July 2010, LFS conducted written Examiner tests. Although a statewide hiring freeze has been imposed, LFS continues to identify new candidates and will move forward with hiring once the freeze is lifted. LFS submitted a recruitment and retention bonus proposal to the Budget Department, approval of which will enhance its ability to recruit and retain qualified candidates. LFS has begun work with DPA to remove the entry level Examiner requirement for supervisory experience to allow more scientists to qualify for the Examiner series.

Expected date of completion: June 2013

Recommendation #5:

To strengthen its complaints process, Laboratory Services should identify necessary controls and incorporate them into its complaints policies. The necessary controls include, but are not limited to, receiving, logging, tracking, and prioritizing complaints, as well as ensuring that substantiated allegations are corrected. In addition, Laboratory Services should develop and implement corresponding procedures for each control. Further, Laboratory Services should establish procedures to ensure that it promptly forwards complaints for which it lacks jurisdiction to the entity having jurisdiction.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

LFS redirected staff to perform complaint investigations and strengthened the complaint process by posting on the CDPH and LFS websites the LFS complaint form in a downloadable format for use by the public in addition to access by mail, e-mail or telephone. In March 2009, LFS developed a Master Complaint Register which tracks the following: the facility or professional identified by the complaint, the sequential case number, date complaint opened, date closed, acuity/priority, acknowledgement of receipt, disposition (letter to facility/professional, referral to outside agency or internal section), and date closed. In Fiscal Year 2009-10, LFS received 196 complaints, investigated and closed 114, referred 50 to other responsible agencies, and conducted two onsite complaint investigations.

LFS will continue to monitor staff workload to ensure timely completion. One complaint investigation resulted in condition level deficiencies. LFS is currently reviewing a Notice of Intent to Impose Sanction. Separate monthly summaries track the numbers from the Master Complaint Register. Complaint investigations conducted by telephone or letter that verify the complaint require a verbal allegation of correction. On-site investigations that substantiate the complaint result in a Statement of Deficiencies that requires a written Plan of Corrections with documentation of correction.

In 2009, SB 744 (Strickland, Chapter 201, Statutes of 2009), authorized a sliding fee schedule for laboratory license fees based on the volume of testing performed by a laboratory and increased the registration fee for registered laboratories. SB 744 increased funding and improved LFS efficiency to allow better enforcement of clinical laboratory standards. The Department expects to use the additional 3.5 million dollars generated by SB 744 to fund additional staff positions needed to investigate complaints.

In 2010, LFS received budget change approval to add 35.5 additional Examiner and program support staff. Although a statewide hiring freeze has been imposed, LFS continues to identify new candidates and will move forward with hiring once the freeze is lifted. LFS submitted a recruitment and retention bonus proposal to the Budget Department, approval of which will enhance its ability to recruit and retain qualified candidates.

Expected date of completion: June 2014

Recommendation #6:

To strengthen its sanctioning efforts, Laboratory Services should do the following:

- Maximize its opportunities to impose sanctions.
- Appropriately justify and document the amounts of the civil money penalties it imposes.
- Ensure that it always collects the penalties it imposes.
- Follow up to ensure that laboratories take corrective action.
- Ensure that when it sanctions a laboratory it notifies other appropriate agencies as necessary.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

LFS initiated enforcement action against four laboratories and four laboratory personnel in 2008. LFS continues to notify other appropriate agencies such as the Centers for Medicare and Medicaid Services of termination sanction actions, and has developed written procedures for justifying and documenting the amounts of civil money penalties.

In, 2009, SB 744 (Strickland, Chapter 201, Statutes of 2009), authorized a sliding fee schedule for laboratory license fees based on the volume of testing performed by a laboratory and increased the registration fee for registered laboratories. SB 744 increased funding and improved LFS efficiency to allow better enforcement of clinical laboratory standards. The Department expects to use the additional 3.5 million dollars generated by SB 744 to fund additional staff to maximize opportunities to impose sanctions and for legal support.

Expected date of completion: June 2013

Recommendation #7:

Public Health, in conjunction with Laboratory Services, should ensure that Laboratory Services has sufficient resources to meet all its oversight responsibilities.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

In 2009, SB 744 (Strickland, Chapter 201, Statutes of 2009), authorized a sliding fee schedule for laboratory license fees and increased phlebotomy certification fees. The Department expects to use the additional 3.5 million dollars generated by SB 744 to provide resources necessary to meet LFS oversight responsibilities.

In 2010, LFS received budget change approval to add 35.5 additional Examiner and program support staff. Although a statewide hiring freeze has been imposed, LFS continues to identify new candidates and will move forward with hiring once the freeze is lifted. LFS submitted a recruitment and retention bonus proposal to the Budget Department, approval of which will enhance its ability to recruit and retain qualified candidates.

Expected date of completion: June 2013

Recommendation #8:

Laboratory Services should work with its Information Technology Services Division and other appropriate parties to ensure that its data systems support its needs. If Laboratory Services continues to use its internally developed databases, it should ensure that it develops and implements appropriate system controls.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

In 2010, LFS hired the most qualified candidate from a small pool of applicants to provide IT support for the program. An additional ITSD position at a higher level will become available in January 2011 to provide LFS with extensive database support. Staff continues to identify and correct data inaccuracies within the existing databases; this task is necessary whether LFS transitions to a new system or continues with its current system. LFS continues to prepare for possible transition to the Enterprise Online Licensing System (EOL) or other system.

Expected date of completion: June 2014

Recommendation #9:

To demonstrate that it has used existing resources strategically and has maximized their utility to the extent possible, Laboratory Services should identify and explore opportunities to leverage existing processes and procedures. These opportunities should include, but not be limited to, exercising clinical laboratory oversight when it renews licenses and registrations, developing a process to share state concerns identified during federal inspections, and using accreditation organizations and contracts to divide its responsibilities for inspections every two years.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

LFS implemented several mechanisms to leverage existing processes and procedures. LFS uses the state portion of CLIA surveys for review of state issues when biennial inspections of unaccredited laboratories are performed. LFS also initiated validation surveys of accredited laboratories by state surveyors. Since September 2008, LFS has inspected 1,562 laboratories. LFS implemented reviews of facility license renewal applications to verify ownership and qualifications of director and 10% of testing personnel and this is ongoing.

In, 2009, SB 744 (Strickland, Chapter 201, Statutes of 2009), authorized a sliding fee schedule for laboratory license fees based on the volume of testing performed by a laboratory and increased the registration fee for registered laboratories. Beginning January 2011, the Department will accept accrediting organization applications to conduct state surveys. In December 2010, the Department will add to the LFS web site submission information for the accrediting organizations. The Department must approve organizations meeting the approval qualifications within six months. The state will leverage its ability to perform biennial inspections through the use of accrediting organizations.

LFS meets quarterly with the Center for Medicare and Medicaid Services to share state concerns identified during federal inspections and to provide an update on LFS programs.

LFS continues to work with ITSD to prepare for possible transition to the Enterprise Online Licensing System (EOL). It continues to correct data duplications and inaccuracies in current databases so that they may be transitioned to our current HAL or other supportable system.

Expected date of completion: June 2013

DEPARTMENT OF HEALTH CARE SERVICES

(Report Number 2009-103, September 2009)

Departments of Health Care Services and Public Health: Their Actions Reveal Flaws in the State's Oversight of the California Constitution's Implied Civil Service Mandate and in the Departments' Contracting for Information Technology Services

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) examine the use of information technology (IT) consulting and personal services contracts (IT contracts) by the departments of Health Care Services (Health Care Services) and Public Health. The audit committee specifically asked the bureau to review and assess the two departments' policies and procedures for IT contracts to determine whether they are consistent with state law. The audit committee also requested that we identify the number of active IT contracts at each department and—for a sample of these contracts—that we determine whether the departments are complying with California Government Code, Section 19130, and with other applicable laws, rules, and regulations. For the sample of contracts, the audit committee also requested that we collect various data and perform certain analyses, including determining whether the two departments are enforcing the knowledge-transfer provisions contained in the contracts.

The audit committee also asked us to identify the number, classification, and cost of IT positions budgeted at each department for each of the most recent five fiscal years. In addition, we were to determine the number of vacant IT positions, the turnover rate, and any actions that the departments are taking to recruit and retain state IT employees.

For a sample of contracts under review by the State Personnel Board (board), the audit committee asked us to identify the California Government Code section that the departments are using to justify an exemption from the implied civil service mandate emanating from Article VII of the California Constitution. For the contracts overturned by the board, we were asked to review the two departments' responses and determine whether corrective action was taken. Finally, the audit committee requested that we review and assess any measures that the two departments have taken to reduce the use of IT contracts.

The following table summarizes Health Care Services' progress in implementing the nine recommendations the bureau made to it in the above referenced report. As shown in the table, as of its one-year response, Health Care Services had not fully implemented three recommendations. Based on Health Care Services' most recent response three recommendations have been not fully implemented.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|--|
| 9 | 3 | 3 |

Following are the recommendations that we determined were not fully implemented, followed by Health Care Services' most recent response for each.

Recommendation #1:

To vet more thoroughly the Section 19130(b) justifications put forward by the departments' contract managers, to ensure the timely communication of board decisions to the contract managers, and to make certain that disapproved contracts have been appropriately terminated, legal services should review the Section 19130(b) justifications put forward by the contract managers for proposed personal services contracts deemed high risk, such as subsequent contracts for the same or similar services as those in contracts disapproved by the board.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

Health Care Services has substantially complied with this recommendation. Contract managers have been advised that all personal services contracts need to be scrutinized for potential violation of the public contract code and that all personal services contracts requiring the 19130 exemption must be reviewed by the Office of Legal Services (OLS) before the contract can be finalized.

Health Care Services has designated an attorney in OLS to perform reviews of personal services contracts and reviews of new board decisions regarding personal services contracts. This attorney is responsible for notifying managers by email of board decisions that are pertinent to personal services contracts for both IT contracts and non-IT contracts. This person is also responsible for the final determination of whether Health Care Services meets the legal justification for personal services contracts. This lawyer is also available to Health Care Services staff for consultation regarding personal services contracts and is currently able to review Section 19130 requests. However, since Health Care Services has ended most personal services contracts, the volume of requests has dropped significantly.

In order to fully implement this recommendation, Health Care Services will formalize the vetting process for legal review through an administrative memo to all Health Care Services managers. This administrative memo and process should be completed within 90 days.

Estimated date of completion: March 2011

Recommendation #2:

To comply with requirements in the *State Administrative Manual*, Health Care Services should refrain from funding permanent full-time employees with the State's funding mechanism for temporary help positions.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

Health Care Services has taken, and will continue to take, proactive steps to identify positions for those individuals currently in the temporary help blanket that require a permanent position. Health Care Services will endeavor to limit use of the temporary help blanket to those instances which meet the definition in the State Administrative Manual (SAM), Chapter 6500, Section 6518. However, contrary to the bureau's recommendation, it is not inappropriate to place permanent full-time employees in the temporary help blanket. There are a variety of instances in which use of the temporary help blanket for permanent full-time employees is appropriate and specifically provided for in SAM 6518 and as such, Health Care Services reserves the right to continue "to fund permanent full-time employees with the State's funding mechanism for temporary help positions" as needed. There are unavoidable instances in which a large department such as Health Care Services is required to utilize the blanket while exploring options for permanent placement of staff elsewhere. However, as indicated above, Health Care Services will continue to take proactive steps to transfer staff out of the blanket as soon as practicable.

Estimated date of completion: March 2011

Recommendation #3:

To readily identify active IT and other contracts, Health Care Services should either revise its existing contract database or develop and implement a new contract database.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

Health Care Services believes that its current contract database sufficiently meets current needs. As stated in the one-year status report, based on the results of Health Care Services' business requirements assessment and the current low volume of contracts it is not economically feasible to create a new database at this time. In addition, Budget Letter 08-05 placed a moratorium on the development and enhancement of information technology systems that duplicate functionality of the Financial Information System for California (FI\$Cal). The FI\$Cal system will encompass procurement issues including contracts, requisitions, and purchase orders. It is envisioned to be a comprehensive information exchange system that will be used to generate, administer, and manage all contracts, purchases, and grant agreements from initiation through final payment. Until full implementation of FI\$Cal is achieved, Health Care Services' Purchasing Unit will add a "Term Date" column to the Excel spreadsheet that records all Information Technology (IT) purchase requisitions that result in a purchase order. Start and end dates will be logged for those purchases that include or involve an IT service. Term information will be recorded for all IT services procured on or after July 1, 2010. Contract Management Unit staff will continue to record IT service transactions obtained via a Standard Agreement into Health Care Services' existing service contract tracking system.

Estimated date of completion: Unknown

DEPARTMENT OF PUBLIC HEALTH

(Report Number 2009-103, September 2009)

Departments of Health Care Services and Public Health: Their Actions Reveal Flaws in the State's Oversight of the California Constitution's Implied Civil Service Mandate and in the Departments' Contracting for Information Technology Services

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) examine the use of information technology (IT) consulting and personal services contracts (IT contracts) by the departments of Health Care Services and Public Health (Public Health). The audit committee specifically asked the bureau to review and assess the two departments' policies and procedures for IT contracts to determine whether they are consistent with state law. The audit committee also requested that we identify the number of active IT contracts at each department and—for a sample of these contracts—that we determine whether the departments are complying with California Government Code, Section 19130, and with other applicable laws, rules, and regulations. For the sample of contracts, the committee also requested that we collect various data and perform certain analyses, including determining whether the two departments are enforcing the knowledge-transfer provisions contained in the contracts.

The audit committee also asked us to identify the number, classification, and cost of IT positions budgeted at each department for each of the most recent five fiscal years. In addition, we were to determine the number of vacant IT positions, the turnover rate, and any actions that the departments are taking to recruit and retain state IT employees.

For a sample of contracts under review by the State Personnel Board (board), the audit committee asked us to identify the California Government Code section that the departments are using to justify an exemption from the implied civil service mandate emanating from Article VII of the California Constitution. For the contracts overturned by the board, we were asked to review the two departments' responses and determine whether corrective action was taken. Finally, the audit committee requested that we review and assess any measures that the two departments have taken to reduce the use of IT contracts.

The following table summarizes Public Health's progress in implementing the seven recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, Public Health had not fully implemented three recommendations. Based on Public Health's most recent response, two recommendations have been not fully implemented.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|--|
| 7 | 3 | 2 |

Below are the recommendations that we determined were not and were fully implemented, followed by Public Health's most recent response for each.

Recommendation #1:

To readily identify active IT and other contracts, Public Health should continue its efforts to develop and implement a new contract database.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

The automated Contracts and Purchasing System (CAPS) software is in its final stage for the Contracts Module. Although only a few programs utilize CAPS at this point, we expect to have all CDPH programs to use the new database effective January 3, 2011. PSB is currently developing several on-line queries to generate the required reports, which will readily identify active Information Technology (IT) and other agreement types of contracts once all contracts are entered into the new database.

Estimated date of completion: March 2011

Recommendation #2:

To promote fairness and to obtain the best value for the State, Public Health should demonstrate its compliance with General Services' policies and procedures. Specifically, in its requests for offer, it should provide potential suppliers with the criteria and points that it will use to evaluate their offers.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

PSB previously completed a draft Request For Offer (RFO) model/instructions for CDPH; however, the staff person assigned to this project recently accepted another position before the criteria screening was completed in the RFO. This assignment was recently re-assigned to a Contract Management Unit (CMU) manager to complete. The draft will be completed by January 1, 2011 for the Contract and Purchasing Services Section (CPSS) Section Chief to review. The draft RFO will be sent to the Deputy Director of Administration and the CDPH Administration Users Group to review and input no later than February 1, 2011 and returned to PSB by February 10, 2011. PSB will notify CDPH staff of the new policy/instructions by issuing a new contract bulletin no later than March 1, 2011.

Estimated date of completion: March 2011.

Recommendation #3:

To ensure that each contract receives the levels of approval required in state rules and in its policies and procedures, Public Health should obtain approval by its agency secretary and directors on contracts over specified dollar thresholds. In addition, Public Health should obtain approval from its IT division on all IT contracts, as specified in departmental policy.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

Information Technology Services Department (ITSD) completed the ITSD manual on September 30, 2010 and made it available to staff on November 3, 2010. The manual was posted on-line for CDPH staff on November 18, 2010. The last major revision of the ITSD checklist was completed on October 27, 2010. In addition, ITSD will be conducting an overview of the ITSD process training with PSB on December 3, 2010. PSB developed a checklist for the purchasing staff to use which includes reminders to obtain ITSD and Office of the Chief Information Officer (OCIO) approval. This checklist will be passed out at the Contracts/Purchasing 101 Training that is scheduled for December 3, 2010.

DEPARTMENT OF MENTAL HEALTH

(Report Number 2009-608, October 2009)

High Risk Update—State Overtime Costs: A Variety of Factors Resulted in Significant Overtime Costs at the Departments of Mental Health and Developmental Services

California Government Code, Section 8546.5, authorizes the Bureau of State Audits (bureau) to establish a process for identifying state agencies or issues that are at high risk for potential waste, fraud, abuse, and mismanagement or that have major challenges associated with their economy, efficiency, or effectiveness. The law also authorizes the bureau to audit any state agency that it identifies as being at high risk and to publish related reports at least once every two years.

In February 2009 the bureau issued a report titled *High Risk: The California State Auditor Has Designated the State Budget as a High Risk Area* (2008-603). This report concluded that the State's budget condition should be added to the bureau's list of high-risk issues because of the current fiscal crisis and history of ongoing deficits. This current report, which addresses the significant amount of overtime compensation the State pays to its employees, is part of the bureau's continuing efforts to examine issues that will aid decision makers in finding areas of government that can be modified to help improve efficiency and effectiveness.

We focused our initial review of overtime costs on five state entities: the California Highway Patrol, the Department of Forestry and Fire Protection (Cal Fire), the Department of Veterans Affairs, the Department of Mental Health (Mental Health), and the Department of Developmental Services (Developmental Services). From these five entities, we further studied three—Cal Fire, Mental Health, and Developmental Services—because each had numerous individuals in one job classification code earning more than \$150,000 in overtime pay, which represented 50 percent of their total earnings during the five fiscal year period we chose for review. We eventually narrowed our focus to two classifications of jobs—registered nurses-safety classification (nurses) at Napa State Hospital and psychiatric technician assistants at Sonoma Developmental Center—because employees in these classifications at each of the facilities earned the majority of overtime pay.

The following table summarizes Mental Health's progress in implementing the six recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, Mental Health had not fully implemented one recommendation. Based on Mental Health's most recent response, one recommendation has been not fully implemented.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|--|
| 6 | 1 | 1 |

Below is the one recommendation that we determined was not fully implemented, followed by Mental Health's most recent response.

Recommendation #1:

To ensure that all overtime hours worked are necessary, and to protect the health and safety of its employees and patients, Mental Health should implement the Legislative Analyst's Office suggestion of hiring an independent consultant to evaluate the current staffing model for Mental Health's hospitals. The staffing levels at Mental Health should then be adjusted, depending on the outcome of the consultant's evaluation.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

Mental Health entered into a consent judgment with the United States Department of Justice under the Civil Rights of Institutionalized Persons Act on May 2, 2006. Since that time, Mental Health has worked diligently to implement new staffing standards included in the agreement. Once fully compliant, Mental Health will consider reevaluating staffing needs.

Estimated date of completion: Unknown

CORRECTIONS AND REHABILITATION

DEPARTMENT OF CORRECTIONS (Report Number 2005-105, September 2005)

It Needs to Better Ensure Against Conflicts of Interest and to Improve Its Inmate Population Projections

The California Department of Corrections⁹ (department) fiscal year 2003–04 budget did not include funds to continue the contracts for three private community correctional facilities (CCFs). However, in 2004 the department experienced a large unexpected increase in inmate population because parole reform programs were not carried out and because new inmate admissions from counties increased. Since prior population projections had generally projected a stable population through 2009, the department did not expect this large increase. To respond to this situation, the department put thousands of added beds into use, some located in “overcrowding” areas—temporary beds placed in areas that are more difficult to secure, such as gymnasiums and dayrooms. In summer 2004 the Youth and Adult Correctional Agency¹⁰ and the department decided to reactivate two of the closed CCFs—McFarland and Mesa Verde—using one-year, no-bid contracts, while initiating a competitive bidding process for a longer term solution.

The department’s Population Projections Unit (projections unit) generates population projections for time frames that span six fiscal years, monitors and reports on the quality of the projections, and explains inconsistencies between actual and projected populations. The annual population projections correspond with the State’s budget cycle and drive the department’s annual budget request. The department prepares its budget request using the fall population projection and submits this request to the Department of Finance (Finance) for use in preparing the Governor’s Budget. It revises its budget request based on the spring population projection and submits the revision to Finance for inclusion in the May revision of the Governor’s Budget. The department also uses these projections to assess the ability of its facilities to house the inmate population over a six-year timeline.

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) evaluate the process the department used to negotiate and enter into two no-bid contracts for private prison facilities to determine whether its policies and procedures are consistent with and adhere to current laws and regulations, particularly in relation to conflict-of-interest rules. In addition, the audit committee asked us to analyze information the department used in its decision to enter into the two no-bid contracts to determine whether such information was accurate and reliable, to analyze the reasonableness and consistency of its method of tracking and projecting inmate population, and to assess the validity of any cost savings it identified.

The following table summarizes the department’s progress in implementing the nine recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the department had not fully implemented six of those recommendations. Based on the department’s most recent response, five recommendations still remain outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 9 | 6 | 5 | 5 |

⁹ The California Department of Corrections is now the California Department of Corrections and Rehabilitation (CDCR).

¹⁰ The Youth and Adult Correctional Agency is now within CDCR.

In March 2007 the bureau issued a follow-up report titled *California Department of Corrections and Rehabilitation: Inmate Population Projections Remain Questionable* (Report No. 2007-503). In this report the bureau performed additional audit work pertaining to the status of recommendations the bureau issued in 2005.

Below are the five recommendations that we determined were not fully implemented, followed by the department's most recent response for each.

Recommendation #1:

The department should require contractor staff to complete statements of economic interests.

Bureau's assessment of status: **Not fully implemented**[‡]

Auditee's Response:

CDCR, Office of Business Services addresses this through the bidders' checklist for bids and through the award-signature letter for all contracts (bid or non-bid). Paragraph 17 of the award-signature letter instructs the contractor to submit the Form 700 as a condition of the contract. This language has been a part of the contract boilerplates for several years. The Form 700 is required of the person signing the contract for that specific company.

Recommendation #2:

If the department intends to continue using the projections for long-term decision making, such as facility planning, it should ensure that it employs statistically valid forecasting methods and consider seeking the advice of experts in selecting and establishing the forecasting methods that will suit its needs.

Bureau's assessment of status: **Not fully implemented**[‡]

Auditee's Response:

We hired two experts to review the projections process and the simulation model and they completed their review in June 2009. We are pleased with their recommendations but have not been able to implement them due to lack of resources.

Recommendation #3:

To increase the accuracy and reliability of its inmate projection, the department should update its variable projections with actual information, whenever feasible to do so.

Bureau's assessment of status: **Not fully implemented**

[‡] Contrary to the bureau's determination, the auditee asserted in its latest response to us that it believes it has fully implemented the recommendation. However, the auditee did not substantiate its claim of full implementation and did not address all aspects of the recommendation.

Auditee's Response:

We have hired a retired annuitant with expertise in the Inmate Classification Scoring System. It is anticipated that it will take up to a year to fully implement all of the necessary changes to the model.

Estimated Date of Completion: December 2011

Recommendation #4:

The department should continue its recent efforts to enhance its communications with local government agencies to better identify changes that may materially affect prison populations.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

There is on-going communication with the Administrative Office of the Courts and the Chief Probation Officers of California which is anticipated to enhance CDCR's communication with local government agencies.

Estimated Date of Completion: Unknown

Recommendation #5:

The department should fully document its projection methodology and model.

Bureau's assessment of status: **Not fully implemented[‡]**

Auditee's Response:

Documentation of the projection methodology and model was completed and sent to Bureau of State Audits on January 28, 2009. In response to a follow-up request, the simulation model code and the model user's manual were sent to the Bureau of State Audits on December 14, 2009.

[‡] Contrary to the bureau's determination, the auditee asserted in its latest response to us that it believes it has fully implemented the recommendation. However, the auditee did not substantiate its claim of full implementation and did not address all aspects of the recommendation.

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

(Report Number 2005-111, November 2005)

The Intermediate Sanction Programs Lacked Performance Benchmarks and Were Plagued With Implementation Problems

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review how the California Department of Corrections and Rehabilitation (department) handles parole violators under its New Parole Model policy. Specifically, the audit committee requested that we assess the steps used and the extent to which the department has implemented and monitored its new parole policy, focusing on the intermediate sanction programs, including electronic monitoring, substance abuse treatment control units, and community detention houses. In addition, the audit committee asked us to determine whether the department has established performance measures to measure the efficacy of its parole policy in lowering the recidivism rate.

On April 11, 2005, shortly after the audit committee approved the audit, the department secretary terminated the department's use of the intermediate sanction programs as an alternative to parole revocation and return to prison. The programs we were asked to audit had been operating for 14 months or less when they were canceled, so the data available for our analysis were limited.

The following table summarizes the department's progress in implementing the three recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the department had not fully implemented two of those recommendations. Based on the department's most recent response, one recommendation still remains outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 3 | 2 | 1 | 1 |

Below is the recommendation that we determined was not fully implemented, followed by the department's most recent response.

Recommendation #1:

- a. When planning future intermediate sanction programs, the parole division should decide on appropriate benchmarks for monitoring performance, identify the data it will need to measure performance against those benchmarks, and ensure that reliable data collection mechanisms are in place before a program is implemented.
- b. After implementing a new intermediate sanction program, the parole division should analyze the data it has collected and, if relevant, use the data in existing databases to monitor and evaluate the program's effectiveness on an ongoing basis.

Bureau's assessment of status: **Not fully implemented**[†]

[†] Contrary to the bureau's determination, the auditee asserted in its latest response to us that it believes it has fully implemented the recommendation. However, the auditee did not address all aspects of the recommendation.

Auditee's Response to Recommendation (a):

On October 29 and December 15, 2008 and November 4, 2009, the California Department of Corrections and Rehabilitation (CDCR), Division of Adult Parole Operations (DAPO) responded to the bureau that Recommendation No. 1a was fully implemented by March 15, 2007. DAPO's position remains the same. DAPO continues to review programs to ensure recidivism reduction strategies are being effectively utilized. As stated previously, DAPO considers this recommendation fully implemented as outlined.

DAPO's main benchmark is to realize a measurable reduction in the State's recidivism rate through the use of evidenced-based programs. This, in turn, will better enhance public safety. Recidivism outcomes were empirically stated in the *December 2003 Evaluation of the Preventing Parolee Crime Program (PPCP)*, conducted by the California State University San Marcos. For example, the report states that parolees "who completed treatment goals, in a RMSC facility, were re-incarcerated at the rate of 15.5 percent within the 12 months following release to parole, compared to 55.2 percent of those who stayed less than a month in a RMSC facility and 54.7 percent of the statewide non-PPCP parolee population." As noted in the aforementioned report, DAPO's community-based services have and continue to yield a reduction in the recidivism rate for program participants.

In order to achieve their benchmark and maximize program utilization, DAPO maintains all programs at or near full capacity. Program capacity is monitored through the use of mandatory weekly count reports. These reports help DAPO ensure programs are maintained at full capacity and track/monitor the number of remedial/intermediate sanction placements. As future programs are implemented, the weekly report requirement will be included as part of the contractor's data submittal requirements. The weekly count report is reviewed on a continual basis and can be easily adjusted/revised to meet current data requirements/needs.

In addition, DAPO is utilizing the recommendations in the Expert Panel's *Report to the California State Legislature: A Roadmap for Effective Offender Programming in California*. Use of these recommendations will help ensure parolees are placed in appropriate programs and receive individualized treatment plans that address their criminogenic needs. As new programs/contracts are developed, DAPO is including parolee assessment procedures (i.e., California Program Assessment Process and California Logic Model) to help ensure these programs meet evidence-based requirements. DAPO is also working with the CDCR, Office of Research to conduct fidelity reviews of DAPO programs to ensure recidivism reduction strategies are being effectively utilized. An additional program evaluation was also conducted by the San Diego State University Research Foundation. Their report was released January 2010.

Auditee's Response to Recommendation (b):

On October 29 and December 15, 2008 and November 4, 2009, the California Department of Corrections and Rehabilitation (CDCR), Division of Adult Parole Operations (DAPO) responded to the bureau that Recommendation No. 1b was fully implemented by March 15, 2007. DAPO's position remains the same. DAPO is now able to compare program data against the return to custody information in order to evaluate the effectiveness of programs. Further, DAPO is working with CDCR's Office of Research to create a system that determines outcome measures on a routine basis. This information enables us to identify and correct programming shortfalls on a consistent basis, in an effort to enhance the effectiveness of DAPO's rehabilitative and programming resources. As stated previously, DAPO considers this recommendation fully implemented as outlined.

In order to monitor trends that will improve California's recidivism rate and increase public safety, DAPO analyzes program data and reports on an ongoing basis. These data/reports include national evidenced-based reports, internal and external evaluation reports, audit reports, etc. Specific examples include the *December 2003 Evaluation of the PPCP*; the *Expert Panel's Report to the California State Legislature: A Roadmap for Effective Offender Programming in California*; fidelity reviews prepared by the CDCR, Office of Research; and individual program quality reviews conducted by DAPO staff. Information/findings gleaned from these reports are implemented by DAPO in their current and future program endeavors.

All research evidence points to the importance of treatment programs as a recidivism reduction strategy. As such, programs are the "core" of what DAPO does to reduce recidivism and enhance public safety. The alternative is to return offenders to prison. Since the effectiveness of programs depends on their quality, quantity and content, DAPO will continue to (1) monitor and evaluate their programs on an ongoing basis and (2) utilize the most current and relevant evidence-based strategies to reduce recidivism.

DAPO staff receives information from contractors and field staff who track entry, attendance and exit data. The entry data collected includes: number of referrals, enrollments, occupancy/participation, remedial sanction referrals and placements. The attendance data includes: name of parolee, CDCR number, length of attendance, status, and various other information pertaining to the parolee. The exit data includes reasons for leaving programs, such as: completed program, arrested, discharged from program, employed, or several other reasons. Completing a program is defined as meeting the goals, objectives and staying in the program for the designated amount of time, ending in graduating from the program. Discharging from the program is when a parolee leaves or exits the program for reasons other than completing the program (i.e. arrested, paroled, transferred). This information is compiled and monitored on a monthly basis.

The combination of the DAPO Data and the Revocation Scheduling and Tracking System (RSTS) information, which monitors all remedial sanctions, are used to measure capacity/participation on an ongoing basis. This combination of monitoring the number of parolees served, the remedial sanctions utilized, and the parolee exit data, provides DAPO with real-time views of the programs.

In September 2008, DAPO was granted access to the Department's Offender Based Information System (OBIS) Data Warehouse. As a result, DAPO is now able to compare program data against the return to custody information contained in OBIS in order to evaluate the effectiveness of programs. Further, DAPO is working with CDCR's Office of Research to create a system that determines outcome measures on a routine basis. This information will enable us to identify and correct programming shortfalls on a consistent basis, in an effort to enhance the effectiveness of DAPO's rehabilitative and programming resources.

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

(Report Number 2008-104, August 2008)

It Does Not Always Follow Its Policies When Discharging Parolees

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) examine the Department of Corrections and Rehabilitation's (Corrections) adult parole discharge practices. Specifically, the audit committee requested that we review Corrections' discharge policies and protocols and determine whether they comply with applicable laws and regulations. The audit committee also asked us to review Corrections' internal controls over its parole discharge process and determine whether they are sufficient to ensure compliance with Corrections' policies and state law and to identify inappropriate employee conduct. In addition, the audit committee requested that we ascertain whether a sample of parolees were discharged in accordance with staff recommendations and to determine, to the extent possible, the frequency with which parolees received discharges contrary to staff recommendations. Further, the audit committee asked us to assess whether Corrections discharged a sample of parolees in accordance with its policies, protocols, and applicable laws and regulations. The audit committee also requested that we determine whether Corrections took any corrective action as a result of an internal investigation of one of its regions. Finally, the audit committee asked us to review any proposed changes to laws, regulations, policies, and protocols to determine any potential changes in efficiency and effectiveness related to the discharge process and the extent to which those changes might affect the parole administrators' authority.

The following table summarizes Corrections' progress in implementing the five recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, Corrections had fully implemented all but one of those recommendations. Based on Corrections' most recent response, it has fully implemented the one remaining recommendation.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 5 | 1 | 1 | 0 |

Below is the recommendation that we determined was fully implemented, followed by Corrections' most recent response.

Recommendation #1:

Corrections should finalize and implement the draft regulations and policy memorandum that will detail the policy and procedures governing its parole discharge process. In addition, the new policy should require district administrators to document their justifications for discharging parolees against the recommendations of both parole agents and unit supervisors. Finally, the new policy should require that discharge review reports be prepared for deported parolees.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

On March 2, 2009, Corrections' Division of Adult Parole Operations issued Policy Number 09-03 entitled Discharge Policy and Procedures. The policy, which addresses the procedures governing the parole discharge process, was incorporated into the Department Operations Manual. The policy requires district administrators to document their justifications for discharging parolees against the recommendation of parole agents and unit supervisors and requires the preparation of discharge review reports for deported parolees. The memorandum was distributed throughout the Department via hard copy as well as posted on Corrections' intranet site. Pages 8, 12, and 13, of the memorandum specifically address the bureau's recommendations. The placement of the provisions from the memorandum into draft regulations has been completed and implemented by Corrections after the enactment of SB 3X 18. SB 3X 18 required amendments to the regulations which were incorporated and completed as of May 26, 2010.

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

(Report Number 2009-107.1, September 2009)

It Fails to Track and Use Data That Would Allow It to More Effectively Monitor and Manage Its Operations

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) evaluate the effect of California's rapidly increasing prison population on the state budget. We were asked to focus on specific areas of the Department of Corrections and Rehabilitation's (Corrections) operations to provide the Legislature and the public with information necessary to make informed decisions. Specifically, we were asked to do the following:

- Review the current cost to house inmates; stratify the costs by their security level, age, gender, or any other relevant category tracked by Corrections; and determine the reasons for any significant cost variations among such levels and categories.
- Determine the number of inmates Corrections has sent to other states and calculate the State's cost and impact on Corrections' budget.
- Analyze Corrections' budget to determine the amounts allocated to vocational training, rehabilitation, and education programs.
- For a sample of institutions offering vocational training, rehabilitation, and education programs, review Corrections' system for determining the number of instructors and custody staff needed for inmates to participate in these programs. If such staffing is inadequate, determine if any inmates have been denied access to these programs.
- To the extent possible, determine the costs for incarceration under the three strikes law. At a minimum, determine the incarceration cost for each of the following three scenarios:
 - The third strike was not a serious and violent felony.
 - One or more of the strikes was committed as a juvenile.
 - Multiple strikes were committed during one criminal offense.
- Calculate annual overtime pay since 2002 for Corrections' employees, including correctional officers and custody staff, and investigate the reasons for significant fluctuations.
- Review the number of vacant positions during the last five years and determine whether they affect the annual overtime costs and whether filling vacancies would save Corrections money.
- Determine the extent to which Corrections currently uses and plans to use telemedicine. Further, determine if by using telemedicine Corrections is reducing inmate medical and custody costs and the cost to transport and guard inmates outside the prison environment.

The following table summarizes Corrections' progress in implementing the nine recommendations the bureau made in the referenced report on the previous page. As shown in the table, as of its one-year response, Corrections had not fully implemented eight recommendations. Based on Corrections' most recent response, eight recommendations have been not fully implemented.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|--|
| 9 | 8 | 8 |

Below are the eight recommendations that we determined were not fully implemented, followed by Corrections' most recent response for each.

Recommendation #1:

To help it assess the effect of policy changes and manage operations in a cost-effective manner, Corrections should do the following:

- Ensure that its new data system will address its current lack of data available for statewide analysis, specifically data related to identifying the custody staffing cost by inmate characteristics such as security level, age, and custody designation.
- If implementation of its new system continues to be delayed, or if Corrections determines that the new system will not effectively replace the current assignment and scheduling systems used by the institutions, it should improve its existing data related to custody staffing levels and use the data to identify the related costs of various inmate populations.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

To meet the requirements of this recommendation, CDCR will need to implement the full functionality of the Business Information System (BIS), implement Phase 1a of the Strategic Offender Management System (SOMS) and implement a statistical analytical package with an external reporting component.

The full implementation of BIS will provide the departmental cost information to operate an institution.

BIS status-BIS-Development/Implementation: Financial, Budgeting, and Supply Chain Management (SCM) functionality has successfully implemented across CDCR. Full Procure-to-Pay functionality has been in production since May 2010. Monthly Budget Planning (MBP) and reporting has been deployed CDCR enterprise wide. Human Resources (HR) functionality has been deployed for certain functionality including Organizational Management, Personnel Administration, Workers Compensation, Training and Events, and Employee Grievances. Personnel Cost Planning (PCP) budget functionality is scheduled to be deployed by February 2011. Software evaluation and selection for Shift Management and Time Management functionality is underway and will be finalized in December 2010. The detail project schedule for implementing Shift and Time will be finalized by March 2011. The deployment of Shift and Time functionality statewide is expected to be completed in FY 2011-12.

Implementation of the initial phase of the Strategic Offender Management System (SOMS) will provide the inmate population data to include intake, scheduling, and movements.

SOMS Status – Development/Implementation: Electronic C-File deployment began June 2010; Intake, Scheduling and Movement deployment begins March 2011; Additional functionality includes sentence calculation, classification, programs, holds/wants/detainers, visiting, transportation, gangs, property, appeals and grievances, and discipline and will be deployed over the next three years with full institutional deployment completed by December 2013.

The statistical analytical tool with business intelligent reporting will enable the Department to conduct correlative analysis of the data contained within the BIS and SOMS applications.

CDCR Enterprise Information Services (EIS) and the Office of Research (OR) are working together to implement a data warehouse to conduct correlative analysis of the data contained within BIS and SOMS. The basic infrastructure, including a SAS server for data management and analysis, has been procured. EIS and OR have agreed to continue to work together so that as the new SOMS information systems are developed and implemented, data on assignments, waiting lists, and recidivism can be captured and archived in the enterprise data warehouse for program management and evaluation purposes.

Estimated date of completion: December 2013

Recommendation #2:

To ensure that the State is maximizing the use of funds spent on incarcerating inmates, Corrections should communicate to the Department of Personnel Administration—which is responsible for negotiating labor agreements with employee bargaining units—the cost of allowing any type of leave to be counted as time worked for the purpose of computing overtime compensation.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

CDCR's Office of Labor Relations is working with the Bureau of State Audits, CDCR Office of Audits and Court Compliance, CDCR Personnel Services, and CDCR Office of Research to calculate the cost of overtime as outlined in our November 24, 2010, e-mail to the BSA. The cost will be communicated in a letter to DPA by January 15, 2011.

Estimated date of completion: January 15, 2011

Recommendation #3:

To ensure that the State is maximizing the use of funds spent on incarcerating inmates, Corrections should encourage the Department of Personnel Administration to not agree to provisions in bargaining unit agreements that permit any type of leave to be counted as time worked for the purpose of computing overtime compensation.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

In our January 15, 2011 letter to DPA, CDCR will encourage DPA to not agree to provisions in bargaining unit agreements that permit any type of leave to be counted as time worked for the purpose of computing overtime compensation.

Estimated date of completion: January 15, 2011

Recommendation #4:

To more closely align its operations with state law and its own policy, make certain that inmates are provided with an adequate level of supervision, and protect the health and safety of employees and inmates, Corrections should encourage the Department of Personnel Administration to negotiate a reduction in the amount of voluntary overtime a correctional officer is allowed to work in future collective bargaining unit agreements, in order to reduce the likelihood that involuntary overtime will cause them to work more than 80 hours of overtime in total during a month.

Bureau's assessment of status: **Not fully implemented***

Auditee's Response:

In future successor negotiations, the CDCR Office of Labor Relations will recommend to the respective Departmental stakeholders to provide a harvest memo to the Department of Personnel Administration indicating our recommendation to reduce the departmental overtime cap to 60 hours per 7K work period, which would allow for a greater margin of error to ensure the Department stays within the intent of not exceeding an 80 hour overtime cap.

Recommendation #5:

To more closely align its operations with state law and its own policy, Corrections should better ensure that it prevents the instances in which correctional officers work beyond the voluntary overtime limit in a pay period.

Bureau's assessment of status: **Not fully implemented***

Auditee's Response:

In an effort to prevent instances where Correctional Officers work over the voluntary overtime cap, CDCR has implemented a number of measures, some of which are detailed below. The State's "Last, Best, and Final Offer" of September 18, 2007, known as the Implemented Terms, contains language in Section 12.05 "Voluntary Overtime by Seniority" that limits the overtime hours within a 7K work period to 80 hours. In a direct effort to limit staff from working beyond

* Contrary to the bureau's determination, the auditee asserted in its latest response to us that it believes it has fully implemented the recommendation. However, the auditee did not substantiate its claim of full implementation.

the overtime cap, CDCR issued a directive to wardens on February 28, 2008 advising them of the provision. Since excessive vacancies are a primary cause of exceeding the cap, CDCR continues to recruit new staff with vigor. CDCR is also working with the Receiver's office to modify hospital coverage and transportation staffing ratios to reduce the occurrence of overtime. Additionally, CDCR has implemented a "3-5% redirection plan" whereby up to 5% of custody positions are redirected to different posts within the institution in an effort to fill behind staff shortages.

Recommendation #6:

To ensure that it is addressing the program needs of its inmate population in the most cost-effective manner, Corrections should develop a staffing plan that allocates teacher and instructor positions at each institution based on the program needs of its inmate population.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

CDCR is working to develop a methodology that will determine inmate needs based on assessments, established formulas to determine the necessary annual capacity to address those needs, and propose options for growing services to the necessary capacity. However, given the State's fiscal crisis and the recent budget reductions to adult program funding, it will likely be several years before the Administration and the Legislature are able to consider adopting this type of methodology.

Estimated date of completion: July 2012

Recommendation #7:

To ensure that it can determine whether it is in compliance with state law and can measure the efficacy of its programs in reducing recidivism, Corrections should track, maintain, and use historical program assignment and waiting list data by inmate.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

Implementation of the Strategic Offender Management System, Phase O, 1a and 1b; the risk assessment tool in the adult population; and a statistical analysis tool with business intelligence reporting will provide the ability to conduct the statistical historical analysis. In addition, the statistical analytical tool with business intelligent reporting will enable the Department to determine inmate needs and whether those needs were addressed, and secondly, provide individual level program data that will enable CDCR to evaluate the efficacy of programs at reducing recidivism.

SOMS Status – Development/Implementation: Electronic C-File deployment began June 2010; Intake, Scheduling and Movement deployment begins March 2011; Additional functionality includes sentence calculation, classification, programs, holds/wants/detainers, visiting, transportation, gangs, property, appeals and grievances, and discipline and will be deployed over the next three years with full institutional deployment completed by December 2013. The risk assessment tool will be implemented in the adult population by June 30, 2011.

The statistical analysis tool will be implemented by July 2011.

The CDCR is in the process of developing a business intelligence strategy with plans to implement by July 2011.

Estimated date of completion: December 2013

Recommendation #8:

To ensure that staff are aware of the relevant requirements related to prisoner literacy, Corrections should continue its efforts to update its adult education program policies.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

The Literacy Operation Procedures were issued to all institutions in September 2010. Revised procedure have been completed with extensive supplemental materials added and will be issued to all institutions on December 15, 2010. Inmate Tutors are being hired and trained at each institution as needed to match the program growth.

Estimated date of completion: June 2011.

CALIFORNIA PRISON HEALTH CARE SERVICES

(Report Number 2009-107.1, September 2009)

California Department of Corrections and Rehabilitation: It Fails to Track and Use Data That Would Allow It to More Effectively Monitor and Manage Its Operations

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) evaluate the effect of California’s rapidly increasing prison population on the state budget. We were asked to focus on specific areas of the Department of Corrections and Rehabilitation’s (Corrections) operations to provide the Legislature and the public with information necessary to make informed decisions. Related to California Prison Health Care Services (Health Care Services), the audit committee specifically asked us to determine the extent to which Corrections currently uses and plans to use telemedicine. The audit committee also asked us to determine if by using telemedicine, Corrections is reducing inmate medical and custody costs and the cost to transport and guard inmates outside the prison environment. As a part of this audit, we made five recommendations to Health Care Services related to the use of telemedicine.

The following table summarizes Health Care Services’ progress in implementing the five recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, Health Care Services had not fully implemented five recommendations. Based on Health Care Services’ most recent response, four recommendations have been not fully implemented.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|--|
| 5 | 5 | 4 |

Below are the recommendations that we determined were not and were fully implemented, followed by Health Care Services’ most recent response for each.

Recommendation #1:

To minimize costs through the use of telemedicine, Health Care Services should review the effectiveness of telemedicine consultations to better understand how to use telemedicine.

Bureau’s assessment of status: **Not fully implemented**

Auditee’s Response:

Health Care Services has completed the eight-month long project known as the “Six Institution Initiative to Increase Telemedicine Encounters” that focused on increasing utilization in selected institutions. The project evaluated the need for additional services at each institution and identified and addressed needed resources and existing barriers. Lessons learned in this initiative regarding effective methods for ensuring the most appropriate use of Telemedicine (TM) will be applied in ongoing expansion efforts. Health Care Services is also in the process of implementing the Primary Care Pilot Project. The goals are to increase telemedicine encounters, decrease off-site specialty consults and follow-ups, and expand telemedicine services at all

Corrections adult institutions. Additional goals are to: default as many Requests for Services as safely possible through the TM offices to offset transportation and guarding costs and improve public safety; expand TM sites and their connectivity; improve scheduling of TM consultations; collaborate with the Prison Health Care Provider Network to manage network and their outcomes; improve capture encounters and costs; develop network availabilities for Telemedicine with Health Net.

Estimated date of completion: March 2011

Recommendation #2:

To minimize costs through the use of telemedicine, Health Care Services should perform a more comprehensive comparison between the cost of using telemedicine and the cost of traditional consultations, beyond the guarding and transportation costs, so that it can make informed decisions regarding the cost-effectiveness of using telemedicine.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

The value of telemedicine is in increased access to care as well as public safety and cost avoidance for partial transportation and guarding costs. Our contracts equivalently reimburse off site encounters and telemedicine encounters to provide an incentive telemedicine routes of services.

Office of Telemedicine Services (OTS) is working collaboratively with the Office of Utilization Management and the Healthcare Invoice, Data and Provider Services Branch (HIDPSB) for data collection and development of reports to assess baseline and monitor progress. Additionally, OTS has implemented an institution mentoring program requiring collaboration between Utilization Management and OTS to increase use of telemedicine statewide. OTS nurses have visited institutions statewide to perform required assessment and training. Monthly reports are available that track each institution's telemedicine resource capacity and usage. Once specialist specialty data transmission issues are completed with Claims-Third Party Administrator (TPA), HIDPSB will test sample reports tracking initial and follow-up specialist visits with specific modifiers.

Health Net will provide standard monthly reports based on the TPA claims data. The reports will describe cost-based reports that include visit and encounter information by specialty, specialist, facility, and initial and follow-up breakdowns.

Estimated date of completion: January 2011

Recommendation #3:

To increase the use of the telemedicine system, Health Care Services should continue to implement the recommendations that it has adopted from the consultant's review of telemedicine capabilities.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

Change in strategy and deployment began with new leadership in April 2010. The goals of the Office of Telemedicine Services (OTS) are improved access to health care for patient/inmates, expanded and more cost-effective specialist network coverage, improved public safety, and cost avoidance for transportation and guarding costs. Demand and medical appropriateness for telemedicine services drive the expanded use of those services. Availability of facility and staff resources to provide medical services telemetrically can be a barrier for expansion of telemedicine. Expanded Medical and Mental Health is primary goal to reduce costs through telemedicine as we:

- Implement that all contract specialty services provide equal reimbursement for TM and offsite visits to incentive telemedicine network growth;
- Provide care access to more remote institutions;
- Decrease need to transport inmates.

Site visits and training by nurses have increased at institutions for telemedicine readiness. A plan to actively monitor institutions in a more structured way is adopted to provide avenues in resolving barriers more proactively. OTS has implemented the default of five specialties including nephrology, cardiology, endocrinology, dermatology, and orthopedics.

Estimated date of completion: March 2011

Recommendation #4:

To increase the use of the telemedicine system, Health Care Services should maintain a focus on developing and improving its computer systems, such as the Health Care Scheduling System, to increase the efficiency of using telemedicine.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

The scheduling system is being expanded and improved. This will replace the manual, paper-based systems previously in use, and allows the scheduling function to accommodate an increased number of telemedicine services. To date, the system has achieved partial automation of the scheduling process and replaced most manual paper-based procedures.

In July 2010, the Interim Telemedicine Scheduler was upgraded to its first major version, release 1.0. This release represents resolutions of 'essential' updates required for an effective scheduling system. These changes will contribute to a more automated scheduling system rather than just an electronic replacement for paper forms. Version 2.0 is scheduled to be released on January 15, 2011. This release allows for more user friendly application and adds a reports component. The reports are currently in the 'testing' phase.

Estimated date of completion: December 2011

Recommendation #5:

To increase the use of the telemedicine system, Health Care Services should continue to move forward on its initiative to expand the use of telemedicine in Corrections' institutions.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

Office of Telemedicine Services (OTS) has completed the "Phase II Expansion of Telemedicine Encounters" at five institutions. Informed by the "Six Institution Initiative" in Phase I, this Phase II Expansion facilitates telemedicine services at five institutions. Site visits and training by nurses have increased at institutions for telemedicine readiness. A plan to actively monitor institutions in a more structured way is adopted to provide avenues to resolve barriers more proactively. OTS has implemented the default of five specialties including: nephrology, cardiology, endocrinology, dermatology, and orthopedics.

BUSINESS, TRANSPORTATION AND HOUSING

CALIFORNIA HIGHWAY PATROL (Report Number 2007-111, January 2008)

It Followed State Contracting Requirements Inconsistently, Exhibited Weaknesses in Its Conflict-of-Interest Guidelines, and Used a State Resource Imprudently

The Joint Legislative Audit Committee (audit committee) directed the Bureau of State Audits (bureau) to review the California Highway Patrol's (CHP) purchasing and contracting practices and its use of state resources. Specifically, the audit committee asked us to:

- Review CHP contracts awarded since January 1, 2004, for helicopters, motorcycles, guns and accessory equipment, patrol car electronics, and counseling services to determine whether CHP had complied with laws related to purchasing and whether the contracts were cost-beneficial and in the best interest of the State.
- Ascertain whether the State could cancel any noncompetitive purchasing agreements that were not compliant with laws or in the best interest of the State and repurchase goods using competitive bidding.
- Examine relevant internal audits and personnel policy or financial reviews to determine whether CHP responded to the issues raised and took recommended corrective actions.
- Evaluate CHP's contracts for specified goods and services and determine whether conflicts of interest existed.
- Identify CHP's policies and practices for using state equipment, including aircraft, and determine whether CHP complied with these policies and laws and whether its employees reimbursed the State for any personal use of state property.

The following table summarizes CHP's progress in implementing the eight recommendations the bureau made to it in the above referenced report. As shown in the table, as of its latest responses, the auditee had not fully implemented one of those recommendations.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 8 | 1 | 1 | 1 |

Following is the recommendation that we determined was not fully implemented, followed by CHP's most recent response.

Recommendation #1:

Include as designated employees for filing the Form 700, all personnel who help to develop, process, and approve procurements.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

CHP will fully implement this recommendation.

CHP completed its drafting of, and revisions to, a new code, and submitted the draft to the Fair Political Practices Commission (FPPC) in October 2009. Submission to, and review and approval by, FPPC is required of all state, agency, and department conflict of interest codes.

The recommendation indicated CHP was to include as designated employees for filing the Form 700 all persons who help develop, process, and approve procurements. The draft conflict code submitted to FPPC accomplishes the recommendation. The draft code also includes a more focused, specific, and targeted set of disclosure obligations for designated positions. Rather than assuming, as did the prior code, a filing status and obligation based on a title or rank of a position on the CHP organizational chart, the draft code focuses on the responsibilities and duties of the position, regardless of the title of the position or where on the organizational chart the position was located. The draft also includes more focused and targeted disclosure categories, and provides—as appropriate—for positions being subject to multiple reporting categories rather than the prior “one-category-fits-all” approach to disclosure. In drafting the code in this manner CHP believes many facets of its conflict of interest guidelines are tightened, and a more accurate and realistic sense of which positions “help to develop, process and approve procurements” is achieved.

As stated above, CHP submitted its draft code to FPPC in October 2009, to which a formal substantive response (and request for additional information) was not received from FPPC until February 2010. CHP responded to the FPPC in March 2010, and a formal substantive response (and request for additional information) was not received from FPPC until June 2010. CHP responded to the FPPC in July 2010. No response from FPPC was received. A CHP follow-up inquiry was submitted in September 2010, to which FPPC responded it had pressing election matters that took priority but that it would assign a high priority to CHP's draft code. Nothing further from FPPC has been received.

Estimated date of completion: Unknown

RESOURCES AND ENVIRONMENTAL PROTECTION

DEPARTMENT OF PARKS AND RECREATION

(Report Number 2004-126, August 2005)

Off-Highway Motor Vehicle Recreation Program: The Lack of a Shared Vision and Questionable Use of Program Funds Limit Its Effectiveness

The Joint Legislative Audit Committee requested that the Bureau of State Audits (bureau) review the Department of Parks and Recreation's (department) administration and allocation of moneys in the Off-Highway Vehicle Trust Fund (OHV trust fund).

The Off-Highway Motor Vehicle Recreation Program (OHV program) was created to better manage the growing demand for off-highway vehicle (OHV) recreation while protecting California's natural and cultural resources from the damage that can occur from indiscriminate or uncontrolled OHV recreation. The department's Off-Highway Motor Vehicle Recreation Division (division) administers the OHV program. The division operates eight state vehicular recreation areas (SVRAs) and administers the grants and cooperative agreements program (grants program), which provides funding to local and federal government agencies for OHV recreation.

The OHV program is funded primarily through collection of the fuel tax, registration fees for OHVs, and SVRA entrance fees. The Off-Highway Motor Vehicle Recreation Commission (commission) provides for public input, offers policy guidance to the division, and approves grants and cooperative agreements. The commission also approves the division's capital outlays. The governor and the Legislature appoint the commissioners who represent varying interests in OHV recreation and serve staggered four-year terms.

The following table summarizes the department's progress in implementing the nine recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the department had not fully implemented six of those recommendations. Based on the department's most recent response, one recommendation still remains outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 9 | 6 | 3 | 1 |

Below are the recommendations that we determined were not and were fully implemented, followed by the department's most recent response for each.

Recommendation #1:

To improve accountability, the commission should prepare and submit the required biennial program reports when they are due.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

As indicated in our previous response regarding the status of implementing this recommendation, it should be noted that the law which required biennial reporting was revised by the Legislature. Senate Bill (SB) 742 was chaptered in October 2007 and became effective on January 1, 2008. The provisions of SB 742 changed the reporting requirement cited in the bureau's recommendation. The current provisions of Public Resources Code (PRC) Section 5090.24(h) indicate that a program report should be prepared and submitted "on or before January 1, 2011, and every three years thereafter." As a result, the first report due under the current requirements of PRC Section 5090.24(h) is January 1, 2011. Therefore, since the effective date of the provisions of SB 742, there has been no required program report due.

Estimated date of completion: January 1, 2011

Recommendation #2:

The division should complete its strategic plan for the SVRA portion of the OHV program by performing a thorough assessment of external and internal factors; collecting the necessary data; completing the required reports; and developing the action, spending, and performance monitoring plans to implement its strategic plan.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

The department provided a copy of the completed strategic plan to the bureau in August 2010. In completing this strategic plan, this recommendation has been fully implemented.

Recommendation #3:

The division should develop and implement a process of evaluating land acquisition projects to ensure that they provide a strategic benefit to the OHV program. This process should include appropriate analyses of the costs and benefits of a proposed land acquisition, including an assessment of the needs for additional land for OHV recreation.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

The department provided a copy of the land acquisition plan to the bureau in August 2010. In developing and implementing the land acquisition plan this recommendation has been fully implemented.

STATE WATER RESOURCES CONTROL BOARD

(Report Number 2005-113, March 2006)

Its Division of Water Rights Uses Erroneous Data to Calculate Some Annual Fees and Lacks Effective Management Techniques to Ensure That It Processes Water Rights Promptly

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) conduct an audit of the operations of the Division of Water Rights (division) within the State Water Resources Control Board (water board). Specifically, the audit committee requested that we (1) examine the division's policies and procedures for carrying out its roles and responsibilities, including those for complying with the California Environmental Quality Act and other relevant laws; (2) evaluate the timeliness and effectiveness of the division's processing of applications for new water rights permits (petitions); (3) determine how the division allocates its resources to fulfill its responsibilities and determine if the division uses those resources to address matters other than the processing of applications and permits—including enforcement, complaint resolution, and board-initiated amendments—of the terms of permits and licenses; (4) identify the extent of any demands placed on the division's resources by other agencies, including the Department of Fish and Game, and by other interested parties that have not filed applications and petitions; (5) determine how the division established its new fee structure and assess its reasonableness and fairness, including the validity of the data the division used when it established its fees; and (6) determine what procedures and mechanisms the division has in place to review the fee structure and modify the fees when necessary.

The following table summarizes the water board's progress in implementing the six recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the water board had not fully implemented five of those recommendations. Based on the water board's most recent response, two recommendations remain outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 6 | 5 | 2 | 2 |

In August 2007 the bureau issued a follow-up report titled *State Water Resources Control Board Follow-Up: The Division of Water Rights Has Reviewed and Updated Much of the Data It Uses to Calculate Its Annual Fees but Has More to Do to Institute Management Techniques That Could Aid in Processing Water Rights Promptly* (Report No. 2007-504). In this report the bureau performed additional audit work pertaining to the status of recommendations it issued in 2006.

Below are the two recommendations that we determined were not fully implemented, followed by the water board's most recent response for each.

Recommendation #1:

To more precisely distribute the fees in proportion to the annual fee payers' authorized diversion, the division should consider revising its emergency regulations to assess each fee payer a single minimum annual fee plus an amount per acre-foot for the total amount of authorized diversion not exceeding 10 acre-feet, or other specified threshold.

Bureau's assessment of status: **Will not implement**

Auditee's Response:

The State Water Board does not intend to implement this recommendation. This recommendation responds to concerns raised by fee payers who hold multiple water rights that authorize the diversion of small amounts of water. These fee payers assert that they should not be required to pay the minimum fee on each water right, but rather should be entitled to sum the total amount of water that their combined permits allow, and pay a fee based on the combined amount of water they are authorized to divert. The State Water Board does not believe this recommendation will more equitably distribute fees to its water right fee payers. In initially setting its fee schedule, the State Water Board estimated the amount of money the State expends in each water right that the State Water Board administers. The minimum fee assessed per water right approximates this amount. If the State Water Board were to implement the recommendation, it could use a similar methodology to distribute fixed operating costs over each entity (rather than each water right). The minimum fee would increase because the costs would be distributed based on the number of fee payers as opposed to the number of water rights, and there are fewer fee payers than there are water rights. As a result of this change, fee payers who have only one water right would bear some of the administrative costs imposed on the agency by fee payers who have multiple water rights, despite the fact that there is an increased burden of administering multiple water rights held by the same fee payer. Alternatively, if the State Water Board did not increase the minimum fee, water right holders who divert amounts of water that result in fees higher than the minimum fee would have to pay even higher fees to make up for lost revenue that would result from implementing the recommendation. The increased administrative burden associated with a water right holder having multiple rights results from the doctrine of prior appropriation, which is codified in the Water Code as section 1270. This statute confers upon a water right permit holder a water right priority date based on the date that the application for the permit was filed. Although water rights can be changed, dates of diversion cannot be expanded, nor can the authorized diversion amount be increased. Those who seek to divert more water than they originally planned to divert must seek a new water right. In times of water shortage, which vary from year to year based on hydrology during that year, water diversions are curtailed by water right priority date, and a fee payer with multiple rights would be subject to curtailment of each right based on the priority date of that right, even if the multiple water rights were issued for the same project. In addition, conditions other than diversion amount and period (aka the "face value" of the right) which are specific to each right limit the use of water diverted under each individual right even if a fee payer holds multiple rights for the same project. Because the doctrine of prior appropriation is well established in both case law and statute, the State Water Board must administer water rights by water right, rather than by entity. Because water rights are administered by right, not by entity, it is more equitable to calculate the minimum fee based on the number of water rights administered rather than on the number of water right holders regulated, and to collect higher fees from those with multiple rights, even if the amount of water authorized for diversion under each right is small.

This determination of the State Water Board is supported by its water right fee stakeholders. The State Water Board adopts a new fee schedule each year after conferring with its Water Right Fee Stakeholder Advisory Group (Fee Stakeholder Group) and after considering any comments on the fee schedule submitted in a noticed public meeting. The new fee schedule becomes effective upon approval by the Office of Administrative Law and filing with the Secretary of State. To date there has been no support for the recommended change from members of the fee Stakeholder Group

who represent both large and small fee payers. Representatives of large water users specifically expressed concern that implementing the recommendation would inequitably increase their fees.

This determination of the State Water Board is also supported by the State of California Third District Court of Appeal (Appellate Court). On January 17, 2007, the Appellate Court ruled on the litigation filed against the State Water Board's water right fees by the California Farm Bureau Federation, Northern California Water Association, and Central Valley Project Water Association. The Appellate Court found the fee statute to be constitutional, but found fault with the State Water Board's emergency fee regulations. The Court, however, stated that it did not find the \$100 minimum fee per water right to be unreasonable.

The State Water Board will continue to meet with the Fee Stakeholder Group each year as it reviews its fee regulations. If in future the Fee Stakeholder Group supports the recommended change, the State Water Board will consider implementing such a change in its revised regulations.

Recommendation #2:

The division should revise its emergency regulations to assess annual fees consistently to all fee payers with diversion limitations, including those with combined limitations, so fee payers are not assessed based on more water than their permits and licenses authorize them to divert.

Bureau's assessment of status: **Will not implement**

Auditee's Response:

The State Water Board does not intend to implement this recommendation. The State Water Board does not believe this recommendation will more equitably distribute fees to its water right fee payers. This recommendation responds to concerns raised by water diverters who hold multiple water rights, where one or more of the water rights contains a term that "caps" the amount of water that may be diverted under that permit in combination with the other permits. By law, each water right is separately administered. As a result, the combined limitation, or cap, will not apply unless the water right containing the combined limitation term is triggered by use under that specific permit. Where multiple water rights are held, the limiting term generally appears in the most junior water rights. Water rights can be forfeited after five years of non-use. Because water holders of multiple rights preferentially use their older rights first to avoid forfeiture of these less restrictive rights, the cap often does not apply. Water users do not operate under multiple water rights where some have caps in the same manner that they would operate if they held only one water right with the priority of the lowest right and the most stringent conditions imposed on the rights collectively. The current implementation of water right diversion limitations allows water right diverters flexibility in using their water rights, and it is appropriate that diverters are assessed fees associated with each of their water rights.

Additionally, in order to implement this recommendation, the State Water Board's database, which is used to calculate fees, must contain information on the relationship between various water rights. Although the State Water Board designed its new database, eWRIMS, to contain fields in which these relationships can be noted, those fields are not populated, and the State Water Board does not have the capacity at this time to populate them and to comply with its

other water rights mandates. Further, the algorithm needed to calculate the fees based on these complex relationships has not been written or tested. As a result, the State Water Board also does not have the data systems necessary to implement this recommendation.

This determination of the State Water Board is supported by its water right fee stakeholders. State Water Board staff continues to meet with its fee Stakeholder Group on an annual basis. To date there has been no support for the recommended change from members of the Fee Stakeholder Group, who represent both large and small fee payers.

On January 17, 2007, the State of California Third District Court of Appeal ordered the State Water Board to revise its water right fee regulations. The Court did not express concern over the State Water Board assessing fees based on face value of individual water right permits and licenses or over the way in which the State Water Board addressed diversion limitations. However, if in future the Fee Stakeholder Group supports this recommended change, the State Water Board will consider implementing such a change in its revised regulation. Resources to do this work would need to be provided or redirected from other programs.

DEPARTMENT OF WATER RESOURCES

(Report Number 2007-108, November 2007)

Its Administration of Grants Under the Flood Protection Corridor Program Needs Improvement

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the Department of Water Resources' (Water Resources) administration of the Flood Protection Corridor Program (flood protection program). California's voters created the flood protection program by approving the Safe Drinking Water, Clean Water, Watershed Protection and Flood Protection Bond Act (Proposition 13) in March 2000. With an initial funding of \$70 million, of which \$57 million was available for projects, the program aims to increase flood protection, agricultural land preservation, and wildlife habitat protection throughout the State by taking various actions, such as acquiring real property interests and setting back and strengthening existing levees. The audit committee asked us to review and evaluate Water Resources' processes for selecting projects under the flood protection program. We were also asked to assess Water Resources' policies and procedures for monitoring projects and its fiscal controls over payments to grantees. In addition, the audit committee asked us to assess how Water Resources holds grantees accountable to the terms of their grant agreements and to determine whether it has properly reported on project status.

In November 2006 California's voters approved two propositions—the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84) and the Disaster Preparedness and Flood Prevention Bond Act of 2006 (Proposition 1E)—that will provide Water Resources an additional \$330 million for similar flood protection projects.

The following table summarizes Water Resources' progress in implementing the 14 recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, Water Resources had not fully implemented 10 of the recommendations. Based on Water Resources' most recent response, all recommendations have been fully implemented.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|--------------------------------|--|
| 14 | 10 | 4 | 0 |

Below are the recommendations that we determined were fully implemented, followed by Water Resources most recent response for each.

Recommendation #1:

To provide consistency in its project selection process and to better justify its decisions on selecting future projects, Water Resources should adhere to the regulations of the flood protection program requiring a hydrologic study as part of the grant application. If Water Resources believes hydrologic studies are too costly for some grant applicants, it should consider establishing a process to obtain this information or substantial other evidence supporting its decisions before awarding grants. For example, Water Resources could use funds from the flood protection program to pay for a study after preliminary selection, before deciding whether to fund the entire project.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

Recommendation 1 refers to the need for a hydrologic study for flood protection projects, suggesting that a procedure should be included in the Flood Corridor Program's Funding

Guidelines allowing for funding a hydrologic study after preliminary selection, before deciding whether to fund the entire project. The guidelines have been amended to incorporate this recommendation, and to clarify when a hydrologic study is or is not needed.

Recommendation #2:

To provide consistency in its project selection process and to better justify its decisions on selecting future projects, Water Resources should develop a rationale for determining whether scope changes are significant enough to warrant another review of a project's merits or whether an unfunded project might be a better alternative.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

Rationale for determining whether scope changes are significant enough to warrant another review of a project's merits or whether an unfunded project might be a better alternative has been incorporated into the Flood Corridor Program's Funding Guidelines.

Recommendation #3:

To provide consistency in its project selection process and to better justify its decisions on selecting future projects, Water Resources should develop policies and procedures to consistently evaluate whether proposed structural and recreational enhancements conform to the goals of the flood protection program and are the most effective use of funds.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

This recommendation has been incorporated into the latest revision of the Flood Corridor Program funding guidelines.

Recommendation #4:

To effectively monitor projects, Water Resources should develop policies and procedures to ensure that it regularly updates its project budget-tracking sheets to adjust for contract amendments and changes in budgeted tasks and to accurately track funds disbursed to grantees.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

To implement this recommendation, the Flood Corridor Program Procedures Manual has been updated with applicable policies and procedures.

DEPARTMENT OF FISH AND GAME

(Report Number 2008-102, August 2008)

Office of Spill Prevention and Response: It Has Met Many of Its Oversight and Response Duties, but Interaction With Local Government, the Media, and Volunteers Needs Improvement

In November 2007 the Cosco Busan, an outbound container ship, hit a support on the San Francisco—Oakland Bay Bridge, releasing about 53,600 gallons of oil into the bay. This event, known as the Cosco Busan oil spill, focused public attention on California’s Office of Spill Prevention and Response (spill office), a division of the Department of Fish and Game (Fish and Game). The spill office, created in 1991, is run by an administrator appointed by the governor, who is responsible for preventing, preparing for, and responding to oil spills in California waters.

The spill office, along with the contingency plans it oversees, fits into a national framework for preventing and responding to oil spills, with entities at every level of government handling some aspect of the planning effort. When an oil spill occurs, the response is overseen by a three-part unified command consisting of representatives from the spill office; the party responsible for the spill and its designated representatives; and the federal government, represented by the U.S. Coast Guard (Coast Guard), which retains ultimate authority over the response.

The following table summarizes Fish and Game’s progress in implementing the 15 recommendations the Bureau of State Audits (bureau) made in the above referenced report. As shown in the table, as of its one-year response, Fish and Game had not fully implemented eight of the recommendations. Based on Fish and Game’s most recent response, three recommendations remain outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 15 | 8 | 5 | 3 |

Below are the recommendations that we determined were not and were fully implemented, followed by Fish and Game’s most recent response for each.

Recommendation #1:

With regard to postspill reviews, the spill office should determine whether the postspill reviews are an effective means for identifying areas for plan improvement and then take steps to either ensure the reviews are submitted or eliminate them from its regulations.

Bureau’s assessment of status: **Not fully implemented**

Auditee’s Response:

The proposed regulation change to eliminate postspill reviews is undergoing public comment as part of the formal regulation process. The comment period closes November 16, 2010. The updated regulation should be submitted to the Office of Administrative Law (OAL) by the end of December 2010. We will request that the regulation become effective upon filing by OAL at the end of their (30 working-day) review period.

Estimated date of completion: February 2011.

Recommendation #2:

To strengthen its role as a liaison between local governments and the unified command, the spill office should continue with its plans to develop qualification standards for liaison officers and to train more staff for that role. In addition, the spill office should ensure that staff in its operations center provide all necessary support, including communications equipment, to liaison officers in the field.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

The spill office currently has liaison position subject matter experts (SMEs). The SMEs have been developing a liaison training program for staff members for serving at either the Incident Command Post or in the Operations Center in Sacramento. Recently, the spill office conducted liaison overview training for 30 staff. Several in attendance hold positions where they currently serve with various multi-agency committees that work with the spill office. Those who indicated they would like to serve as a liaison will be contacted for future training and development.

The SMEs are collaborating with the spill office's training unit to develop a training program that builds skills and experience. This will be accomplished by providing spill response specific information and procedures, conducting classroom training, tabletop exercises and drill participation. Curriculum development will begin with the federal government's liaison officer (LO) task books.

The spill office has developed and incorporated a liaison component for the Operations Center Manual. During the Dubai Star incident, which occurred October 30, 2009 in the San Francisco Bay, the spill office activated the Operations Center liaison position which provided critical support to the field liaison officer, and bridged the need for communication between the command post and the Assembly, Senate, and other local, State and federal agencies. During this event, the spill office also staffed its Operations Center Public Information Officer (PIO) position which resulted in increased collaboration and coordination to immediately provide information to the press and general public. In the future, this PIO position will also be responsible for "standing up" the spill office's new CalSpillWatch webpage. General spill information will be available to the public from this site; sensitive information will be available to government agencies under password protection.

The spill office expects to complete the development of the liaison training curriculum by Spring 2011 and conduct several training sessions during the rest of 2011. This will include training for the Operations Center LO.

Using federal government LO task books modified by the SMEs for oil spill response, the spill office will initiate a program to formally qualify liaison officers in 2011. Continuing education and skill development will be ongoing. Designated liaison staff will need to attend drills and exercises regularly to maintain their skills.

In terms of providing equipment to meeting liaison needs in the field, the spill office has already developed and is implementing training for logistics team members to expand their knowledge, skills and staff depths to ensure they are available to help get those items the liaison needs to the incident. Part of the drill design for this training includes liaison specific requests.

Estimated date of completion: December 2011.

Recommendation #3:

To ensure that the fund is charged only for oil spill prevention activities, the spill office and Fish and Game should do the following: Take steps to ensure that spill prevention wardens' time is charged appropriately, such as performing a time study of wardens to use as a basis for allocating wardens' time between the fund and other Fish and Game funding sources. Such a time study should be updated periodically to ensure that it remains valid and accurate.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

Fish and Game's law enforcement division is in the process of redesigning a time study that adequately captures information, defines activities, and provides an accurate comparison of warden work tasks. Fish and Game has engaged in discussions with the bureau to ensure that the future study meets the intent of this recommendation.

Estimated date of completion: March 2011.

Recommendation #4:

To avoid logistical problems in responding to oil spills, the spill office should collaborate with area committees in California to identify potential command centers that are sized appropriately and possess all necessary communications equipment.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

The San Diego Area Committee, co-chaired by the spill office and the Coast Guard, established a subcommittee to develop a list of pre-identified suitable incident command post locations in the area. The subcommittee identified the Coast Guard—Sector San Diego as the appropriate command post in the southern portion of San Diego County. For spills in the northern portion of the county, the subcommittee identified the City of Carlsbad's Emergency Operations Center as a suitable incident command post. The Coast Guard established a memorandum of understanding with the City of Oceanside for use of the facility.

Recommendation #5:

To ensure that a state employee knowledgeable in oil spills is available to assist in public relations during a spill response, public relations staff in the communications office should participate in spill drills. The spill office should also develop protocols to ensure that key information, such as the role of volunteers, is disseminated to the public early in a spill response.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

In the January 2010 response to the bureau, the spill office described its multi-phase approach to creating a strong Public Information Officer (PIO) team. To date, the spill office has filled its vacant PIO position, and augmented its management staff by hiring an individual with an extensive public affairs and emergency response background. Assistant Information Officer positions have been created under the Incident Command System (ICS) used as the management framework for emergency response. Additional staff have been designated to fulfill the assistant roles, and they have completed multiple trainings including press release writing, media relations, social marketing, and Coast Guard Strike Team public affairs. One of the assistants has also been certified bi-lingual in Spanish. The assistants have been attending drills with the lead PIOs to enhance their knowledge and further develop their skills. Future crisis trainings have also been scheduled. An operations agreement has been implemented between the spill office and Fish and Game's Office of Communication Education and Outreach (OCEO) for additional support and reserve staff for spill response. Individuals from OCEO have attended drills and training, the most recent of which was completed October 27, 2010. The CalSpillWatch page, designated for oil spill emergency response communications, has been launched and is live with 15 spill office staff trained in its use for posting information (across the ICS organization system—PIO, Liaison, Planning, Operations). Additional development continues. Following Fish and Game standard operating procedure, the social network has been established and the spill office now shares media distribution lists with OCEO so that the spill office PIOs can distribute information while in the field more quickly, and at any time of day or night.

DEPARTMENT OF FISH AND GAME (Report Number 2008-115, October 2008)

Its Limited Success in Identifying Viable Projects and Its Weak Controls Reduce the Benefit of Revenues From Sales of the Bay-Delta Sport Fishing Enhancement Stamp

The Joint Legislative Audit Committee (audit committee) asked the Bureau of State Audits (bureau) to independently develop and verify information related to the Bay-Delta Sport Fishing Enhancement Stamp (fish stamp) program. Generally speaking, the audit committee's request focused on spending authority for the fish stamp revenues, the appropriateness of expenditures incurred in the program, and the required reporting to the fish stamp advisory committee (committee).

The following table summarizes the Department of Fish and Game's (department) progress in implementing the eight recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the department had not fully implemented one recommendation. Based on the department's most recent response, the recommendation has been fully implemented.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE-YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 8 | 1 | 1 | 0 |

Below is the recommendation that we determined was fully implemented, followed by the department's most recent response.

Recommendation #1:

To ensure that the fish stamp program fulfills its intended benefit, Fish and Game should work with the committee to develop a spending plan that focuses on identifying and funding viable projects and on monitoring revenues to assist the department in effectively using the fish stamp revenues.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

The Department of Fish and Game Bay-Delta Sport Fishing Enhancement Stamp Grant Program Spending Plan was completed and approved by the director in January 2010.

DEPARTMENT OF FISH AND GAME

(Report Number I2009-1, April 2009)

Office of Spill Prevention and Response: Investigations of Improper Activities by State Employees, July 2008 Through December 2008
(Case #I2006-1125)

The California Whistleblower Protection Act (Whistleblower Act) empowers the Bureau of State Audits (bureau) to investigate and report on improper governmental activities by agencies and employees of the State of California. Under the Whistleblower Act, an improper governmental activity is any action by a state agency or employee during the performance of official duties that violates any state or federal law or regulation; that is economically wasteful; or that involves gross misconduct, incompetence, or inefficiency.

Allegation I2006-1125

A high-level official formerly with the Office of Spill Prevention and Response (spill office) of the Department of Fish and Game (Fish and Game), received reimbursements that she was not entitled to receive for commute expenses between her Sacramento headquarters and her Southern California residence. In addition, in violation of state travel regulations, Fish and Game reimbursed the official for lodging and meal expenses incurred near her headquarters and her residence. Thus, from October 2003 through March 2008, the official incurred \$71,747 in improper expenses.

The following table summarizes Fish and Game's progress in implementing the two recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, Fish and Game had not fully implemented either of the two recommendations. Based on Fish and Game's most recent response, both of the recommendations have been not fully implemented.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|--|
| 2 | 2 | 1 |

Below are the two recommendations that we determined were not fully implemented, followed by Fish and Game's most recent response for each.

Recommendation #1:

To improve Fish and Game's review process for travel claims submitted to its accounting office, it should do the following:

- Require all employees to list clearly on all travel expense claims their headquarters address and the business purpose of each trip.
- Ensure that the headquarters address listed on travel expense claims matches the headquarters location assigned to the employee's position.
- For instances in which the listed headquarters location differs from the location assigned to the employee's position, require a Fish and Game official at the deputy director level or above to provide a written explanation justifying the business need to alter the headquarters location. This justification must also include a cost-benefit analysis comparing the two locations and should be forwarded to the Department of Personnel Administration for approval.

Bureau's assessment of status: **Not fully implemented***

* Contrary to the bureau's determination, the auditee asserted in its latest response to us that it believes it has fully implemented the recommendation. However, the auditee did not substantiate its claim of full implementation.

Auditee's Response:

The Accounting Services Branch (ASB) staff training includes requirements to ensure that the headquarters' address is identified on the Travel Expense Claim (TEC) as well as the business purpose for each trip stated on the designated line of the TEC. The TECs are not processed for payment without this information. The Department's Human Resources Branch in conjunction with ASB staff, implemented a new form, Employee's Designated Headquarters (FG HRB-202) to identify the employee's headquarters and if approved, certifies the employee's home as their headquarters. The FG HRB-202 form will be forwarded to Personnel Administration for approval when required. Each employee is responsible for completing the form and the supervisor of the employee is responsible for ensuring that the employee's TEC indicates the correct headquarters work address. This form is placed in the employee's official personnel file and is available for verification in order to match the headquarters location assigned to the employee's position. If the headquarters address is the same as the residence address, the FG HRB-202 form must be attached to the TEC. The TEC will not be approved and processed further unless the form is completed and approved by the supervisor.

Recommendation #2:

Fish and Game should seek to recover the amount it reimbursed Official A for her improper travel expenses. If it is unable to recover any or all of the reimbursement, Fish and Game should explain and document its reasons for not seeking recovery.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

When Official A accepted the Regional Patrol Chief (RPC), Deputy Administrator, and Administrator positions, it appears it was under the condition and agreement that her headquarters' location in Sacramento would be in Los Alamitos. We agree that moving her headquarters' location to Los Alamitos was inappropriate due to the significant administrative work expected to be performed in Sacramento as a Deputy Administrator and the Administrator. Her previous time as a RPC may however have warranted her headquarters in Los Alamitos due to her excessive travel to both the Sacramento and Los Angeles area to perform work relating to statewide enforcement efforts.

Official A relied on the department's representations that she would receive travel reimbursements as one would normally receive when the headquarters' location is in Los Alamitos. These representations were apparently given to her and were continually honored by officials at the executive level in both OSPR and DFG in all three positions. We sought to discuss the sequence of events with the officials, but they are no longer employed with OSPR or DFG and could not be reached. Also, Official A is no longer employed with OSPR. Ever since the current department officials have become aware of this issue, they have directed staff to implement more effective internal control measures to ensure that any assignment of an employee's home as his or her headquarters is conditioned on meeting established criteria, to the benefit of the Department and not at the convenience of the employee. Such an assignment now requires the approval of management officials reporting at the Deputy Director or Chief Deputy Director level.

STATE AND CONSUMER SERVICES

STATE ATHLETIC COMMISSION (Report Number 2004-134, July 2005)

The Current Boxers' Pension Plan Benefits Only a Few and Is Poorly Administered

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the State Athletic Commission's (commission) pension plan operations. Specifically, the audit committee was interested in the condition of the current plan, the best course of action to ensure its long-term viability, how much is being spent on administrative expenses, and whether the statutory requirements for pension contributions and benefit distributions are being met.

The following table summarizes the commission's progress in implementing the two recommendations the bureau made in the above referenced report. As shown in the table, as of the commission's one-year and most recent response, both recommendations remain outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 2 | 2 | 2 | 2 |

Below are the recommendations that we determined were not fully implemented, followed by the commission's most recent response for each.

Recommendation #1:

If the Legislature decides to continue the boxers' pension plan, the commission should consider eliminating the break in service requirement and/or reducing from four to three the number of calendar years that a boxer must fight if it believes the current vesting criteria is excluding professional boxers for which the pension plan was intended.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

Eliminating the break in service requirement would result in an additional 218 boxers just in 2009, and would eliminate the forfeitures of the occasional boxers that come to California to fight, which is not what the pension fund was set up for. This would be a big burden on the commission to keep track of these occasional fighters, and reduce the benefits to the existing covered and pending boxers.

Revise vesting to 3 years (instead of 4). This change is probably a benefit to the current pending boxers, but the commission cannot currently provide information about how this would impact the plan or the number of people who would become vested under this change. This change would require legislative action, therefore cannot be completed in the next 90 days. However, a projection analysis will be conducted to break down the impacts and benefits to athletes, and then if favorable, use this to facilitate legislation.

Estimated date of completion: Unknown

Recommendation #2:

- a. To maximize pension fund assets, the commission should raise the ticket assessment to meet targeted pension contributions as required by law and promptly remit pension contributions from the Department of Consumer Affairs' (Consumer Affairs) bank account to the boxers' pension fund.
- b. The commission should require promoters to remit pension fund contributions on checks separate from other boxing show fees so that deposits of checks and subsequent remittances to the boxers' pension fund are not delayed.

Bureau's assessment of status: **Recommendations (a) and (b): Not fully implemented**

Auditee's Response to Recommendation (a):

The Business and Profession Code 18881(b) does require the commission to raise ticket prices for the boxer pension fund to be adjusted to reflect changes in the Consumer Price Index for California as set forth by the Bureau of Labor Statistics. But the language in Title IV set forth the ticket prices to be at 88 cents per tickets, up to a maximum contribution of \$4,600. The language in Title IV would need to be changed to allow the commission the ability to change the required contribution that promoters are charged per ticket to match that language in the Business and Profession Code. Now that the commission is fully staffed, we are in the process of reviewing language in both the Business and Profession Code and Title IV to ensure that there is no contradiction between law, rule, and regulations.

In August of 2009, the commission did request to move forward on the legislation change to the pension fund contribution requirements by promoters. When the commission approved that to move forward, the commission was without an executive officer and was in the process of commissioners either stepping down or resigning. In February 2010, the commission hired a new executive officer and all but one commissioner position was filled. This item will be placed on an up and coming commission meeting agenda to revisit the requirement and work on legislation to work closely with legal counsel for the requirements by Business and Profession Code.

On another note, the audit indicates that the commission does not collect pension fund contributions from events held on tribal land, but since has changed. The commission now collects \$600 from each event it regulates on tribal land as allowed by the Business and Profession code 18828(b)(2). This has helped with offsetting the cost of not raising the ticket assessment for each boxing event.

Estimated date of completion: Unknown

Auditee's Response to Recommendation (b):

When the audit was conducted in 2005, the overall cashiering process for the commission was lacking a clear understanding of the proper procedure to coincide with Consumer Affairs' procedures. The office being so small and having some unique conditions that led to creative processes to collect funds from promoters at events has since been formalized. After the audit, the commission worked closely with Consumer Affairs' cashiering unit, and developed a procedure to ensure there is little delay with submitting funds. Furthermore, we have also developed a desk procedures manual that provides guidelines to the individual within the commission that performs cashiering transactions. Money that is received is cashiered within seven business days and sent to Consumer Affairs for processing and distribution. Sending funds to Consumer Affairs allows the commission to track and balance these monies, allowing us to closely monitor the processes from field operations to submitting funds to Consumer Affairs. By receiving a separate check from the promoters rather than submitting the check to Consumer Affairs, has been explained by the Consumer Affairs' cashiering unit to be essentially the same process and would take about the same time.

Estimated date of completion: Unknown

MEDICAL BOARD OF CALIFORNIA
(Report Number 2007-038, October 2007)

It Needs to Consider Cutting Its Fees or Issuing a Refund to Reduce the Fund Balance of Its Contingent Fund

Section 2435 of the Business and Professions Code (code) directs the Bureau of State Audits (bureau) to review the Medical Board of California’s (medical board) financial status and its projections related to expenses, revenues, and reserves, and to determine the amount of refunds or licensure fee adjustments needed to maintain the reserve legally mandated for the medical board’s contingent fund. The medical board assesses fees for physicians and surgeons (physicians) according to rates and processes established in the code. In 2005 passage of Senate Bill 231 increased physicians’ license fees (fees) from a maximum rate of \$600 to \$790. In addition to establishing the rate, the code also states that the Legislature expects the medical board to maintain a reserve, or fund balance, in its contingent fund equal to approximately two months of operating expenditures.

The following table summarizes the medical board’s progress in implementing the two recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response and its most recent response, the medical board had not fully implemented one of those recommendations.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 2 | 1 | 1 | 1 |

Below is the one recommendation that we have determined has not been fully implemented, followed by the medical board’s most recent response.

Recommendation #1:

The medical board should consider refunding physicians’ license fees or, if successful in gaining the flexibility to adjust its fees through an amendment to existing law, consider temporarily reducing them to ensure that its fund balance does not continue to significantly exceed the level established in law.

Bureau’s assessment of status: **Not fully implemented**

Auditee’s Response:

To provide some background on the medical board’s implementation of these recommendations, it is important to note that Assembly Bill 547, which would have authorized the medical board the flexibility to adjust the physicians’ initial licensing and renewal fees in Business and Professions Code, Section 2435, was vetoed in 2008. Therefore, the medical board could not implement this recommendation. The medical board again sought legislation in 2009 and was successful. In addition to seeking legislation that would allow the medical board the flexibility to change its licensing and renewal fees, the medical board also sought the flexibility to have a larger fund reserve, which was approved in Assembly Bill (AB) 501.

Although the medical board is not currently meeting the reserve requirement of four months, the medical board's executive director has reported on this issue at every medical board meeting since October 2009. Medical board meetings are held in a public forum, and minutes from every medical board meeting are public documents and available on the medical board's website. Some relevant information from these meetings is listed below:

- At the January 29, 2010 medical board meeting, it was reported that "...the reserve fund balance currently exceeds the guidelines." It was also noted that budget augmentations for 18.8 positions were being requested, and if approved, the medical board would be in compliance.
- At the April 30, 2010 medical board meeting, it was reported that, "Although the current estimate shows 5.9 months of reserves as of July 1, 2010, at the end of fiscal year (FY) 2011–12 the reserve fund will be less than four months. Therefore, staff has not brought a proposal related to the reduction of fees to this meeting."
- At the July 30, 2010 medical board meeting, it was reported that, "...FY 2009–10 is projected to have a 5.8 month balance in reserve at the end of the year, this is primarily due to reductions in staff salaries." Augmentations that were requested were discussed, which included position augmentations for the Probation Monitoring Program, augmentations to request the continuation of the Operation Safe Medicine Program, and additional augmentation requests for the BreEZe project (integrated licensing and enforcement computer system). It was then stated that, "These augmentations will impact the fund reserve; hence, no proposal has been submitted to reduce fees at this time."

The medical board's budget and expenditures are affected by the actions of both the Administration and the Legislature, which can take independent budget and legislative actions that can affect a special fund balance. The medical board's projected expenditures in the current year are uncertain given several unfunded items. The medical board is absorbing the cost of 18.8 fiscal year 2010–11 Budget Change Proposal positions (6.0 positions for Operation Safe Medicine, the medical board's unlicensed activity unit; 5.0 positions for Probation Monitoring; and 7.8 positions for Licensing for application processing) for which no funding was approved. This cost is estimated at \$1,380,000. An unfunded telemedicine study is also in place in the current year at a cost of \$400,000 (AB 329, Nakanishi, Statutes of 2007, Business and Professions Code, Section 2028.5).

Therefore, given this uncertainty, the medical board must reassess its spending in January 2011, after several pending matters have been resolved, and discuss the full implementation of the bureau's final recommendation. By the end of fiscal year 2010–11, the medical board should be in a better position to make an informed decision regarding its licensing and renewal fees, overall budget, and fund condition.

Estimated date of completion: June 2011

FRANCHISE TAX BOARD

(Report Number 2007-107, December 2007)

Nonprofit Hospitals: Inconsistent Data Obscure the Economic Value of Their Benefit to Communities, and the Franchise Tax Board Could More Closely Monitor Their Tax-Exempt Status

The Joint Legislative Audit Committee (audit committee) requested the Bureau of State Audits (bureau) to conduct an audit to ascertain whether the activities performed by hospitals that are exempt from paying taxes because of their nonprofit status truly qualify as allowable activities consistent with their exempt purpose. Specifically, the audit committee requested that we determine the roles of the entities involved in determining tax exemptions and the extent of oversight they exercise over nonprofit hospitals to ensure that they comply with requirements for tax exemption and community benefit reporting. It also asked us to examine the financial reports and any community benefit documents prepared during the last five years by a sample of both nonprofit hospitals and hospitals that operate on a for-profit basis and determine the value and type of community benefits and uncompensated care provided. In addition, the audit committee asked us to compare the community benefits provided by nonprofit and for-profit hospitals, and compare the types of care that both types of hospitals provide without receiving compensation (uncompensated care). Further, the audit committee asked us to review the financial information and the claims submitted to the State Board of Equalization (Equalization) or other agencies by nonprofit hospitals to determine whether they meet income requirements to qualify for tax-exempt status and to assess how tax-exempt nonprofit hospitals use excess income, to ensure that the uses are permissible and reasonable in terms of expansion of plant and facilities, additions to operating reserve, and the timing of debt retirement. The audit committee also asked us to determine the most current estimated total annual value of the taxation exemptions of both state corporation income taxes (income taxes) and local property taxes for nonprofit hospitals.

Finally, the audit committee asked us to determine whether the community benefits and uncompensated care provided by nonprofit hospitals meet the requirements for exemption from local property and state income tax. However, although state law outlines the requirements a nonprofit hospital must meet to receive an exemption from paying taxes, it does not specify community benefits and uncompensated-care costs as requirements. Additionally, although state law requires most tax-exempt hospitals to annually submit to the Office of Statewide Health Planning and Development a community benefits plan (plan), which may include an uncompensated-care element, the law also clearly states that the information included in the plan a nonprofit hospital submits cannot be used to justify its tax-exempt status.

The following table summarizes the Franchise Tax Board’s (FTB) progress in implementing the seven recommendations the bureau made in the above referenced report. Based on its latest response, FTB has not fully implemented two of those recommendations.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 7 | 2 | 2 | 2 |

Following are the recommendations that we determined were not fully implemented, followed by FTB’s most recent response for each.

Recommendation #1:

FTB should consider developing methodologies to monitor nonprofit hospitals' continuing eligibility for income tax exemption. These methodologies should include reviewing the financial data and other information on the Form 199 annually submitted by tax-exempt hospitals.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

In May 2010, Exempt Audit added PASS, which finalized enhancements to the department's audit inventory/case management system that provides data collection, modeling, and audit selection capabilities. In August 2010, Exempt Audit hired a new supervisor with audit background to oversee upcoming audits, including hospitals. In September 2010, Exempt Audit hired two new auditors to continue its plan of conducting audits of exempt organizations. In October 2010, Exempt Audit streamlined the application process to address the large volume of applications. This should free up personnel's time to focus on auditor functions, including the review of more forms 199 submitted by hospitals.

Estimated completion date: August 2011

Recommendation #2:

FTB should consider developing methodologies to monitor nonprofit hospitals' continuing eligibility for income tax exemption. These methodologies should include ensuring that the annual Form 199 contains all the information required to determine eligibility for an income tax exemption in accordance with state law.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

Exempt Audit selected a major hospital for potential audit and forwarded its request for audit approval to FTB's Legal division. This audit (if approved) should provide guidance to Exempt Audits' staff regarding which items on the forms 199 are audit worthy when performing future audits. As a result, this will ensure that the annual forms 199 contain all of the information required to determine eligibility for an income tax exemption in accordance with state law.

Estimated completion date: August 2011

STATE BOARD OF CHIROPRACTIC EXAMINERS

(Report Number 2007-117, March 2008)

Board Members Violated State Laws and Procedural Requirements, and Its Enforcement, Licensing, and Continuing Education Programs Need Improvement

The Joint Legislative Audit Committee (audit committee) directed the Bureau of State Audits (bureau) to review the State Board of Chiropractic Examiners' (chiropractic board) enforcement, licensing, and continuing education programs; to determine the role of the chiropractic board as defined by state laws and regulations and the board's policies and procedures; and to assess whether board members consistently act within their authority. The audit committee also asked us to analyze the role, function, and use of the chiropractic quality review panels (review panels) and the chiropractic board's compliance with the Chiropractic Initiative Act of California (initiative act) requirement to aid attorneys and law enforcement agencies in enforcing the initiative act.

The following table summarizes the chiropractic board's progress in implementing the 48 recommendations the bureau made in the above referenced report. As shown in the table, as of its latest response, the chiropractic board had fully implemented all recommendations.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 48 | 4 | 1 | 0 |

Below is the recommendation that we determined was fully implemented since the chiropractic board's prior response, followed by the chiropractic board's most recent response.

Recommendation #1:

Establish procedures that direct chiropractic board management to monitor the status of open complaints regularly, especially those given priority status, to ensure that they do not remain unresolved longer than necessary.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

As of February 1, 2010, chiropractic board compliance management performs targeted reviews of the analyst casework and does follow ups, if necessary, until case closure. The most aged cases are the focus of the targeted reviews across the analyst caseloads. In conjunction with the case reviews, case closure audits are performed by chiropractic board compliance management at random to ensure recommended timelines and procedures were followed with the processing of a case. Significant case deficits or case delays found on reviews or audits are discussed with the compliance analysts. Chiropractic board compliance management uses an additional case log to view all open complaint cases in the unit and the recent activity performed by the analysts on a daily or weekly basis. Monthly statistics are reviewed to monitor compliance unit closure activities. Chiropractic board compliance management has found a steady five percent increase in closures of pending complaints. The average age of a pending complaint has dropped to 242 days. Chiropractic board compliance management will continue to provide direction to the analysts and ensure timely decision making occurs with the unit's priority and aged workload.

STATE PERSONNEL BOARD

(Report Number 2009-103, September 2009)

Departments of Health Care Services and Public Health: Their Actions Reveal Flaws in the State’s Oversight of the California Constitution’s Implied Civil Service Mandate and in the Departments’ Contracting for Information Technology Services

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) examine the use of information technology (IT) consulting and personal services contracts (IT contracts) by the departments of Health Care Services and Public Health. The audit committee specifically asked the bureau to review and assess the two departments’ policies and procedures for IT contracts to determine whether they are consistent with state law. The audit committee also requested that we identify the number of active IT contracts at each department and—for a sample of these contracts—that we determine whether the departments are complying with California Government Code, Section 19130, and with other applicable laws, rules, and regulations. For the sample of contracts, the committee also requested that we collect various data and perform certain analyses, including determining whether the two departments are enforcing the knowledge-transfer provisions contained in the contracts.

The audit committee also asked us to identify the number, classification, and cost of IT positions budgeted at each department for each of the most recent five fiscal years. In addition, we were to determine the number of vacant IT positions, the turnover rate, and any actions that the departments are taking to recruit and retain state IT employees.

For a sample of contracts under review by the State Personnel Board (board), the audit committee asked us to identify the California Government Code section that the departments are using to justify an exemption from the implied civil service mandate emanating from Article VII of the California Constitution. For the contracts overturned by the board, we were asked to review the two departments’ responses and determine whether corrective action was taken. Finally, the audit committee requested that we review and assess any measures that the two departments have taken to reduce the use of IT contracts.

The following table summarizes the board’s progress in implementing the recommendation the bureau made in the above referenced report. As shown in the table, as of its one-year response, the board had not fully implemented the recommendation. Based on the board’s most recent response, the recommendation still remains outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|--|
| 1 | 1 | 1 |

Below is the recommendation that we determined was not fully implemented, followed by the board’s most recent response.

Recommendation #1:

To provide clarity to state agencies about the results of its decisions under California Government Code, Section 19130(b), the board should explicitly state at the end of its decisions if and when state agencies must terminate disapproved contracts. Additionally, the board should obtain documentation from the state agencies demonstrating the terminations of disapproved contracts.

Bureau’s assessment of status: **Not fully implemented**

Auditee's Response:

The board and the executive officer are charged with reviewing proposed contracts or contracts entered into by state departments and private vendors to determine whether the circumstances justify the contracts under Government Code section 19130, subdivisions (a) or (b). When a contract fails to qualify under section 19130, the board and the executive officer have traditionally issued a decision disapproving the contract and ordering the department to discontinue services under the contract. It has been the presumption that the affected departments would comply with the order. The audit has revealed certain instances where the departments have failed to timely comply with the order or have permitted the disapproved contract to run its course.

During the recent legislative term, the board provided its input on legislation (AB2494) proposed by the Service Employees International Union, Local 1000, that sought to statutorily define a department's obligation to terminate a contract that has been disapproved by the State Personnel Board. AB2494 was, however, vetoed by the Governor on the basis that such a provision would, among other things, create potential liability for the state to third party vendors and disrupt ongoing services.

In hopes of providing further guidance and direction to departments when a contract has been disapproved by the executive officer or the board, all future decisions disapproving a contract will contain a deadline of when the contract should be discontinued. The deadline will be based, in part, on the time needed to discontinue services under the contract without impacting the department's operations. In addition, as to bureau's recommendation that the board obtain documentation from the departments demonstrating terminations of disapproved contracts, all future decisions disapproving contracts will include a requirement that the departments submit written confirmation of the discontinuation of the contract to the State Personnel Board and serve the same on the interested labor organizations.

Estimated date of completion: Unknown

LABOR AND WORKFORCE DEVELOPMENT

DEPARTMENT OF INDUSTRIAL RELATIONS

(Report Number 2005-119, February 2006)

San Francisco-Oakland Bay Bridge Worker Safety: Better State Oversight Is Needed to Ensure That Injuries Are Reported Properly and That Safety Issues Are Addressed

The Joint Legislative Audit Committee (audit committee) asked the Bureau of State Audits (bureau) to evaluate the Department of Industrial Relations' (department) Division of Occupational Safety and Health's (division) enforcement of worker safety and health laws and the California Department of Transportation's (Caltrans) oversight practices on construction of the East Span of the San Francisco-Oakland Bay Bridge (East Span).

In addition, the audit committee asked us to compare the number of injuries reported by workers on the East Span with the number reported on other large construction projects. The audit committee also asked us to evaluate the workplace safety policies, including any safety bonus programs of companies contracted to work on the East Span, and determine whether any disciplinary action has been taken against workers complaining of injuries or health issues. We focused our review on the safety of workers involved in construction of the Skyway project because it is the largest, most expensive component of the East Span currently being constructed and was at the center of certain media allegations. The Skyway is a section of the new East Span stretching most of the distance from Oakland to Yerba Buena Island.

The following table summarizes the department's progress in implementing the three recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the department had not fully implemented one of those recommendations. Based on the department's most recent response, the same recommendation has been fully implemented.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 3 | 1 | 1 | 0 |

Below is the recommendation that we determined was fully implemented, followed by the department's most recent response.

Recommendation #1:

To identify the underreporting of workplace injuries and to help ensure the reasonable accuracy of annual injury reports, the division should develop a mechanism to obtain employers' annual injury reports and design procedures to detect the underreporting of workplace injuries. If the division believes it does not have the resources necessary to undertake this task in light of its other priorities, it should seek additional funding from the Legislature for this effort. In designing these procedures, the division should take into account conditions that may contribute to the underreporting of injuries.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

The department worked together with the federal Occupational Safety and Health Administration (federal OSHA), which sets the national agenda for recording of occupational injuries and illnesses along with the federal Bureau of Labor Statistics, and developed a plan to verify the accuracy of records by conducting detailed recordkeeping inspections of randomly selected employers. This is being done pursuant to a federal OSHA-directed plan that is operative throughout the nation.

The department has designated special staff members to conduct these inspections and they are in the process of completing training to do so, consistent with parallel training provided by federal OSHA to its staff. Training will be completed by November 15, 2010 and inspections are scheduled to begin November 29, 2010.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

(Report Number 2008-103, November 2008)

Its Weak Policies and Practices Could Undermine Employment Opportunity and Lead to the Misuse of State Resources

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the California Unemployment Insurance Appeals Board's (appeals board) hiring, procurement, and administrative practices. Specifically, the audit committee asked that we review and evaluate the appeals board's hiring policies to determine whether its policies and procedures comply with applicable laws and regulations. In addition, the audit committee asked us to examine a sample of hires, promotions, and transfers to determine if each one complied with applicable laws, regulations, policies, and procedures.

The audit committee also requested that we determine the prevalence of familial relationships among appeals board employees, to the extent possible. In addition, we were asked to determine whether the appeals board's processes for handling grievances and equal employment opportunity complaints are set up in a manner that allows employees to avoid the fear of retaliation. Furthermore, the audit committee asked us to review and evaluate the appeals board's procurement practices for office space, furniture, and other administrative purchases to ensure that they align with applicable laws, regulations, and appeals board policies. Finally, the audit committee asked us to review the appeals board's use of state property such as vehicles and fuel cards and determine whether such use is reasonable and allowable per applicable laws.

The following table summarizes the appeals board's progress in implementing the 15 recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the appeals board had not fully implemented two of the recommendations. Based on its latest response, the appeals board has fully implemented the two recommendations.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|--|
| 15 | 2 | 0 |

Below are the two recommendations that we determined were fully implemented, followed by the appeals board's most recent response for each.

Recommendation #1:

The appeals board should rescind its recently adopted, but legally unenforceable, policy that prohibits hiring a board member into any civil service position at the appeals board for a period of one year from the last day of that individual's term as a board member. Because this policy affects persons outside of the organization, the appeals board should submit a new version of this regulation to the Office of Administrative Law for approval.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

The appeals board authorized regulations to implement the "Hiring of a Board Member" policy at its October 13, 2009 meeting. The proposed regulation was submitted to the formal adoption process required under the Government Code and published for public comment on January 1, 2010. The formal regulatory process was completed and the effective date of the newly adopted regulation was June 11, 2010. The new regulation can be found at Title 22, California Code of Regulations (CCR), Section 5400.

Recommendation #2:

The appeals board should not enforce its new nepotism policy against persons not presently employed by the appeals board. Because this policy affects persons outside of the organization, the appeals board should submit a new version of this regulation to the Office of Administrative Law for approval.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

The appeals board authorized regulations to implement its nepotism policy at its October 13, 2009 meeting. The proposed regulation was submitted to the formal adoption process required under the Government Code and published for public comment on January 1, 2010. The formal regulatory process was completed and the effective date of the newly adopted regulation was June 11, 2010. The new regulation can be found at Title 22, CCR, Section 5300.

GENERAL GOVERNMENT

DEPARTMENT OF VETERANS AFFAIRS

(Report Number 2007-121, April 2008)

Veterans Home of California at Yountville: It Needs Stronger Planning and Oversight in Key Operational Areas, and Some Processes for Resolving Complaints Need Improvement

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) conduct an audit of the Veterans Home of California at Yountville (Veterans Home), with an emphasis on the adequacy of health care and accommodation of members with disabilities. Specifically, the audit committee requested that we determine the roles and responsibilities of the various entities involved in the governance of the Veterans Home, including those responsible for setting guidelines for the care of residents. The audit committee asked that we determine whether any of the entities had evaluated staffing levels for medical personnel, review the Veterans Home staffing ratios, and identify any efforts the Veterans Home had taken to address personnel shortages. Additionally, the audit committee asked us to assess how the Veterans Home manages its medical equipment to ensure that it is up to date and functioning properly and evaluate efforts the Veterans Home has made to ensure that its facilities and services are meeting the accessibility requirements of the Americans with Disabilities Act (ADA). Finally, the audit committee asked that we review and assess the policies and procedures for filing, investigating, and taking corrective action on complaints from members and review how the Veterans Home ensures members comply with its code of conduct.

The following table summarizes the Veterans Home progress in implementing the 22 recommendations the bureau made in the above referenced report. As shown in the table, as of its latest response the Veterans Home had not fully implemented one of those recommendations.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 22 | 2 | 2 | 1 |

Below are the recommendations that we determined were not and were fully implemented, followed by the Veterans Home's most recent response for each.

Recommendation #1:

To meet the requirements of federal ADA regulations, the Veterans Home should develop and update as needed a plan that identifies areas of noncompliance and includes the appropriate steps and milestones for achieving full compliance. In addition, the Veterans Home should develop grievance procedures and identify a specific employee as its ADA coordinator.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

To meet the requirements of federal ADA regulations, the Veterans Home is currently working with the Department of General Services and has developed an ADA improvement priority and cost summary. This summary reflects a five-year implementation plan (contingent on Department of Finance funding approval). The Veterans Home currently has grievance procedures for the residential care and resident/member services. The Department of Veterans Affairs (department) has a link on its website that provides information to the employees regarding ADA compliance notice, complaint procedures and compliant form. The Deputy Administrator will perform the role of the ADA coordinator.

Estimated date of completion: Five to 10 years

Recommendation #2:

To prevent its nursing staff from working excessive overtime, the Veterans Home should consider adopting a formal policy for distributing overtime more evenly among nurses, establishing a cap on how much overtime nursing staff may work, and monitoring overtime usage for compliance with these policies.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

The Veterans Home created and implemented a new overtime policy.

VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD

(Report Number 2008-113, December 2008)

It Has Begun Improving the Victim Compensation Program, but More Remains to Be Done

The Joint Legislative Audit Committee (audit committee) requested the Bureau of State Audits (bureau) to review the Victim Compensation Program (program) to determine the overall structure of victim compensation services and the role of each entity involved, and to assess the effectiveness of the structure and communication among the entities. The audit committee also asked us to review the funding structure for the program and determine any limitations or restrictions. We were also asked to determine the types of expenses made from the Restitution Fund in each of the last four years, including identifying the annual amount used for administering the program and the annual amount reimbursed to victims.

The audit committee requested us to determine and assess the Victim Compensation and Government Claims Board's (board) process of approving or denying applications and bills, including how it communicates its decisions to applicants. Additionally, the audit committee directed us to review a sample of applications and bills that the board received from 2003 through 2007 to determine whether it adhered to proper protocols for the approval process. The audit committee also asked us to review, for the selected sample, the amount of time various steps took. In addition, it asked us to determine whether the board has a backlog of applications and bills awaiting its decision, the extent of the backlog, and any efforts taken to reduce the backlog. Finally, the audit committee directed us to review and assess the board's overall process for outreach to potential victims of violent crimes and whether it considers the demographics of the populations it serves in establishing its outreach program.

The following table summarizes the board's progress in implementing the 25 recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the board had not fully implemented seven recommendations. Based on the board's most recent response, three recommendations have been not fully implemented.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|--|
| 25 | 7 | 3 |

Below are the three recommendations that we determined were not and were fully implemented, followed by the board's most recent response for each.

Recommendation #1:

To ensure that it maximizes its use of CaRES, the board should address the structural and operational flaws that prevent identification of erroneous information and implement edit checks and other system controls sufficient to identify errors.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

To address the remaining CaRES' structural flaws, the board authorized a \$2.5M CaRES Modification Project in June 2010 to correct the underlying database and application architecture issues. The project is underway and a recommendation will be completed in June 2011. Several checks and controls are now in place to identify erroneous information, specifically duplicate bills and applications. Duplicate bills that are processed through the bill payment service are automatically rejected. The remaining bills that are manually entered into CaRES go through several checks to identify and reject duplicates as they are entered into the system. Reports are also generated that identify possible duplicates. The recently implemented pre-scan process checks key identifiers on incoming applications prior to scanning into CaRES to identify and reject duplicate applications. Checks for duplicate applications are also performed at a number of key processing stages within CaRES.

Estimated date of completion: June 2012

Recommendation #2:

To ensure that it maximizes its use of CaRES, the board should develop and maintain system documentation sufficient to allow the board to address modifications and questions about the system more efficiently and effectively.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

As part of the CaRES Modification Project, full documentation of both the business processes and workflow within CaRES as well as full documentation of the technical architecture will be completed. As CaRES is modified, so too will the documentation.

Estimated date of completion: June 2012

Recommendation #3:

To ensure that the board appropriately carries out its outreach efforts, it should define the specific procedures to accomplish its action strategies for outreach and establish quantitative measures to evaluate the effectiveness of its outreach efforts.

Bureau's assessment of status: **Will not implement**

Auditee's Response:

BSA's February 2010 report noted that the board's Comprehensive Communications and Outreach Plan identifies metrics to establish benchmarks of awareness levels, prioritize projects, and target underserved populations. Additionally, the report states that the board established an outreach budget. The one outstanding item that has not been implemented is the performance

of a survey to establish a baseline from which we may accurately measure our goals. In the fall of 2009, the Board released a request for proposal (RFP) to contract with a vendor to perform a statewide baseline and post-outreach campaign survey. Due to budget constraints related to the fund condition of the Restitution Fund, the Board cancelled the RFP in March 2010 and does not anticipate that it will have the funds in the near future to perform a statewide survey to establish the baseline measurement.

The Board continues the implementation of its outreach plan that also focuses on building education and informational activities that support restitution collection and imposition. This strategy utilizes in-house resources and is supported by a strong social and online marketing effort.

Estimated date of completion: Due to budget constraints, the board does not anticipate that it will fully implement this recommendation.

Recommendation #4:

The board should establish a complementary set of goals designed to measure its success in maximizing assistance to victims and their families. These goals should include, but not be limited to, one that focuses on the correlation of compensation payments to program support costs and one that establishes a target fund balance needed to avoid financial shortfalls. As it monitors the goals it has created, the board should ensure that its cost structure is not overly inflexible and that it is carrying out its support activities in the most cost-effective manner possible.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

As stated in our December 2009 one-year response to the audit, the board has established key goals for measuring the implementation of its strategic plan and its success in maximizing assistance to victims.

In April of 2010, the board identified a specific goal for CalVCP support costs based on the BSA recommended method of calculating support costs as a correlation between compensation and program support costs. Our goal is to reduce CalVCP program and support costs to 20 percent of annual claims payments plus program and support costs, exclusive of revenue generating costs. We plan to reach this goal by 2014, which is two years following the anticipated completion of the CaRES claims processing system modification project. We ended 2009–10 at 26 percent, continuing the downward trend from 35 percent in 2004–05 to 28 percent in 2008–09. The Board plans to meet the 20 percent goal through continued process improvements (including technological and operational changes) enabling us to process increasing numbers of applications and bills while continuing our efforts to reduce processing times. The 20 percent goal will also include the workforce cap and collective bargaining reductions from the Budget Act of 2010.

It is our position that a more appropriate method of calculating our administrative support costs is the traditional method showing those costs as a percent of total program costs. Using this methodology, our 2009–10 admin costs were 7 percent of total claims payments, program costs, and administrative support costs. Given either methodology of calculating the support cost ratio, we consider this BSA recommendation fully implemented.

Recommendation #5:

To improve its processing time for making decisions on applications and for paying bills, the board should identify the primary problems leading to delays and take action to resolve them. Additionally, it should consistently document its reasons for any delays in processing applications or bills.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

As stated in our December 2009 one-year response to the audit, the board has instituted several processes responsive to the BSA's recommendations regarding delays in processing applications and bills and consistent documentation. Specifically, our outreach presentations to law enforcement and providers stress the importance of providing the necessary verification information to us timely and our timelines for requesting verification documents were incorporated into the online VCP Processing Manual.

The board is also resolving processing delays due to incomplete applications by instituting three new process improvements: 1) a pre-scan process, which was fully implemented October 2010 that identifies missing information on applications before they are scanned into CaRES; 2) an Application Verification Section that was implemented November 2010; and 3) removal of the Quality Assurance (QA) function from processing to an independent and more structured and responsive section in the Office of Audits and Investigations Unit (OAI) beginning November 2010. Pre-scan staff notifies applicants of the missing information. If the information needed to make the application complete is not received within 10 days, the incomplete application is returned to the applicant. The Application Verification Section verifies reimbursement sources to allow eligibility to be processed more quickly as well as increasing the ability to pay bills without delay. Moving QA from the processing teams to OAI allows for an independent and more structured, complete and consistent evaluation of processing decisions to ensure accuracy and timely feedback to supervisors and managers. Moving this evaluation out of the processing line allows the work to proceed but with very timely review and feedback.

With the implementation of the new process improvements, the ending of furloughs and the eventual lifting of the hiring freeze, the board anticipates that application and bill processing times will improve.

Recommendation #6:

To ensure that it maximizes its use of CaRES, the board should continue identifying and correcting problems with the systems as they arise.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

As with any system the “identifying and correcting problems with the system as they arise” is ongoing. The Board has a process in place for all CaRES users to report problems or issues with CaRES. All problems are reported to the IT Helpdesk either by phone or email. This applies to both board headquarters staff and Joint Powers staff throughout the state. A document (Reporting_CaRES_Issues) is available to users as a guide to providing IT with complete information about the problem. All problems are entered by the IT Helpdesk staff into a tracking system (Numara's Track IT!) and immediately routed to a manager for assignment to the appropriate resource. On a weekly basis the manager reviews the list of open issues with the Board CIO and reports on each issues progress/resolution.

Based on the available data in Track-IT, we are seeing a downward trend in the number of problems or issues reported with CaRES. In 08–09, the number of reported issues were 2,693, in 09–10, it was 2,324 and for 10–11 (through November 30th), 574 issues have been reported with a year end estimate of 1,378.

Recommendation #7:

To increase the number of applicants who work through assistance centers, the board should emphasize the advantages of doing so whenever possible.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

As stated in our one-year follow-up response, the board emphasizes the advantages of victims working with their local victim assistance centers on our website, in our brochures and at outreach events. Further, we have increased the number of non-JP counties served by our existing 21 JP offices (20 counties and one city) from 23 in 2008 to 27 in 2010. In addition, to keep services local, and provide the fastest, most efficient service to applicants, applications received at headquarters are transferred to the JP whose office handles the county where the crime occurred is now our standard process. The ultimate result of these actions is that local JPs process eligibility and losses for most applications generated by crimes in 47 of the 58 California counties.

CALIFORNIA DEPARTMENT OF VETERANS AFFAIRS

(Report Number 2009-108, October 2009)

Although It Has Begun to Increase Its Outreach Efforts and to Coordinate With Other Entities, It Needs to Improve Its Strategic Planning Process, and Its CalVet Home Loan Program Is Not Designed to Address the Housing Needs of Some Veterans

The Joint Legislative Audit Committee (audit committee) requested the Bureau of State Audits (bureau) to provide information related to the California Department of Veterans Affairs' (department) efforts to effectively and efficiently address the needs of California's veterans. As part of our audit, we were asked to do the following:

- Review the goals and objectives in the department's current strategic plan to determine whether they adequately address the needs and issues in the veteran community, such as mental health and housing. Examine the methods the department uses to measure its performance and the extent to which it is meeting its goals and objectives.
- Determine the methods the department currently uses to identify and serve veterans, including performing a review of its interactions and agreements with other state departments and agencies that serve veterans.
- Identify the number of California veterans that received benefits from the CalVet Home Loan Program (CalVet program) for the most recent year that statistics are available and, to the extent possible, determine whether this program specifically benefits homeless veterans or veterans in need of multifamily or transitional housing.
- Review the programs administered by the department's Veterans Services division (Veterans Services), including whether it operates a program for homeless veterans, and determine the extent to which the department assists with the administration of these programs.
- Identify the federal disability benefits that qualifying veterans can receive and, for the last five years, determine the number of California veterans who annually applied for and received federal disability compensation and pension benefits (C&P benefits).
- Identify any barriers veterans may face when applying for federal disability benefits, the services the department offers to help veterans overcome such barriers, and the methods used by the department to improve the State's participation rate.

The following table summarizes the department's progress in implementing the 14 recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the department had not fully implemented five recommendations. Based on the department's most recent response, five recommendations have been not fully implemented.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|--|
| 14 | 5 | 5 |

Below are the recommendations that we determined were not fully implemented followed by the department's most recent response for each.

Recommendation #1:

To ensure that it has the information necessary to track progress in increasing veterans' participation in C&P benefits, and to identify where and how best to focus its outreach and coordination efforts, Veterans Services should require the County Veteran Service Officers (CVSOs) to submit information on the number of claims filed for C&P benefits and information on their outreach activities.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

A Memorandum of Understanding was executed with the vendor for the Subvention Accounting Information System (SAIS) software and 11 new counties are migrated to the SAIS system since the budget was signed in October. The list of the counties already in this system and new ones coming on board now is attached. Vet Services will aggressively work to get the remainder of the 24 offices on line by February 1, 2012 for full implementation, a full 6 months ahead of the schedule that was outlined in the Feasibility Study Report done for this project. This system gives us the ability to track veteran services representative activity on a daily basis from our desk in HQ and gives us the information we need to best focus our outreach and resources for claim filing. The SAIS will give the CDVA the ability to directly supervise the county veteran representatives for quality and quantity of the claims they file.

Estimated date of completion: February 1, 2012

Recommendation #2:

As Veterans Services expands its efforts to increase veterans' participation in C&P benefits, it should use veterans' demographic information, such as that available through the U.S. Census Bureau, and the information it plans to obtain from the CVSOs using its Statewide Administration Information Management (SAIM) system, to focus its outreach and coordination efforts on those counties with the highest potential for increasing the State's rate of participation in C&P benefits.

Bureau's assessment of status: **Not fully implemented**[†]

[†] Contrary to the bureau's determination, the auditee asserted in its latest response to us that it believes it has fully implemented the recommendation. However, the auditee did not address all aspects of the recommendation.

Auditee's Response:

CDVA kicked off Operation Welcome Home on January 5, 2010 as a governor's initiative and was in full effect in April 2010. CDVA has established nine regional collaborative areas managed by Regional Collaborative Coordinators and have hired 80 AmeriCorps workers and distributed them throughout the state based on veteran demographic data such as veteran population, benefit participation rates and other factors. The CDVA also developed a chart showing this distribution. The recent budget act increased subvention payments for local assistance to the counties and non-governmental agencies that help veterans get connected to their benefits. Veterans Services will let a request for proposals (RFP) in January to target these resources based on proposals from counties based on outreach data we have and that they will supply. This draft RFP again demonstrates implementation in that grant awards are including criteria such as veteran demographics, participation rates, veteran service representative ratios and other factors.

Recommendation #3:

Veterans Services should continue its efforts to pursue the SAIM system to enable it to monitor the quantity and quality of claims processed by the CVSOs, and ensure it meets legal requirements regarding auditing CVSO workload reports and verifying the appropriateness of college fee waivers. To the extent that Veterans Services is unsuccessful in implementing the SAIM system, the department will need to develop other avenues by which to meet its legal requirements.

Bureau's assessment of status: **Not fully implemented***

Auditee's Response:

This recommendation was to "pursue the SAIS system". It is completed in that we pursued project approval, obtained approval and funding approved in the Budget Act of 2010-11. The State cannot force participation without incurring additional mandated program costs. CDVA is currently deploying the Subvention Accounting Information System (SAIS) on a voluntary basis. Vet Services has migrated 11 counties in to this system since the budget was signed in October 2010. Vet Services continues to migrate this application until all 56 offices are on board. Vet Services estimates that most of the migration will be complete by July 1, 2011 and full use of this system for reporting purposes on February 1, 2012. The recommendation was to pursue this application. Vet Services has more than pursued it, and received approval and funding to make this change.

Recommendation #4:

To ensure that it properly identifies and prioritizes the needs of the veteran community, the department should conduct a formal assessment of those needs, including soliciting input from the CVSOs.

Bureau's assessment of status: **Not fully implemented**

* Contrary to the bureau's determination, the auditee asserted in its latest response to us that it believes it has fully implemented the recommendation. However, the auditee did not substantiate its claim of full implementation.

Auditee's Response:

CDVA has surveyed both the CVSOs and the California veteran population in the last year. The veteran survey results are being analyzed by a professional entity and the results will be published in a white paper that will be forthcoming in February 2011. Another part of the recommendation was to solicit input from the CVSOs. CDVA conducted a survey just prior to the February 2010 training conference. This survey specifically asked the CVSOs, "In your expert opinion, what are the top three needs for veterans?" The survey indentified Health Care, Benefit Advocacy, and Employment as the top priority needs for veterans.

Estimated date of completion: January 31, 2011

Recommendation #5:

In order to attract more veterans to the CalVet program, the department should continue working with the Federal Housing Administration and the Ginnie Mae to lower its interest rates on loans.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

We expect that Federal Housing Administration (FHA) will be able to approve our Contract of Sale with the additional information that we have provided to them. As of December 2, 2010, FHA has not made a determination on the use of our contract of sale.

However, we are in the process of reducing our interest rates through a different process. The CDVA fully intends on becoming competitive with market rates when comparing its interest rates and loan packages. Since this audit was performed, CalVet has raised its general obligation bond ratings up to AA stable. This will give us access to lower rates in the financial market place. We are looking at selling bonds that would allow us to reduce our interest rates for new money loans without the need for an FHA approval. This should achieve a market interest rate within the first six months of calendar year 2011.

Estimated date of completion: Spring 2011

STATE CONTROLLER'S OFFICE
(Report Number 2009-501, October 2009)

State Mandates: Operational and Structural Changes Have Yielded Limited Improvements in Expediting Processes and in Controlling Costs and Liabilities

The California Constitution requires that whenever the Legislature or any state agency mandates a new program or higher level of service for a local entity, the State is required to provide funding to reimburse the associated costs, with certain exceptions. The Commission on State Mandates (Commission), the State Controller's Office (Controller), the Department of Finance (Finance), and local entities are the key participants in California's state mandate process. The Bureau of State Audits (bureau) examined the state mandates process under its authority to conduct both follow-up audits and those addressing areas of high risk. To follow up on our prior audits, we reviewed the status of the Commission's work backlogs and assessed how processing times had changed over the years. We also reviewed the Controller's efforts for using audits to identify and resolve problems in state mandate claims. Further, we evaluated how the State's mandate liability had changed from June 2004 to June 2008. Finally, we assessed the effect of recent structural changes on the state mandate process and summarized possible ways to accomplish the process more effectively.

The following table summarizes the Controller's progress in implementing the one recommendation the bureau made to the Controller in the above referenced report. As shown in the table, as of its one-year response, the Controller had not fully implemented one recommendation. Based on the Controller's most recent response one recommendation has been not fully implemented.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|--|
| 1 | 1 | 1 |

Below is the one recommendation that we determined was not fully implemented, followed by the Controller's most recent response.

Recommendation #1:

To ensure that it can meet its responsibilities, including a heightened focus on audits of state mandates, the Controller should work with Finance to obtain sufficient resources. Additionally, the Controller should increase its efforts to fill vacant positions in its Mandated Cost Audits Bureau.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

When the final audit report was issued, the Controller had 33 of the 43 mandated cost audit positions filled. The 10 vacancies were held vacant due to economic uncertainties that could negatively impact the Controller's budget. As anticipated, effective June 30, 2010, the Controller lost funding for 11 positions. At that time, the Controller had 25 of the 32 mandated costs audit positions filled.

We worked closely with Finance to restore funding for the 10 vacant positions, which are identified in the 2010 Budget Act adopted October 8, 2010. We continue to have 25 filled mandated costs audit positions. We plan to fill an additional 13 vacant positions by June 2011, resulting in 38 filled mandated costs audit positions.

Four positions currently are in the process of being filled and an additional nine positions will be advertised this month. We are cautiously filling the vacant positions because of continued budget uncertainties. We plan to set aside the remaining four vacant positions for continued budget uncertainties and salary savings.

Estimated date of completion: July 2011

COMMISSION ON STATE MANDATES

(Report Number 2009-501, October 2009)

State Mandates: Operational and Structural Changes Have Yielded Limited Improvements in Expediting Processes and in Controlling Costs and Liabilities

The California Constitution requires that whenever the Legislature or any state agency mandates a new program or higher level of service for a local entity, the State is required to provide funding to reimburse the associated costs, with certain exceptions. The Commission on State Mandates (Commission), the State Controller's Office (Controller), the Department of Finance (Finance), and local entities are the key participants in California's state mandate process. The Bureau of State Audits (bureau) examined the state mandates process under its authority to conduct both follow-up audits and those addressing areas of high risk. To follow up on our prior audits, we reviewed the status of the Commission's work backlogs and assessed how processing times had changed over the years. We also reviewed the Controller's efforts for using audits to identify and resolve problems in state mandate claims. Further, we evaluated how the State's mandate liability had changed from June 2004 to June 2008. Finally, we assessed the effect of recent structural changes on the state mandate process and summarized possible ways to accomplish the process more effectively.

The following table summarizes the Commission's progress in implementing the five recommendations the bureau made to the Commission in the above referenced report. As shown in the table, as of its one-year response, the Commission had not fully implemented one recommendation. Based on the Commission's most recent response, one recommendation has been not fully implemented.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|--|
| 5 | 1 | 1 |

Below is the one recommendation that we determined was not fully implemented, followed by the Commission's most recent response.

Recommendation #1:

To ensure that it resolves sufficiently its backlog of test claims, incorrect reduction claims, and the boilerplate amendment request, the Commission should work with Finance to seek additional resources to reduce its backlog, including test claims and incorrect reduction claims. In doing so, Commission staff should prioritize its workload and seek efficiencies to the extent possible.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

Commission staff discuss staffing and resource needs with Department of Finance staff and our Commission members on an ongoing basis each year. In order to submit a 2011–2012 budget change proposal, departments were required to meet the criterion in Budget Letter 10-23, as stated below:

General Fund Cost Containment Must Continue during this Fiscal Crisis

While there continue to be signs the economy is slowly improving, California continues to confront serious budgetary and cash problems. The preliminary projection for 2011–12 indicates a significant General Fund deficit that will need to be closed.

As a result, only the most critical Enrollment, Caseload and Population (ECP) requests will be considered, as well as Budget Change Proposals (BCPs) that address court mandates or conditions where any delay in funding would result in imminent, irreparable, and significant damage to the health or safety of persons or property in this state. Such requests must clearly explain why emergency funding has not been sought and why the funding cannot be delayed beyond 2011–12. All General Fund requests must be submitted with other General Fund reduction proposals that fully offset those costs, including proposed legislation to eliminate or reduce the entitlements for consideration with the ECP requests. BCPs to fund costs associated with court orders must include copies of the court orders and status of pending appeals.

The Commission could not meet this criterion, and therefore, did not submit a BCP for fiscal year 2011–2012. The Commission will continue to assess its resource needs and work with the Department of Finance and the Legislature to gain additional resources. However, according to the Legislative Analyst, the state is facing a \$25 billion budget deficit for the remainder of fiscal year 2010–2011 and fiscal year 2011–2012. Nevertheless, the Commission will continue to reduce the test claim and incorrect reduction claim backlogs using existing resources.

Estimated date of completion: Unknown

LEGISLATIVE, JUDICIAL, AND EXECUTIVE

STATE BAR OF CALIFORNIA (Report Number 2007-030, April 2007)

With Strategic Planning Not Yet Completed, It Projects General Fund Deficits and Needs Continued Improvement in Program Administration

The State Bar of California (State Bar), established by the California State Constitution, is a public corporation with a mission to preserve and protect the justice system. The law requires every person admitted and licensed to practice law in a court in California to be a member unless the individual serves as a judge in a court of record. The State Bar's 23-member board of governors (board) establishes policy and guides such functions as licensing attorneys and providing programs to promote the professional growth of members of the State Bar.

State law requires the Bureau of State Audits (bureau) to audit the State Bar's operations from January 1, 2006, through December 31, 2006, but does not specify topics the audit should address. For this audit we reviewed the implementation of the State Bar's long-range strategic plan, its financial forecasts of expected revenues and expenditures, its administration of the Legal Services Trust Fund Program (legal services program), and its implementation of the recommendations from our 2005 audit. The 2005 audit assessed how the State Bar monitored its disciplinary case backlog, followed procedures for processing disciplinary cases, prioritized cost recovery efforts, and updated forecasts of revenues and expenditures.

The following table summarizes the State Bar's progress in implementing the three recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the State Bar had not fully implemented any of the three recommendations. Based on the State Bar's most recent response, it has fully implemented two of the three recommendations.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2009-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 3 | 3 | 1 | 1 |

Below is the recommendation that we determined was not fully implemented, followed by the State Bar's most recent response.

Recommendation #1:

- a. The State Bar should continue its efforts to reduce its backlog of disciplinary cases to reach its goal of having no more than 200 such cases.
- b. The State Bar should ensure that staff use checklists of significant tasks when processing case files and fully implement its 2005 policy directive for random audits of case files by supervising trial counsel.

Bureau's assessment of status: **Not fully implemented**¹¹

¹¹ The Bureau of State Audits is statutorily required to audit the State Bar of California every two years. In a subsequent audit, Report Number 2009-030, *State Bar of California: It Can Do More to Manage its Disciplinary System and Probation Processes Effectively and to Control Costs*, we reported that these recommendations were not fully implemented. We will continue to track these recommendations under the most recent audit. Please refer to recommendations 3 and 4 at pages 154 through 157.

Auditee's Response to Recommendation a:

This backlog goal of 200 cases, articulated in 2007, is no longer a viable measure, and the State Bar is in the process of modifying this number for a benchmark more reflective of the existing increased workload and reduced resources.

Before 1998, the backlog goal was 400. The State Bar reduced its backlog goal to 250 and then 200 because of the decrease in complaints opened for investigations following the State Bar's shutdown during 1998-1999¹ and during 2000–2008 after operations were restored. The number of complaints opened for investigations in 2009 and those in 2010, as of September 30, (5,378 and 4,648 respectively) are closer to the numbers pre-dating 1998. This is a significant increase from the average of 3,170 for the period 2000-2008.²

While the workload has increased, budgetary constraints³ have forced the State Bar to eliminate 11 vacant staff positions (8 investigators and 3 attorneys) in its Office of the Chief Trial Counsel (OCTC). OCTC continues to make the backlog a priority and continues to focus substantial effort on keeping the backlog as low as possible. Productivity is up despite the increased workload. From January 1, 2010 to September 30, 2010, OCTC resolved 4,346 investigations compared to 2,635 investigations during the same period in 2009. However, because of the sharp rise in investigations opened without additional staffing, the backlog has grown⁴ in spite of OCTC's efforts. Accordingly, the State Bar is reviewing and is in the process of adjusting the goal for the number of its backlog cases to reflect these changed circumstances.⁵

Auditee's Response to Recommendation b:

To ensure that staff use checklists of significant tasks when processing case files, OCTC—as previously reported—provides training and reminders to all staff. All supervising Deputy Trial Counsel and managers are now regularly conducting a monthly spot check and review of open files under OCTC's written policy directive. In addition, OCTC conducts random audits of closed files to assure that checklists have been used and completed.

¹ After the Governor's veto in October 1997 of legislation to authorize the State Bar to collect annual membership fees necessary to fund its operation, the State Bar laid off approximately 500 of its employees in 1998 and was unable to resume full operations until January 2000, when funding was restored. In 1998 and 1999, the number of complaints opened for investigation dropped to 1,608 and 1,639, respectively. In contrast, the number of investigations opened in the three previous years were 5,720 (1995), 5,436 (1996), and 5,189 (1997).

² Until last year, the number of investigations opened each year since 2000 remained below those before 1998: 2,889 (2000), 3,089 (2001), 3,656 (2002), 2,969 (2003), 3,770 (2004), 3,196 (2005), 3,151 (2006), 3,010 (2007), and 2,802 (2008).

³ No increases to the licensing fees that lawyers must pay have been approved. The amount of the annual membership fee that may be collected from an active member of the State Bar remains at \$410, in contrast to the \$478 before 1998.

⁴ In May 2007, OCTC modified its backlog goal back to 250 cases. In 2007, the backlog was 327; in 2008, it was 290; and in 2009, it was 348.

⁵ Originally, the backlog goal was a percentage. The goal was for the State Bar to have completed by December 31, 1987, 80 percent of the open investigations exceeding 6-months and pending on March 31, 1985. R. Fellmeth, Final Report of Discipline Monitor (September 20, 1991), at p. 58. While subsequently the State Bar has used a fixed number—which, as indicated above, it has occasionally adjusted—it is now considering use of a ratio in place of a static number.

DEPARTMENT OF JUSTICE
(Report Number 2008-112, November 2008)

Electronic Waste: Some State Agencies Have Discarded Their Electronic Waste Improperly, While State and Local Oversight Is Limited

The Joint Legislative Audit Committee asked the Bureau of State Audits (bureau) to review state agencies' compliance with laws and regulations governing the recycling and disposal of electronic waste (e-waste). The improper disposal of e-waste in the State may present health problems for its citizens. According to the U.S. Environmental Protection Agency (USEPA), computer monitors and older television picture tubes each contain an average of four pounds of lead and require special handling at the end of their useful lives. The USEPA states that human exposure to lead can present health problems ranging from developmental issues in unborn children to brain and kidney damage in adults. In addition to containing lead, electronic devices can contain other toxic materials such as chromium, cadmium, and mercury. Humans may be exposed to toxic materials from e-waste if its disposal results in the contamination of soil or drinking water.

The following table summarizes the Department of Justice's (department) progress in implementing the three recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the department had not fully implemented one recommendation. Based on the department's most recent response, the recommendation has been fully implemented.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|--|
| 3 | 1 | 0 |

Below is the recommendation that we determined was fully implemented, followed by the department's most recent response.

Recommendation #1:

To avoid contaminating the environment through the inappropriate discarding of electronic devices, state agencies should ascertain whether the electronic devices that require disposal can go into the trash. Alternatively, state agencies could treat all electronic devices they wish to discard as universal waste and recycle them.

Bureau's assessment of status: **Fully implemented**

Auditee's Response:

It has always been the department's policy to properly dispose of unwanted or damaged equipment. In April 2010, the department's policy was revised and more clearly outlines what we consider to be e-waste and how it should be disposed of. A copy of this policy from the department's Administrative Manual (sections 11262 and 11263) is attached for your reference. As with all administrative policies, there is an ongoing effort to ensure education and compliance, especially with staff turnover. The department Property Controller actively works with the field property custodians throughout the state to help them identify an appropriate means of disposal for all surveyed equipment.

STATE BAR OF CALIFORNIA
(Report Number 2009-030, July 2009)

It Can Do More to Manage Its Disciplinary System and Probation Processes Effectively and to Control Costs

The California Business and Professions Code requires the State Bar of California (State Bar) to contract with the Bureau of State Audits (bureau) to audit the State Bar’s operations every two years, but it does not specify topics that the audit should address. For this audit, we focused on and reviewed the State Bar’s disciplinary system. To determine the efficiency and effectiveness of this system, we examined the State Bar’s discipline costs, the method by which the State Bar accounts for its discipline expenses, the outcomes of cases, the length of time that the State Bar takes to process cases, and the recovery of discipline expenses. We also evaluated the State Bar’s attorney probation system and its audit and review unit. Further, we reviewed the State Bar’s progress in addressing recommendations from reviews of its operations and the circumstances surrounding an alleged embezzlement by a former State Bar employee. Finally, we reviewed the status of the State Bar’s implementation of recommendations made in our 2007 audit titled *State Bar of California: With Strategic Planning Not Yet Completed, It Projects General Fund Deficits and Needs Continued Improvement in Program Administration*.

The following table summarizes the State Bar’s progress in implementing the 22 recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the State Bar had not fully implemented five recommendations. Based on the State Bar’s most recent response, four recommendations have been not fully implemented.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|--|
| 22 | 5 | 4 |

Below are the recommendations that we determined were not and were fully implemented, followed by the State Bar’s most recent response for each.

Recommendation #1:

To make sure that it is using the most cost-effective methods to recover discipline costs, the State Bar should complete a cost-benefit analysis to determine whether the benefits associated with using collection agencies outweigh the costs. If it determines that the collection agencies are, in fact, cost effective, the State Bar should redirect in-house staff to other disciplinary activities.

Bureau’s assessment of status: **Not fully implemented**

Auditee’s Response:

The State Bar has determined it is more beneficial and effective to use collection agencies to collect all delinquent accounts for discipline costs and has contracted with a new collection vendor under the Enhanced Collections Program of the Administrative Offices of the Court. The State Bar is currently in discussions with a second collection vendor, to help with handling the large number of delinquent accounts for the Client Security Fund. The goal is to reach an agreement and implementation on or before February 1, 2011.

Estimated date of completion: February 2011

Recommendation #2:

The State Bar should also research the various collection options available to it, such as the Franchise Tax Board's intercept program.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

The State Bar will follow the recommendation and re-explore legislation in the next legislative session to authorize its participation in the Franchise Tax Board's intercept program or other statutory programs, notwithstanding policy reasons for legislative denial of a similar proposal in 2001. (California State Auditor, Report No. 99030, p. 21; Sen. Com. On Judiciary of Sen. Bill No. 352 (2001–2002 Reg. Sess) as amended April 30, 2001, p. 7.)

Estimated date of completion: September 2011

Recommendation #3:

The State Bar should continue acting on recommendations from our 2007 report related to taking steps to reduce its inventory of backlogged cases.

Bureau's assessment of status: **Not fully implemented**

Auditee's Response:

Because of the significant increase in complaints opened for investigations in 2009 and 2010, as reported to the Bureau of State Audits by the State Bar in November 2010, the State Bar anticipates a significant increase in the number of cases that must be reported as backlogged as of December 31, under Business and Profession Code sections 6086.15 and 6094.5.¹ As of December 2, 2010, the number of pending investigations still open and not completed within the six- and 12-month goals of Section 6094.5 was 720 cases ("investigative backlog"). At the same time, under Section 6086.15, the inventory of cases where the investigations have been completed but notice of disciplinary charges have not yet been filed, was 1,093 ("notice opened inventory"), a reduction from the number reported as of December 31, 2009. To address the continued backlog, the State Bar's Office of Chief Trial Counsel (OCTC) has taken the following measures:

1. Goals

OCTC has set a goal of reducing the investigative backlog to 550-600 cases by the end of 2010 and continuing to reduce the Notice Open Inventory to 500 in 12 months. OCTC also adopted a goal to reduce the average age of the inventory, so that 75% of all cases would have charges filed or otherwise be resolved in six months, 95% in twelve months, and 100% in 18 months.

¹ A major cause of the increase in the State Bar's inventory of backlogged cases was the influx of a massive number of complaints regarding attorney misconduct in loan modification services. This occurred simultaneously with the collapse of the American housing market in late 2008 and early 2009, and the resulting need for legal services by many consumers seeking to avoid foreclosure or relief from their mortgages. Although the work of the OCTC Loan Modification Task Force has set a national model of cooperating with local, state and federal agencies that are also pursuing loan modification misconduct, the increased workload and number of complaints has resulted in a much larger inventory of backlogged cases.

2. **Creation of Notice Drafting Teams**
In August 2010, OCTC created dedicated teams of notice drafting attorneys. Over a dozen attorneys are involved - more than one quarter of the line attorney staff. This required shifting a number of attorneys from other duties to dedicated notice drafting. OCTC has, on occasion, used such teams in the past to significantly reduce the inventory of backlog cases.
3. **Everyone Pitches In**
In November, the Chief Trial Counsel instructed all attorneys not assigned to the notice drafting team to do two Notice Open cases per month, for a trial period of six months. This directive applies to every attorney in the office, from the most junior trial attorneys to the Chief Trial Counsel.
4. **Obtaining Assistance from other State Bar Attorneys**
OCTC has received assistance from other departments in the State Bar. Specifically, the Office of General Counsel has volunteered to draft a total of 75 notices prior to January 31, 2011. OCTC is researching other ways to bring more attorney resources to this project.
5. **Enhanced Settlement Authority**
OCTC has taken a number of steps to improve the settlement process. Enhanced settlement authority has been given to line attorneys acting within the established guidelines that ensure public protection. The State Bar is working with respondents' counsel to create a system for dedicated settlement days overseen by the State Bar Court.
6. **More Rapid Resolution of Minor Misconduct Cases**
There are a large number of pending cases in our disciplinary system, in all phases of investigation and prosecution, that involve only minor misconduct such as a matter where an attorney's failure to perform services did not significantly harm the rights of a client. In order to focus resources on the more serious cases, such as loan modification cases, it is imperative that the minor misconduct cases be moved through the system more quickly and resolved, when appropriate, at earlier stages than required at present. Accordingly, OCTC attorneys are now encouraged and authorized to resolve minor misconduct cases at the earliest possible stages with such remedies as warning letters, directional letters, and even dismissal where appropriate.
7. **Prioritization**
As a preliminary step to more efficient handling of matters pending in investigations, matters are subjected to a consistent prioritization based on the seriousness of the alleged acts of misconduct, with all matters rated on a 1-3 scale with one being the highest priority. This has allowed OCTC to identify and dispose of the lowest rated matters (those that do not involve serious infractions or harm to clients) with a variety of non-disciplinary remedies, including warning letters and directional letters.
8. **Intake Guidelines**
OCTC has revised its Intake policies to clarify the threshold for screening the sufficiency allegations before a matter is sent from Intake to Investigation.

9. Centralized Decision-Making Regarding Further Investigations

A common problem in getting disciplinary charges filed is that many attorneys seek further investigation before the filing of such charges. This is partly due to the differences between each attorney's determinations of the sufficiency of evidence necessary in a completed investigation. To bring more uniformity to these decisions, OCTC has now centralized the authority to request further investigation with two senior attorneys. In addition, when further investigation is necessary, these two attorneys will assure that the investigators give a high priority to cases returned for further investigation.

10. Uniform Office Policies to Draft More Concise Notices

OCTC has instructed its attorneys who draft notices of disciplinary charges to use a common format, incorporating short concise statements rather than lengthy pleadings. This efficiency will also help reduce our inventory.

The attitude of OCTC as it approaches this challenge is one of determination. OCTC has put in place a number of policies and procedures to reduce the backlog while preserving public protection. OCTC staff understands the primary mission of the State Bar of California is public protection and is dedicated to that mission.

Estimated date of completion: Unknown

Recommendation #4:

The State Bar should continue acting on recommendations from our 2007 report related to improving its processing of disciplinary cases by more consistently using checklists and performing random audits.

Bureau's assessment of status: **Not fully implemented***

Auditee's Response:

The State Bar recognizes the importance of consistently using the case file checklists and conducting the random audit of open investigations to achieve greater consistency in the processing of its cases.

As indicated in its most recent response, that State Bar believes that since March of 2009, the State Bar has been in substantial compliance with both the use of checklists and the random audit of open investigations.

However, there is still room for improvement, such as with the record keeping done in follow-up to each audit. Although there is documentation to show that the audits are being done regularly and consistently, the audit forms themselves do not always contain a staff signature as required. In addition, the audit policy requires that email follow-up between the supervising attorney and the investigator that reflects the corrective action taken be maintained. These emails are not being consistently maintained by all supervising trial counsel. The State Bar will continue to work to improve this process.

* Contrary to the bureau's determination, the auditee asserted in its latest response to us that it believes it has fully implemented the recommendation. However, the auditee did not substantiate its claim of full implementation.

With regard to the use of case file checklists, the checklists are being used regularly and consistently in all disciplinary case files as the case moves from intake to investigation to trial or litigation. In some instances, the checklists were not completely filled out at each stage. However, the process requires a completed checklist before a case can be moved on to the next stage. Moreover, data processing staff may not close out a file when a case is completed unless all of the checklists appear to be complete with all appropriate signatures included.

In some cases, the State Bar still notes that not all of the checkboxes that could be checked (including, for example, the “not- applicable” checkbox) are checked on every form. And, in some cases, the signature of the attorney who has completed review of the checklist does not appear on the checklist before having the file edited to the next stage. However, this does not appear to significantly diminish the fact that the checklists are being used in all disciplinary case files at each stage in the processing of the file. In addition, in the separate bi-annual audits of closed files, we have seen improvement in the overall use of the checklists. The State Bar is continuing to improve its use of the case file checklists by following-up with staff during trainings conducting after the random audit of closed files and individually by State Bar managers with staff, when appropriate.

In response to the State Auditor’s recommendation, the State Bar noted that automation of the checklists with its computer case management system would facilitate improved compliance with its policies on the use of checklists. It was initially planned to have the intake checklist fully automated by the end of 2010. The State Bar is hopeful that its IT department will be able to finish the automation of the intake checklist during the early part of 2011. Until the automation of the checklist is complete, the State Bar will continue to manually prepare the checklist and strive toward ever greater compliance.

Although perfect compliance with all aspects of the use of case file checklists and the random audit of open investigations may not be possible in each of the 10,000-plus files processed annually, the State Bar believes that it has substantially complied with the most significant aspects of both the use of checklists and the random audit of open investigations.

Recommendation #5:

To fulfill its responsibility to protect the public and its mission to assist attorneys to successfully complete the terms of their probation, the State Bar should ensure that it effectively communicates with and monitors attorneys on probation by continuing its efforts to determine the appropriate caseload level for its staff to effectively monitor probationers and adjust staffing as appropriate.

Bureau’s assessment of status: **Fully implemented**

Auditee’s Response:

Based on the consultant’s review of staffing and existing resources and the experience of the Probation Unit in meeting mission goals with its current staffing level, the State Bar has set a caseload 170 for probation deputies. To make appropriate adjustments as may be needed, the State Bar is continuing to monitor and evaluate this caseload on the effectiveness of staff to communicate and monitor probationers.

cc: Members of the Legislature
Office of the Lieutenant Governor
Milton Marks Commission on California State
Government Organization and Economy
Department of Finance
Attorney General
State Controller
State Treasurer
Legislative Analyst
Senate Office of Research
California Research Bureau
Capitol Press