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Bureau of State Audits

## Recommendations for Legislative Consideration From Audits Issued During 2009 and 2010



December 2010 Report 2010-701

SPECIAL REPORT

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# CALIFORNIA STATE AUDITOR

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December 7, 2010

2010-701

Dear Legislative Leaders and Members:

The State Auditor's Office is a resource to the Legislature to assist in its oversight and accountability of government operations. As such, my office conducts independent audits as mandated or as directed by the Joint Legislative Audit Committee. While our recommendations are typically directed to the auditee, we also make recommendations for the Legislature to consider in striving for more efficient and effective government operations. This special report summarizes those recommendations we made during calendar years 2009 and 2010 for the Legislature to consider, or recommendations for the auditee to seek legislative changes.

In this special report, we made some recommendations that are intended to increase revenue available to programs. For example, we estimate that the Department of Public Health (Public Health) could have collected nearly \$3.3 million more in revenue if Public Health had the authority to adjust penalty amounts for the State Health Facilities Citation Penalties Account and the Federal Health Facilities Citation Penalties Account (federal account) at the rate of inflation. Additionally, we made other recommendations to change state laws that would help increase revenues to these accounts. On page 3 of this report, we discuss these recommendations, including concerns raised by the Legislature about the future solvency of the federal account.

Additionally, in other instances, we made recommendations to improve oversight of state-funded activities. For example, if the Department of Developmental Services (Developmental Services) believes that it currently does not have the authority to do so, it should seek legislative authority to provide more effective oversight of the regional centers' rate-setting practices. We found that under Developmental Services' limited monitoring, regional centers have established vendor payment rates that have the appearance of fiscal irresponsibility. We describe this recommendation on page 9 of this report.

This report also includes an Appendix that starts on page 17, includes a listing of legislation chaptered or vetoed during the 2009–10 Regular Legislative Session based, at least in part, on recommendations from our audit reports.

If you would like more information or assistance regarding any of the recommendations or the background provided in this report, please contact Debbie Meador, Chief of Legislative Affairs, at (916) 445-0255, extension 292.

Respectfully submitted,



ELAINE M. HOWLE, CPA  
State Auditor

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# Department of Health Care Services

## Streamline Medi-Cal Treatment Authorizations

### Recommendations

Department of Health Care Services (Health Care Services) should abolish its policy of responding to drug treatment authorization requests (TARs) by the end of the next business day and should instead ensure that prior-authorization requests to dispense drugs are processed within the legally mandated 24-hour period. Alternatively, it should seek formal authorization from the Centers for Medicare and Medicaid Services to deviate from the 24-hour requirement, and should seek a similar modification to state law. This will ensure that California Medical Assistance Program (Medi-Cal) recipients receive timely access to prescribed drugs.

Additionally, Health Care Services should seek legislation to update existing laws and amend its regulations to render them consistent with its TAR practices. Current state law and regulations specifically require prior authorization for certain medical services; however, Health Care Services generally does not require prior authorizations in practice.

### Background

The Department of Health Services administered Medi-Cal until 2007, when the State reorganized it under the California Public Health Act of 2006, which, among other things, divided the Department of Health Services into Health Care Services and the Department of Public Health. Since the reorganization, Health Care Services has been responsible for administering Medi-Cal. Federal regulations require Health Care Services to implement a utilization program to, among other things, control the provision of Medi-Cal services to safeguard against any unnecessary or inappropriate use of those services or excess payments. State law specifies that Health Care Services may require providers to receive its authorization before rendering certain services, known as “prior authorization.”

Currently, Health Care Services is not processing drug TARs within legal time limits for prescriptions requiring prior approval. Specifically, it took longer than 24 hours to respond to 84 percent and 58 percent of manually adjudicated drug TARs in fiscal years 2007–08 and 2008–09, respectively, although federal and state law generally require that, when Health Care Services requires a prior authorization before a pharmacist may dispense a drug, it must respond within 24 hours of its receipt of the request for authorization.

Further, state law and regulations specifically require prior authorization for certain medical services. For example, state law requires prior authorization for inpatient hospice services, and state regulations require that intermediate care services be covered only after prior authorization is obtained from a Medi-Cal consultant. Despite this, Health Care Services indicated that it generally does not require prior authorization in practice, and that providers bear the financial risk if a TAR is submitted retroactively because the provider will not be reimbursed for the service if Health Care Services denies the TAR due to a lack of medical necessity supporting the requested service. Additionally, Health Care Services does not

specifically monitor its processing times for prior-authorization medical TARs despite its acknowledgement that state law requires that TARs submitted for medical services not yet rendered must be processed within an average of five working days.

**Report**

*2009-112 Department of Health Care Services: It Needs to Streamline Medi-Cal Treatment Authorizations and Respond to Authorization Requests Within Legal Time Limits (May 2010)*

## Department of Public Health

### Opportunities to Increase Revenue in State and Federal Health Facilities Citation Penalties Accounts

#### Recommendations

To increase revenue for the State Health Facilities Citation Penalties Account (state account), the Department of Public Health (Public Health) should seek legislation authorizing Public Health to require facilities that want to contest a Civil Money Penalty (monetary penalty) to pay the penalty upon its appeal, which could then be deposited into an account within a special deposit fund. The original monetary penalty deposited, plus interest accrued in the account, should then be liquidated in accordance with the terms of the decision.

To increase revenue in both the state account and the Federal Health Facilities Citation Penalties Account (federal account), Public Health should seek legislation to:

- Periodically revise the penalty amounts to reflect an inflation indicator, such as the Consumer Price Index.
- Impose a monetary penalty and also recommend that the Centers for Medicare and Medicaid Services (CMS) impose a monetary penalty when Public Health's Licensing and Certification Division (division) determines that a facility is not complying with both state and federal requirements.
- Specify a time frame within which facilities with non-appealed citations that do not qualify for a 35 percent reduction must pay their monetary penalties and allow Public Health to collect interest on late payments of monetary penalties.

To ensure that citation review conferences are completed expeditiously, Public Health should also seek legislation amending its citation review conference process to more closely reflect the federal process by prohibiting facilities from seeking a delay of the payment of monetary penalties on the grounds that the citation review conference has not been completed before the effective date of the monetary penalty.

#### Background

Public Health is responsible for licensing and monitoring certain health facilities, including more than 2,500 long-term health care facilities (facilities). Teams of evaluators from Public Health's division inspect facilities to ensure that they meet applicable federal and state requirements and investigate any complaints made against a facility. Generally, if a team finds during a survey or complaint investigation that a facility is not in compliance with a state requirement, the division may impose a monetary penalty, and if the team finds noncompliance with a federal requirement, it may make a recommendation to the CMS that it impose a monetary penalty. Monetary penalties collected from facilities are deposited into either the state or the federal accounts, depending on the nature of the noncompliance. Public Health uses the funds in these accounts primarily to pay for temporary management companies, which are firms it appoints to take control of a facility that

violates applicable requirements. In recent years, the Department of Aging (Aging) has received an appropriation from the federal account for its Long-Term Care Ombudsman Program (ombudsman program), which is charged with investigating and seeking to resolve complaints made by, or on behalf of, facilities' residents.

However, the Legislature raised concerns about the solvency of the federal account and whether it will be able to support existing services that protect residents of facilities. Specifically, since at least fiscal year 2004–05, Public Health or its predecessor<sup>1</sup> has overstated the fund balances—the amount available for appropriation—for the federal account on the fund condition statements that are included in the governor's budget each year. Of particular note is that Public Health overstated the fund balance by \$9.9 million for fiscal year 2008–09. In fact, Public Health estimates that the fund balance for the federal account will be approximately \$345,000 by June 30, 2010, and will decrease to \$249,000 by June 30, 2011. Errors made in the fund condition statements have masked the fact that the federal fund is now nearly insolvent and this condition may adversely affect services provided by Aging's ombudsman program designed to help protect residents of facilities from abuse and neglect.

Revenue for the state and federal accounts is derived from citations imposing monetary penalties that Public Health's division or CMS issue depending on whether the violation cited is with state or federal requirements. Although the division generally collects payments for all of the citations it issues for which the facilities choose not to appeal that are collectable, the amounts it ultimately collects are less than those originally imposed mainly because state law permits a 35 percent reduction to the monetary penalty if it is paid within a specified time frame. Specifically, during the nearly seven-year period covered in the audit, the division imposed \$8.4 million in monetary penalties but collected only \$5.6 million. Furthermore, a significant amount of their penalties are stalled in the appeals process. From fiscal year 2003–04 through March 15, 2010, facilities appealed citations totaling \$15.7 million in monetary penalties. Of this amount, citations of nearly \$9 million were still under appeal and some of these citations were contested roughly eight years ago. The large number of citations stalled in the appeals process is likely due to incentives the appeals process offers facilities, including the delay of payment until the appeal is resolved and the potential that the monetary penalty will be significantly reduced. In fact, 71 percent of the citations issued, appealed, and resolved in the time period covered by the audit received reductions to the original amount imposed. In particular, of the \$5.3 million imposed by citations that were appealed and ultimately reduced, facilities were required to pay only \$2.1 million.

The audit identified several opportunities for Public Health to increase revenue for both the state and federal accounts by seeking changes to state law and by ensuring the division adheres to current law. For example, we estimate that had the monetary penalties for citations been revised at the rate of inflation, Public Health could have collected nearly \$3.3 million more in revenue for the state account.

## Report

*2010-108 Department of Public Health: It Reported Inaccurate Financial Information and Can Likely Increase Revenues for the State and Federal Health Facilities Citation Penalties Accounts (June 2010)*

<sup>1</sup> On July 1, 2007, the Department of Health Services (Health Services) was reorganized and became two departments: the Department of Health Care Services and Public Health. Before it was reorganized, Health Services administered the state and federal accounts. Public Health now administers these accounts.



## Department of General Services

### Clarify the Intended Use of Small Business and Disabled Veteran Business Enterprises as Subcontractors

#### Recommendations

The Legislature could provide more clarity regarding the use of small business and Disabled Veteran Business Enterprise (DVBE) subcontractors on state contracts. In doing so, the Legislature should consider the following policy questions associated with the Office Depot contract and revise state law as it deems appropriate. Specifically, the Legislature should consider whether:

- A business relationship such as the one between Office Depot and its subcontractors is what the Legislature envisioned when it created the commercially useful function requirements.
- A firm should be required to have demonstrated experience in a particular line of business before being allowed to participate in state contracts.
- The State should prohibit contractors, which are capable of performing the task contracted for, from subcontracting with small businesses and DVBEs at the cost of eliminating participation opportunities for these entities.
- It is in the State's best interest to limit a particular line of business, such as office supplies, to a relatively small number of small business and DVBE subcontractors rather than the many small businesses and DVBEs that could contract with the State in the absence of strategic sourcing.

The Legislature should then revise state law as it deems appropriate.

#### Background

The Department of General Services (General Services) serves as the business manager for the State and has the authority to establish various types of contracts that leverage the State's buying power. Depending on the volume of purchases for certain goods, General Services might enter into a statewide contract for state agencies to use in meeting their needs. In June 2004, in anticipation of a recommendation by the governor's California Performance Review, General Services awarded a three-year contract to CGI-American Management Systems (CGI) to assist in implementing its strategic-sourcing initiative. The purpose of strategic sourcing was to enter into statewide contracts that leveraged the State's purchasing power to save money on the goods and services purchased most frequently by state agencies.

General Services takes steps to ensure that small businesses and DVBEs are given equitable opportunities to be chosen for a contract. However, the very nature of strategic sourcing, which consolidates expenditures into statewide contracts to achieve lower prices, also can result in fewer contracting opportunities for small businesses and DVBEs. For certain mandatory statewide contracts, including strategically sourced contracts, General Services provides state

agencies with the option to contract directly with small businesses and DVBEs in order to meet their required participation goals. Nevertheless, the extent to which strategic sourcing has affected the number of small businesses and DVBEs contracting with the State is unclear. State law requires that small businesses and DVBEs must perform commercially useful functions in providing goods or services that contribute to the fulfillment of a state contract. Such requirements are designed to ensure that the firms play a meaningful role in any contract in which they participate.

### **Report**

**2009-114** *Department of General Services: It No Longer Strategically Sources Contracts and Has Not Assessed Their Impact on Small Businesses and Disabled Veteran Business Enterprises* (July 2010)

Note: Chapter 342, Statutes of 2010 (AB 177) increased penalties, among other things, for persons who incorrectly obtain classification as a small business.

Note: Chapter 383, Statutes of 2010 (AB 2249), among other things, specified that 51 percent of Disabled Veteran Business Enterprises must be unconditionally owned by one or more disabled veterans.

## Department of Public Health

### Seek Guidance to Better Manage Spending for Every Woman Counts Program

#### Recommendation

To ensure that the Department of Public Health (Public Health) can maintain fiscal control over the Every Woman Counts (EWC) program, it should seek legislation or other guidance from the Legislature to define actions the program may take to make sure that spending stays within amounts appropriated for a fiscal year.

#### Background

The EWC program is administered by Public Health. Spending nearly \$52.1 million in fiscal year 2008–09 the EWC program provides funding for breast and cervical cancer screening services for low-income women. During fiscal year 2008–09, Public Health provided EWC services to nearly 350,000 women. Under the EWC program, medical providers submit claims to the State for the screening services they provide to women enrolled in the program. Although the EWC program provides health-related services to low-income women, the establishing laws did not structure it as an entitlement program. The number of breast and cervical cancer screenings provided—and by extension the number of women served by the EWC program—is inherently limited each year by the level of spending authorized by the Legislature.

The EWC program is funded both by state funds—tobacco tax revenue—and by a federal grant provided by the Centers for Disease Control and Prevention (CDC). However, declines in proceeds from tobacco taxes, along with the fiscal pressures placed on the State's budget resulting from the economic recession, will likely make funding the EWC program more difficult for the Legislature in the future. In June 2009 Public Health informed the Legislature that it would require a \$13.8 million budget augmentation to pay for actual and projected claims during fiscal years 2008–09 and 2009–10. Public Health also took steps to reduce the number of women eligible for the EWC program by imposing more stringent eligibility standards and freezing new enrollment for six months beginning in January 2010.

Although Public Health's EWC program has faced declining revenues and increased costs in recent years, state law only requires Public Health to provide breast cancer screening at the level of funding appropriated by the Legislature. According to Public Health, given the high profile of the EWC program, its political sensitivity, and the potential for public outcry, there has been a reluctance to limit services to women in the past. However, such an approach can cause Public Health to spend through its available funding before the fiscal year concludes if more women than expected access screening services.

Recognizing that its clinical claims' budget is based on expenditure trends and growth rates, Public Health needs to work with the Legislature to establish how it should respond when the demand for screening exceeds budget assumptions. Public Health's decision to impose more stringent eligibility requirements beginning January 1, 2010, and to temporarily freeze

new enrollment in the EWC program for a six-month period as a cost-containment measure caused frustration with certain members of the Legislature. Even though the Legislature ultimately appropriated additional funding for the EWC program for fiscal years 2008–09 and 2009–10, Public Health could have helped establish expectations for the EWC program upfront during the budget process, stating how many women would be served at a certain level of funding, as it does with its federal award from CDC. If it had done so, Public Health would have been able to indicate whether or not the program had already served the agreed-upon number of women and help the Legislature decide whether the additional funding was necessary.

### **Report**

**2010-103R** *Department of Public Health: It Faces Significant Fiscal Challenges and Lacks Transparency in Its Administration of the Every Woman Counts Program* (July 2010)

Note: Assembly Bill 1640 of the 2009–10 Regular Legislative Session would have, among other things, required Public Health to notify the Legislature at least 90 days prior to changing EWC eligibility requirements. However, the governor vetoed this bill on September 29, 2010.

## Department of Developmental Services

### Ensure Ability to Provide Effective Oversight of Rate-Setting Practices

#### Recommendation

The Department of Developmental Services (Developmental Services) should provide effective oversight of the regional centers' rate-setting practices. If Developmental Services believes it needs statutory or regulatory changes to implement this recommendation, it should seek these changes.

#### Background

Californians with developmental disabilities may obtain community-based services via California's network of 21 regional centers—private, nonprofit organizations receiving primary funding and oversight from Developmental Services. In addition to helping their clients (consumers) obtain services from school districts, local governments, and other federal and state agencies, the regional centers purchase services such as transportation, health care, respite care, day programs, and residential care from a variety of private providers (vendors). Together these services are meant to meet the unique needs and choices of each consumer so that he or she may live as independently as possible and participate in the mainstream life of the community in which he or she resides.

In the Lanterman Developmental Disabilities Services Act (Lanterman Act), originally enacted in 1969 and subsequently amended, the State accepted responsibility for providing services and support to consumers and created the network of regional centers to meet this responsibility. The Lanterman Act defines developmental disabilities as mental retardation, cerebral palsy, epilepsy, autism, and other conditions that are closely related to or require treatment similar to that for mental retardation. Additionally, the Lanterman Act states that the disability must be a "substantial" disability that originated before the person turned 18 years old and can be expected to continue indefinitely.

According to Developmental Services, approximately 240,000 consumers receive services from the regional centers. In fiscal year 2009–10, Developmental Services' community-based services program was expected to spend more than \$4 billion. Of this amount, more than \$3.4 billion was for direct services purchased by the regional centers for consumers and provided by private vendors. The regional centers themselves were expected to spend approximately \$543 million for their operations, their administration, and an early intervention program for children from birth to 3 years old. Developmental Services expects to spend about \$22.3 million to oversee the regional centers.

Provisions of the Lanterman Act and the regulations promulgated to carry this act out, specify how regional centers are to ensure that services purchased for consumers are allowable. However, state law and regulations allow regional centers to establish many vendor payment rates through negotiation with the vendor, and Developmental Services' monitoring activities have provided only limited assurance that the payment rates established in this way are reasonable. Left to their own discretion, the regional centers have, at times,

used some best practices when establishing rates, but more frequently they have not supported established rates with an appropriate level of analysis. At times, regional centers have established payment rates under circumstances that had the appearance of vendor favoritism or fiscal irresponsibility, or that did not comply with recent legislation intended to control the costs of purchased services. Further, although reviews conducted by Developmental Services examine whether a sample of invoices comply with the applicable rate methodology, they do not typically examine how regional centers establish the applicable rate.

**Report**

**Report 2009-118** *Department of Developmental Services: A More Uniform and Transparent Procurement and Rate-Setting Process Would Improve Cost-Effectiveness of Regional Centers* (August 2010)

## Dymally-Alatorre Bilingual Services Act

### Ensure State Personnel Board Fulfills Its Responsibilities Under the Act

#### Recommendations

The State Personnel Board (Personnel Board) should seek enough additional staff to fulfill its obligations under the Dymally-Alatorre Bilingual Services Act (Act), or it should seek changes to the Act that would reduce its responsibilities and make them commensurate with its staffing levels.

#### Background

The Act, enacted by the Legislature in 1973 and last amended in 2007, is intended to provide for effective communication between the State's residents and their state, county, and municipal governments. The Act is also intended to ensure that individuals who do not speak or write English or whose primary language is not English are not prevented from using public services because of language barriers. The Act addresses two factors that concerned the Legislature when it was enacted. First, the Legislature found that a substantial portion of California's population could not communicate effectively with government because these individuals spoke a different language than English. Second, employees of state agencies and local government agencies (local agencies) frequently were unable to communicate with constituents requiring their services. Because of these two factors, the Legislature declared that individuals with limited proficiency in English were being denied rights and benefits to which they were entitled.

In defining how its requirements are to be met, the Act distinguishes between state and local agencies. It establishes specific legal mandates for state agencies<sup>2</sup>, including the Personnel Board. In contrast, the Act allows local agencies significant discretion in establishing the level and extent of bilingual services they provide.

The current audit found that the Personnel Board has not implemented key recommendations from our 1999 report and that it is not meeting most of its responsibilities under the Act. Specifically, the Personnel Board has not informed all state agencies of their responsibilities under the Act, and it has not ensured that state agencies conduct language surveys to assess their clients' language needs. Additionally, the Personnel Board does not obtain necessary information from state agencies that would allow it to evaluate their compliance with the Act. Furthermore, the Personnel Board does not order deficient agencies to take the necessary actions to make sure that they have sufficient qualified bilingual staff and translated written materials to ensure that individuals who do not speak or write English or whose primary language is not English are not prevented from using public services. Moreover, the Personnel Board's complaint process needs improvement because it does not ensure that complaints are resolved in a timely manner, and its report to the Legislature still does not adequately address whether state agencies are complying with the Act. Because the Personnel Board is not

<sup>2</sup> In this summary, *state agency* is the term used to specify state offices, departments, divisions, bureaus, boards, and commissions, except those specifically exempted from the definition in the California Government Code, Section 11000.

meeting its statutory responsibilities to monitor and enforce state agencies' compliance with the Act, the State cannot be certain that individuals with limited proficiency in English have equal access to public services. The Personnel Board's bilingual services program manager cited a lack of resources as the primary reason that the Personnel Board is not meeting its responsibilities.

### **Report**

**Report 2010-106** *Dymally-Alatorre Bilingual Services Act: State Agencies Do Not Fully Comply With the Act, and Local Governments Could Do More to Address Their Clients' Needs* (November 2010)



## Information Technology Services Contracting

### Require State Agencies to Abide by State Personnel Board Rulings Regarding Information Technology Contracts

#### Recommendations

To create more substantive results from the reviews conducted by the State Personnel Board (Personnel Board) under California Government Code, Section 19130 (b), the Legislature should do the following:

- Specify that contracts disapproved by the Personnel Board must be terminated and require state agencies to provide documentation to the Personnel Board and the applicable unions to demonstrate to the satisfaction of the Personnel Board the termination of these contracts.
- Clarify when state agencies must terminate contracts disapproved by the Personnel Board, when payments to the contractors must cease, and for what periods of service the contractors are entitled to receive payments.
- Prohibit state agencies from entering into subsequent contracts for substantially the same services as specified in contracts under the Personnel Board's review without first notifying the Personnel Board and the applicable unions, allow unions to add these contracts to the Personnel Board's review of the original contracts, and allow the Personnel Board to disapprove the subsequent contracts as part of its decision on the original contracts.
- Require state agencies that have contracts disapproved by the Personnel Board to obtain preapprovals from the Personnel Board before entering into contracts for substantially the same services.

Further, if an agency enters into a contract without the Personnel Board's preapproval, the Legislature should allow the applicable union to challenge this contract and prohibit the agency from arguing that the contract was justified under California Government Code, Section 19130(a) or (b). Instead, the Personnel Board should resolve only whether the subsequent contract is for substantially the same service as the disapproved contract.

#### Background

The California Supreme Court has recognized that the California Constitution contains an implied civil service mandate, which prohibits state agencies from contracting with private entities to perform work that the State has historically and customarily performed and that it can perform adequately and competently. State law allows state agencies to contract for these services—rather than employing civil servants—under specified conditions, and it places responsibility with the Personnel Board to review these contracts upon request by state employee representatives (unions). Over the last five years, the Personnel Board has disapproved 17 information technology (IT) contracts executed by the Department of Health Care Services (Health Care Services), Department of Public Health (Public Health),

and Department of Health Services (Health Services).<sup>3</sup> The Personnel Board disapproved the IT contracts because the departments, upon formal challenges from a union, could not adequately demonstrate the legitimacy of their justifications for contracting under the California Government Code, Section 19130(b), which provides 10 conditions under which state agencies may contract for services rather than use civil servants to perform specified work. These conditions include such circumstances as the agencies needing services that are sufficiently urgent, temporary, or occasional, or the civil service system's lacking the expertise necessary to perform the service.

Although the union prevailed in 17 of its 23 IT contract challenges, many of the Personnel Board's decisions were moot because the contracts had already expired before the Personnel Board rendered its decisions. This situation occurred primarily because the union raised challenges late in the terms of the contracts and because the Personnel Board's review process was lengthy. Of the six IT contracts that were active at the time of the Personnel Board's decisions, only three were terminated because of the Personnel Board's disapprovals. Our legal counsel believes that uncertainties exist about whether or not a contract disapproved by the Personnel Board is void and about the legal effect of a void contract. Because the legal effect of a board-disapproved contract is uncertain, it may be helpful for the Legislature to clarify when payments to the related contractor must cease and for what periods of service a vendor may receive payments.

For each of the other three IT contracts, the departments either terminated the contract after a period of time for unrelated reasons or allowed it to expire at the end of its term. Because the board lacks a mechanism for determining whether state agencies comply with its decisions, the departments experienced no repercussions for failing to terminate these contracts.

Although not prohibited by law from doing so, the departments entered into numerous subsequent contracts for the same services as those in the contracts previously disapproved by the Personnel Board. In one case, the Personnel Board disapproved an IT contract for the same service from the same supplier that it had already disapproved in an earlier union challenge. Without some limitation on subsequent same-service contracts, Personnel Board decisions related to Section 19130 (b) of the California Government Code will often affect only contracts with terms that have expired or will soon expire, and the decisions will not preclude similar contracts from immediately replacing those that the Personnel Board disapproves. As a result, all the effort and resources spent reviewing challenged IT contracts would seem to be an inefficient use of state resources.

## Report

*2009-103 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* (September 2009)

Note: Assembly Bill 2494 of the 2009–10 Regular Legislative Session would have required state agencies to discontinue contracts disapproved by the Personnel Board unless otherwise directed by the Personnel Board, and generally would have prevented state agencies from entering into another contract for the same or similar services. However, this bill was vetoed by the governor on September 23, 2010.

<sup>3</sup> On July 1, 2007, Health Services became Health Care Services, and Public Health was established. All contracts disapproved by the board were originally executed by Health Services. However, the management of these contracts was performed by either Health Services, Health Care Services, or Public Health.

## Department of Veterans Affairs

### Modify State Law to Authorize Additional Services to Veterans

#### Recommendation

If the Legislature believes that the Department of Veterans Affairs (Veterans Affairs) should play a larger role in providing transitional housing for veterans, or addressing the housing needs of homeless veterans, it should modify or clarify state law to authorize the department to provide such services.<sup>4</sup>

#### Background

The mission of Veterans Affairs is to serve veterans and their families through various activities generally administered by three areas within the department—the Veterans Homes division, the CalVet Home Loan program (CalVet program), and the Veterans Services division—and by relying on a network of service providers—the federal VA, nonprofit entities, and counties—that offer support and assistance to the State’s veterans.

Assembly Bill 2670 of the 2007–08 Regular Legislative Session became effective January 2009 and authorizes Veterans Affairs to apply to the California Debt Allocation Committee for permission to issue private activity bonds for qualified residential rental projects (residential projects). According to a legislative committee analysis, the legislation that enacted this law sought to address the need for transitional and permanent housing for veterans and their families by identifying a source of funding Veterans Affairs could use to fund affordable multifamily housing. However, according to the deputy secretary of the CalVet program, the law does not authorize Veterans Affairs to use the money derived from the sale of private activity bonds to fund residential projects, and legislation would need to be passed explicitly permitting the CalVet program to make loans for these projects. The State Auditor’s legal counsel agrees that the state law would need to be clarified for Veterans Affairs to construct or make loans for their projects and the law would need to be further clarified if the Legislature’s desire was to limit residency in these projects to veterans, because it does not authorize Veterans Affairs to impose this limitation.

#### Report

*2009-108 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 CalVet Home Loan Program Is Not Designed to Address the Housing Needs of Some Veterans* (October 2009)

Note: Assembly Bill 1330 of the 2009–10 Regular Legislative Session was chaptered on October 11, 2009. Although it does not specifically implement this recommendation, it gives Veterans Affairs the authority to establish a cooperative housing pilot project.

<sup>4</sup> Chapter 542, statutes of 2010 (Assembly Bill 2087) expanded the definition of home for the purposes of the CalVet Home Loan Program, and thereby partially implemented a legislative recommendation made in audit Report 2009-108. As a result, the summary of this recommendation has been modified to exclude legislative action already taken.

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## Appendix

### Legislation Chaptered or Vetoed During the 2009–10 Regular Legislative Session

The information in Table A briefly presents bills that were either chaptered or vetoed during the 2009–10 Regular Legislative Session, and were based at least in part, on recommendations from a state auditor’s report or the analysis of the bill relied in part on a state auditor’s report.

**Table A**  
 Legislation Chaptered or Vetoed During the 2009–10 Regular Legislative Session

BILL NUMBER/ CHAPTER	REPORT (ABBREVIATED TITLE)	LEGISLATION CHAPTERED OR VETOED
<b>Corrections and Rehabilitation</b>		
AB 1239 Vetoed	2009-107.1 California Department of Corrections and Rehabilitation (September 2009)	Would have required the Department of Corrections and Rehabilitation to implement funding adjustments to inmate academic and vocational education programs in a manner consistent with priorities identified in the bill. Vetoed September 29, 2010
SB 1399 Chapter 405, Statutes of 2010	2009-107.2 California Department of Corrections and Rehabilitation (May 2010)	Generally provides that prisoners deemed permanently medically incapacitated shall be granted medical parole if the Board of Parole Hearings determines that the prisoner would not reasonably pose a threat to public safety. Chaptered September 28, 2010
<b>Education</b>		
AB 635 Chapter 438, Statutes of 2010	12003-2 Investigations of Improper Activities by State Employees (September 2003)	Requires certain consultants to disclose financial relationships with persons in connection with a public school or community college roofing project contract, and redefines equal substitutes allowed for specific roofing materials. Chaptered September 29, 2010
<b>General Government</b>		
AB 43 Vetoed	2000-133 California Earthquake Authority (February 2001)	Would have amended the California Earthquake Authority enabling statute with intent to make the authority mitigation program more effective. Vetoed October 11, 2009
AB 930 Chapter 128, Statutes of 2009	2007-111 California State Highway Patrol Contracting Practices (January 2008)	Clarifies that actions taken by the Department of General Services related to exempting the State Administrative and Contracting manuals from the Administrative Procedure Act. Chaptered August 6, 2009
AB 1270 Vetoed	2008-113 Victim Compensation and Government Claims Board (December 2008)	Would have required the Victim Compensation and Government Claims Board to adopt written procedures and time frames for processing claims. Vetoed October 11, 2009
AB 2087 Chapter 542, Statutes of 2010	2009-108 Department of Veterans Affairs (October 2009)	Expands the definition of “home” for purposes of the CalVet Loan program to include two to four unit residences that otherwise meet the requirements of the Internal Revenue Code. Chaptered September 29, 2010
AB 2784 Vetoed	2009-108 Department of Veterans Affairs (October 2009)	Among other things, would have made changes to the size and membership of the California Veterans Board. Vetoed September 29, 2010
<b>Health</b>		
AB 1640 Vetoed	2009-103R Every Woman Counts (July 2010)	Among other things, would have required Department of Public Health to notify the Legislature at least 90 days prior to changing eligibility requirements for the Every Woman Counts program. Vetoed September 29, 2010
<b>Higher Education</b>		
SB 48 Chapter 161, Statutes of 2009	2007-116 Affordability of College Textbooks (August 2008)	In general, requires publishers that offer textbooks to postsecondary education institutions to make textbooks available in whole, or in part, in electronic format by January 1, 2020. Chaptered October 11, 2009

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BILL NUMBER/ CHAPTER	REPORT (ABBREVIATED TITLE)	LEGISLATION CHAPTERED OR VETOED
<b>Human Services</b>		
AB 1049 Vetoed	2007-124 <i>Safely Surrendered Baby (October 2008)</i>	Would have created a potential funding stream for outreach for the Safely Surrendered Baby Law. Vetoed October 11, 2009
<b>Judiciary</b>		
SB 641 Vetoed	2009-030 <i>California State Bar (July 2009)</i>	Would have continued State Bar's authority to collect annual dues. Bill analysis and veto message refer to this audit and prior State Bar audits. Vetoed October 11, 2009
<b>Natural Resources</b>		
AB 1052 Chapter 381, Statutes of 2009	2008-115 <i>Delta Fishing Stamp (October 2008)</i>	Among other things, requires the Department of Fish and Game to develop a spending plan for the Bay-Delta Sport Fishing Stamp Fund. Chaptered October 11, 2009
<b>Public Safety</b>		
AB 275 Chapter 228, Statutes of 2009	2004-114 <i>Missing Persons DNA Program (June 2005)</i>	Deletes the sunset date for the provisions that authorize the collection of a fee that supports the Missing Persons DNA Database Program. Chaptered October 11, 2009
SB 583 Chapter 55, Statutes of 2009	2007-115 <i>Sex Offender Group Home Licensing (April 2008)</i>	Requires the Department of Justice to identify the type of residence at which certain sex offenders live, and to share this information with other state agencies. Chaptered August 6, 2009
<b>State and Consumer Services</b>		
AB 501 Chapter 400, Statutes of 2009	2007-038 <i>Medical Board of California (October 2007)</i>	Among other things, this bill requires the Medical Board of California to set the licensing fee for physicians and surgeons, and would retain the board's authority to increase the annual license fee under certain conditions. Chaptered October 11, 2009
AB 2494 Vetoed	2009-103 <i>Information Technology Services Contracting (September 2009)</i>	Would have required state agencies to immediately discontinue a contract that has been disapproved by the State Personnel Board, unless otherwise ordered. Vetoed September 23, 2010
SB 744 Chapter 201, Statutes of 2009	2007-040 <i>Department of Public Health: Clinical Laboratories (September 2008)</i>	Bill revises licensing and certification requirements for clinical laboratories, revises licensing fees, and makes other administrative changes. Chaptered October 11, 2009