

# CALIFORNIA STATE AUDITOR

## Bureau of State Audits

### Implementation of State Auditor's Recommendations

Audits Released in January 2010 Through December 2011

Special Report to  
*Assembly and Senate  
Standing/Policy Committees*



SPECIAL REPORT

March 2012 Report 2012-406

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# CALIFORNIA STATE AUDITOR

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March 22, 2012

2012-406

The Governor of California  
Members of the Legislature  
State Capitol  
Sacramento, California 95814

Dear Governor and Members of the Legislature:

The California State Auditor presents this special report for the legislative standing/policy committees, which summarizes audits and investigations we issued from January 2010 through December 2011. This report includes the major findings and recommendations along with the corrective actions entities reportedly have taken to implement our recommendations. In the reports issued during the past two years, we made 497 recommendations, of which these entities asserted that they have fully implemented 241 and partially implemented 82; however, for the remaining 174 recommendations, we determined that these entities have taken no action for 48, and corrective action is pending for 126 recommendations. To facilitate use of this report, we have included two tables (tables 2 and 3) that summarize the status of each entity's implementation efforts by audit report.

Our audit efforts bring the greatest return when the entity acts upon our findings and recommendations. This report includes another table (Table 1) that summarizes the monetary value associated with certain findings from reports we issued during the period January 1, 2004, through December 31, 2011. We have grouped the monetary value into various categories such as cost recovery, cost savings, cost avoidance, increased revenue, and wasted funds. We estimate that if entities implemented our recommendations contained in these reports, they could realize more than \$1.4 billion in monetary benefits.

The information in the report will also be available in 10 special reports specifically tailored for each Assembly and Senate budget subcommittee on our Web site at [www.bsa.ca.gov](http://www.bsa.ca.gov). We believe the State's budget process is a good opportunity for the Legislature to explore these issues and, to the extent necessary, reinforce the need for corrective action. Finally, we notify all affected entities of the release of these special reports.

Respectfully submitted,



ELAINE M. HOWLE, CPA  
State Auditor



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## Introduction

This report summarizes the major recommendations from audit and investigative reports that we issued from January 2010 through December 2011.<sup>1</sup> The purpose of this report is to identify what actions, if any, these entities have taken in response to our findings and recommendations. We have placed this symbol ➤ in the margin of the entity's action to identify areas of concern or issues that we believe have not been adequately addressed.

This report is organized by policy areas that generally correspond to the Assembly and Senate standing committees. Under each policy area we have included report summaries that relate to an area's jurisdiction. Because an audit may involve more than one issue or because it may cross the jurisdictions of more than one standing committee, a report summary could be included in more than one policy area. For example, the Citation Penalties Account report summary is listed under two policy areas—Aging and Long-Term Care, and Health.

As shown in the Figure, the California State Auditor (state auditor) made 497 recommendations in audit and investigative reports that were issued from January 2010 through December 2011. Of those recommendations, entities asserted that they have fully implemented 241 and partially implemented 82; however, for the remaining 174 recommendations, we determined that entities have taken no action for 48, and corrective action is pending for 126 recommendations. Our audit and investigative efforts bring the greatest return when entities act upon our findings and recommendations. As a result, we will continue to monitor these entities' efforts to implement the recommendations that have not been fully implemented.

**Figure**  
**Overview of Recommendation Status**

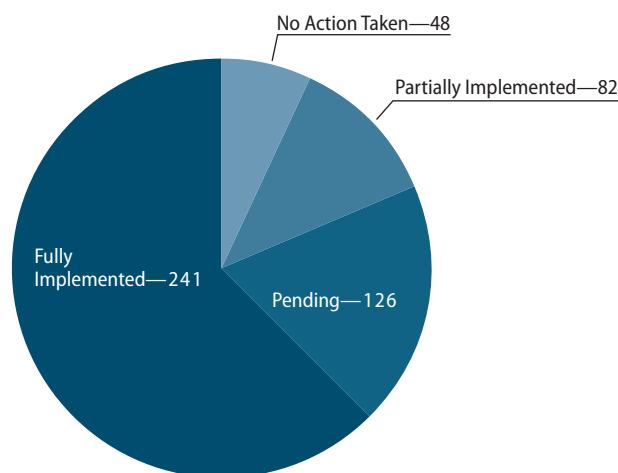


Table 1 beginning on page 3 summarizes the monetary value associated with certain findings from reports we issued during the period January 1, 2004, through December 31, 2011. We have grouped the monetary value into various categories such as cost recovery, cost savings, cost avoidance, increased revenue, and wasted funds. We estimate that if entities implemented our recommendations contained in these reports, they could realize more than \$1.4 billion in monetary benefits either by reducing costs, increasing revenues, or avoiding wasteful spending. For example, our October 2011 report on

<sup>1</sup> We have modified the format of this report from prior years' reports. Specifically, in previous reports, we often grouped multiple recommendations under one finding and, when determining the total number of recommendations by status, we counted findings rather than recommendations. In this report, we have chosen to modify our calculations counting each individual recommendation by its status rather than findings. Thus, the total numbers by status are higher than those from previous reports and, therefore, are not comparable.

the child welfare system (CWS) found that the percentage of placements with foster family agencies has continued to increase over the last decade. One potential explanation for this trend was that the Department of Social Services (Social Services) required no justification from county CWS agencies for placing children with these higher cost agencies. We estimated that this trend had resulted in the State spending an additional \$327 million in foster care payments between 2001 and 2010. We recommended that Social Services revise its regulations so that placements in lower-cost, licensed foster homes take higher priority than placements with foster family agencies. We also recommended that Social Services require county CWS agencies to file a detailed justification for any child placed with a foster family agency. We estimate that if Social Services implements our recommendations, the State would save \$6 million in the first full year of implementation (the \$3 million shown in Table 1 is for a half year). We further estimate that these savings would steadily increase each year and that over a five-year period the cost savings would be \$90 million.

In another example, the Department of Developmental Service (Developmental Services) recovered approximately \$15 million in one year by implementing the recommendations from our August 2010 report. Our report found several deficiencies in Developmental Services' oversight of the nonprofit regional centers that it contracts with to coordinate services of individuals with developmental disabilities. Specifically, we found that Developmental Services did not generally examine how regional centers established rates or selected particular vendors. Our review found that the manner in which some regional centers established payment rates and selected vendors had the appearance of favoritism or fiscal irresponsibility. Consequently, we recommended that Developmental Services require regional centers to document the reasonableness of their rates and develop formal procurement policies. We also made recommendations to help Developmental Services better use its biennial fiscal audits to ensure compliance with applicable laws and policies. Based on our review of Developmental Services' recent fiscal audits, it has recovered roughly \$15 million as a direct result of our recommendations and findings. If Developmental Services continues to carry out our recommendations, we estimate \$15 million annually in continued annual savings through a combination of cost recovery and cost avoidance.

The state auditor's policy requests that the entities provide a written response to the audit findings and recommendations before the audit report is initially issued publicly. As a follow-up, state law requires the entity to provide updates on their implementation of audit recommendations. The state auditor requests these updates at 60 days, six months, and one year after the public release of the audit report. However, we may request that an entity provide a response beyond one year or initiate a follow-up audit if deemed necessary. For investigations, California Government Code, Section 8547.7, subdivision (a), requires that within 60 days of receiving an investigative report, an entity shall report any actions it has taken or it intends to take to implement the recommendations made in the report. The entity also is required to file subsequent reports on a monthly basis until it has completed all of the actions it intends to take in response to the recommendations. In addition, California Government Code, Section 8548.9 requires us to produce an annual report regarding recommendations that state entities have not fully implemented within a year of issuance. Accordingly, we will follow up with every state entity that we determine has not fully implemented one or more recommendations within one year of the issuance of an audit or investigative report to request an update on the entity's plans to implement the outstanding recommendations.

The investigative reports that we issue describe improper governmental activities by state entities and employees that we have substantiated through an investigation. The publicly reported investigations during 2010 and 2011 identified improper activities, including wasteful spending, improper overtime payments, improper gifts, and mismanagement of state resources and funds that produced nearly \$1 million in economic loss to the State. For example, an investigation we conducted at a facility operated by the Department of Corrections and Rehabilitation (Corrections) revealed that the chief psychologist at the facility was using his state-compensated time and state equipment to perform work related to his private psychology practice, costing the State an estimated \$212,261 in lost productivity over nearly five years. We, therefore, recommended that Corrections take appropriate disciplinary action against the chief psychologist and establish a system for monitoring whether psychology personnel at the facility are working during their specified hours of duty. As another example, an investigation we conducted at the Department of Mental Health (Mental Health) established that the department wasted at least \$51,244 during a one-year period by employing a long-time senior official to perform activities that either were undertaken on behalf of a nonstate organization or did not serve a

state purpose. We consequently recommended that Mental Health require the official to repay the State for salary he received for days he did not perform work for the State, evaluate the need for the official's position, and if it determined that the position can provide value to the State, increase oversight of the work performed by the person holding the position.

By making recommendations to shore up control weaknesses that facilitate harm to the State, such as the losses uncovered through our investigations, it is our intent that state entities will avoid wasting state funds and resources in the future.

Unless otherwise noted, we have not performed any type of review or validation of the corrective actions reported by the entities. All corrective actions noted in this report were generally based on responses received by our office as of December 31, 2011. Table 2 beginning on page 15 summarizes the status of entities' efforts to implement our recommendations based on the most recent response received from each one. Because an audit report's recommendations may apply to several policy areas, the status of an entity's implementation of our recommendations may be represented in Table 2 more than once, as previously discussed. Table 3 on page 23 summarizes the status of each entity's efforts to implement recommendations that we made to ensure accountability and address control weaknesses related to the improper governmental activities identified in our investigative reports.

**Table 1**  
**Monetary Values**  
**January 1, 2004, Through December 31, 2011**

AUDIT NUMBER (DATE RELEASED)	AUDIT TITLE/ BASIS OF MONETARY VALUE	MONETARY VALUE
<b>Total for January 1, 2004, Through December 31, 2011</b>		<b>\$1,384,650,500</b>
<b>Total for July 1, 2011, Through December 31, 2011</b>		<b>\$89,462,500</b>
<b>Total One-Time Benefits for July 1, 2011, Through December 31, 2011</b>		<b>\$5,266,000</b>
2010-125 (August 2011)	<i>State Lands Commission: Because It Has Not Managed Public Lands Effectively, the State Has Lost Millions in Revenue for the General Fund</i>  Increased Revenue—The commission has allowed lessees whose rent is past due to remain on state land for years without paying rent. Additionally, about 140 of its 1,000 revenue-generating leases had expired and lessees continued to pay the rent established by an old appraisal that may not be indicative of the property's current value at that time. Further, the commission generally failed to promptly conduct rent reviews causing it to lose millions in increased rent it could have been able to collect. Moreover, the commission did not appraise its leased properties as frequently as the lease agreements allowed and thus, some of the properties were undervalued because it used outdated methods for valuing its properties. In total, we estimate that the commission has lost approximately \$8.3 million in revenue.	4,160,000
I2011-1 (August 2011) (Allegation I2009-0644)	<i>Department of Mental Health: Investigations of Improper Activities by State Employees</i>  Cost Savings—An executive at the Department of Mental Health (Mental Health) wasted state funds in 2009 by employing a longtime senior official to perform activities that either were undertaken on behalf of a nonstate organization or did not serve a state purpose. Mental Health has since eliminated the position.	38,000
I2011-1 (August 2011) (Allegation I2010-0844)	<i>California Energy Commission: Investigations of Improper Activities by State Employees</i>  Cost Recovery—An employee and a personnel specialist at the California Energy Commission (Energy Commission) falsified time and attendance records to enable the employee—at the time of her retirement—to receive a payment for unused annual leave that was higher than the amount to which she was entitled, costing the State an estimated \$6,589.	7,000
I2011-1 (August 2011) (Allegation I2009-0601)	<i>Department of Fish and Game: Investigations of Improper Activities by State Employees</i>  Cost Recovery—A manager at the Department of Fish and Game (Fish and Game) improperly directed an employee under his supervision to use a state vehicle for commuting between her home and work locations at a cost to the State of \$8,300 during a nine-month period. In addition the employee improperly requested—and the manager improperly approved—reimbursement for \$600 in lodging and meal expenses incurred by the employee near her headquarters. We recommended that Fish and Game should seek recovery of the improper payments.	9,000

continued on next page...



AUDIT NUMBER (DATE RELEASED)	AUDIT TITLE/ BASIS OF MONETARY VALUE	MONETARY VALUE
I2011-1 (August 2011) (Allegation I2009-1476)	<i>State Controller's Office: Investigations of Improper Activities by State Employees</i>  Cost Recovery—An employee of the State Controller's Office (Controller's Office) failed to report an estimated 322 hours of absences over an 18-month period and her supervisor failed to adequately monitor her time reporting. The Controller's Office should seek reimbursement from the employee for the wages she did not earn.	7,000
2010-124 (September 2011)	<i>Department of Corrections and Rehabilitation: The Benefits of Its Correctional Offender Management Profiling for Alternative Sanctions Program Are Uncertain</i>  Cost Savings—The Department of Corrections (CDCR) should suspend its use of the COMPAS core and reentry assessments until it has issued regulations, updated its operations manual, and has determined its usefulness and demonstrated to the legislature that it has a plan to measure and report COMPAS's effect on reducing recidivism. CDCR's budget for COMPAS shows approximately \$2 million in annual maintenance and operations cost which CDCR will save each year COMPAS is suspended.	1,045,000
<b>Annualized carry forward for July 1, 2011, through December 31, 2011</b>		<b>\$84,196,500</b>
2002-101 (July 2002)	California Department of Corrections	29,000,000
2002-009 (April 2003)	California Energy Markets	14,500,000
2003-125 (July 2004)	California Department of Corrections	10,350,000
2003-124 (August 2004)	Department of Health Services	2,300,000
I2004-2 (September 2004)	Department of Health Services	4,500
I2004-2 (September 2004)	California Military Department	32,000
2004-105 (October 2004)	California Department of Corrections	145,000
I2005-1 (March 2005)	Department of Corrections and Rehabilitation	59,500
2004-113 (July 2005)	Department of General Services	18,000
2004-134 (July 2005)	State Athletic Commission	16,500
2004-125 (August 2005)	Department of Health Services	5,150,000
I2005-2 (September 2005)	Department of Corrections and Rehabilitation	96,500
I2006-1 (March 2006)	Department of Fish and Game	4,150,000
2007-037 (September 2007)	Department of Housing and Community Development	19,000
I2008-1 (April 2008)	Department of Corrections and Rehabilitation	25,000
I2008-1 (April 2008)	Department of Social Services	6,500
2007-122 (June 2008)	Department of Health Care Services	6,500,000
2008-103 (November 2008)	California Unemployment Insurance Appeals Board	30,500
2009-043 (November 2009)	Board of Pilot Commissioners For the Bays of San Francisco, San Pablo and Suisun	19,000
2009-030 (July 2009)	State Bar of California	141,500
2009-112 (May 2010)	Department of Health Care Services	2,350,000
2010-108 (June 2010)	Department of Public Health	1,783,000
2009-118 (August 2010)	Department of Developmental Services	7,500,000
<b>Total for July 1, 2010, through June 30, 2011</b>		<b>\$390,052,000</b>
<b>Total One-Time Benefits for July 1, 2010, through June 30, 2011</b>		<b>\$209,059,000</b>
2009-114 (July 2010)	<i>Department of General Services: It No Longer Strategically Sources Contracts and Has Not Assessed Their Impact on Small Businesses and Disabled Veteran Business Enterprises</i>  Cost Savings and Recovery—We recommended that the Department of General Services (General Services) determine if there are further opportunities to achieve savings for consultant-recommended categories of goods and services contracts. Also, General Services should follow procedures for identifying strategic sourcing opportunities and work to obtain comprehensive and accurate data on the specific items that state agencies are purchasing. Finally, General Services should implement standard procedures to recover identified overcharges. The potential savings to the state is currently unknown; but if General Services implements our recommendation, the savings will be quantifiable in the future. The report concludes that documents indicate that as a result of its initial strategic sourcing efforts, the State accrued at least \$160 million in net savings from 33 contracts through June 30, 2007.	Unknown



AUDIT NUMBER (DATE RELEASED)	AUDIT TITLE/ BASIS OF MONETARY VALUE	MONETARY VALUE
2003-106 (August 2010 Update)	<i>State Mandates: The High Level of Questionable Costs Claimed Highlights the Need for Structural Reform of the Process</i>	194,000,000
	Cost Recovery— We recommended that the State Controller's Office (Controller's Office) audit Peace Officers Procedural Bill of Rights (POBOR) claims that had been paid. In 2010, the Controller's Office informed the State Auditor that it had audited \$225 million in POBOR Program claims and identified \$194 million (86 percent of claims reviewed) in unallowable costs had been claimed.	
2009-118 (August 2010)	<i>Department of Developmental Services: A More Uniform and Transparent Procurement and Rate-Setting Process Would Improve the Cost-Effectiveness of Regional Centers</i>	15,000,000
	Cost Recovery— We found that the Department of Developmental Services (Developmental Services) did not generally examine how regional centers established rates or selected particular vendors. Our review found that the manner in which some regional centers established payment rates and selected vendors had the appearance of favoritism or fiscal irresponsibility. Based on our review of Developmental Services' recent fiscal audits, it has recovered roughly \$15 million as a direct result of our recommendations and findings. If Developmental Services continues to carry out our recommendations, we estimate \$15 million in continued annual savings through a combination of cost recovery and cost avoidance.	
2010-106 (November 2010)	<i>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</i>	47,000
	Cost Savings—Some state agencies are not maximizing opportunities to reduce their costs to provide bilingual services by leveraging California Multiple Award Schedules contracts for interpretation and translation services.	
I2010-2 (January 2011) (Allegation I2008-1024)	<i>Department of General Services: Investigations of Improper Activities by State Employees</i>	12,000
	Cost Recovery—A manager with General Services improperly used state vehicles for his daily commute for nine years. The cost of misuse for three years is an estimated \$12,000. General Services should seek reimbursement from the manager for costs associated with his misuse of state vehicles.	
<b>Annualized carry forward for July 1, 2010, through June 30, 2011</b>		<b>\$180,993,000</b>
2002-101 (July 2002)	California Department of Corrections	58,000,000
2002-009 (April 2003)	California Energy Markets	29,000,000
2002-118 (April 2003)	Department of Health Services	20,000,000
2003-106 (October 2003)	State Mandates	7,600,000
2003-125 (July 2004)	California Department of Corrections	20,700,000
2003-124 (August 2004)	Department of Health Services	4,600,000
I2004-2 (September 2004)	Department of Health Services	9,000
I2004-2 (September 2004)	California Military Department	64,000
2004-105 (October 2004)	California Department of Corrections	290,000
I2005-1 (March 2005)	Department of Corrections and Rehabilitation	119,000
2004-113 (July 2005)	Department of General Services	36,000
2004-134 (July 2005)	State Athletic Commission	33,000
2004-125 (August 2005)	Department of Health Services	10,300,000
I2005-2 (September 2005)	Department of Corrections and Rehabilitation	193,000
I2006-1 (March 2006)	Department of Fish and Game	8,300,000
2007-037 (September 2007)	Department of Housing and Community Development	38,000
I2008-1 (April 2008)	Department of Corrections and Rehabilitation	50,000
I2008-1 (April 2008)	Department of Social Services	13,000
2007-122 (June 2008)	Department of Health Care Services	13,000,000
2008-103 (November 2008)	California Unemployment Insurance Appeals Board	61,000
2009-043 (November 2009)	Board of Pilot Commissioners For the Bays of San Francisco, San Pablo and Suisun	38,000
2009-030 (July 2009)	State Bar of California	283,000
2009-112 (May 2010)	Department of Health Care Services	4,700,000
2010-108 (June 2010)	Department of Public Health	3,566,000

AUDIT NUMBER (DATE RELEASED)	AUDIT TITLE/ BASIS OF MONETARY VALUE	MONETARY VALUE
Total for July 1, 2009, through June 30, 2010		\$195,429,000
Total One-Time Benefits for July 1, 2009, through June 30, 2010		\$23,023,000
2009-112 (May 2010)	<i>Department of Health Care Services: It Needs to Streamline Medi-Cal Treatment Authorizations and Respond to Authorization Requests Within Legal Time Limits</i>	4,700,000
	Cost Avoidance—If the Department of Health Care Services performed cost-benefit analyses on treatment authorizations requests (TAR) with very low denial rates, it could ascertain which TAR's administrative costs equaled or exceeded its savings. By performing this analysis we estimate that it could save \$4,700,000 annually by identifying which TARs are not cost-effective to process and remove authorization requirements for these services.	
2010-108 (June 2010)	<i>Department of Public Health: It Reported Inaccurate Financial Information and Can Likely Increase Revenues for the State and Federal Health Facilities Citation Penalties Accounts</i>	70,000
	Increased Revenue—The Department of Public Health (Public Health) inappropriately granted a 35 percent reduction to health facility penalties totaling \$70,000. This error was largely because the database that Public Health uses to calculate penalty reductions was not programmed to reflect the correct dates to calculate penalties. Also, Public Health could have generated \$95,000 if it had assessed interest on penalties stalled in the appeals process. It also could have increased revenue by \$3.3 million during the period of fiscal year 2003–04 through March 2010 if it had updated the monetary penalties amounts based on inflation rates. Finally, Public Health could have generated \$101,220 if it had included certain accounts in the Surplus Money Investment Fund as opposed to the Pooled Money Investment Account.	95,000
		3,300,000
		101,000
I2010-1 (June 2010) (Allegation I2008-1066)	<i>Department of Industrial Relations: Investigations of Improper Activities by State Employees</i>	70,000
	Cost Recovery—An inspector at the Department of Industrial Relations, Division of Occupational Safety and Health misused state resources and improperly engaged in dual employment during her state work hours, for which she received \$70,105 in inappropriate payments.	
I2010-1 (June 2010) (Allegation I2008-0920)	<i>Department of Corrections and Rehabilitation: Investigations of Improper Activities by State Employees</i>	111,000
	Wasted Funds—A supervisor at Heman G. Stark Correctional Facility misused the time of two psychiatric technicians by assigning them to perform the tasks of a lower-paid classification. This misuse of the employees' time resulted in a loss to the State of \$110,797.	
	Cost Savings—A supervisor at Heman G. Stark Correctional Facility misused the time of two psychiatric technicians by assigning them to perform the clerical and administrative tasks. When these employees returned to their normal duties, the Department of Corrections and Rehabilitation did not hire any other employees to perform the clerical and administrative tasks, resulting in a cost savings to the State of \$75,824.	76,000
I2010-1 (June 2010) (Allegation I2008-1037)	<i>California State University, Northridge: Investigations of Improper Activities by State Employees</i>	21,000
	Cost Recovery—An employee of California State University, Northridge (Northridge), improperly allowed a business owner and associates to use a university laboratory facility, equipment, and supplies without compensating Northridge. After this investigation Northridge received payment of \$20,709 from the business owner.	
2009-030 (July 2009)	<i>State Bar of California: It Can Do More to Manage Its Disciplinary System and Probation Processes Effectively and to Control Costs</i>	850,000
	Lost Revenue/Increased Revenues—The State Bar has not updated the formula it uses to bill disciplined attorneys, although the discipline costs have increased thirty percent during the last five years. We estimate that if it had updated the billing formula, it could have billed an additional \$850,000 for the past three years. Additionally, if the State Bar updates the formula, we estimate that it could increase revenue in future years by approximately \$285,000 annually.	
2009-101 (November 2009)	<i>Department of Social Services: For the CalWORKs and Food Stamp Programs, It Lacks Assessments of Cost-Effectiveness and Misses Opportunities to Improve Counties' Antifraud Efforts</i>	12,450,000
	Cost Recovery—Since December 2003 counties have received millions of dollars in overpayments recovered from food stamp recipients. However, the Department of Social Services (Social Services) has been delayed in taking the steps needed to claim its share of these overpayments—approximately \$12.45 million. As a result of the six-year delay in addressing this issue, we estimate Social Services lost approximately \$1.1 million in interest on its share of the funds.	1,100,000
I2009-0702 (November 2009)	<i>Department of Corrections and Rehabilitation: Its Poor Internal Controls Allowed Facilities to Overpay Employees for Inmate Supervision</i>	35,000
	Cost Recovery— We identified almost \$35,000 in overpayments made to 23 employees, and we recommended that the Department of Corrections and Rehabilitation recoup the overpayments from the employees.	

AUDIT NUMBER (DATE RELEASED)	AUDIT TITLE/ BASIS OF MONETARY VALUE	MONETARY VALUE
2009-043 (November 2009)	<i>Board of Pilot Commissioners For the Bays of San Francisco, San Pablo and Suisun: It Needs to Develop Procedures and Controls Over Its Operations and Finances to Ensure That It Complies With Legal Requirements</i>	9,000
	Increased Revenue—The Board of Pilot Commissioners (board) did not receive all revenues for the surcharge to fund training new pilots, as required by law. By collecting these fees, we calculated that the board will collect an additional \$8,640 annually based on the current surcharge of \$9 per trainee.	
	Cost Savings— The board offers free parking to employees, which may constitute a misuse of state resources. By cancelling its lease for parking, the board will save the total value of the lease, \$4,760 over the course of a year. Additionally, if the board ceases reimbursing pilots for business-class airfare when they fly for training, we believe that it will incur a savings in the future. We believe these future savings will be approximately \$30,000 annually.	5,000 30,000
<b>Annualized carry forward for July 1, 2009, through June 30, 2010</b>		<b>\$172,406,000</b>
2002-101 (July 2002)	California Department of Corrections	58,000,000
2002-009 (April 2003)	California Energy Markets	29,000,000
2002-118 (April 2003)	Department of Health Services	20,000,000
2003-106 (October 2003)	State Mandates	7,600,000
2003-125 (July 2004)	California Department of Corrections	20,700,000
2003-124 (August 2004)	Department of Health Services	4,600,000
I2004-2 (September 2004)	Department of Health Services	9,000
I2004-2 (September 2004)	California Military Department	64,000
2004-105 (October 2004)	California Department of Corrections	290,000
I2005-1 (March 2005)	Department of Corrections and Rehabilitation	119,000
2004-113 (July 2005)	Department of General Services	36,000
2004-134 (July 2005)	State Athletic Commission	33,000
2004-125 (August 2005)	Department of Health Services	10,300,000
I2005-2 (September 2005)	Department of Corrections and Rehabilitation	193,000
I2006-1 (March 2006)	Department of Fish and Game	8,300,000
2007-037 (September 2007)	Department of Housing and Community Development	38,000
I2008-1 (April 2008)	Department of Corrections and Rehabilitation	50,000
I2008-1 (April 2008)	Department of Social Services	13,000
2007-122 (June 2008)	Department of Health Care Services	13,000,000
2008-103 (November 2008)	California Unemployment Insurance Appeals Board	61,000
<b>Total for July 1, 2008, through June 30, 2009</b>		<b>\$175,426,000</b>
<b>Total One-Time Benefits for July 1, 2008, through June 30, 2009</b>		<b>\$1,931,000</b>
2007-040 (September 2008)	<i>Department of Public Health: Laboratory Field Services' Lack of Clinical Laboratory Oversight Places the Public at Risk</i>	1,020,000
	Increased Revenue—The Department of Public Health (Public Health) incorrectly adjusted the fees it charged to clinical laboratories, resulting in more than \$1 million in lost revenue. Public Health should adjust fees in accordance with the budget act.	
I2008-2 (October 2008) (Allegation I2006-0826)	<i>Department of Corrections and Rehabilitation: Investigations of Improper Activities by State Employees</i>	17,000
	Cost Recovery—The Department of Corrections and Rehabilitation improperly paid nine office technicians a total of \$16,530 for supervising inmates when the technicians did not qualify to receive the money.	
I2008-2 (October 2008) (Allegation I2008-0678)	<i>California Environmental Protection Agency: Investigations of Improper Activities by State Employees</i>	23,000
	Cost Recovery—The California Environmental Protection Agency paid an employee for 768 hours for which she was not at work and for which no leave balance was charged or used.	
I2008-2 (October 2008) (Allegation I2007-1049)	<i>Department of Housing and Community Development: Investigations of Improper Activities by State Employees</i>	35,000
	Cost Recovery—A full-time employee of the Department of Housing and Community Development simultaneously worked full-time at a nonprofit organization for a year, along with other time and attendance abuses.	

AUDIT NUMBER (DATE RELEASED)	AUDIT TITLE/ BASIS OF MONETARY VALUE	MONETARY VALUE
I2008-2 (October 2008) (Allegation I2007-0917)	<i>Department of Corrections and Rehabilitation: Investigations of Improper Activities by State Employees</i> Cost Recovery—The Department of Corrections and Rehabilitation improperly compensated two physicians for 3,025 hours of work on a time-and-a-half basis rather than on an hour-for-hour basis.	108,000
I2008-2 (October 2008) (Allegation I2007-0771)	<i>State Personnel Board: Investigations of Improper Activities by State Employees</i> Wasted Funds—The State Personnel Board approved contracts with a retired annuitant and a retired employee without providing reasonable justification for the contract or the contract amount.	14,000
2008-103 (November 2008)	<i>California Unemployment Insurance Appeals Board: Its Weak Policies and Practices Could Undermine Employment Opportunity and Lead to the Misuse of State Resources</i> Cost Savings—We identified parking spaces maintained by the Unemployment Insurance Appeals Board (board) for which the board had little assurance were being used for their intended and allowable purposes. In March 2009 the board eliminated 31 of its 35 parking spaces, which will save \$61,000 annually. We are showing a benefit of \$20,000 for the remainder of fiscal year 2008–09.	20,000
I2009-1 (April 2009) (Allegation I2006-1125)	<i>Department of Fish and Game, Office of Spill Prevention and Response: Investigations of Improper Activities by State Employees</i> Cost Recovery—A high level official formerly with the Office of Spill Prevention and Response of the Department of Fish and Game incurred \$71,747 in improper travel expenses she was not entitled to receive.	72,000
I2009-1 (April 2009) (Allegation I2007-0909)	<i>State Compensation Insurance Fund: Investigations of Improper Activities by State Employees</i> Cost Recovery—An employee of the State Compensation Insurance Fund (State Fund) failed to report 427 hours of absences. Consequently, State Fund did not charge the employee's leave balances for these absences, and it paid her \$8,314 for hours she did not work.	8,000
I2009-1 (April 2009) (Allegation I2007-0891)	<i>Department of Corrections and Rehabilitation and Department of General Services: Investigations of Improper Activities by State Employees</i> Wasted Funds—The Departments of Corrections and Rehabilitation and General Services wasted \$580,000 in state funds by continuing to lease 5,900 square feet of office space that was left unoccupied for more than four years.	580,000
2009-042 (May 2009)	<i>Children's Hospital Program: Procedures for Awarding Grants Are Adequate, but Some Improvement Is Needed in Managing Grants and Complying With the Governor's Bond Accountability Program</i> Lost Revenue—We identified interest revenues totaling \$34,000 the California Health Financing Authority (authority) did not recover from grantees on advanced funds. The authority can recover a currently unidentifiable amount of revenue if it requires grantees to place future advances of funds in interest-bearing accounts. The amount of future funds that will be advanced, as opposed to disbursed for reimbursement expenditures, as well as the associated interest earnings are not predictable.	34,000
<b>Annualized carry forward for July 1, 2008, through June 30, 2009</b>		<b>\$173,495,000</b>
2002-101 (July 2002)	California Department of Corrections	58,000,000
2002-009 (April 2003)	California Energy Markets	29,000,000
2002-118 (April 2003)	Department of Health Services	20,000,000
2003-106 (October 2003)	State Mandates	7,600,000
2003-125 (July 2004)	California Department of Corrections	20,700,000
2003-124 (August 2004)	Department of Health Services	4,600,000
I2004-2 (September 2004)	Department of Health Services	9,000
I2004-2 (September 2004)	California Military Department	64,000
2004-105 (October 2004)	California Department of Corrections	290,000
I2005-1 (March 2005)	Department of Corrections and Rehabilitation	119,000
2004-113 (July 2005)	Department of General Services	1,186,000
2004-134 (July 2005)	State Athletic Commission	33,000
2004-125 (August 2005)	Department of Health Services	10,300,000
I2005-2 (September 2005)	Department of Corrections and Rehabilitation	193,000
I2006-1 (March 2006)	Department of Fish and Game	8,300,000
2007-037 (September 2007)	Department of Housing and Community Development	38,000
I2008-1 (April 2008)	Department of Corrections and Rehabilitation	50,000
I2008-1 (April 2008)	Department of Social Services	13,000

AUDIT NUMBER (DATE RELEASED)	AUDIT TITLE/ BASIS OF MONETARY VALUE	MONETARY VALUE
2007-122 (June 2008)	Department of Health Care Services	13,000,000
<b>Total for July 1, 2007, through June 30, 2008</b>		<b>\$161,199,000</b>
<b>Total One-Time Benefits for July 1, 2007, through June 30, 2008</b>		<b>\$14,155,000</b>
I2007-2 (September 2007) (Allegation I2006-1099)	<i>Department of Mental Health: Investigations of Improper Activities by State Employees</i> Wasted Funds—The Department of Mental Health misused state funds designated to purchase two vehicles for law enforcement purposes by improperly using the vehicles for non-law enforcement purposes, including commuting.	19,000
2007-037 (September 2007)	<i>Department of Housing and Community Development: Awards of Housing Bond Funds Have Been Timely and Complied With the Law, but Monitoring of the Use of Funds Has Been Inconsistent</i> Lost Revenue—Excessive advances are provided without consideration for interest earnings the State could receive. Without corrective action, this loss could continue for the life of the program.	38,000
I2007-2 (September 2007) (Allegation I2007-0715)	<i>California Highway Patrol: Investigations of Improper Activities by State Employees</i> Cost Avoidance—The California Highway Patrol (CHP) spent \$881,565 for 51 vans it had not used for their intended purposes. We calculated that the CHP lost \$90,385 in interest because it bought the vans two years prior to when it needed them.	882,000 90,000
2007-109 (November 2007)	<i>DNA Identification Fund: Improvements Are Needed in Reporting Fund Revenues and Assessing and Distributing DNA Penalties, but Counties and Courts We Reviewed Have Properly Collected Penalties and Transferred Revenues to the State</i> Increased Revenue—Counties did not always assess and collect all required DNA penalties.	32,000
I2008-1 (April 2008) (Allegation I2006-0665)	<i>Department of Corrections and Rehabilitation: Investigations of Improper Activities by State Employees</i> Wasted Funds—The Department of Corrections and Rehabilitation leased 29 parking spaces at a private parking facility but did not use them.	50,000
I2008-1 (April 2008) (Allegation I2006-1040)	<i>Department of Social Services: Investigations of Improper Activities by State Employees</i> Cost Recovery—The Department of Social Services (Social Services) improperly paid contractors for overhead costs that violated state policy. Cost Savings—Social Services also will avoid these improper payments totaling about \$13,000 annually in the future.	13,000 13,000
I2008-1 (April 2008) (Allegation I2007-0958)	<i>Department of Justice: Investigations of Improper Activities by State Employees</i> Cost Recovery—The Department of Justice paid compensation to five employees that they may not have earned over a nine-month period.	18,000
2007-122 (June 2008)	<i>Department of Health Care Services: Although Notified of Changes in Billing Requirements, Providers of Durable Medical Equipment Frequently Overcharge Medi-Cal</i> Cost Recovery—The Department of Health Care Services (department) has identified overbilling to Medi-Cal by equipment providers. We estimated the department has overpaid providers by approximately \$13 million during the period from October 2006 through September 2007. This is a one-time cost recovery to the department if they collect all overpayments. Cost Savings—If the department implements our recommendation to identify more feasible Medi-Cal reimbursement monitoring and enforcement, we estimate that it could continue to avoid \$13 million in overpayments annually.	13,000,000
<b>Annualized carry forward for July 1, 2007, through June 30, 2008</b>		<b>\$147,044,000</b>
2002-101 (July 2002)	California Department of Corrections	43,500,000
2002-009 (April 2003)	California Energy Markets	29,000,000
2002-118 (April 2003)	Department of Health Services	20,000,000
2003-106 (October 2003)	State Mandates	7,600,000
2003-125 (July 2004)	California Department of Corrections	20,700,000
2003-124 (August 2004)	Department of Health Services	4,600,000
I2004-2 (September 2004)	Department of Health Services	9,000
I2004-2 (September 2004)	California Military Department	64,000
2004-105 (October 2004)	California Department of Corrections	290,000
I2005-1 (March 2005)	Department of Corrections and Rehabilitation	119,000
2004-113 (July 2005)	Department of General Services	2,336,000

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AUDIT NUMBER (DATE RELEASED)	AUDIT TITLE/ BASIS OF MONETARY VALUE	MONETARY VALUE
2004-134 (July 2005)	State Athletic Commission	33,000
2004-125 (August 2005)	Department of Health Services	10,300,000
I2005-2 (September 2005)	Department of Corrections and Rehabilitation	193,000
I2006-1 (March 2006)	Department of Fish and Game	8,300,000
<b>Total for July 1, 2006, through June 30, 2007</b>		<b>\$154,575,000</b>
<b>Total One-Time Benefits for July 1, 2006, through June 30, 2007</b>		<b>\$6,111,000</b>
I2006-2 (September 2006) (Allegation I2006-0663)	<i>Department of Forestry and Fire Protection: Investigations of Improper Activities by State Employees</i>	18,000
	Cost Recovery—Between January 2004 and December 2005 an employee with the Department of Forestry and Fire Protection improperly claimed and received \$17,904 in wages for 672 hours he did not work in violation of state law.	
2006-035 (February 2007)	<i>Department of Health Services: It Has Not Yet Fully Implemented Legislation Intended to Improve the Quality of Care in Skilled Nursing Facilities</i>	5,300,000
	Cost Recovery—A contractor consultant authorized long-term care Medi-Cal duplicate payments. Health Services will recoup approximately \$5.3 million from facilities that received duplicate payments and an additional \$780,000 for duplicate or overlapping payments made to one or more different provider entities. Since authorization for the duplicate payments occurred because of a flawed procedure, the error may have caused other duplicate payments outside those we identified.	780,000
I2007-1 (March 2007) (Allegation I2006-0945)	<i>California Exposition and State Fair: Investigations of Improper Activities by State Employees</i>	6,000
	Cost Recovery—An official within the California Exposition and State Fair (Cal Expo) sold his personal vehicle to Cal Expo. Because he was involved in the decision to make this purchase while acting in his official capacity and because he derived a personal financial benefit, this official violated the Political Reform Act of 1974 and Section 1090 of the California Government Code. Cal Expo has indicated that it has reversed the transaction regarding the vehicle, resulting in the reimbursement of \$5,900 to Cal Expo and the return of the vehicle to the prior owner.	
I2007-1 (March 2007) (Allegation I2006-0731)	<i>Department of Health Care Services: Investigations of Improper Activities by State Employees</i>	7,000
	Cost Recovery—An employee of the Department of Health Care Services violated regulations covering travel expense reimbursements and payment of commuting expenses resulting in overpayments totaling \$7,453.	
<b>Annualized carry forward for July 1, 2006, through June 30, 2007</b>		<b>\$148,464,000</b>
2001-128 (April 2002)	Enterprise Licensing Agreement	8,120,000
2002-101 (July 2002)	California Department of Corrections	29,000,000
2002-009 (April 2003)	California Energy Markets	29,000,000
2002-118 (April 2003)	Department of Health Services	20,000,000
2003-106 (October 2003)	State Mandates	7,600,000
2003-125 (July 2004)	California Department of Corrections	20,700,000
2003-124 (August 2004)	Department of Health Services	4,600,000
I2004-2 (September 2004)	Department of Health Services	9,000
I2004-2 (September 2004)	California Military Department	64,000
2004-105 (October 2004)	California Department of Corrections	290,000
I2005-1 (March 2005)	Department of Corrections and Rehabilitation	119,000
2004-033 (May 2005)	Pharmaceuticals	7,800,000*
2004-113 (July 2005)	Department of General Services	2,336,000†
2004-134 (July 2005)	State Athletic Commission	33,000
2004-125 (August 2005)	Department of Health Services	10,300,000
I2005-2 (September 2005)	Department of Corrections and Rehabilitation	193,000
I2006-1 (March 2006)	Department of Fish and Game	8,300,000



AUDIT NUMBER (DATE RELEASED)	AUDIT TITLE/ BASIS OF MONETARY VALUE	MONETARY VALUE
<b>Total for July 1, 2005, through June 30, 2006</b>		<b>\$133,750,000</b>
<b>Total One-Time Benefits for July 1, 2005, through June 30, 2006</b>		<b>\$20,948,000</b>
2004-113 (July 2005)	<i>Department of General Services: Opportunities Exist Within the Office of Fleet Administration to Reduce Costs</i>	1,115,000
	Cost Savings/Avoidance—The Department of General Services (General Services) expects that the new, more competitive contracts it awarded for January 2006 through December 2008 should save the State about \$2.3 million each year. Cost savings reflect six months—January through June 2006.	
	Increased Revenue—General Services identified 49 parkers it was not previously charging. By charging these parkers, General Services will experience increased revenue totaling \$36,000 per year.	36,000
	Cost Recovery—General Services reports it has recovered or established a monthly payment plan to recover \$45,000 in previously unpaid parking fees.	45,000
2004-134 (July 2005)	<i>State Athletic Commission: The Current Boxers' Pension Plan Benefits Only a Few and Is Poorly Administered</i>	33,000
	Increased Revenue—If the State Athletic Commission raises the ticket assessment to meet targeted pension contributions as required by law, we estimate it will collect an average of \$33,300 more per year.	
2004-125 (August 2005)	<i>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</i>	10,300,000
	Increased Revenue—We estimate that California school districts would have received at least \$53 million more in fiscal year 2002–03 if all school districts had participated in the program and an additional \$4 million more if certain participating schools had fully used the program. A lack of program awareness was among the reasons school districts cited for not participating. By stepping up outreach, we believe more schools will participate in the program and revenues will continue to increase. However, because participation continued to increase between fiscal years 2002–03 and 2004–05, the incremental increase in revenue will be less than it was in fiscal year 2002–03. Taking into account this growth in participation and using a trend line to estimate the resulting growth in revenues, we estimate that revenues will increase by about \$10.3 million per year beginning in fiscal year 2005–06.	
2004-126 (August 2005)	<i>Off-Highway Motor Vehicle Recreation Program: The Lack of a Shared Vision and Questionable Use of Program Funds Limits Its Effectiveness</i>	226,000
	Cost Recovery—Of the \$566,000 in grant advances we identified as outstanding from Los Angeles County, the Off-Highway Motor Vehicle Recreation division reports receiving a \$226,000 refund and determining that the remaining \$340,000 was used in accordance with grant guidelines.	
I2005-2 (September 2005) (Allegation I2004-0710)	<i>California Military Department: Investigations of Improper Activities by State Employees</i>	133,000
	Cost Recovery—A supervisor at the California Military Department embezzled \$132,523 in public funds; a court has subsequently ordered restitution of these funds.	
I2005-2 (September 2005) (Allegations I2004-0649, I2004-0681, I2004-0789)	<i>Department of Corrections: Investigations of Improper Activities by State Employees</i>	558,000
	Cost Recovery—The Department of Corrections failed to properly account for the time that employees used when released from their regular job duties to perform union-related activities. In addition to recovering past payments totaling \$365,500, Corrections can save \$192,500 annually by discontinuing this practice.	
I2006-1 (March 2006) (Allegation I2005-0781)	<i>Department of Corrections and Rehabilitation: Investigations of Improper Activities by State Employees</i>	70,000 <sup>‡</sup>
	Cost Recovery—The Department of Corrections and Rehabilitation failed to exercise its management controls, resulting in gifts of public funds of \$70,255 in leave not charged.	
I2006-1 (March 2006) (Allegations I2005-0810, I2005-0874, I2005-0929)	<i>Department of Forestry and Fire Protection: Investigations of Improper Activities by State Employees</i>	61,000
	Cost Recovery—Several employees of the Department of Forestry and Fire Protection received \$61,466 in improper overtime payments.	
I2006-1 (March 2006) (Allegations I2004-0983, I2005-1013)	<i>Victim Compensation and Government Claims Board: Investigations of Improper Activities by State Employees</i>	26,000
	Cost Recovery—The Department of Corrections and Rehabilitation improperly awarded payments to a physician at Corrections totaling \$25,950.	

AUDIT NUMBER (DATE RELEASED)	AUDIT TITLE/ BASIS OF MONETARY VALUE	MONETARY VALUE
I2006-1 (March 2006) (Allegation I2004-1057)	<i>Department of Fish and Game: Investigations of Improper Activities by State Employees</i>  Increased Revenue—The Department of Fish and Game allowed several state employees and volunteers to reside in state-owned homes without charging them rent, consequently providing gifts of public funds. A subsequent housing review conducted by the Department of Personnel Administration demonstrated that all 13 state departments that own employee housing may be underreporting or failing to report housing fringe benefits. As a result, the State could increase revenues as much as \$8.3 million by charging fair-market rents.	8,300,000
2005-120 (April 2006)	<i>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</i>  Cost Savings/Avoidance—We recommended that the Student Aid Commission amend its operating agreement to require EDFUND to establish a travel policy that is consistent with the State's policy and that it closely monitor EDFUND expenses paid out of the Operating Fund for conferences, workshops, all-staff events, travel, and the like. By implementing policy changes as recommended, we estimate EDFUND could save a minimum of \$45,000 annually.	45,000 <sup>\$</sup>
<b>Annualized carry forward for July 1, 2005, through June 30, 2006</b>		<b>\$112,802,000</b>
2001-128 (April 2002)	Enterprise Licensing Agreement	8,120,000
2002-101 (July 2002)	California Department of Corrections	14,500,000
2002-009 (April 2003)	California Energy Markets	29,000,000
2002-118 (April 2003)	Department of Health Services	20,000,000
2003-106 (October 2003)	State Mandates	7,600,000
2003-125 (July 2004)	California Department of Corrections	20,700,000
2003-124 (August 2004)	Department of Health Services	4,600,000
I2004-2 (September 2004)	Department of Health Services	9,000
I2004-2 (September 2004)	Military Department	64,000
2004-105 (October 2004)	California Department of Corrections	290,000
I2005-1 (March 2005)	Department of Corrections and Rehabilitation	119,000
2004-033 (May 2005)	Pharmaceuticals	7,800,000*
<b>Total for July 1, 2004, through June 30, 2005</b>		<b>\$77,661,000</b>
<b>Total One-Time Benefits for July 1, 2004, through June 30, 2005</b>		<b>\$12,941,000</b>
2003-125 (July 2004)	<i>California Department of Corrections: More Expensive Hospital Services and Greater Use of Hospital Facilities Have Driven the Rapid Rise in Contract Payments for Inpatient and Outpatient Care</i>  Cost Savings—The potential for the Department of Corrections and Rehabilitation (Corrections) to achieve some level of annual savings appears significant if it could negotiate cost-based reimbursement terms, such as paying Medicare rates, in its contracts with hospitals. We estimated potential savings of at least \$20.7 million in Corrections' fiscal year 2002–03 inmate hospital costs. Specifically, had Corrections been able to negotiate contracts without its typical stop-loss provisions that are based on a percent discount from the hospitals' charges rather than costs, it might have achieved potential savings of up to \$9.3 million in inpatient hospital payments in fiscal year 2002–03 for the six hospitals we reviewed that had this provision. Additionally, had Corrections been able to pay hospitals the same rates as Medicare—which bases its rates on an estimate of hospital resources used and their associated costs—it might have achieved potential savings of \$4.6 million in emergency room and \$6.8 million in nonemergency room outpatient services at all hospitals in fiscal year 2002–03. Recognizing that Corrections will need some time to negotiate cost-based reimbursement contract terms, we estimate that it could begin to realize savings of \$20.7 million annually in fiscal year 2005–06.	n/a
2003-124 (August 2004)	<i>Department of Health Services: Some of Its Policies and Practices Result in Higher State Costs for the Medical Therapy Program</i>  Cost Savings—Represents the savings the Department of Health Services (Health Services) would have achieved in fiscal year 2002–03 had it paid only the amount specifically authorized by law for the Medical Therapy Program. Of the total, \$3.6 million relates to the full funding of county positions responsible for coordinating services provided by special education programs; \$774,000 relates to Health Services' method for sharing Medi-Cal payments with counties; and \$254,000 relates to Health Services' failure to identify all Medi-Cal payments made to certain counties. This monetary cost savings value will carry forward through fiscal year 2011–12.	3,600,000 774,000 254,000



AUDIT NUMBER (DATE RELEASED)	AUDIT TITLE/ BASIS OF MONETARY VALUE	MONETARY VALUE
I2004-2 (September 2004) (Allegation I2002-0853)	<i>Department of Health Services: Investigations of Improper Activities by State Employees</i> Cost Savings—We found that managers and employees at the Department of Health Services' (Health Services) Medical Review Branch office in Southern California regularly used state vehicles for their personal use. We estimate Health Services could save an average of \$9,260 each year because its employees no longer use state vehicles for personal use.	9,000
I2004-2 (September 2004) (Allegation I2002-1069)	<i>California Military Department: Investigations of Improper Activities by State Employees</i> Cost Savings—We found that the California Military Department (Military) improperly granted employees an increase in pay they were not entitled to receive. Because Military has returned all the overpaid employees to their regular pay levels, it should be able to save approximately \$64,200 each year.	64,000
2004-105 (October 2004)	<i>Department of Corrections: Although Addressing Deficiencies in Its Employee Disciplinary Practices, the Department Can Improve Its Efforts</i> Cost Savings—The Department of Corrections could save as much as \$290,000 annually by using staff other than peace officers to fill its employment relations officer positions.	290,000
I2005-1 (March 2005) (Allegation I2003-0834)	<i>Department of Corrections: Investigations of Improper Activities by State Employees</i> Cost Recovery/Cost Savings—In violation of state regulations and employee contract provisions, the Department of Corrections (Corrections) paid 25 nurses at four institutions nearly \$238,200 more than they were entitled to receive between July 1, 2001, and June 30, 2003. In addition to recovering past overpayments, Corrections can save \$119,000 annually by discontinuing this practice. Although Corrections now contends that the payments to 10 of the 25 nurses were appropriate, despite repeated requests, it has not provided us the evidence supporting its contention. Thus, we have not revised our original estimate.	357,000
2005-030 (April 2005)	<i>State Bar of California: It Should Continue Strengthening Its Monitoring of Disciplinary Case Processing and Assess the Financial Benefits of Its New Collection Enforcement Authority</i> Cost Recovery—As a result of our recommendation that it prioritize its cost recovery efforts to focus on attorneys who owe substantial amounts, the State Bar sent demand letters to the top 100 disciplined attorneys and has received \$24,411 as of April 2006.	24,000
2004-033 (May 2005)	<i>Pharmaceuticals: State Departments That Purchase Prescription Drugs Can Further Refine Their Cost Savings Strategies</i> Cost Savings/Avoidance—In a prior audit, we had noted that opportunities existed for the Department of General Services (General Services) to increase the amount of purchases made under contract with drug companies, and we recommended in this audit that General Services continue its efforts to obtain more drug prices on contract by working with its contractor to negotiate new and renegotiate existing contracts with certain manufacturers. General Services reports that it has implemented contracts that it estimates will save the State \$5.1 million annually. Cost Recovery—As we recommended, the Department of Health Services identified and corrected all of the drug claims it paid using an incorrect pricing method. It expects to recoup the nearly \$2.5 million in net overpayments that resulted from its error.	5,100,000 2,469,000
<b>Annualized carry forward for July 1, 2004, through June 30, 2005</b>		<b>\$64,720,000</b>
2001-128 (April 2002)	Enterprise Licensing Agreement	8,120,000
2002-009 (April 2003)	California Energy Markets	29,000,000
2002-118 (April 2003)	Department of Health Services	20,000,000
2003-106 (October 2003)	State Mandates	7,600,000
<b>Total for January 1, 2004, through June 30, 2004</b>		<b>\$7,096,000</b>
2003-117 (April 2004)	<i>California Department of Corrections: It Needs to Ensure That All Medical Service Contracts It Enters Are in the State's Best Interest and All Medical Claims It Pays Are Valid</i> Cost Recovery/Avoidance—Recovery of overpayments to providers for medical service charges in the amount of \$77,200 and the establishment of procedures to avoid lost discounts and prompt payment penalties totaling \$18,600.	96,000
2003-138 (June 2004)	<i>Department of Insurance: It Needs to Make Improvements in Handling Annual Assessments and Managing Market Conduct Examinations</i> Increased Revenue—We estimate a one-time increase of revenue totaling \$7 million from the Department of Insurance's ability to make regulation changes that will result in capturing more specific data from insurers about the number of vehicles they insure. Future increases in revenue are undeterminable.	7,000,000

AUDIT NUMBER (DATE RELEASED)	AUDIT TITLE/ BASIS OF MONETARY VALUE	MONETARY VALUE
<b>Benefits Identified Prior to 2004, but Have Annualized Carry Forward Values</b>		
2001-128 (April 2002)	<p><i>Enterprise Licensing Agreement: The State Failed to Exercise Due Diligence When Contracting With Oracle, Potentially Costing Taxpayers Millions of Dollars</i></p> <p>Cost Savings—The State and Oracle agreed to rescind the contract in July 2002. As a result, we estimate the State will save \$8,120,000 per year for five years starting in fiscal year 2002–03.</p>	
2002-101 (July 2002)	<p><i>California Department of Corrections: A Shortage of Correctional Officers, Along With Costly Labor Agreement Provisions, Raises Both Fiscal and Safety Concerns and Limits Management's Control</i></p> <p>Cost Savings—We estimate that the Department of Corrections and Rehabilitation (Corrections) could save \$58 million if it reduces overtime costs by filling unmet correctional officer needs. This estimate includes the \$42 million we identified in our November 2001 report (2001-108). Corrections stated in its six-month response to this audit that, following our recommendation to increase the number of correctional officer applicants, it has submitted a proposal to restructure its academy to allow two additional classes each year. This action could potentially allow Corrections to graduate several hundred more correctional officers each year, thereby potentially contributing to a reduction in its overtime costs. However, any savings from this action would be realized in future periods. We estimate that Corrections could realize savings of \$14.5 million beginning in fiscal year 2005–06, with savings increasing each year until reaching \$58 million in fiscal year 2008–09.</p>	
2002-009 (April 2003)	<p><i>California Energy Markets: The State's Position Has Improved, Due to Efforts by the Department of Water Resources and Other Factors, but Cost Issues and Legal Challenges Continue</i></p> <p>Cost Savings—In response to an audit recommendation, the Department of Water Resources (Water Resources) renegotiated certain energy contracts. Water Resources' consultant estimates that the present value of the potential cost savings due to contract renegotiation efforts as of December 31, 2002, by Water Resources and power suppliers, when considering replacement power costs, to be \$580 million. For the purpose of this analysis, we have computed the average annual cost savings by dividing the \$580 million over the 20-year period the savings will be realized.</p>	29,000,000
2002-118 (April 2003)	<p><i>Department of Health Services: Its Efforts to Further Reduce Prescription Drug Costs Have Been Hindered by Its Inability to Hire More Pharmacists and Its Lack of Aggressiveness in Pursuing Available Cost-Saving Measures</i></p> <p>Cost Savings—The Department of Health Services estimated that it could save \$20 million annually by placing the responsibility on the pharmacists to recover \$1 copayments they collect from each Medi-Cal beneficiary filling a prescription. We estimate the State could begin to receive these savings each year beginning in fiscal year 2003–04.</p>	

\* Based on our follow-up work (Report 2007-501), we will discontinue claiming \$7.8 million as of fiscal year 2007–08 because General Services' two new pharmaceutical contracts will expire November 2007. This monetary value was previously listed at \$5.1 million. However, according to General Services, its strategic sourcing contractor assisted it in negotiating two new pharmaceutical contracts for the period of November 2005 to November 2007 that General Services believed would result in increased savings to the State. Our follow-up report indicates that the State appears to have achieved savings of \$7.8 million during the first 10 months of these two new contracts. See report number 2007-501 (June 2007).

† Based on our follow-up audit 2007-502, issued May 2007, we reduced General Services' expected \$3 million of cost savings we reported in 2005 to \$2.3 million of potential savings.

‡ This monetary value was previously listed at \$66,000. Additional audit work resulted in additional cost recovery of more than \$4,000 and based on updated information from Corrections, we eliminated the improper holiday accruals we reported in 2007.

§ We will discontinue claiming \$45,000 as of this fiscal year. Recent changes to state law may impact the role previously performed by the commission. Senate Bill 89, an emergency measure enacted as Chapter 182, Statutes of 2007, and signed by the governor on August 24, 2007, took effect immediately, and may affect the ownership of EDFUND, and impact the commission's oversight role.

**Table 2**  
**Recommendation Status Summary**

	FOLLOW-UP RESPONSE				STATUS OF RECOMMENDATION				PAGE NUMBER
	INITIAL RESPONSE	60-DAY	SIX-MONTH	ONE-YEAR	FULLY IMPLEMENTED	PARTIALLY IMPLEMENTED	PENDING	NO ACTION TAKEN	
Aging and Long-Term Care									
Department of Public Health									
Citation Penalties Accounts Report 2010-108				●	10	2	3	2	25
Banking and Finance									
California Housing Finance Agency									
Affordable Housing Solvency Report 2010-123			●		2				31
Business, Professions, and Consumer Protection									
California Energy Commission									
Intellectual Property Report 2011-106	●					1	1		39
Department of Food and Agriculture									
Intellectual Property Report 2011-106	●						2		39
Department of General Services									
Sourced Contracts Report 2009-114				●	2	6			33
School Construction Projects Report 2011-116.1	●						14		43
Department of Health Care Services									
Intellectual Property Report 2011-106	●						1		39
Department of Transportation									
Intellectual Property Report 2011-106	●						1		39
Education									
Commission on Teacher Credentialing									
Discipline of Teacher Misconduct Report 2010-119			●		9	3	10		55
Department of Education									
Meal Program Eligibility Report 2010-104				●	3	2		1	51
Department of General Services									
School Construction Projects Report 2011-116.1	●						14		43
San Dieguito Union High School District									
Financial Issues Report 2009-116				●	4				49

continued on next page...

	FOLLOW-UP RESPONSE				STATUS OF RECOMMENDATION				PAGE NUMBER
	INITIAL RESPONSE	60-DAY	SIX-MONTH	ONE-YEAR	FULLY IMPLEMENTED	PARTIALLY IMPLEMENTED	PENDING	NO ACTION TAKEN	
Governmental Organization									
Amador County									
Indian Gaming Special Distribution Fund Report 2010-036			●			4		1	73
California Emergency Management Agency									
Dymally-Alatorre Bilingual Services Act Report 2010-106				●	2				65
Recovery Act Funds Letter Report 2009-119.4				●	3	1			63
California Highway Patrol									
Dymally-Alatorre Bilingual Services Act Report 2010-106				●	2				65
City of Fremont									
Dymally-Alatorre Bilingual Services Act Report 2010-106				●	1				65
City of Garden Grove									
Dymally-Alatorre Bilingual Services Act Report 2010-106				●	1				65
City of Santa Ana									
Dymally-Alatorre Bilingual Services Act Report 2010-106				●	1				65
Department of Corrections and Rehabilitation									
Dymally-Alatorre Bilingual Services Act Report 2010-106				●	1		2		65
Department of Food and Agriculture									
Dymally-Alatorre Bilingual Services Act Report 2010-106				●	1	1			65
Department of Housing and Community Development									
Dymally-Alatorre Bilingual Services Act Report 2010-106				●	2				65
Department of Justice									
Dymally-Alatorre Bilingual Services Act Report 2010-106				●	2				65
Department of Motor Vehicles									
Dymally-Alatorre Bilingual Services Act Report 2010-106				●	2				65

	FOLLOW-UP RESPONSE				STATUS OF RECOMMENDATION				PAGE NUMBER
	INITIAL RESPONSE	60-DAY	SIX-MONTH	ONE-YEAR	FULLY IMPLEMENTED	PARTIALLY IMPLEMENTED	PENDING	NO ACTION TAKEN	
<b>Department of Public Health</b>									
Dymally-Alatorre Bilingual Services Act Report 2010-106				●	3				65
<b>Department of Toxic Substances Control</b>									
Dymally-Alatorre Bilingual Services Act Report 2010-106				●	2				65
<b>Employment Development Department</b>									
Dymally-Alatorre Bilingual Services Act Report 2010-106				●	1	1			65
<b>Humboldt County</b>									
Indian Gaming Special Distribution Fund Report 2010-036			●					3	73
<b>Riverside County</b>									
Indian Gaming Special Distribution Fund Report 2010-036			●			1	2	1	73
<b>San Diego County</b>									
Indian Gaming Special Distribution Fund Report 2010-036			●		2	1			73
<b>Santa Barbara County</b>									
Indian Gaming Special Distribution Fund Report 2010-036			●					6	73
<b>Shasta County</b>									
Indian Gaming Special Distribution Fund Report 2010-036			●			1	2	2	73
<b>State Personnel Board</b>									
Dymally-Alatorre Bilingual Services Act Report 2010-106				●	4		1		65
<b>Yolo County</b>									
Indian Gaming Special Distribution Fund Report 2010-036			●		1	1		2	73

**Health**

<b>Department of Health Care Services</b>									
Medi-Cal Managed Care Program Report 2011-104	●				1		3		87
Medi-Cal Treatment Authorizations Report 2009-112				●	1	1		1	79
<b>Department of Managed Health Care</b>									
Medi-Cal Managed Care Program Report 2011-104	●				1		2		87

continued on next page...

	FOLLOW-UP RESPONSE				STATUS OF RECOMMENDATION				
	INITIAL RESPONSE	60-DAY	SIX-MONTH	ONE-YEAR	FULLY IMPLEMENTED	PARTIALLY IMPLEMENTED	PENDING	NO ACTION TAKEN	PAGE NUMBER
Department of Public Health									
Citation Penalties Accounts Report 2010-108				●	10	2	3	2	25
Every Woman Counts Program Report 2010-103R				●	3	2			83
Higher Education									
California Community Colleges Chancellor's Office									
Crime Disclosure Report 2009-032				●	1				91
California State University, Fresno									
Crime Disclosure Report 2009-032				●	2				91
Mt. San Antonio Community College									
Crime Disclosure Report 2009-032				●	5				91
Ohlone Community College									
Crime Disclosure Report 2009-032				●	7				91
University of California									
Financial Records Report 2010-105		●			1		7		95
University of California, Riverside									
Crime Disclosure Report 2009-032				●	2				91
Western Career College--Sacramento									
Crime Disclosure Report 2009-032				●	3				91
Western University of Health Sciences									
Crime Disclosure Report 2009-032				●	3				91
Housing and Community Development									
California Housing Finance Agency									
Affordable Housing Solvency Report 2010-123			●		2				31
Department of Housing and Community Development									
Recovery Act Funds Letter Report 2009-119.3				●	9				99
Human Services									
Department of Developmental Services									
Regional Centers Report 2009-118				●	12			1	103

	FOLLOW-UP RESPONSE				STATUS OF RECOMMENDATION				PAGE NUMBER
	INITIAL RESPONSE	60-DAY	SIX-MONTH	ONE-YEAR	FULLY IMPLEMENTED	PARTIALLY IMPLEMENTED	PENDING	NO ACTION TAKEN	
<b>Department of Social Services</b>									
Child Welfare Services Report 2011-101.1		●			1	4	14	1	111
Foster Family Home and Small Family Home Insurance Fund Report 2010-121		●			1		6		107
<b>Insurance</b>									
<b>California Technology Agency</b>									
Unemployment Program Report 2010-112			●				1		119
<b>Department of Social Services</b>									
Foster Family Home and Small Family Home Insurance Fund Report 2010-121		●			1		6		107
<b>Employment Development Department</b>									
Unemployment Program Report 2010-112			●				8	1	119
<b>Jobs, Economic Development, and the Economy</b>									
<b>Administrative Office of the Courts</b>									
Statewide Case Management Project Report 2010-102			●		11	19	6	1	127
<b>California Energy Commission</b>									
Intellectual Property Report 2011-106	●					1	1		39
<b>California Recovery Task Force</b>									
Reporting of Recovery Act Jobs Report 2010-601			●		5				125
<b>California Technology Agency</b>									
Unemployment Program Report 2010-112			●				1		119
<b>Department of Food and Agriculture</b>									
Intellectual Property Report 2011-106	●						2		39
<b>Department of Health Care Services</b>									
Intellectual Property Report 2011-106	●						1		39
<b>Department of Transportation</b>									
Intellectual Property Report 2011-106	●						1		39
<b>Employment Development Department</b>									
Unemployment Program Report 2010-112			●				8	1	119

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	FOLLOW-UP RESPONSE				STATUS OF RECOMMENDATION				PAGE NUMBER
	INITIAL RESPONSE	60-DAY	SIX-MONTH	ONE-YEAR	FULLY IMPLEMENTED	PARTIALLY IMPLEMENTED	PENDING	NO ACTION TAKEN	
Judiciary									
Administrative Office of the Courts									
Statewide Case Management Project Report 2010-102					11	19	6	1	127
State Bar of California									
Lawyer Assistance Program Report 2011-030					2	1			155
Superior Court of California, County of Marin									
Sacramento and Marin Superior Courts Report 2009-109					14				141
Superior Court of California, County of Sacramento									
Sacramento and Marin Superior Courts Report 2009-109					24	6		11	141
Labor and Employment									
California Technology Agency									
Unemployment Program Report 2010-112							1		119
Employment Development Department									
Unemployment Program Report 2010-112							8	1	119
Local Government									
Amador County									
Indian Gaming Special Distribution Fund Report 2010-036						4		1	73
City of Fremont									
Dymally-Alatorre Bilingual Services Act Report 2010-106					1				65
City of Garden Grove									
Dymally-Alatorre Bilingual Services Act Report 2010-106					1				65
City of Santa Ana									
Dymally-Alatorre Bilingual Services Act Report 2010-106					1				65
Humboldt County									
Indian Gaming Special Distribution Fund Report 2010-036								3	73



	FOLLOW-UP RESPONSE				STATUS OF RECOMMENDATION				PAGE NUMBER
	INITIAL RESPONSE	60-DAY	SIX-MONTH	ONE-YEAR	FULLY IMPLEMENTED	PARTIALLY IMPLEMENTED	PENDING	NO ACTION TAKEN	
<b>Riverside County</b>									
Indian Gaming Special Distribution Fund Report 2010-036			●			1	2	1	73
<b>San Diego County</b>									
Indian Gaming Special Distribution Fund Report 2010-036			●		2	1			73
<b>San Dieguito Union High School District</b>									
Financial Issues Report 2009-116				●	4				49
<b>Santa Barbara County</b>									
Indian Gaming Special Distribution Fund Report 2010-036			●					6	73
<b>Shasta County</b>									
Indian Gaming Special Distribution Fund Report 2010-036			●			1	2	2	73
<b>Yolo County</b>									
Indian Gaming Special Distribution Fund Report 2010-036			●		1	1		2	73
<b>Natural Resources</b>									
<b>Department of Resources Recycling and Recovery</b>									
Beverage Container Recycling Program Report 2010-101				●	14		5		157
<b>State Lands Commission</b>									
Public Lands Report Report 2010-125		●			8	9	8	2	163
<b>Public Safety</b>									
<b>California Community Colleges Chancellor's Office</b>									
Crime Disclosure Report 2009-032				●	1				91
<b>California Prison Health Care Services</b>									
Three Strikes Law and Health Care Costs Report 2009-107.2				●	2	1	2		171
<b>California Prison Industry Authority</b>									
Inmate Employment Report 2010-118			●		5		4		177
<b>California State University, Fresno</b>									
Crime Disclosure Report 2009-032				●	2				91

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	FOLLOW-UP RESPONSE				STATUS OF RECOMMENDATION				PAGE NUMBER
	INITIAL RESPONSE	60-DAY	SIX-MONTH	ONE-YEAR	FULLY IMPLEMENTED	PARTIALLY IMPLEMENTED	PENDING	NO ACTION TAKEN	
<b>Department of Corrections and Rehabilitation</b>									
Correctional Offender Management Profiling for Alternative Sanctions Program Report 2010-124		●			1	2	3	1	185
Inmate Employment Report 2010-118			●				2		177
Sex Offender Commitment Program Report 2010-116		●					2		181
Three Strikes Law and Health Care Costs Report 2009-107.2				●	1	1	2	2	171
<b>Department of Mental Health</b>									
Sex Offender Commitment Program Report 2010-116		●				2	3		181
<b>Mt. San Antonio Community College</b>									
Crime Disclosure Report 2009-032				●	5				91
<b>Ohlone Community College</b>									
Crime Disclosure Report 2009-032				●	7				91
<b>University of California, Riverside</b>									
Crime Disclosure Report 2009-032				●	2				91
<b>Western Career College—Sacramento</b>									
Crime Disclosure Report 2009-032				●	3				91
<b>Western University of Health Sciences</b>									
Crime Disclosure Report 2009-032				●	3				91
<b>Transportation</b>									
<b>California High-Speed Rail Authority</b>									
High Speed Rail Authority Report 2009-106				●	5	1	4		189
<b>Department of Transportation</b>									
Capital Outlay Support Program Report 2010-122			●		4	3	4		193
<b>Water, Parks, and Wildlife</b>									
<b>Department of Finance</b>									
Oversight of Bond Expenditures Report 2010-117			●			1		2	199
<b>Department of Water Resources</b>									
Oversight of Bond Expenditures Report 2010-117			●			2			199

**Table 3**  
**Investigative Reports**

	Date of Last Response	Fully Implemented	Partially Implemented	Pending	No Action Taken	Page Number
<b>California Conservation Corps</b>						
Failure to Follow State Contracting Laws Investigations Report I2010-2, Allegation I2008-1021	April 2011	4				209
<b>California Energy Commission</b>						
Falsification of Time and Attendance Records Investigations Report I2011-1, Allegation I2010-0844	November 2011	3	1			217
<b>California State University, Northridge</b>						
Misuse of State Property, Incompatible Activities Investigations Report I2010-1, Allegation I2008-1037	May 2010	2				203
<b>Department of Corrections and Rehabilitation</b>						
Misuse of State Employee's Time, Waste of State Funds Investigations Report I2010-1, Allegation I2008-0920	December 2010	2				205
Delay in Reassigning an Incompetent Psychiatrist, Waste of State Funds Investigations Report I2010-2, Allegation I2009-0607	November 2011	3				213
Improper Overtime Reporting Investigations Report I2010-2, Allegation I2007-0887	December 2010				2	211
Misuse of State Resources Investigations Report I2011-1, Allegation I2009-1203	November 2011	1	2			219
<b>Department of Fish and Game</b>						
Misuse of a State Vehicle, Improper Travel Investigations Report I2011-1, Allegation I2009-0601	October 2011				4	221
<b>Department of General Services</b>						
Misuse of State Resources Investigations Report I2010-2, Allegation I2008-1024	June 2011	2				215
<b>Department of Industrial Relations</b>						
Misuse of State Time and Resources, Incompatible Activities, Inadequate Administrative Controls Investigations Report I2010-1, Allegation I2008-1066	December 2010	3				207
Failure to Monitor Adequately Employee's Time Reporting Investigations Report I2011-1, Allegation I2008-0902	September 2011	1				223
<b>Department of Mental Health</b>						
Waste of State Funds, Misuse of State Resources Investigations Report I2011-1, Allegation I2009-0644	June 2011	4				225
<b>Department of Transportation</b>						
Inexcusable Neglect of Duty Investigations Report I2011-1, Allegation I2008-0731	December 2011	3		1		227
<b>State Controller's Office</b>						
Failure to Report Absences, Failure to Monitor Adequately an Employee's Time Reporting Investigations Report I2011-1, Allegation I2009-1476	September 2011	3				229



## Department of Public Health

### It Reported Inaccurate Financial Information and Can Likely Increase Revenues for the State and Federal Health Facilities Citation Penalties Accounts

#### REPORT NUMBER 2010-108, ISSUED JUNE 2010

The report concludes that the Department of Public Health (Public Health) and the former California Department of Health Services have overstated the fund balances for the State and Federal Health Facilities Citation Penalties Accounts (state and federal accounts) on the fund condition statements since at least fiscal year 2004–05. Of particular note is that Public Health’s budget section overstated the federal account’s ending fund balance by \$9.9 million for fiscal year 2008–09. 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 the Department of Aging’s (Aging) Long-Term Care Ombudsman Program designed to help protect residents of long-term health care facilities (facilities) from abuse and neglect.

Revenue for the state and federal accounts is derived from citations imposing Civil Money Penalties (monetary penalties) that Public Health’s Licensing and Certification Division (division) or the Centers for Medicare and Medicaid Services (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 we reviewed, the division imposed \$8.4 million in monetary penalties but collected only \$5.6 million. Furthermore, a significant amount of monetary penalties imposed by the division 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 comprising 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 we reviewed 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.

Finally, we 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 instance, Public Health should seek the authority to revise the monetary penalties specified in state law—some were last revised in 2001 and others in 1985. 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.

In the report, the California State Auditor (state auditor) made the following recommendations to Public Health. The state auditor’s determination regarding the current status of recommendations is based on Public Health’s response to the state auditor as of June 2011.

#### **Recommendation 1.1.a—See pages 20—21 of the audit report for information on the related finding.**

To ensure that the governor’s budget does not overstate funds available for appropriation for the federal account, Public Health should include text in its budget section procedure manual requiring staff to reconcile the revenues, expenditures, and fund balance as supported by Aging’s and Public Health’s accounting records to the fund condition statement prepared for inclusion in the governor’s budget.

***Public Health's Action: Fully implemented.***

Public Health has updated its budget section procedure manual with the revised fund condition statement procedures. Included in the manual are requirements for budget section staff to reconcile the revenues, expenditures, and fund balance prior to inclusion of the fund condition statement in the governor's budget. Additionally, Public Health stated that its budget section has implemented the procedures manual and held training for staff in March 2011 related to the revised procedures.

**Recommendation 1.1.b—See page 21 of the audit report for information on the related finding.**

To ensure that the governor's budget does not overstate funds available for appropriation for the federal account, Public Health should ensure that supervisory review is performed of the reconciliation of the fund condition as supported by Aging's and Public Health's accounting records to the fund condition statement prepared for inclusion in the governor's budget.

***Public Health's Action: Fully implemented.***

The fund condition statement procedures, included in Public Health's budget section procedures manual, require that a supervisor review the fund condition and indicate approval with a signature and date.

**Recommendation 1.2.a—See pages 23—24 of the audit report for information on the related finding.**

To increase revenue for the state account, Public Health should update its Electronic Licensing and Management System (ELMS) to use the issuance date of the citation as specified in state law when calculating whether a facility's payment was received in time to warrant a 35 percent reduction. Further, the division should update its monetary penalty assessment form to ensure it contains language that is consistent with state law. To the extent Public Health believes state law should be revised to reflect the date on which the facility received the citation, rather than the date the citation was issued, it should seek legislation to make such a change.

***Public Health's Action: Fully implemented.***

In December 2010 Public Health enhanced ELMS to use the citation issuance date when calculating whether a facility's payment was received in time to warrant a 35 percent reduction. Further, in September 2010, Public Health updated its monetary penalty assessment form with language that is consistent with state law. Finally, Public Health stated that it does not believe that it needs to revise state law to reflect the date on which the facility received the citation, rather than the date the citation was issued. Thus, our related recommendation is not applicable.

**Recommendation 1.2.b—See pages 25—30 of the audit report for information on the related finding.**

To increase revenue for the state account, Public Health should seek legislation authorizing it to require facilities that want to contest the monetary penalty to pay the penalty upon its appeal, which could then be deposited into an account within the 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.

***Public Health's Action: No action taken.***

Although Public Health originally agreed in its 60-day and six-month response with our recommendation, in its one-year response it stated that it is changing its position after meeting with stakeholders in January 2011. Public Health indicated that changing the collection process to require facilities to prepay penalties, and placing the penalties in an interest bearing account, would

result in a cost to the department of approximately \$65,000 a year. Public Health explained that the administrative cost of maintaining such an account would need to be paid either by the imposition of a nonrefundable administrative fee upon filing of an appeal or by an increase in licensing fees.

However, as we explain in our report, Public Health could probably generate more than enough interest revenue to outweigh the costs to administer the account. Further, establishing an account within the special deposit fund could help increase revenue for the state account and deter some facilities from appealing citations solely to defer or reduce payments of their monetary penalties.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

**Recommendation 1.3—See pages 29—30 of the audit report for information on the related finding.**

To ensure consistency with federal guidance related to federal requirements, and that it is not creating incentives for facilities to appeal citations issued for noncompliance with state requirements, Public Health should provide guidance to its staff that discourages settling appealed monetary penalties for a better term than had the facility not contested the citation and paid the penalty within the time frame specified in law to receive a 35 percent reduction. If Public Health believes instances occur when it is appropriate to reduce a monetary penalty by more than 35 percent, it should document which statutory or regulatory factors that formed the basis for concluding that the original class of citation and corresponding monetary penalty amount were no longer considered valid or relevant.

***Public Health's Action: No action taken.***

Public Health stated that it disagrees with our recommendation related to establishing a policy that discourages settling appealed monetary penalties for a better term than had the facility not contested the citation, and will therefore not implement our recommendation. Additionally, Public Health stated that it will not implement our recommendation related to documenting the factors that formed the basis for reducing a monetary penalty by more than 35 percent. While Public Health agreed there should not be incentives for facilities to appeal citations, it asserted that it must maintain maximum discretion to weigh all factors in a final settlement. However, as we describe in our report, using its discretion in reducing monetary penalties has resulted in Public Health granting an average reduction to monetary penalties of 59 percent of the amount originally imposed over the past six years. Therefore, it appears that the manner in which Public Health is currently exercising its discretion to reduce monetary penalties could be an incentive for facilities to appeal citations.

**Recommendation 1.4.a—See pages 31—33 of the audit report for information on the related finding.**

To ensure that citation review conferences are completed expeditiously, Public Health should continue to take steps to eliminate its backlog of appeals awaiting a citation review conference.

***Public Health's Action: Partially implemented.***

To address the backlog of appeals awaiting a citation review conference, Public Health stated that it conducted citation review conferences for all Class A violations that were pending when we issued our report. In July 2010 Public Health entered into a contract with the Office of Administrative Hearings (OAH) to address the backlog of appeals for Class AA violations. However, Public Health stated that it terminated this contract in April 2011 due to escalating costs and because OAH was unable to conduct the citation review conferences consistent with Public Health's protocols. As a result, Public Health stated there is still a backlog of one Class AA, 162 Class A, and 337 Class B violations awaiting citation review conferences. Public Health recently hired three retired annuitants to conduct citation review conferences.

**Recommendation 1.4.b—See pages 25—30 of the audit report for information on the related finding.**

To ensure that citation review conferences are completed expeditiously, Public Health should 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.

***Public Health's Action: Fully implemented.***

See the legislative action below.

***Legislative Action: Legislation enacted.***

Chapter 729, Statutes of 2011 (Assembly Bill 641), eliminates the citation review conference from the citation appeals process for long-term care facilities and allows fines to be levied from both state and federal agencies when an incident violates both state and federal laws.

**Recommendation 1.4.c—See pages 32—33 of the audit report for information on the related finding.**

To ensure that citation review conferences are completed expeditiously, Public Health should monitor its progress in processing appealed citations for Class AA and Class B violations as well as OAH's progress in processing appealed citations for Class A violations.

***Public Health's Action: Fully implemented.***

Public Health stated that it now has a project manager responsible for tracking and coordinating citation review conferences and noted that it decreased the backlog for Class AA and Class B violations. Public Health stated that the backlog of Class A violations has risen after terminating the OAH contract, but anticipates this number will decrease because three retired annuitants are dedicated to conducting citation review conferences.

**Recommendation 1.5.a—See pages 34—36 of the audit report for information on the related finding.**

To increase revenue for the penalty accounts, Public Health should seek legislation authorizing it to revise periodically the penalty amounts to reflect an inflation indicator, such as the Consumer Price Index.

***Public Health's Action: Partially implemented.***

Public Health recognizes that this recommendation requires a statutory change. Public Health stated that, as a first step, the legislation referenced below increased the fine for Class B violations to \$2,000. It asserted that, going forward, it will continue to evaluate increases to the monetary penalty amounts for the other classes of violations.

***Legislative Action: Legislation enacted to partially implement.***

Chapter 4, Statutes of 2011 (Assembly Bill 19), authorizes Public Health to increase the fine for Class B violations to \$2,000.

**Recommendation 1.5.b—See pages 34—36 of the audit report for information on the related finding.**

To increase revenue for the penalty accounts, Public Health should encourage the CMS to seek changes to federal regulations authorizing CMS to revise periodically the monetary penalty amounts imposed on facilities to reflect the rate of inflation.



***Public Health's Action: Fully implemented.***

In December 2010 Public Health issued a letter to CMS encouraging it to periodically revise the monetary penalties imposed on facilities that are not compliant with federal requirements to reflect the rate of inflation.

**Recommendation 1.5.c—See page 36 of the audit report for information on the related finding.**

To increase revenue for the penalty accounts, Public Health should ensure that it conducts all state surveys of facilities every two years, as required by state law.

***Public Health's Action: Pending.***

Public Health concurs that it should conduct all state surveys of facilities every two years as required by state law and is making a concerted effort to do so. However, Public Health stated that it is unable to meet this standard at this time due to insufficient staffing resources.

**Recommendation 1.5.d—See pages 36—37 of the audit report for information on the related finding.**

To increase revenue for the penalty accounts, Public Health should submit to the Pooled Money Investment Board a request that the board approve including both the state and federal accounts in the Surplus Monetary Investment Fund (SMIF) in order to increase revenue for both accounts.

***Public Health's Action: Fully implemented.***

Public Health stated that it submitted a request to the Pooled Money Investment Board to include the penalty accounts in the SMIF in June 2010. The request was approved and the penalty accounts began to accrue interest for the fourth quarter of fiscal year 2009–10.

**Recommendation 1.5.e —See pages 36—37 of the audit report for information on the related finding.**

To increase revenue for the penalty accounts, Public Health should seek authorization from the Legislature both to impose a monetary penalty and to recommend that CMS impose a monetary penalty when the division determines that a facility is not complying with both state and federal requirements.

***Public Health's Action: Fully implemented.***

See the legislative action below.

***Legislative Action: Legislation enacted.***

Chapter 729, Statutes of 2011 (Assembly Bill 641), removes the prohibition of the issuance of both a state citation and the recommendation to impose a federal monetary penalty when Public Health determines that a facility is in violation of any state or federal law, regulation, or statutory provision.

**Recommendation 1.5.f —See pages 37—38 of the audit report for information on the related finding.**

To increase revenue for the penalty accounts, Public Health should seek legislation specifying a time frame within which facilities with nonappealed citations that do not qualify for a 35 percent reduction must pay their monetary penalties and allowing Public Health to collect interest on late payments of monetary penalties.

***Public Health's Action: Pending.***

Public Health did not entirely agree with our recommendation. However, Public Health indicates that it will explore proposing legislation for the 2012 legislative session that specifies a time frame within which nonappealed citations that do not qualify for a 35 percent reduction must be paid.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

**Recommendation 1.5.g—See pages 37—38 of the audit report for information on the related finding.**

To increase revenue for the penalty accounts, Public Health should increase its coordination with CMS to ensure that it can track CMS's implementation of the recommendations that the division makes to CMS for the period before receiving training from CMS, and that it effectively use the Automated Survey Processing Environment (ASPEN) to track recommendations after the training.

***Public Health's Action: Fully implemented.***

Public Health stated that it worked with CMS to increase coordination. Public Health now generates a quarterly report from ASPEN that tracks the recommendations made by the State and related enforcement actions.

**Recommendation 1.6—See pages 38—40 of the audit report for information on the related finding.**

To make certain that it fully implements the recommendations made in our April 2007 audit report, Public Health should create written procedures specifying that expenditure reports should be reviewed monthly by an accounting analyst within the division to determine whether all charges apply to temporary manager payments. Further, Public Health should include in its written policies and procedures that general support items should not be charged to the penalty accounts.

***Public Health's Action: Fully implemented.***

Public Health stated that it finalized and implemented the procedures specifying that expenditure reports should be reviewed by an accounting analyst within Public Health on a monthly basis. Additionally, in June 2010, Public Health circulated written policies and procedures to staff which noted that general support items should not be charged to the penalty accounts.

**Recommendation 1.7—See pages 39—40 of the audit report for information on the related finding.**

To ensure that it complies with current state law and increases transparency, Public Health should adopt regulations for the administration of temporary management companies.

***Public Health's Action: Pending.***

Public Health stated that it will complete the regulations for the administration of temporary management companies by 2016.

# California Housing Finance Agency

## Most Indicators Point to Continued Solvency Despite Its Financial Difficulties Created, in Part, by Its Past Decisions

### REPORT NUMBER 2010-123, ISSUED FEBRUARY 2011

This report concludes that, although the California Housing Finance Agency (CalHFA) will continue to face significant risks, its major housing programs and the fund it uses to pay its operating expenses should remain solvent under most foreseeable circumstances. The report also concludes that past decisions by CalHFA, such as its decisions to significantly increase its use of variable-rate bonds and interest-rate swap agreements, and to launch new mortgage products that were easier for borrowers to qualify for, but that eventually proved to have high delinquency rates, contributed to its current difficulties. These decisions revealed the need for changes in how its board of directors (board) governs the agency. In particular, CalHFA's board should approve any new debt-issuance strategy or mortgage product prior to its implementation, which is something it had not always done in the past, and should include language in its annual resolutions delegating authority to CalHFA staff restricting staff's actions to the debt strategies and mortgage products specified in the annual delegations themselves, approved business plans, or subsequent board resolutions.

In the report, the California State Auditor (state auditor) made the following recommendations to CalHFA. The state auditor's determination regarding the current status of recommendations is based on CalHFA's response to the state auditor as of August 2011.

#### **Recommendation 2.1—See page 50 of the audit report for information on the related finding.**

To ensure that CalHFA's business plans and strategies are thoroughly vetted by an experienced and knowledgeable board, the Legislature should consider amending the statute that specifies the composition of CalHFA's board to include appointees with specific knowledge of housing finance agencies, single-family mortgage lending, bonds and related financial instruments, interest-rate swaps, and risk management.

#### ***Legislative Action: Legislation enacted.***

Chapter 408, Statutes of 2011 (Assembly Bill 1222), allows individuals affiliated with the housing, banking, insurance, and other specified industries to serve on the CalHFA board, even though they may have a conflict of interest, provided they publicly disclose the interest and do not attempt to influence or participate in the decision in which they have an interest.

#### **Recommendation 2.2—See pages 49, 50, 58, and 59 of the audit report for information on the related finding.**

To provide better oversight of CalHFA, its board should issue a policy stating that it must approve any new debt-issuance strategy or mortgage product prior to its implementation, either directly or by inclusion in CalHFA's annual business plan. The board should, where appropriate, prescribe limits on how much of the debt portfolio can be fixed- or variable-rate bonds, and what proportion of the loans it purchases can consist of mortgage products it identifies as riskier than other mortgage products.

#### ***CalHFA's Action: Fully implemented.***

A board resolution approved May 2011 requires staff to present new financing strategies and new loan products for full discussion and approval by majority vote of the board prior to implementation by CalHFA. This resolution also specifies that proposed annual business plans submitted to the board by CalHFA staff shall address limitations on the use of variable rate debt and identification of loan products that CalHFA identifies as involving higher levels of risk than traditional CalHFA loan products.

**Recommendation 2.3—See pages 49, 50, 58, and 59 of the audit report for information on the related finding.**

Within its annual resolutions delegating authority to CalHFA staff, the CalHFA board should include language restricting staff's actions regarding debt strategies and mortgage products to those specified in the annual delegations themselves, the approved business plans, or subsequent board resolutions.

***CalHFA's Action: Fully implemented.***

Board resolutions approved in January 2011 and amended in March 2011 include restrictions on actions CalHFA staff may take regarding debt strategies and mortgage products. When taken together with the May 2011 board resolution (mentioned above), these actions restrict CalHFA staff to implementing only financing strategies and loan products approved by the board.

## Department of General Services

### It No Longer Strategically Sources Contracts and Has Not Assessed Their Impact on Small Businesses and Disabled Veteran Business Enterprises

#### REPORT NUMBER 2009-114, ISSUED JULY 2010

This report concludes that documents indicate that as a result of its initial strategic sourcing efforts, the State accrued at least \$160 million in net savings from 33 contracts through June 30, 2007. The Department of General Services (General Services) stopped formally calculating savings at that time. Further, although it has not strategically sourced 20 other categories of goods or services that its consultant recommended, General Services indicates that it has used traditional methods to issue statewide contracts for many of the categories. However, it has not determined that these contracts have resulted in savings commensurate with what it would have achieved under strategic sourcing. General Services has not entered into any strategically sourced contracts since July 2006, and it is not reviewing comprehensive purchasing data that will allow it to identify new opportunities effectively.

General Services does not have all the necessary data to determine the change in the number of small businesses and Disabled Veteran Business Enterprises (DVBES) participating in a category of goods that was strategically sourced. Additionally, our review of contracts awarded to small businesses and DVBES by five large state agencies does not indicate a clear relationship. Further, General Services determines whether the planned use of subcontractors complies with statutory requirements designed to ensure that they play a meaningful role in any contract in which they participate. However, it does not monitor to ensure compliance once the contract has been awarded. Finally, General Services does not yet have standard procedures to recover state funds when it identifies a contractor that has not complied with the pricing terms of the contract.

In the report, the California State Auditor (state auditor) made the following recommendations to General Services. The state auditor's determination regarding the current status of recommendations is based on General Services' responses to the state auditor as of July through September 2011.

#### **Recommendation 1.1—See page 21 of the audit report for information on the related finding.**

To ensure that it determines savings to the State going forward for strategically sourced contracts, General Services should examine the State's recent purchasing patterns when determining whether to rebid or extend previously strategically sourced contracts and when estimating expected savings. It should subsequently compare the savings it achieves to the expected savings for those contracts.

#### ***General Services' Action: Partially implemented.***

General Services states that it has developed standards for implementing and documenting the evaluation of recent purchase patterns when determining whether to extend, rebid, or retire previously sourced contracts. It notes that it did so in July 2010 by updating its procedures manual to incorporate detailed requirements for the development of opportunity assessments and sourcing work plans.

General Services notes that it is using a benchmarking procedure that includes the estimation of expected savings for any rebid or extended contracts based on recent purchase patterns. It has developed a work plan template that contains detailed information on savings expected from a proposed sourced contract. General Services indicates that the template is currently being used on the rebid of one statewide contract. It subsequently plans to compare the baseline savings amounts to the actual pricing obtained under an executed contract to calculate achieved savings.

**Recommendation 1.2—See pages 22—25 of the audit report for information on the related finding.**

To ensure that it has maximized the savings for consultant-recommended categories that it did not strategically source, General Services should conduct its planned review of these categories to determine if there are further opportunities to achieve savings.

***General Services' Action: Fully implemented.***

General Services completed its review of consultant-recommended categories that it did not strategically source and concluded that none of the 20 categories warranted additional strategic sourcing contracting efforts. General Services noted that its review confirmed that it used other traditional acquisition techniques to acquire those goods or services that accomplished the same goal as strategic sourcing. It noted that for the remaining categories, such as architectural and engineering services, electricity, and leased real property, the review determined that the categories were of such a broad nature that strategic sourcing techniques could not be applied.

In response to our request for documentation of the analysis performed that resulted in its conclusions, General Services provided a document of about three pages. The document commented on the results of each of the categories for which it or others conducted traditional acquisition methods. For many of the categories, General Savings indicated that either savings would be measured by individual contract or savings were not measured. Additionally, General Services described the factors that it believes prevent strategic sourcing of other categories.

However, although General Services completed its planned review, we note that the review was unable to report aggregate savings information for many of the categories for which it indicated traditional acquisition techniques were used. This underscores the need for General Services, as it implements our recommendations regarding future purchases, to ensure that it is tracking actual savings in such a way that it can compare them against expected savings.

**Recommendation 1.3—See pages 25—27 of the audit report for information on the related finding.**

To ensure that it maximizes the savings to the State for future purchases, General Services should follow the procedures for identifying strategic sourcing opportunities included in the Intake and Analysis Unit's procedures manual. To ensure that it is effectively identifying new strategic sourcing opportunities, General Services should work to obtain comprehensive and accurate data on the specific items that state agencies are purchasing, including exploring options for obtaining such data for agencies that do not have enterprise-wide systems and therefore would not be using the additional functionality of the eProcurement system. Until it obtains such data, General Services should work with state agencies to identify detailed purchases for categories that it identifies through the State Contracting and Procurement Registration System (SCPRS) as viable opportunities for strategically sourcing. For example, if based on its review of SCPRS data, General Services identifies a particular category that it believes is a good candidate for strategic sourcing, it should work with those state agencies that accounted for the most purchases within the category to determine the types and volume of specific goods purchased to further analyze the types of goods to strategically source. General Services should assess any need for additional resources based on the savings it expects to achieve.

***General Services' Action: Partially implemented.***

General Services indicates that it periodically reviews databases, including the SCPRS data, for items that may indicate a strategic sourcing opportunity. Its procedures manual indicates that this review is to take place quarterly. It states that in consultation with its customers, it uses available data on purchasing patterns to identify if strategic sourcing or another procurement vehicle should be used. General Services believes that these steps are sufficient to allow it to obtain comprehensive and accurate data on the specific items that state agencies are purchasing that are of a volume that warrant an opportunity for strategic sourcing. General Services states that it goes through an extensive search for purchasing data using all available sources and that it requests copies of purchase orders from state agencies to obtain more detailed purchasing data.



However, although General Services notes that it preliminarily identified potential sourcing opportunities through its review of the SCPRS data for quarters ending March 2011 and June 2011, it states that it has not further analyzed these opportunities due to lack of resources.

**Recommendation 1.4—See pages 30—31 of the audit report for information on the related finding.**

To provide decision makers with the information necessary to determine the true costs and benefits of strategic sourcing, General Services should evaluate any impact strategic sourcing has on small business and DVBE participation in terms of number of contracts awarded and amounts paid to small businesses and DVBEs within the categories being strategically sourced. Specifically, for goods that were strategically sourced, General Services should compare the number of contracts awarded to small businesses and DVBEs before they were strategically sourced with those awarded through such contracts after they were strategically sourced. This effort should include contracts awarded by General Services and other state agencies.

***General Services' Action: Partially implemented.***

General Services states that before performing an acquisition, it includes an assessment of the number of small businesses and DVBEs that participated in the previous solicitation and the potential number of small businesses and DVBEs that will be participating in the new solicitation. As for tracking the use of small business and DVBE firms after a strategically sourced contract has been awarded, General Services has decided to capture and track that information for statewide contracts under its purview. It has added new off-ramp reporting provisions to three statewide contracts and plans to add this provision to other contracts as necessary.

However, General Services noted that it has not yet analyzed the data it has been tracking for the three contracts currently containing the new off-ramp reporting provision because enough time has not passed to allow adequate usage for analyses. It stated that it plans to conduct its evaluation of small business and DVBE usage in the summer or fall 2012 for off-ramp purchases made under the three statewide contracts.

**Recommendation 1.5—See pages 29—31 of the audit report for information on the related finding.**

To evaluate the effectiveness of the off ramp in providing opportunities for small business and DVBE participation, General Services should track the number and dollar amounts of contracts that state agencies award through the use of the off ramps in strategically sourced and other mandatory statewide contracts. General Services' evaluation also should consider the extent to which an off ramp affects the monetary benefits that result from statewide contracts designed to leverage the State's purchasing power.

***General Services' Action: Partially implemented.***

General Services is maintaining a database for tracking purposes of approved small business or DVBE off-ramp purchases, which includes pricing information. It plans to use this information to assess the impact on small businesses and DVBEs after strategic sourcing. General Services has included the new off-ramp usage reporting provisions in three statewide contracts and has begun gathering the usage data. It plans to conduct its evaluation of the off-ramp usage data in summer or fall 2012.

**Recommendation 1.6—See pages 35—37 of the audit report for information on the related finding.**

To ensure that small business and DVBE subcontractors comply with the commercially useful function requirements, General Services should develop guidance for state agencies on how to ensure that subcontractors perform commercially useful functions if it believes state agencies making the purchases



through statewide contracts should be responsible for this task. In addition, General Services should monitor, on a sample basis, whether state agencies are ensuring compliance with these requirements. General Services could leverage its efforts by working with other state agencies to ensure that subcontractors claiming to have provided the goods and services to the purchasing agency did, in fact, perform the work for which they are invoicing the state agencies.

***General Services' Action: Partially implemented.***

General Services has revised user instructions for new statewide contracts to include instructions and/or direction to user state agencies on ensuring contractors' compliance with the commercially useful function requirements. However, it states that in most cases this task is performed by General Services' staff during the solicitation process. It notes that it has implemented the use of its contract management plan process, which outlines the responsibilities of its contract administrators. Where applicable, these plans are to include a requirement for ensuring contractor compliance with commercially useful function requirements. General Services reports that it is in the early stages of implementing the contract management plan process and has not yet entered into a statewide contract that requires user state agencies to assess commercially useful functions on individual transactions.

**Recommendation 1.7—See pages 44—45 of the audit report for information on the related finding.**

To ensure prompt recovery of state funds, General Services should implement standard procedures to recover overcharges identified by the Compliance and Savings Administration system. General Services' new procedures should specify the amount of time it considers reasonable to recover funds due back to the State.

***General Services' Action: Fully implemented.***

General Services has developed standard procedures to recover any overcharges, including the amount of time considered reasonable to recover funds due back to the State. The procedures provide for the issuance of a demand notice for payment of any identified overcharges—normally within 30 days—and monthly monitoring of any outstanding amounts.

**Recommendation 1.8—See pages 45—46 of the audit report for information on the related finding.**

To improve the integrity of its monitoring of pricing compliance, General Services should implement procedures to help ensure that usage reports reflect the actual items received and prices paid by the state agencies that purchased the items. For example, on a periodic basis, it could select a sample of purchases from the usage reports and work with purchasing state agencies to confirm that the prices and quantity of items reported reconcile with the invoices submitted by the contractor.

***General Services' Action: Partially implemented.***

General Services has implemented procedures to assist in ensuring the accuracy of the usage reports submitted by contractors. The contract management plan process mentioned in General Services' comments on the recommendations related to commercially useful function requirements include steps for the contract administrator to work with state agencies to confirm the accuracy of contractor reported pricing and other relevant data. To ensure the validity of the contractor's usage reporting, the contract management plans are to include steps requiring the contract administrator to compare, when necessary, the data being reported by contractors with information from purchasing agency documents. General Services notes that the criteria for determining when to perform such comparisons would vary by individual contracts and are influenced by various factors deemed important by contract administrators. However, General Services notes that due to the recent implementation of the contract management plan process, the sampling of agency documentation has not yet occurred.

**Recommendation 1.9.a—See pages 38—41 of the audit report for information on the related finding.**

The Legislature could revise state law to 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 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. It should also consider whether a firm should be required to have demonstrated experience in a particular line of business before being allowed to participate in state contracts.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

**Recommendation 1.9.b—See pages 38—41 of the audit report for information on the related finding.**

The Legislature could revise state law to provide more clarity regarding the use of small business and DVBE subcontractors on state contracts. In doing so, the Legislature should consider whether 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.

***Legislative Action: Legislation introduced.***

Senate Bill 817, as introduced in the 2011–12 Regular Legislative Session, includes provisions to allow a vendor to meet DVBE goals from sources other than state contracts and allows the calculation to meet participation goals to include specified direct and indirect costs incurred by the vendor. The bill was held in the committee.

**Recommendation 1.9.c—See pages 38—41 of the audit report for information on the related finding.**

The Legislature could revise state law to provide more clarity regarding the use of small business and DVBE subcontractors on state contracts. In doing so, the Legislature should consider whether 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.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.



# Intellectual Property

## An Effective Policy Would Educate State Agencies and Take Into Account How Their Functions and Property Differ

### REPORT NUMBER 2011-106, ISSUED NOVEMBER 2011

Intellectual property typically consists of copyrights, trademarks, patents, and trade secrets. In November 2000, the California State Auditor (state auditor) issued a report titled *State-Owned Intellectual Property: Opportunities Exist for the State to Improve Administration of its Copyrights, Trademarks, Patents, and Trade Secrets*—report number 2000-110 (2000 audit report). The 2000 audit report recommended the Legislature take steps to help state agencies manage and protect the State's intellectual property.

This report concludes that the State has not enacted a statutory framework, nor has it implemented the recommendations made in the 2000 audit report or otherwise provided guidance to state agencies regarding the management and protection of intellectual property. The four state control agencies we spoke to—the Department of Finance, the Department of General Services, the State Controller's Office, and the California Technology Agency—generally do not provide policies or guidance to other state agencies regarding the management and protection of intellectual property because they do not believe that they are responsible for providing this type of guidance. However, more than half of the state agencies that responded to our survey about intellectual property stated that the State should establish statewide guidance for managing and protecting intellectual property. Moreover, the four state agencies we visited—the Department of Transportation (Caltrans), Department of Food and Agriculture (Food and Agriculture), California Energy Commission (Energy Commission), and Department of Health Care Services (Health Care Services)—had only limited written policies and instead generally relied on informal practices to manage and protect their intellectual property. To move forward, the State will need to clearly articulate the goals of any policy related to intellectual property. We believe that an effective policy would educate state agencies on their intellectual property rights and would be flexible and take into account that state agencies perform different functions and work with different types of intellectual property.

In the report, the state auditor made the following recommendations to Caltrans, Food and Agriculture, Energy Commission, Health Care Services, the Legislature, and the governor. The state auditor's determination regarding the current status of recommendations is based on the agencies' responses to the state auditor as of November 2011.

#### **Recommendation 1.1—See pages 19—21, 31—32, and 35—40 of the audit report for information on the related finding.**

Caltrans, the Energy Commission, Food and Agriculture, and Health Care Services should put in writing those policies and procedures related to intellectual property that they believe are necessary and appropriate to enable their staff to identify, manage, and protect their intellectual property.

#### ***Caltrans' Action: Pending.***

Caltrans stated that it is in the process of implementing the recommendation by continuing its efforts to develop additional written policies and procedures related to all aspects of intellectual property and that it will complete its efforts by June 30, 2012.

#### ***Energy Commission's Action: Pending.***

The Energy Commission stated that it has started working on policies and procedures to educate staff about intellectual property and how to protect it and that it will complete its policy and procedures by January 1, 2012.

***Food and Agriculture's Action: Pending.***

Food and Agriculture stated that it will work with appropriate staff to have policies and procedures in writing by December 31, 2011.

***Health Care Services' Action: Pending.***

Health Care Services stated that it agreed with the recommendation.

**Recommendation 1.2—See page 20 of the audit report for information on the related finding.**

Food and Agriculture should ensure that it has developed intellectual property terms and conditions that are appropriate for the types of agreements into which its contracts office enters.

***Food and Agriculture's Action: Pending.***

Food and Agriculture stated that it will work with appropriate staff to have appropriate terms and conditions in contract agreements by December 31, 2011.

**Recommendation 1.3—See pages 21 and 22 of the audit report for information on the related finding.**

The Energy Commission should take the necessary steps to strengthen its royalty process to ensure that it receives the proper amounts from all contractors that owe it royalties.

***Energy Commission's Action: Partially implemented.***

The Energy Commission stated that it has modified its annual Public Interest Energy Research (PIER) royalty letter to require a response and added language to its PIER solicitations indicating that bidders who have not responded to the royalty repayment letter may be screened out from participating in future PIER funding opportunities. The Energy Commission also stated that it is amending a contract with the State Controller's Office to include review of PIER royalty payments and has deployed an internal auditor to conduct royalty payment reviews. The Energy Commission stated it has drafted new PIER terms and conditions, which require certification that the royalty amount paid is correct. Finally, the Energy Commission stated that it is hiring a contractor to follow up with PIER researchers who may have commercialized a product and not paid royalties.

**Recommendation 1.4.a—See pages 25—28 of the audit report for information on the related finding.**

The Legislature and the governor should consider developing a statewide intellectual property policy that educates state agencies on their intellectual property rights without creating an administrative burden. Specifically, this policy should provide guidance to agencies that will give them the understanding necessary to identify when potential intellectual property may exist, including when contractors' work may result in intellectual property, and that will provide them with specific information on intellectual property protections.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

**Recommendation 1.4.b—See pages 25—28 of the audit report for information on the related finding.**

The Legislature and the governor should consider developing a statewide intellectual property policy that educates state agencies on their intellectual property rights without creating an administrative burden. Specifically, this policy should recognize that not all agencies have the same needs and that a one-size-fits-all approach may not be feasible. An effective policy should provide agencies with flexibility regarding ownership of intellectual property rights.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

**Recommendation 1.4.c—See pages 25—28 of the audit report for information on the related finding.**

The Legislature and the governor should consider developing a statewide intellectual property policy that educates state agencies on their intellectual property rights without creating an administrative burden. Specifically, this policy should have as one of its primary goals the promotion of the greatest possible public benefit from intellectual property the State creates or funds.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

**Recommendation 1.4.d—See pages 25—28 of the audit report for information on the related finding.**

The Legislature and the governor should consider developing a statewide intellectual property policy that educates state agencies on their intellectual property rights without creating an administrative burden. Specifically, this policy should recognize that although additional revenue may be a potential benefit of the State's intellectual property, it is not the only benefit, nor should it be the driving force behind a state policy. However, the policy should provide guidance for identifying valuable intellectual property and how to commercialize it, if appropriate.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

**Recommendation 1.4.e—See pages 25—28 of the audit report for information on the related finding.**

The Legislature and the governor should consider developing a statewide intellectual property policy that educates state agencies on their intellectual property rights without creating an administrative burden. Specifically, this policy should establish the minimum rights agencies should obtain for intellectual property developed by its contractors.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

**Recommendation 1.5—See pages 28 and 43—51 of the audit report for information on the related finding.**

If the Legislature and governor believe it would be valuable to understand the amount of intellectual property the State holds on an ongoing basis, they should consider establishing a mechanism to track the State's intellectual property.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.



## Department of General Services

### The Division of the State Architect Lacks Enforcement Authority and Has Weak Oversight Procedures, Increasing the Risk That School Construction Projects May Be Unsafe

#### REPORT NUMBER 2011-116.1, ISSUED DECEMBER 2011

This report concludes that the Department of General Services' (General Services) Division of the State Architect (division) is unable to certify that a large number of completed school construction projects meet requirements in the Field Act, a law designed to protect the safety of pupils, teachers, and the public. The division reports that over 16,000 projects remain uncertified. Elements of the act hamper the division's ability to enforce the certification requirements. For example, the act allows school districts to occupy uncertified projects and does not give the division the express authority to penalize school districts that do not comply with certification requirements. Further, the division infrequently uses its authority to stop construction of projects when it determines there is a risk to public safety. In addition, the division lacks a clear system for classifying uncertified projects, increasing the risk that it will miscommunicate the true risks associated with uncertified projects and that efforts to strategically follow up on these projects will be impeded.

We also found that the division's oversight of project construction is not effective. The division lacks a process for planning oversight it will perform, and in some cases could not demonstrate that it provided adequate field oversight. We found examples of projects with an estimated cost of up to \$2.2 million that had no evidence of a visit by the division's field staff. Further, the division relies on project inspectors to ensure that projects are constructed according to approved plans, but these inspectors are employees or contractors of the school districts, which increases the risk of improper influence and the division has not implemented robust strategies to mitigate this risk. Additionally, the division is not always able to approve project inspectors for work before the beginning of construction as the Field Act requires. Also, the division does not complete field oversight of school construction in the areas of fire and life safety and accessibility, raising the risk that safety issues in these areas will go uncorrected. Finally, the division lacks performance measures that could help it to improve its field oversight and certification of efforts.

In the report, the California State Auditor (state auditor) made the following recommendations to General Services and the Legislature. The state auditor's determination regarding the current status of recommendations is based on General Services' response to the state auditor as of December 2011.

#### **Recommendation 1.1.a—See pages 16—18 of the audit report for information on the related finding.**

To ensure public safety and provide public assurance that school districts construct projects in accordance with approved plans, the department, in conjunction with the division, should pursue legislative changes to the Field Act that would prohibit occupancy in cases in which the division has identified significant safety concerns.

#### ***General Services' Action: Pending.***

General Services stated that it will discuss within the administration the option of pursuing legislation that would change the Field Act to prohibit occupancy in cases in which the division has identified significant safety concerns.

#### ***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

**Recommendation 1.1.b—See pages 16—18 of the audit report for information on the related finding.**

To ensure public safety and provide public assurance that school districts construct projects in accordance with approved plans, the Legislature should consider implementing additional penalties for school districts that do not provide all required documents.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

**Recommendation 1.2—See pages 18—20 of the audit report for information on the related finding.**

To better use the enforcement tools at its disposal, the division should continue and expand its use of both orders to comply and stop work orders, as defined in its regulations. The division should also develop performance measures to assess the success of any efforts it makes to address safety concerns and reduce the number of uncertified projects.

***General Services' Action: Pending.***

General Services stated that in the near future, division headquarters management will meet with the division's regional managers to discuss the use of orders to comply and stop work orders. Subsequent to this, additional policies and procedures will be issued to assist in ensuring the appropriate and consistent use of these enforcement tools. Additionally, the division will task its Performance Metrics Unit with the responsibility for developing metrics to measure the success of the primary actions taken to address safety concerns and reduce the number of uncertified projects.

**Recommendation 1.3—See pages 20—23 of the audit report for information on the related finding.**

To ensure that it clearly justifies the reasons a project's noted issues merit a particular classification, the division should either modify its current policies regarding classifying types of uncertified projects or develop new policies, including requiring documentation of the rationale behind project-specific classifications. It should use its classifications to prioritize its efforts to follow up on uncertified projects based on risk and to better inform the public regarding the reasons it has not certified projects.

***General Services' Action: Pending.***

General Services stated that the division will modify or create new policies regarding classifying projects closed without certification, including the rationale behind the specific classification, and the use of letters to notify school districts of the reason a project was not certified. It also stated that the division will use the new process to prioritize its efforts to follow up on uncertified projects based on risk and to better inform the public regarding the reasons it has not certified projects.

**Recommendation 1.4—See pages 23 and 24 of the audit report for information on the related finding.**

To reduce the number of uncertified projects, the division should implement initiatives to follow up with school districts on uncertified projects. Those initiatives should include, at a minimum, regularly sending each district a list of its uncertified projects and assessing the success of the division's follow-up efforts.

***General Services' Action: Pending.***

General Services stated that the division plans to finish categorizing projects closed without certification by project class and school district by June 30, 2012. Once this is completed, General Services stated that a communication and outreach plan will be developed and that the division will track and regularly evaluate the success of its outreach efforts.

**Recommendation 2.1.a—See page 28 of the audit report for information on the related finding.**

To ensure it is providing adequate oversight of school district construction projects, the division should develop robust procedures for monitoring inspectors' submission of semi-monthly reports. The division should also maintain all semi-monthly reports in its project files.

***General Services' Action: Pending.***

General Services stated that the division will develop additional processes to ensure that inspectors are submitting the semi-monthly reports and that received reports are maintained in the project files. As part of this activity, the division plans to periodically reemphasize to its field engineers the importance of obtaining the reports. The division will also determine the feasibility of assigning administrative staff with responsibilities for tracking, obtaining, and filing the inspector reports.

**Recommendation 2.1.b—See pages 28 and 29 of the audit report for information on the related finding.**

To ensure it is providing adequate oversight of school district construction projects, the division should develop and document an overall strategy that establishes specific expectations for conducting site visits and monitoring construction. The division should then record and compare its actual visits and monitoring efforts to its planned actions. The division should document explanations for any deviations from its plans.

***General Services' Action: Pending.***

General Services stated that the division has implemented a policy that requires that field engineers regularly visit projects of a certain size and constructed from specific types of materials and have a face-to-face meeting with project inspectors. The division is developing a measurement tool and training program for its field engineers on this process. The division plans to carry out this policy by June 30, 2012.

**Recommendation 2.1.c—See pages 29 and 30 of the audit report for information on the related finding.**

To ensure it is providing adequate oversight of school district construction projects, the division should establish consistent criteria for entering data into its database on key aspects of projects, such as the dates for the start and end of construction.

***General Services' Action: Pending.***

General Services stated that the division will develop standard criteria for entering data into its project management system, which will include establishing clear criteria for identifying the start and end dates of construction.

**Recommendation 2.2—See pages 31 and 32 of the audit report for information on the related finding.**

To mitigate risks arising from the relationship between inspectors, school districts, and project managers, the division should develop formal procedures and explicit directions for field engineers to ensure that they establish a presence on project sites and provide adequate oversight of inspectors during construction.

***General Services' Action: Pending.***

General Services stated that the division is developing a training program to ensure that its field engineers provide consistent construction oversight. Training will include modules that address overseeing project inspector performance and record keeping during construction. For future projects, General Services indicated that field engineers will be required to conduct face-to-face meetings with project inspectors to establish a presence on the projects.

**Recommendation 2.3—See pages 32 and 33 of the audit report for information on the related finding.**

To ensure that it approves inspectors prior to the start of project construction, the division should streamline its approval process by reviewing inspectors' workloads and past experience using the data it already maintains.

***General Services' Action: Pending.***

General Services stated that the division will evaluate the inspector approval process for activities that could be streamlined to assist in approving inspectors prior to the start of project construction.

**Recommendation 2.4—See pages 33 and 34 of the audit report for information on the related finding.**

To ensure that certified inspectors are knowledgeable about current code requirements, the division should not excuse inspectors from required trainings and should improve its process for identifying expired certification exam scores. Further, the division should consistently follow and document its procedures for verifying the past employment of inspector applicants.

***General Services' Action: Pending.***

General Services stated that the division has tasked its certification unit manager with developing written policies that provide that inspectors must not be excused from required training. Further, the division will take action to strengthen existing processes regarding identifying expired certified exam scores and maintaining documentation of staff verifying the past employment history of inspector applicants.

**Recommendation 2.5—See pages 35—37 of the audit report for information on the related finding.**

To ensure that it formally monitors inspectors' performance, the division should reestablish a process for evaluating inspectors that provides consistent documentation of performance. The division should make this information accessible to appropriate staff.

***General Services' Action: Pending.***

General Services stated that the division will assign staff to review the prior inspector evaluation process to identify lessons learned and to develop a plan for the completion of performance evaluations by the field engineer at the final site visit.

**Recommendation 2.6—See pages 37 and 38 of the audit report for information on the related finding.**

To address areas in which its staff do not currently have expertise, the division should finalize its field pilot and take subsequent steps to ensure it has qualified staff to provide oversight of accessibility; fire and life safety; and the mechanical, electrical, and plumbing aspects of construction.

***General Services' Action: Pending.***

General Services stated that the division will revisit the results of the field pilot and determine the current feasibility of expanding its construction oversight for schools beyond structural safety.

**Recommendation 2.7—See pages 38 and 39 of the audit report for information on the related finding.**

To better manage its construction oversight and close-out functions, the division should develop measures to assess those functions and it should periodically report the results to the public on its Web site.

***General Services' Action: Pending.***

General Services stated that the division has developed performance measures related to the identification and categorization of projects closed without certification and to the visits and meetings held for certain types of projects. It said that the division's Performance Measurement Unit will be tasked with developing additional performance measures and related training for the construction oversight and closeout phases of projects. The results of any implemented measurement process will be posted to the division's Web site.

**Recommendation 2.8—See pages 40 and 41 of the audit report for information on the related finding.**

To address possible staffing problems, the division should use documented workload metrics to perform an assessment of its current staffing levels and determine its staffing needs. It should revisit the field pilot and make necessary changes to reflect its understanding of its current staffing situation.

***General Services' Action: Pending.***

General Services stated that the division will initiate an assessment of its current staff levels and needs based on available workload metrics. It said that the division will also revisit the results of the field pilot and determine the current feasibility of expanding its construction oversight for schools beyond structural safety.



# San Dieguito Union High School District

## Its Expenditures for Community Facilities District 94-2 Were Generally Appropriate, but It Did Not Fully Disclose Some of Its Financial Issues

### REPORT NUMBER 2009-116, ISSUED JUNE 2010

This report concludes that from 1998 through 2009, the San Dieguito Union High School District (school district) spent funds from Community Facilities District 94-2 (facilities district 94-2) almost entirely on appropriate facilities and services. Our test of 60 expenditure items valued at \$16.4 million charged to facilities district 94-2 revealed \$451,000 in inappropriate expenditures; otherwise, the funds went to school facilities and bond-related activities allowed in the resolution of formation that created the facilities district. Therefore, these expenditures were appropriate.

The school district did not make clear in its school board agendas and minutes the financial problems that it encountered in early 2008, its plans for dealing with these problems, or the eventual cost of resolving them. Specifically, the school district did not adequately reveal to the public in 2008 that it faced substantial problems with community facilities district bonds and risked running out of funds for making bond payments within a year. Furthermore, it did not disclose that its community facilities districts would have to pay a significant amount, eventually totaling \$8.1 million to resolve the problems with the bonds. In addition, the school district did not make all required disclosures related to these bonds in its fiscal year 2006–07 financial statements.

Finally, although we found that the school district generally met the legally required deadlines for responding to requests for information, deficiencies in the school district's records often prevented us from determining whether the information provided by the school district responded adequately to requests.

In the report, the California State Auditor (state auditor) made the following recommendations to the school district. The state auditor's determination regarding the current status of recommendations is based on the school district's response to the state auditor as of June 2011.

#### **Recommendation 1.1—See pages 17 and 18 of the audit report for information on the related finding.**

To make certain that it uses funds from facilities district 94-2 for appropriate purposes only, the school district should reimburse the facilities district for the \$451,000 in erroneous payments for administrative facilities and demographic studies, or the school district should adjust the charges to this facilities district so that they reflect only appropriate expenditures.

#### ***School District's Action: Fully implemented.***

The school district reported that it reclassified the expenses related to the relocatable buildings at Sunset High School and the demographic studies as non-qualified facilities district 94-2 expenditures, effectively eliminating them from the account used to track spending on facilities district 94-2 projects.

#### **Recommendation 1.2.a—See pages 18—22 of the audit report for information on the related finding.**

To provide the public with information that it can use to participate in the school district's decision-making process and to hold school board and other school district officials accountable, the school district should ensure that descriptions for agenda items and minutes for school board meetings contain sufficient information to convey the substance of the items accurately, and post to the school district's Web site all relevant documents and presentations related to agenda items.



***School District's Action: Fully implemented.***

The school district reported that its staff will endeavor to appropriately caption agenda items so that the public is sufficiently informed of the discussion. It also said that supplemental materials made available at meetings of the school board are now included in the minutes and are posted on its Web site.

**Recommendation 1.2.b—See pages 22—24 of the audit report for information on the related finding.**

To provide the public with information that it can use to participate in the school district's decision-making process and to hold school board and other school district officials accountable, the school district should ensure that it follows all relevant standards for financial reporting. To facilitate this effort, the school district should consider using a checklist, such as the Government Finance Officers Association's School District Preparer Checklist, which is designed to assist in preparing comprehensive annual financial reports of school districts.

***School District's Action: Fully implemented.***

The school district reported that it went through a request-for-proposal process to select a firm to audit its financial statements, and ultimately it renewed its contract with the firm that audited the financial statements we reviewed as part of our audit. According to the school district, the firm has provided it with materials to assist the firm with its annual audit to ensure that future audits will comply with all standards for financial reporting. Moreover, the school district indicated that the comprehensive government agency auditing software the firm uses, the materials it provides to the district, their mutual acknowledgement of the excluded disclosure in the fiscal year 2006–07 report, and their mutual commitment to present to the board of trustees and to the public an annual audit report which accurately reflects the financial position of the school district will ensure that such omissions do not reoccur.

**Recommendation 1.3—See pages 24 and 25 of the audit report for information on the related finding.**

To enable it to demonstrate its responsiveness to public record requests, the school district should maintain a record of documents that it makes available to requesters.

***School District's Action: Fully implemented.***

The school district reported that depending on the scope of the request, it will either continue its practice of making a back-up copy of records provided under the records act, or in the case of a voluminous request, the school district will document a general description of records provided.

# California's Charter Schools

## Some Are Providing Meals to Students, but a Lack of Reliable Data Prevents the California Department of Education From Determining the Number of Students Eligible for or Participating in Certain Federal Meal Programs

### REPORT NUMBER 2010-104, ISSUED OCTOBER 2010

This report concludes that the California Department of Education (Education) databases are not reliable enough for it to accurately identify all California charter schools that participate in the federal School Breakfast program (breakfast program) or the National School Lunch Program (lunch program). Moreover, Education cannot determine the number of students at either traditional or charter schools who qualify for or who participate in these programs. Despite the limitations of Education's data, we were able to identify 815 charter schools active in California as of April 2010. Charter schools are exempt from many of the laws that apply to school districts. In particular, they are exempt from California law that requires schools to provide each needy student with one nutritionally adequate free or reduced-price meal during each school day. Further, as is true for school districts, participation by charter schools in both the breakfast and lunch programs is voluntary.

According to Education's data, 451 charter schools were participating in the breakfast or lunch program and an additional 151 were providing instruction to their students outside the classroom either online or independently, and thus do not provide meals. We surveyed the remaining 213 charter schools to identify those that provide an alternative meal program and those that do not provide meals to their students. Of the 133 responses we received, 46 charter schools stated that they offer their students an alternative meal program, 39 stated that they do not provide meals to their students, and 41 stated that they were in fact participating in the programs. The remaining seven do not provide meals either because their students receive instruction outside the classroom or their students are age 18 or older and are not eligible to participate in the programs.

The 46 charter schools that reported they provide an alternative meal program cited varying methods of providing meals, ranges of costs for those meals, and reasons for offering such meals. For example, most of these schools either have staff prepare and deliver the meals or hire contractors to do so. Some of these charter schools stated that they provide meals that meet or exceed the U.S. Department of Agriculture's nutritional standards. Generally, the charter schools that reported they provide meals to their students believe that the nutritional needs of their students, including their low-income students, are being met. The 39 charter schools that did not provide meals to their students cited various reasons including lack of a kitchen, cafeteria, or other facility to prepare and deliver meals to their students. Another reason commonly cited was a lack of funding and staffing to operate an alternative meal program or participate in the breakfast and lunch programs.

In the report, the California State Auditor (state auditor) made the following recommendations to Education. The state auditor's determination regarding the current status of recommendations is based on Education's response to the state auditor as of December 2011.

#### **Recommendation 1.1.a—See pages 18 and 19 of the audit report for information on the related finding.**

To ensure the reliability of Education's Consolidated Application Data System (ConApp database) fields related to the number of students enrolled at the school level, the number of those enrolled students who are eligible to receive free meals, and the number of those students who are eligible to receive reduced-price meals, Education should modify its database instructions to require local educational agencies and direct-funded charter schools to retain their documentation supporting the three data fields for a specified period of time.

***Education's Action: Fully implemented.***

Education modified its ConApp instructions to require local educational agencies and direct-funded charter schools to retain documentation supporting reported data in accordance with state and federal records retention requirements. The clause requires each recipient of federal funds to maintain records that will facilitate an effective financial or programmatic audit for three years after the completion of the activity for which the funds are used.

**Recommendation 1.1.b—See page 18 of the audit report for information on the related finding.**

To ensure the reliability of the ConApp database fields related to the number of students enrolled at the school level, the number of those enrolled students who are eligible to receive free meals, and the number of those students who are eligible to receive reduced-price meals, Education should establish an internal control process such as a systematic review of a sample of the local educational agencies' and direct-funded charter schools' supporting documentation.

***Education's Action: No action taken.***

➡ Education stated that to strengthen existing internal control processes, it reviews a sample of the local educational agencies' and direct-funded charter schools' supporting documents as a part of its Coordinated Review Effort (CRE) process. However, Education's procedures for its CRE process specifically state it does not review information in the ConApp database. Therefore, Education has yet to adequately address our recommendation.

**Recommendation 1.2.a—See page 20 of the audit report for information on the related finding.**

To ensure the accuracy of the Child Nutrition Information and Payment System (CNIPS) database, Education should direct the school food authorities to establish internal control procedures to ensure the accuracy of the application information they enter into the CNIPS database.

***Education's Action: Fully implemented.***

Educations' CNIPS application includes a "certification" check box that school food authorities must check in order to submit the application. In addition, Education posted a notice on the first screen of the CNIPS advising sponsors of their responsibility to ensure that they report accurate information. Education also stated that beginning with the 2011–12 school year it will further ensure the accuracy of the application information by including a clause in the annual instructions to remind school food authorities of their responsibility to ensure that they report accurate CNIPS information, to clarify that charter schools be identified as such and not as public schools, and to suggest that a second person review the information for accuracy before the school food authorities submit the information to Education.

**Recommendation 1.2.b—See page 23 of the audit report for information on the related finding.**

To ensure the accuracy of the CNIPS database, Education should direct nutrition services to modify the tool used to review a sample of the school food authorities' schools to include a procedure for verifying the accuracy of the county-district-school (CDS) code and site type reflected on the schools' applications.

***Education's Action: Fully implemented.***

Education's Nutrition Services Division, Data Management Unit, has a procedure in place to run a query every month that identifies charter schools and public schools that are not displaying CDS codes in the CNIPS database. In addition, the query ensures the name and address data in the CNIPS database matches the information on the Charter School Web site and in the online Public School Directory. Education's staff are to resolve any discrepancies.

**Recommendation 1.3.a—See pages 23 and 24 of the audit report for information on the related finding.**

To ensure that it maximizes the benefits from the State's investment in the CNIPS database, Education should require the school food authorities to submit a monthly Claim for Reimbursement for each site under their jurisdiction in addition to their consolidated claims.

***Education's Action: Partially implemented.***

Education's Nutrition Services Division has updated its New Sponsor Applications desk manual to instruct analysts to set new agencies, schools, and Residential Child Care Institutions to site-level reporting. Education also requires these entities to submit their monthly claims for reimbursement at the site level. However, Education does not plan to require existing school food authorities to submit their monthly claims for reimbursement until July 1, 2012.

**Recommendation 1.3.b—See page 24 of the audit report for information on the related finding.**

To ensure that it maximizes the benefits from the State's investment in the CNIPS database, Education should establish a timeline for the school food authorities to comply with the requirement of submitting a monthly Claim for Reimbursement.

***Education's Action: Partially implemented.***

Education stated that site-level reporting will be mandatory for all school food authorities on July 1, 2012. Education stated it has communicated the transition to site-level reporting via personal discussions and mass e-mails when deemed necessary. In addition, Education stated it has announced the July 1, 2012, site-level reporting start during training presentations at various conferences. Further, Education stated it expects to send a Management Bulletin in December 2011 to inform school food authorities of the mandatory site-level reporting requirement.



## Commission on Teacher Credentialing

### Despite Delays in Discipline of Teacher Misconduct, the Division of Professional Practices Has Not Developed an Adequate Strategy or Implemented Processes That Will Safeguard Against Future Backlogs

#### REPORT NUMBER 2010-119, ISSUED APRIL 2011

This report concludes that, according to Commission on Teacher Credentialing (commission) management, as of the summer of 2009 the Division of Professional Practices (division) had accumulated a backlog of about 12,600 unprocessed reports of arrest and prosecution (RAP sheets), resulting from an insufficient number of trained staff, ineffective and inefficient processes, and a lack of an automated system for tracking the division's workload. These conditions appear to have resulted in delayed processing of alleged misconduct and potentially allowed educators of questionable character to retain a credential. Some of the more extreme cases involved allegations that credential holders distributed obscene material to a student, demonstrated recurring misconduct such as prostitution and petty theft, kissed a student, and made inappropriate sexual comments to female students.

The division needs further improvement in its processing of reports of misconduct. For example, the division and the Committee of Credentials (committee) have not addressed some of the important challenges to promptly reviewing reports of misconduct and making recommendations to the commission regarding discipline for the credential holders. Specifically, the division receives more reports each month than the committee can review. To streamline the committee's workload, the division will close or decide not to open cases if it believes the committee would not choose to recommend disciplinary action against the credential holder; however, we question the division's legal authority to do so.

Additionally, the division lacks written procedures for processing reported misconduct, adequate performance data regarding the time needed to review reports, accurate and complete data regarding its caseload, and adequate management reports to facilitate tracking of its caseload.

Finally, 40 percent of the commission employees who responded to our survey indicated that familial relationships or employee favoritism compromised the commission's hiring and promotion practices. In addition, the commission does not have a complete set of approved hiring procedures that it uses consistently, nor do its managers and staff consistently document their steps in the hiring process or their justification for selecting candidates. Consequently, the commission is vulnerable to allegations that its hiring decisions are unfair and that employment opportunities are not afforded equally to all candidates.

In the report, the California State Auditor (state auditor) made the following recommendations to the commission. The state auditor's determination regarding the current status of the recommendation is based on the commission's responses to the state auditor as of October 2011.

#### **Recommendation 1.1—See pages 38 and 39 of the audit report for information on the related finding.**

To comply with the law and reduce unnecessary workload, the division should continue to notify the California Department of Justice (Justice) of RAP sheets for individuals in whom the division is no longer interested, so Justice will no longer notify the division of criminal activity for these individuals.

#### ***Commission's Action: Fully implemented.***

The commission has continued to notify Justice of the RAP sheets it no longer is interested in receiving. The commission also stated it is developing an automated system that it expects to deploy by November 1, 2011, that will notify Justice on a daily basis of the RAP sheets the commission is no longer interested in receiving.

**Recommendation 2.1—See pages 48 and 49 of the audit report for information on the related finding.**

The commission should revise its strategic plan to identify the programmatic, organizational, and external challenges that face the division and the committee, and determine the goals and actions necessary to accomplish its mission.

***Commission's Action: Pending.***

The commission stated that, because the executive director plays a critical role in the development and implementation of the commission's strategic plan, it will revise the plan after the newly appointed executive director begins work at the commission on or before November 1, 2011. It also indicated that the commission's quarterly agenda calls for the new executive director to present a plan for revising the strategic plan to the commission at its meeting to be held in January 2012.

**Recommendation 2.2—See page 50 of the audit report for information on the related finding.**

To ensure that it can effectively process its workload in the future, the commission should collect the data needed to identify the staffing levels necessary to accommodate its workload.

***Commission's Action: Pending.***

According to the commission, it is collecting, organizing, analyzing, and using data to identify staffing levels necessary to accommodate its workload. The commission also stated that, to address critical need for staffing in the near term, it adjusted management and staffing in the division and received approval for a freeze-exemption request from the Department of Finance to fill existing vacancies. It indicated that the commission's general counsel will, as part of the annual budget development process, review workload data for the purpose of identifying staffing levels needed to accommodate its workload.

**Recommendation 2.3—See page 51 of the audit report for information on the related finding.**

The commission should seek a legal opinion from the attorney general to determine the legal authority and extent to which the committee may delegate to the division the discretionary authority to close investigations of alleged misconduct without committee review, and take all necessary steps to comply with the attorney general's advice.

***Commission's Action: Partially implemented.***

The commission submitted a request to the attorney general on May 2, 2011, and the commission indicated it expects to receive the opinion in early 2012. According to the commission, until it receives the opinion, the commission's staff are no longer closing investigations of alleged misconduct prior to the committee's review and action. The commission stated that all cases are being presented to the committee on either a consent or a discuss calendar, which provides a brief description of the offense. According to the commission, cases can be taken off the consent or discuss calendar at the request of any member of the committee for further discussion.

**Recommendation 2.4—See pages 49 and 50 of the audit report for information on the related finding.**

Once the commission has received the attorney general's legal advice regarding the extent to which the committee may delegate case closures to the division, the commission should undertake all necessary procedural and statutory changes to increase the number of cases the committee can review each month.



***Commission's Action: Pending.***

The commission indicated that once it receives the attorney general's opinion, it will work with the Legislature to address needed statutory changes and it will move forward in adopting any needed policy, regulatory, or procedural changes.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

**Recommendation 2.5—See pages 51—54 of the audit report for information on the related finding.**

The division should develop and formalize comprehensive written procedures to promote consistency in, and conformity with, management's policies and directives for reviews of reported misconduct.

***Commission's Action: Fully implemented.***

The commission developed and posted on its intranet a procedures manual that generally indicates revised dates of April and May 2011. According to the commission, it plans to update the procedures manual as the procedures are fine tuned or new rules are developed. It also indicated that the new general counsel will initiate a review of the current manual and establish time frames for annually reviewing and updating the manual to ensure it remains current.

**Recommendation 2.6—See pages 54 and 55 of the audit report for information on the related finding.**

The division should provide the training and oversight, and should take any other steps needed, to ensure that the case information in its database is complete, accurate, and consistently entered to allow for the retrieval of reliable case management information.

***Commission's Action: Partially implemented.***

The commission provided training to its staff to ensure that they consistently and accurately enter information into the database. According to the commission, the new general counsel, who was hired in September 2011, will implement a new oversight system that includes establishing performance standards and expectations for timely processing and accurate work, as well as implement procedures to audit and monitor work to ensure prompt and accurate case management.

**Recommendation 2.7—See pages 55 and 56 of the audit report for information on the related finding.**

The commission should continue to implement its new procedures related to deleting cases from its database to ensure that all such proposed deletions are reviewed by management for propriety before they are deleted and a record is kept of the individuals to which each such deleted case record pertains. Further, the commission should develop and implement policies and procedures related to managing changes and deletions to its database.

***Commission's Action: Partially implemented.***

The commission developed and implemented procedures related to managing deletions to its database. However, according to the commission, it has not yet had the time to develop and implement policies and procedures related to managing changes, but it plans to address this area in the one-year response.



**Recommendation 2.8—See pages 56—59 of the audit report for information on the related finding.**

To ensure that the division promptly and properly processes the receipt of all the various reports of educator misconduct it receives, such as RAP sheets, school reports, affidavits, and self-disclosures of misconduct, it should develop and implement procedures to create a record of the receipt of all these reports that it can use to account for them. In addition, the process should include oversight of the handling of these reports to ensure that case files for the reported misconduct are established in the commission's database to allow for tracking and accountability.

***Commission's Action: Fully implemented.***

The commission has developed and implemented an intake document database to ensure that staff promptly log-in and assign a number to all reports of educator misconduct, such as school reports, affidavits, and self-disclosures, it receives. The commission indicated that the intake system allows the division to track complaints that do not become cases, link complaints to a case and an individual, and can generate reports that assist management to monitor the status of the complaints.

**Recommendation 2.9.a—See pages 59—62 of the audit report for information on the related finding.**

To adequately address the weaknesses we discuss in its processing of reports of misconduct, the division should revisit management's reports and processes for overseeing the investigations of misconduct to ensure that the reports and practices provide adequate information to facilitate reduction of the time elapsed to perform critical steps in the review process.

***Commission's Action: Pending.***

According to the commission, it has implemented a number of workload and management reports that will help management monitor the volume of work. The commission indicated that staff have conducted a preliminary analysis of the process for tracking the reviews of misconduct that may require mandatory action and requests for information surrounding misconduct reports. It also stated that the commission's next steps to fully meet this recommendation include the new general counsel analyzing and determining whether additional reports are necessary to ensure proper handling and monitoring of the case files. The commission plans to fully address each of the bullets under this recommendation by the April 2012 progress report.

**Recommendation 2.9.b—See pages 59—62 of the audit report for information on the related finding.**

The division should adequately track the reviews of reports of misconduct that may require mandatory action by the commission to ensure the timely revocation of the credentials for all individuals whose misconduct renders them unfit for the duties authorized by their credential.

***Commission's Action: Pending.***

See the commission's response under recommendation 2.9.a.

**Recommendation 2.9.c—See pages 59—62 of the audit report for information on the related finding.**

The division should ensure that its reports and practices provide adequate information to facilitate prompt requests for information surrounding reports of misconduct from law enforcement agencies, the courts, schools, and knowledgeable individuals.

*Commission's Action: Pending.*

See the commission's response under recommendation 2.9.a.

**Recommendation 2.9.d—See page 60 of the audit report for information on the related finding.**

The division should ensure that its reports and practices provide adequate information to facilitate an understanding of the reasons for delays in investigating individual reports of misconduct without having to review the paper files for the cases.

*Commission's Action: Pending.*

See the commission's response under recommendation 2.9.a.

**Recommendation 2.9.e—See page 61 of the audit report for information on the related finding.**

The division should provide clear evidence of management review of reports intended to track the division's progress in its investigations of misconduct.

*Commission's Action: Pending.*

See the commission's response under recommendation 2.9.a.

**Recommendation 2.9.f—See page 62 of the audit report for information on the related finding.**

The division should clearly track the dates at which the commission will lose its jurisdiction over the case as a result of the expiration of statute-based time frames for investigating the misconduct.

*Commission's Action: Pending.*

See the commission's response under recommendation 2.9.a.

**Recommendation 2.10—See page 61 of the audit report for information on the related finding.**

The division should develop and implement procedures to track cases after they have been assigned to the investigative process.

*Commission's Action: Pending.*

See the commission's response under recommendation 2.9.a.

**Recommendation 3.1.a—See pages 67 and 68 of the audit report for information on the related finding.**

To better ensure that its hiring decisions are fair and that employment opportunities are equally afforded to all eligible candidates, and to minimize employees' perceptions that its practices are compromised by familial relationships or employee favoritism, the commission should prepare and/or formally adopt a comprehensive hiring manual that clearly indicates hiring procedures and identifies the parties responsible for carrying out various steps in the hiring process.

***Commission's Action: Fully implemented.***

The commission developed and adopted a hiring handbook in June 2011, which identifies the hiring process and the parties responsible for each stage in the hiring process. The commission indicated that the State Personnel Board provided assistance in the development of the handbook and its senior managers reviewed and approved the handbook. The commission also indicated that it is consulting with the State Personnel Board to develop best practices in the commission's office of human resources, including developing and publishing an annual examination plan.

**Recommendation 3.1.b—See pages 68—70 of the audit report for information on the related finding.**

To better ensure that its hiring decisions are fair and that employment opportunities are equally afforded to all eligible candidates, and to minimize employees' perceptions that its practices are compromised by familial relationships or employee favoritism, the commission should maintain documentation for each step in the hiring process. For example, the commission should maintain all applications received from eligible applicants and should preserve notes related to interviews and reference checks. Documentation should be consistently maintained by a designated responsible party.

***Commission's Action: Fully implemented.***

According to the commission, it held a training session for all supervisors and managers on June 22, 2011. The training included an overview of the documentation that managers and supervisors must submit to the commission's office of human resources for each step in the hiring process.

**Recommendation 3.1.c—See pages 68—70 of the audit report for information on the related finding.**

To better ensure that its hiring decisions are fair and that employment opportunities are equally afforded to all eligible candidates, and to minimize employees' perceptions that its practices are compromised by familial relationships or employee favoritism, the commission should ensure hiring managers provide to the commission's office of human resources documentation supporting their appointment decisions, and the office of human resources should maintain this documentation so that it can demonstrate that the hiring process was based on merit and the candidate's fitness for the job.

***Commission's Action: Fully implemented.***

The commission indicated that its office of human resources monitors all hiring processes and maintains documentation for each hiring and examination process, including applications received, notes related to interviews, reference checks, and hiring justification.

**Recommendation 3.2.a—See pages 70—73 of the audit report for information on the related finding.**

To ensure that employees understand their right to file either an Equal Employment Opportunity (EEO) complaint or a grievance, and to reduce any associated fear of retaliation, the commission should include in its EEO policy a statement informing staff members that they may make complaints without fear of retaliation.

***Commission's Action: Fully implemented.***

On May 9, 2011, the commission provided its staff an updated EEO policy, which states that employees may make complaints without fear of reprisal. In addition, the commission's EEO handbook informs staff that retaliation and intimidation is not allowed.

**Recommendation 3.2.b—See pages 70—73 of the audit report for information on the related finding.**

The commission should actively notify employees annually of its EEO complaint and grievance processes, including the protection from retaliation included in both.

***Commission's Action: Fully implemented.***

The commission stated that it plans to remind all staff members annually of the EEO and Sexual Harassment Prevention Policy and that staff will be required to certify that they have reviewed the policy.

**Recommendation 3.2.c—See pages 70—73 of the audit report for information on the related finding.**

The commission should conduct training on its EEO complaint process on a periodic basis.

***Commission's Action: Fully implemented.***

According to the commission, as of August 25, 2011, all managers and supervisors participated in a training workshop on workplace retaliation provided by the Department of Fair Employment and Housing. The commission also provided EEO training to the rank and file employees and a separate training for all supervisors and managers during September and October 2011. According to the commission, it plans to continue to provide this training on a biennial basis.



# California Emergency Management Agency

## Despite Receiving \$136 Million in Recovery Act Funds in June 2009, It Only Recently Began Awarding These Funds and Lacks Plans to Monitor Their Use

### LETTER REPORT NUMBER 2009-119.4, ISSUED MAY 2010

This letter report presents a review conducted by the California State Auditor (state auditor) concerning the preparedness of the California Emergency Management Agency (Cal EMA) to receive and administer American Recovery and Reinvestment Act of 2009 (Recovery Act) funds awarded by the U.S. Department of Justice for its Edward Byrne Memorial Justice Assistance Grant Program (JAG Program). The Recovery Act states that authorized funds should be spent to achieve its purposes as quickly as possible, consistent with prudent management. Based on our analysis, we believe that Cal EMA is moderately prepared to administer its Recovery Act JAG Program award. Cal EMA began awarding Recovery Act JAG Program funds about 12 months after the passage of the Recovery Act and eight months after the U.S. Department of Justice awarded it \$136 million. As of February 22, 2010, Cal EMA had signed agreements for, and thereby awarded, only four subgrants, totaling almost \$4 million, or about 3 percent of its Recovery Act JAG Program grant. According to Cal EMA's records, by March 11, 2010—approximately three weeks later—Cal EMA had awarded additional subgrants, totaling \$31 million, to 52 more subrecipients for a total of \$35 million, or 26 percent of its Recovery Act grant. Under the Recovery Act JAG Program, payments are made to subrecipients to reimburse them for costs of providing program services. Cal EMA reported that it has not made any payments to these subrecipients but, according to its accounting records, has spent \$104,000 in Recovery Act JAG Program funds for administrative costs. Finally, we also found that Cal EMA needs to improve its monitoring of Recovery Act JAG Program funds it has awarded and it failed to consistently report to federal agencies the administrative costs it charged to its Recovery Act JAG Program award.

In the report, the state auditor made the following recommendations to Cal EMA. The state auditor's determination regarding the current status of recommendations is based on Cal EMA's response to the state auditor as of May 2011 and a letter report dated July 7, 2011, that presents a follow-up review conducted by the state auditor concerning Cal EMA's progress in spending the JAG Program funds.

#### **Recommendation 1.1—See pages 8—12 of the audit report for information on the related finding.**

As soon as possible, Cal EMA should execute subgrant agreements with subrecipients so California can more fully realize the benefits of the Recovery Act funds.

#### ***Cal EMA's Action: Fully implemented.***

Cal EMA has executed 229 subgrant agreements and set aside \$1.2 million for administrative costs, obligating all of its JAG Program Recovery Act funds.

#### **Recommendation 1.2—See pages 12—18 of the audit report for information on the related finding.**

To ensure that it meets the monitoring requirements of its Recovery Act JAG Program, Cal EMA should plan its monitoring activities to provide reasonable assurance that its Recovery Act JAG Program subrecipients administer federal awards in accordance with laws, regulations, and the provisions of contracts or agreements.

***Cal EMA's Action: Partially implemented.***

Cal EMA reported that it has performed a limited-scope review on all 229 JAG Program Recovery Act subrecipients. According to Cal EMA, the limited-scope review was performed using a questionnaire that consisted of 34 internal control and Recovery Act compliance questions. As a result of the limited-scope reviews, Cal EMA indicated that it conducted four extended-scope desk reviews and planned another, and conducted five extended-scope field reviews.

We reported in our letter report dated July 7, 2011, that according to the chief of the Public Safety and Victims Services Division (division chief), Cal EMA had also conducted site visits for 210 of its 229 subrecipients as of June 22, 2011, and planned to conduct site visits for the remaining subrecipients by June 30, 2011. However, based on our review we identified several problems with Cal EMA's monitoring of its subrecipients' progress in expending Recovery Act funds. Although we concluded that, as of May 27, 2011, Cal EMA appears to have sufficient time to spend the funds to reimburse programs that make up about 55 percent of its federal grant, it needs to better evaluate subrecipients' use of JAG Program Recovery Act funds to ensure that the remaining 45 percent of the funds are spent before the federal grant expires on February 28, 2013, and the funds are no longer available.

**Recommendation 1.3—See pages 18—20 of the audit report for information on the related finding.**

To plan its subrecipient monitoring activities properly, Cal EMA should identify the workload associated with monitoring its Recovery Act JAG Program subrecipients and the workload standards necessary to determine the number of program staff needed.

***Cal EMA's Action: Fully implemented.***

Cal EMA reported in its 60-day response that it conducted an analysis to determine the workload associated with administering and monitoring its JAG Program Recovery Act funds. Based on its workload measures worksheet, Cal EMA estimated that it needed 8.62 personnel years to effectively monitor the 229 JAG Program Recovery Act subrecipients. As we reported in our letter report dated July 7, 2011, the division chief indicated that Cal EMA planned to complete its site visits of all 229 subrecipients by June 30, 2011.

**Recommendation 1.4—See pages 20—21 of the audit report for information on the related finding.**

Cal EMA should develop the necessary procedures to ensure that it meets its Recovery Act reporting requirements.

***Cal EMA's Action: Fully implemented.***

Cal EMA provided revised procedures for meeting Recovery Act reporting requirements and for increasing communication among staff regarding federal reporting requirements.

# 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

### REPORT NUMBER 2010-106, ISSUED NOVEMBER 2010

This report concludes that the State Personnel Board (Personnel Board) is not meeting most of its responsibilities under the Dymally-Alatorre Bilingual Services Act (Act). The Personnel Board has not informed all state agencies of their responsibilities under the Act and has not ensured that state agencies conduct language surveys to assess their clients' language needs. In addition, the Personnel Board does not obtain necessary information from state agencies that would allow it to evaluate their compliance with the Act and does not order deficient agencies to take the necessary actions to ensure they have sufficient qualified bilingual staff and translated written materials to address the language needs of their substantial populations of limited-English-proficient (LEP) clients. 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 does not adequately address whether state agencies are complying with the Act.

We also found that state agencies are not fully complying with the Act. Although nine of the 10 agencies we reviewed conducted language surveys in 2008, four reported inaccurate survey results for one or more of their local offices, and two did not have sufficient documentation to support their survey results. In addition, only one of the state agencies we reviewed formally analyzed its survey results to determine whether the use of other available options, in addition to qualified bilingual staff in public contact positions, was serving the language needs of its clients as the Act requires. Further, none of the state agencies we reviewed had adequate procedures in place to determine whether they met the Act's requirements to translate certain written materials for their substantial LEP populations. Furthermore, most of the state agencies we reviewed have not developed plans to address their staffing deficiencies and translated written materials deficiencies. We also found that some state agencies are not maximizing opportunities to reduce their costs of providing bilingual services by leveraging existing state contracts for interpretation and translation services.

Finally, our survey of local government administrators and department managers in 25 counties and cities throughout California found that some are not fully addressing their clients' bilingual needs. As a result, their clients may not be receiving the government services to which they are entitled.

In the report, the California State Auditor (state auditor) made the following recommendations to the Personnel Board and other state and local agencies. The state auditor's determination regarding the current status of recommendations is based on the 11 audited state agencies' and three local agencies' responses to the state auditor as of November 2011.

#### **Recommendation 1.1—See page 17 of the audit report for information on the related finding.**

To ensure that all state agencies subject to the Act are aware of their potential responsibilities to provide bilingual services, the Personnel Board should improve its processes to identify and inform all such state agencies of the Act's requirements.

#### ***Personnel Board's Action: Fully implemented.***

The Personnel Board used the Department of Finance's Uniform Codes Manual to create a comprehensive state agency listing and has developed procedures to ensure that all state agencies are properly notified of the Act's requirements.



**Recommendation 1.2—See pages 17—19 of the audit report for information on the related finding.**

The Personnel Board should make certain that every state agency required to comply with the Act conducts language surveys and submits implementation plans unless the Personnel Board exempts them from these requirements. The Personnel Board should also ensure that it adheres to the specific criteria contained in the Act when exempting agencies from conducting language surveys or preparing implementation plans.

***Personnel Board's Action: Fully implemented.***

The Personnel Board developed a system to track state agencies' participation in the language survey and implementation plan processes. The Personnel Board also incorporated accurate exemption language, as specified in the Act, into the forms for the language survey and implementation plan and instituted a tracking mechanism and review process for each exemption approval to reduce the risk of error.

**Recommendation 1.3—See pages 19—20 of the audit report for information on the related finding.**

The Personnel Board should require state agencies to provide all of the information required by the Act. For example, the Personnel Board should ensure that state agencies identify their deficiencies in staffing and translated written materials and that the state agencies' implementation plans detail sufficiently how and when they plan to address these deficiencies. In addition, the Personnel Board should assess the adequacy of state agencies' language surveys and implementation plans. If it determines that implementation plans do not address deficiencies in staffing or written materials adequately, the Personnel Board should order the agencies to revise or supplement their plans accordingly. The Personnel Board should also require state agencies to report to it every six months on their progress in addressing their deficiencies. If the Personnel Board determines that state agencies have not made reasonable progress toward complying with the Act, we recommended that it consider ordering them to comply with the Act. These actions could include ordering state agency officials to appear before the Personnel Board to explain why their agencies have not complied. If these actions or its other efforts to enforce the Act are ineffective, the Personnel Board should consider asking a court to issue writs of mandate under Section 1085 of the Code of Civil Procedure, to require agencies to perform their duties. Finally, we recommended that the Personnel Board seek enough additional staff to fulfill its obligations under the Act, or seek changes to the Act that would reduce its responsibilities and make them commensurate with its staffing levels.

***Personnel Board's Action: Fully implemented.***

The Personnel Board revised its forms to capture all of the information required by the Act. In addition, the Personnel Board has developed procedures to assess the adequacy of state agencies' language surveys and implementation plans, which includes evaluating the status of agencies' corrective action plans for addressing deficiencies in bilingual staffing and written materials. If it determines that agencies' corrective action plans do not adequately address deficiencies, the Personnel Board now requires such agencies to revise their plans accordingly. In addition, the Personnel Board requires deficient agencies to submit six-month progress reports. Further, the Personnel Board revised its procedures to invite nonexempt state agencies that do not submit language surveys or implementation plans to explain their noncompliance to its five-member board. Finally, the Personnel Board's bilingual services unit secured three student assistants to assist with its workload.

***Legislative Action: Legislation introduced.***

Assembly Bill 305 (as amended March 17, 2011) of the 2011-12 Regular Legislative Session would revise provisions relating to determining if there is a substantial number of non-English speaking people served by a state office and to expand the Personnel Board's reporting requirements under the Act.

**Recommendation 1.4—See page 20 of the audit report for information on the related finding.**

The Personnel Board should follow up with the responsible state agencies to ensure that the agencies resolve the language access complaints it receives in a timely manner.

***Personnel Board's Action: Fully implemented.***

The Personnel Board revised its bilingual services program's procedures to incorporate additional fields to its tracking system to capture the date that a complaint was resolved and how it was resolved.

**Recommendation 1.5—See pages 21 and 22 of the audit report for information on the related finding.**

The Personnel Board should improve the content of its biennial report to the Legislature to identify problems more clearly and to propose solutions where warranted. Specifically, the report should clearly indicate whether state agencies have true staffing deficiencies or deficiencies in translated materials. In addition, the report should identify any agencies that are not complying with the Act and should present key survey and implementation plan results by state agency and field office to better inform policymakers and the public about the language needs of residents in certain areas of the State and about state agencies' available resources to meet those needs.

***Personnel Board's Action: Pending.***

The Personnel Board's next biennial report is not scheduled for release until March 2012. However, it stated that it will revise the format and content of that report and all subsequent reports to reflect more comprehensive and meaningful data.

**Recommendation 2.1—See pages 26—30 of the audit report for information on the related finding.**

To ensure that they meet their constituents' language needs, state agencies should make certain that they accurately assess and report their clients' language needs to the Personnel Board. State agencies should also analyze formally their language survey results and consider other available bilingual resources to determine their true staffing deficiencies. Further, state agencies should establish procedures to identify the written materials that the Act requires them to translate into other languages and ensure that such materials are translated or made accessible to the agencies' LEP clients. Finally, state agencies should develop detailed corrective action plans describing how and when they will address their staffing and written materials deficiencies. In addition, they should submit their corrective action plans to the Personnel Board as part of the state agencies' overall implementation plans.

***California Emergency Management Agency's Action: Fully implemented.***

The California Emergency Management Agency (Emergency Management) developed procedures to help ensure the accuracy of its biennial language surveys. Emergency Management also participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011. Emergency Management's language survey indicated that it did not have any staffing or written materials deficiencies. In addition, Emergency Management's implementation plan described its procedures for identifying the written materials that the Act requires it to translate into other languages and how it ensures such materials are translated or made accessible to its LEP clients. Finally, Emergency Management also provides an option on its Web site that allows LEP clients to translate its Web site content into numerous other languages.

***California Highway Patrol's Action: Fully implemented.***

The California Highway Patrol (Highway Patrol) stated that it will continue to assess its clients' language needs and to report accurate information to the Personnel Board. Highway Patrol also participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011. Highway Patrol also formally analyzed its language survey results and determined that it had no true staffing deficiencies. In addition, it established procedures for identifying written materials that the Act requires it to translate into other languages and a process for monitoring its compliance with this requirement. Finally, Highway Patrol developed a detailed corrective action plan describing how and when it will address its written materials deficiencies.

***Department of Corrections and Rehabilitation's Action: Pending.***

The Department of Corrections and Rehabilitation (Corrections) reported that it has made progress in several areas to address our recommendations. For example, Corrections stated that it is developing a bilingual coordinator manual and a language services manual for its staff to use as a resource. Corrections indicated that it is also developing criteria and an evaluation tool which it will use to evaluate future language survey results. In addition, Corrections stated that it is developing a mechanism to monitor and report translated written materials and to ensure the accessibility of such materials. Corrections also participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011, reporting that it did not have any true staffing deficiencies or written materials deficiencies.

***Department of Food and Agriculture's Action: Partially implemented.***

The Department of Food and Agriculture (Food and Agriculture) participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011. Food and Agriculture reported that its bilingual services program coordinator reviewed all the tally sheets from every participating division to make sure that the information gathered and reported would yield accurate survey results. Food and Agriculture also formally analyzed its language survey results and its implementation plan included a corrective action plan describing how it will address its true staffing deficiencies. However, Food and Agriculture acknowledged that it is still in the process of developing standard procedures for identifying written materials that require translation.

***Department of Housing and Community Development's Action: Fully implemented.***

The Department of Housing and Community Development (Housing) reported that beginning with the 2010 biennial language survey, it assigned responsibility for the survey to its equal employment opportunity officer, who also serves as its bilingual services program coordinator. This individual is responsible for coordinating, implementing, and overseeing the language survey, analyzing completed survey tally sheets, reporting the results of the analysis to the Personnel Board, and maintaining sufficient documentation. Housing also participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011. In addition, Housing formally analyzed its language survey results and established procedures for identifying written materials that require translation. Finally, Housing's implementation plan included a corrective action plan describing how it will address its staffing and written materials deficiencies.

***Department of Justice's Action: Fully implemented.***

The Department of Justice (Justice) reported that it appointed a new bilingual services program coordinator to monitor the program, the biennial language survey, and the subsequent implementation plan. Justice also indicated that it has adopted and implemented new procedures that provide a higher level of quality control regarding reviewing and analyzing the language survey data in order to avoid future reporting errors. Justice also participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011. In addition, Justice formally analyzed its language survey results and determined that it had no true staffing deficiencies. Justice also established procedures for identifying written materials that require translation and its implementation plan included a corrective action plan describing how it will address its deficiencies in written materials. Finally, Justice also provides an option on its Web site that allows LEP clients to translate its Web site content into numerous other languages.

***Department of Motor Vehicles' Action: Fully implemented.***

The Department of Motor Vehicles (Motor Vehicles) participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011. Motor Vehicles reported that it implemented improved procedures and incorporated additional checks and balances for the 2010 language survey to ensure that it accurately assessed and reported its LEP clients' language needs to the Personnel Board. In addition, Motor Vehicles formally analyzed its language survey results

and established procedures for identifying written materials that require translation. Finally, Motor Vehicles' prepared a corrective action plan describing how and when it will address its staffing and written materials deficiencies.

***Department of Public Health's Action: Fully implemented.***

The Department of Public Health (Public Health) reported that it will continue to ensure that it accurately assesses and reports its clients' language needs to the Personnel Board. Public Health participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011. Public Health formally analyzed its language survey results and established procedures for identifying written materials that require translation. In addition, Public Health prepared a corrective action plan describing how and when it will address its staffing and written materials deficiencies.

***Department of Toxic Substances Control's Action: Fully implemented.***

The Department of Toxic Substances Control (Toxic Substances Control) reported that it would continue to accurately assess and report its clients' language needs to the Personnel Board. Toxic Substances Control participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011. In addition, it established procedures for identifying written materials that require translation and formally analyzed its language survey results, concluding that it did not have any staffing or written materials deficiencies.

***Employment Development Department's Action: Partially implemented.***

The Employment Development Department (Employment Development) participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011. Employment Development reported that it designed and implemented corrective actions for the 2010 language survey to ensure it collected all hard-copy documentation from all public contact employees so there would be no questions about the accuracy of data provided to the Personnel Board. In addition, Employment Development stated that it added controls over data collection, tabulation, and submission so that all information could be traced back to hard copy documentation. Employment Development also formally analyzed its language survey results and its implementation plan included a corrective action plan describing how it would address its true staffing deficiencies. However, Employment Development has not yet finalized a policy that contains provisions for ensuring that applicable written materials are translated into other languages as required by the Act.

**Recommendation 2.2—See pages 31 and 32 of the audit report for information on the related finding.**

State agencies should leverage the Department of General Services' (General Services) and the Personnel Board's contracts for interpretation and translation services to potentially reduce the costs of providing bilingual services.

***Emergency Management's Action: Fully implemented.***

Emergency Management reported that when it determines a need for translation and interpreter services which cannot be provided by one of its certified bilingual employees, it will utilize General Services' list of California Multiple Award Schedules (CMAS) vendors and consult with the Personnel Board.

***Highway Patrol's Action: Fully implemented.***

Highway Patrol reported that it complies with this recommendation and will continue to negotiate the lowest possible rates for bilingual services while ensuring quality deliverables.

***Corrections' Action: Fully implemented.***

Corrections indicated that it will routinely refer to General Services' and the Personnel Board's leveraged procurement agreements when bilingual service requests are within the ordering allowances for those contracts. In such instances, Corrections will utilize these agreements when they meet its specific business needs.

***Food and Agriculture's Action: Fully implemented.***

Food and Agriculture reported that it has explored General Services' CMAS and the Personnel Board's language service providers for cost effective translation, American Sign Language interpretation, and bilingual staff certification services.

***Housing's Action: Fully implemented.***

In an effort to achieve the best service at the lowest cost possible, Housing reported that its equal employment opportunity officer contacted the Personnel Board to obtain information and pricing on its bilingual services contracts, and compared those prices to the rates of the CMAS and other vendors that it currently uses for its bilingual services needs.

***Justice's Action: Fully implemented.***

Justice reported that it explored the state auditor's recommendation to leverage General Services' and the Personnel Board's contracts and found its current provider's services to be the most cost effective.

***Motor Vehicles' Action: Fully implemented.***

Motor Vehicles reported that it already complies with this recommendation, and therefore, no further action is required.

***Public Health's Action: Fully implemented.***

Public Health agrees that state agencies should leverage General Services' and the Personnel Board's contracts for interpretation and translation services to potentially reduce the costs of providing bilingual services. Public Health reported that it developed seven, two-hour training classes to educate its staff on various elements of the contracting and procurement process. It indicated that the fifth class in this series provides information on available leveraged procurement agreements, including General Services' and the Personnel Board's contracts for bilingual services. Public Health reported that it held the initial fifth class in October 2011, and it will repeat this training every 14 weeks.

***Toxic Substances Control's Action: Fully implemented.***

Toxic Substances Control reported that it conducted a formal analysis of General Services' and the Personnel Board's contracts to potentially reduce its costs of providing bilingual services. Based on this analysis, it has decided to obtain a new contract for bilingual services through the CMAS process.

***Employment Development's Action: Fully implemented.***

Employment Development reported that it leverages all of General Services' master and statewide contracts, including CMAS contracts, when appropriate for use. However, Employment Development stated that before contracting out for personal services with a private vendor, as is available through CMAS, it first considers an agreement with another state agency.



**Recommendation 2.3—See pages 33 and 34 of the audit report for information on the related finding.**

Public Health and Corrections should develop procedures to detect and prevent contract splitting.

***Corrections' Action: Pending.***

Corrections reported that it is in the process of developing policies, procedures, and training materials to detect and prevent contract splitting. In the interim, its office of business services will review all incoming service orders to determine if existing contracts can satisfy these requests or if there are multiple requests pending for the same services.

***Public Health's Action: Fully implemented.***

Public Health reported that it developed seven training classes to educate its staff on the elements of the state's procurement and contracting process. It indicated that the first class in this series covered general procurement and contracting policies, including those governing service orders and the limitations on their use. Public Health reported that it held the initial class in July 2011, and it will repeat this training every 14 weeks. Public Health believes that these classes will enhance its adherence to its service order policies and mitigate the risk of future contract splitting.

**Recommendation 3.1—See pages 42 and 43 of the audit report for information on the related finding.**

The cities of Fremont, Santa Ana, and Garden Grove should consider establishing complaint processes through which the public can report the absence of bilingual services or resources.

***City of Fremont's Action: Fully implemented.***

The City of Fremont developed a language access policy explaining how its clients can request language services and how they can complain if they feel these services are inadequate. The policy is available in multiple languages on the City's Web site.

***City of Santa Ana's Action: Fully implemented.***

The City of Santa Ana (Santa Ana) implemented a citywide bilingual complaint process. Santa Ana reported that each of its departments has a bilingual services representative available to respond to complaints or questions. It reported that information on the complaint process, along with bilingual services complaint forms, are available in several languages at all of its public counters and on the City's Web site.

***City of Garden Grove's Action: Fully implemented.***

The City of Garden Grove (Garden Grove) developed bilingual assessment and complaint procedures and a language barrier reporting form in November 2011. Garden Grove reported that this information will be made available to the public in all four of Garden Grove's major languages (English, Vietnamese, Spanish, and Korean) in all of its facilities and on its Web site.



# Indian Gaming Special Distribution Fund

## Local Governments Continue to Have Difficulty Justifying Distribution Fund Grants

### REPORT NUMBER 2010-036, ISSUED FEBRUARY 2011

This report, our second review of the allocation and expenditure of grants from the Indian Gaming Special Distribution Fund (distribution fund), concludes that Indian Gaming Local Community Benefit Committees (benefit committees) continue to have difficulty complying with grant requirements and related laws. Our review of a sample of 20 grants totaling \$5.7 million revealed that in 10 instances the grant recipient either could not provide evidence of, or could not quantify, the impact of the casino. As a result, they were unable to prove that the funding was in proportion to the impact of a casino, as required by law. In three other cases, benefit committees awarded grants that were unrelated or disproportionately related to casino impacts, and the Yolo County benefit committee awarded the entirety of its nearly \$336,000 allocation to an ineligible entity. Further, in three of the counties we reviewed, benefit committees did not award some cities and counties the minimum amounts the law set aside for them.

In our review of the allocation of funds to counties by the State Controller's Office, we found that the formula established in law does not take into account the possibility of a change during the course of a year in the number of devices operated by a tribe. Had the law taken into account changes due to compact amendments that took effect during fiscal year 2007–08, approximately \$2 million would have been distributed differently, providing some counties with more money and others with less. We also found that many tribes with compact amendments are negotiating agreements with local governments to directly fund mitigation projects, as required by their most recent compact terms. Finally, changes in contribution requirements due to amended compacts, as well as changes in the number of licenses, have altered the revenue streams of both the distribution fund and the Indian Gaming Revenue Sharing Trust Fund.

In the report, the California State Auditor (state auditor) made the following recommendations to the recipient counties of the distribution fund. The state auditor's determination regarding the current status of recommendations is based on the recipient counties responses to the state auditor as of August 2011. Please note that because not all recommendations or parts of recommendations applied to all seven of the counties we visited, the following recommendations will not always include responses from all audited entities.

#### **Recommendation 1.1—See pages 21—25 and 28 of the audit report for information on the related finding.**

The Legislature should consider amending the law to prohibit projects that are unrelated to casino impacts or are not proportionally related to casino impacts. The amendment should require that counties forfeit equivalent amounts of future money from the distribution fund if their benefit committees approve grant applications that fail to provide evidence that projects are funded in proportion to casinos' impacts.

#### ***Legislative Action: Legislation introduced.***

Assembly Bill 742 (as amended March 31, 2011) of the 2011–12 Regular Legislative Session, if passed in its current form, would among other things, require grant applications to clearly show how the grant will mitigate the impact of the casino on the applicant agency and require benefit committees to adopt a conflict-of-interest code.



**Recommendation 1.2—See pages 25—27 of the audit report for information on the related finding.**

To make certain that the projects' eligibility, merit, and relevance are discussed in a public forum during the projects' selection, the Legislature should also clarify that benefit committees should meet to consider applications before submitting them for tribal sponsorship. Alternatively, the Legislature could emphasize local priorities by amending the law to allow benefit committees to approve any applications that are submitted to them for public debate and committee approval before tribal sponsorship, regardless of the proportionality of a casino's impact.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

**Recommendation 1.3—See pages 28—30 of the audit report for information on the related finding.**

To provide an incentive for benefit committees to award cities and counties the amounts that the Legislature has appropriated to them for mitigating casino impacts, the Legislature should require that grant funds allocated for each city and county according to the nexus test revert to the distribution fund if they are not awarded to that city or county.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

**Recommendation 1.4.a—See pages 21—25 of the audit report for information on the related finding.**

To help ensure that they meet the grant requirements established in the California Government Code, counties should require that the county auditor review each grant application to ensure a rigorous analysis of a casino's impact and of the proportion of funding for the project provided by the grant. Benefit committees should consider a grant application only when the county auditor certifies that the applicant has quantified the impact of the casino and verifies that the grant funds requested will be proportional to the casino's impact.

***Amador County's Action: No action taken.***

- ➡ The county did not address this recommendation in its response.

***Humboldt County's Action: No action taken.***

- ➡ Despite several inquiries, Humboldt County did not respond to the state auditor as requested.

***Riverside County's Action: Pending.***

The county stated that in Riverside County, the county auditor is an elected official who neither reports to the County Executive Officer nor the Board of Supervisors. As such, the county auditor cannot be "required" to provide this assistance, but will be asked to participate if Special Distribution Funds are appropriated in the future.

***Santa Barbara County's Action: No action taken.***

- ➡ Despite several inquiries, Santa Barbara County did not respond to the state auditor as requested.

***San Diego County's Action: Partially implemented.***

The county stated that it continues to take this recommendation under advisement, as both the county and benefit committee agree with the importance of thorough review and the seeking of input. It further stated that instead of the county auditor reviewing every grant application, and in an effort to avoid any potential conflict of interest, the county auditor conducted a review of the benefit

committee grant process and documents. Finally, the county stated that the county auditor validated the committee's methods used to quantify impacts, and did not have any suggestions to improve the request for information, but did reiterate the need for thorough analysis of the data presented in the application during the review process. However, the county did not provide evidence to substantiate this claim, nor do the benefit committee May 2011 meeting minutes reflect these statements.

***Shasta County's Action: Pending.***

The county stated that it continues to work with the county auditor in determining their legal responsibilities as it relates to auditing grant applications. However, the county has provided no evidence to substantiate this statement.

***Yolo County's Action: No action taken.***

The county did not address this recommendation in its response.



**Recommendation 1.4.b—See page 31 of the audit report for information on the related finding.**

To help ensure that they meet the grant requirements established in the California Government Code, counties should review the law for changes that may affect applicants' eligibility for distribution fund grants before awarding the grants so that ineligible entities do not receive grants.

***Yolo County's Action: No action taken.***

The county did not address this recommendation in its response.



**Recommendation 1.4.c—See pages 24 and 25 of the audit report for information on the related finding.**

To help ensure that they meet the grant requirements established in the California Government Code, counties should more rigorously review applications that are to be administered and spent by an entity other than the local government that applies for the funds. Specifically, benefit committees should require that each grant application clearly show how the grant will mitigate the impact of the casino on the applicant agency.

***Amador County's Action: Partially implemented.***

In April 2011 the benefit committee adopted procedures requiring eligible applicants to demonstrate how they will be able to document and quantify the impact that is being mitigated by the project. The county stated that the benefit committee considered many projects, evaluated each for quantifiable impacts by the casino, and recommended funding based on the projects that best mitigated the impact. It further stated that projects that did not quantify their impacts were rejected outright at that time. However, the county did not provide documentation to substantiate this claim, and this process was not reflected in the benefit committee's May 2011 meeting minutes.

***Humboldt County's Action: No action taken.***

Despite several inquiries, Humboldt County did not respond to the state auditor as requested.



***Riverside County's Action: No action taken.***

The county did not address this recommendation in its response.



***Santa Barbara County's Action: No action taken.***

Despite several inquiries, Santa Barbara County did not respond to the state auditor as requested.



***San Diego County's Action: Fully implemented.***

The county stated that the benefit committee's process is one that provides a rigorous review of the grant applications through a comprehensive, transparent, and public process. At the February 23, 2011, public meeting of the benefit committee, committee members reviewed the grant application form, the Frequently Asked Questions document, and the grant process. The benefit committee confirmed that the established policies, procedures, and application form for the grants follow the priorities specified in Section 12715(g) of the California Government Code. The benefit committee further confirmed that grant documents request information from applicants to ensure that metrics clearly demonstrate proportionality for impacts, and authorize the continued use of existing grant documents.

***Shasta County's Action: No action taken.***

- ➡ The county did not address this recommendation in its response.

***Yolo County's Action: Fully implemented.***

The county stated that in the benefit committee's last funding cycle, the benefit committee elected to fund three applications which clearly described the impacts of tribal gaming they were seeking to mitigate, including an analysis of proportionality where appropriate.

**Recommendation 1.4.d—See pages 28—30 of the audit report for information on the related finding.**

To help ensure that they meet the grant requirements established in the California Government Code, counties should ensure that eligible cities and counties receive the proportional share of funding they are set aside according to the nexus test by making the governments aware of available distribution fund grants and of the minimum grant amounts that are set aside for them under the nexus test.

***Amador County's Action: Partially implemented.***

The county stated that each jurisdiction in the county that was eligible for funding from the distribution fund was notified of the eligibility and of the amount that they were eligible for. However, the county did not provide evidence to substantiate this claim.

***Santa Barbara County's Action: No action taken.***

- ➡ Despite several inquiries, Santa Barbara County did not respond to the state auditor as requested.

**Recommendation 1.4.e—See pages 28—30 of the audit report for information on the related finding.**

To help ensure that they meet the grant requirements established in the California Government Code, counties should encourage eligible local governments to submit multiple applications so that the benefit committees can choose appropriate projects while ensuring that local governments are awarded the amount defined in law.

***Amador County's Action: Partially implemented.***

The county stated that eligible jurisdictions were encouraged to apply for multiple projects so that the benefit committee could choose projects that best mitigated the impacts addressed by the distribution funds. It further stated that as a result, many more project requests were received than could be funded. However, the county did not provide evidence to substantiate this claim.

***Riverside County's Action: Pending.***

The county stated that during the next request for distribution fund grant applications, eligible entities will be encouraged to submit multiple funding applications.

***Santa Barbara County's Action: No action taken.***

Despite several inquiries, Santa Barbara County did not respond to the state auditor as requested.

***San Diego County's Action: Fully implemented.***

The county stated that it continues to broadly distribute notice to eligible local governments via email to announce the call for applications. It further stated that it also files public notice with its County Clerk of the Board so agenda packets are posted in compliance with the Brown Act requirements. The notice states that eligible agencies can submit multiple applications.

***Shasta County's Action: No action taken.***

The county did not address this recommendation in its response.

**Recommendation 1.4.f—See pages 31—34 of the audit report for information on the related finding.**

To help ensure that they meet the grant requirements established in the California Government Code, counties should require benefit committee filing officers to avail themselves of the free training provided by the Fair Political Practices Commission (FPPC) so that the filing officers are aware of and meet their responsibilities under the Political Reform Act of 1974. Counties should also adhere to FPPC guidelines for notifying filers of the need to submit statements of economic interests.

***Amador County's Action: Partially implemented.***

In April 2011 the benefit committee adopted procedures requiring all members of the benefit committee to submit a properly completed Form 700 specifically identifying the benefit committee as required by the FPPC. However, the county did not provide evidence of these procedures to substantiate this claim. Further, it did not address all aspects of the recommendation.

***Humboldt County's Action: No action taken.***

Despite several inquiries, Humboldt County did not respond to the state auditor as requested.

***Riverside County's Action: Partially implemented.***

The county stated that the benefit committee adopted the Standard Code of the FPPC as the Conflict of Interest Code, and it requires committee members to complete Form 700 annually. However, the county did not provide evidence to substantiate this claim. Further, it did not address all aspects of the recommendation.

***Santa Barbara County's Action: No action taken.***

Despite several inquiries, Santa Barbara County did not respond to the state auditor as requested.

***Shasta County's Action: Partially implemented.***

The county stated that county filing officers notified all committee members of the requirement to submit Statement of Economic Interest forms and, as a result, all current benefit committee members have complied. However, the county did not provide evidence to substantiate this claim. Further, it did not address all aspects of the recommendation.

***Yolo County's Action: Partially implemented.***

The county stated that the filing officer for its benefit committee followed the FPPC guidelines for notifying committee members of the need to submit statements of economic interests, and all of the committee members filed the required Form 700 by the required date. However, the county provided no evidence to substantiate this claim.

**Recommendation 1.4.g—See pages 32 and 33 of the audit report for information on the related finding.**

To help ensure that they meet the grant requirements established in the California Government Code, counties should ensure that benefit committees' conflict-of-interest codes comply with the political reform act by reviewing the act and their codes, and changing the codes as necessary to meet the act's requirements.

***Santa Barbara County's Action: No action taken.***

Despite several inquiries, Santa Barbara County did not respond to the state auditor as requested.

***Shasta County's Action: Pending.***

The county stated that it is continuing to review the benefit committee conflict of interest code and will update it as necessary. However, the county did not provide documentation to substantiate this claim.

**Recommendation 2.1—See page 42 of the audit report for information on the related finding.**

The Legislature should amend the law for allocating distribution funds to counties to include provisions for prorating a county's distribution fund allocation based on the percentage of the year that each gaming device in the county is required to contribute to the fund. Such an amendment would ensure a more proportionate distribution when the number of contributing gaming devices changes during the course of the year.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

# Department of Health Care Services

## It Needs to Streamline Medi-Cal Treatment Authorizations and Respond to Authorization Requests Within Legal Time Limits

### REPORT NUMBER 2009-112, ISSUED MAY 2010

This report concludes that the Department of Health Care Services (Health Care Services) is missing opportunities to streamline the provision of California Medical Assistance Program (Medi-Cal) services and improve its level of service. Specifically, Health Care Services manually adjudicates all medical treatment authorization requests (TAR) even though it only denied a relatively small portion of these TARs in almost half of the instances in fiscal years 2007–08 and 2008–09. Health Care Services' data indicates that the TAR process as a whole saves substantially more money in claims it avoids having to pay to Medi-Cal providers than it costs to administer. However, despite compelling reasons for Health Care Services to perform a cost-benefit analysis of the segment of its TAR process associated with service categories with low denial rates, low service costs, or high administrative costs it has not done so. We believe a cost-benefit analysis of such TARs would identify opportunities for Health Care Services to streamline the TAR process and improve its overall response times.

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. Finally, 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.

In the report, the California State Auditor (state auditor) made the following recommendations to Health Care Services. The state auditor's determination regarding the current status of recommendations is based on Health Care Services' response to the state auditor as of May 2011.

#### **Recommendation 1.1—See pages 18—22 of the audit report for information on the related finding.**

To streamline the provision of Medi-Cal services and improve its level of service, Health Care Services should conduct cost-benefit analyses to identify opportunities to remove authorization requirements or to auto-adjudicate those medical services and drugs with low denial rates, low paid claims, or high TAR administrative costs.

#### ***Health Care Services' Action: Fully implemented.***

Health Care Services' contractor completed a cost-benefit analysis of the TAR process and found that a small number of medical services did not meet the cost benefit test and recommended that Health Care Services consider auto-adjudicating those services. The contractor also identified certain drugs with low costs and high approval rates that would be the best candidates for auto-adjudication and recommended that Health Care Services use the analysis as the basis for further study to identify any additional opportunities for auto-adjudication.

#### **Recommendation 1.2—See pages 25—29 of the audit report for information on the related finding.**

To ensure that Medi-Cal recipients receive timely access to prescribed drugs, Health Care Services should abolish its policy of responding to drug 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 (CMS), the federal agency that administers the Medicaid program, to



deviate from the 24-hour requirement, and should seek a similar modification to state law. In addition, Health Care Services should begin recording the actual time it receives TARs through the mail or by fax, so that it can begin to measure accurately its processing times for these paper TARs.

***Health Care Services' Action: No action taken.***

Health Care Services disagrees with our recommendation that it abolish its existing policy of adjudicating drug TARs by the end of the next business day. Health Care Services indicated that it has operationalized the 24-hour requirement as the end of the next business day because the offices where drug TARs are processed are not staffed or budgeted for 24-hour, seven-day-per-week operations. Health Care Services also reported that it has not sought formal authorization from CMS to deviate from the 24-hour requirement because it asserts that CMS is aware of Health Care Services' next business day practice and that emergency drug supplies are available to Medi-Cal beneficiaries as needed. In addition, Health Care Services stated that it does not plan to seek a modification to state law regarding the 24-hour time frame at this time. Health Care Services made similar statements in its response at the time we published our report in May 2010. However, as we indicated in our report, we are aware of no legal authority that authorizes Health Care Services to deviate from the unambiguous, plain language of federal and state law and, in the absence of an interpretative regulation, to "operationalize" the 24-hour requirement in a manner inconsistent with the law for any purpose, including staffing and budgetary constraints. Further, although Health Care Services has asserted that CMS has an awareness of Health Care Services' "next business day" practice, the department could provide no evidence that CMS actually approves of the practice. While we sought CMS' opinion about whether Health Care Services' interpretation of "24 hours" as meaning the "next business day" was appropriate, we received no official response. Accordingly, we concluded that, in the absence of any formal interpretation or guidance by the federal government, the plain language of the federal law and conforming state law controlled. We therefore stand by our recommendation that Health Care Services should abolish its policy of responding to drug TARs by the end of the next business day and comply with the legal mandate requiring it to process prior-authorization drug TARs within the specified 24-hour period. As we recommended, it may be more practical for Health Care Services to seek formal authorization from CMS to deviate from the 24-hour requirement, which could result in a change to the federal statute or implementing regulation or a formal waiver from CMS, whereupon it would be appropriate to make conforming changes to state law.

Finally, Health Care Services reported that it has identified the system and business processes that would need to be modified to record the actual time it receives TARs through the mail or by fax, and that these changes are complex and costly. Given the lengthy time frame to make the necessary changes and the high cost, Health Care Services concluded that modifying the current system is not viable. Health Care Services reported that it will instead implement this change through the system that the new California Medicaid Management Information System contractor will develop.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

**Recommendation 1.3—See pages 30—34 of the audit report for information on the related finding.**

To ensure that Medi-Cal recipients are receiving timely medical services from providers, Health Care Services should start tracking prior-authorization medical TARs separately and should ensure that such TARs are processed within an average of five working days. Although state law and regulations specifically require prior authorization for certain medical services, Health Care Services generally does not require prior authorizations in practice. Consequently, Health Care Services should seek legislation to update existing laws and amend its regulations to render them consistent with its TAR practices.

***Health Care Services' Action: Partially implemented.***

Health Care Services reported that it implemented a manual sorting process that identifies prior-authorization paper TARs as they are received. These TARs are placed in a designated location and are processed before retroactive paper TARs. However, Health Care Services indicated that it will defer modifying the current system to track all prior-authorization TARs due to the lengthy time frame and high cost to implement such changes, but it will ensure that the replacement system described in the previous finding includes the ability to track and report on prior-authorization TAR processing.

Finally, Health Care Services reported that it is not currently seeking legislation to update existing laws and amend its regulations to render them consistent with its TAR practices because California's health care system will change significantly with the implementation of a recently approved federal waiver of certain Medicaid requirements and through provisions of the Affordable Care Act. Health Care Services believes it is premature to make the recommended legislative changes at this time, but will consider seeking such legislation, as warranted, in the future.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.





## Department of Public Health

### It Faces Significant Fiscal Challenges and Lacks Transparency in Its Administration of the Every Woman Counts Program

#### REPORT NUMBER 2010-103R, ISSUED JULY 2010

This report concludes that the Department of Public Health (Public Health) could do more to maximize the funding available to pay for breast and cervical cancer screening services, which is—in our opinion—the primary focus of the program. Although total tobacco tax revenues supporting the Every Woman Counts (EWC) program are declining and costs to administer the program are rising, state law requires that Public Health provide services at the level of funding appropriated by the Legislature. When it requested \$13.8 million in additional funding from the Legislature in June 2009, Public Health claimed that redirecting funds from other areas of the EWC program—such as efforts aimed at providing health education to women and technical assistance to medical providers—to pay for additional screening services would not be possible given federal requirements and would jeopardize federal funding. However, our review of federal requirements and discussions with the Centers for Disease Control and Prevention indicate that Public Health has the flexibility to redirect funding to screening activities without risking the loss of federal funds. Unfortunately, Public Health's ability to identify and redirect funds toward paying for clinical aspects of the EWC program is hampered by the fact that it does not know how much its contractors are spending on specific activities. As a result, in an environment of scarce fiscal resources, Public Health lacks a basis to know whether paying for certain contract activities are a better use of funds than paying for additional mammograms or other screening procedures.

Finally, our audit found that Public Health should do more to improve the public transparency and accountability with which it administers the EWC program. For example, state law requires Public Health to develop regulations to implement the EWC program in a manner that considers the public's input. However, nearly 16 years after the program began, such regulations still have not been developed. Public Health cited staff and funding limitations as the cause for the delay. State law also requires Public Health to report on the activities and effectiveness of the EWC program and submit an annual report to the Legislature. Although Public Health has provided information on an ad hoc basis, including during the State's budgetary process, it has provided only one formal report to the Legislature—in August 1996. This lack of information on the effectiveness of the EWC program limits Public Health's ability to effectively advocate for appropriate funding and hampers the Legislature's and the public's ability to exercise effective oversight.

In the report, the California State Auditor (state auditor) made the following recommendations to Public Health. The state auditor's determination regarding the current status of recommendations is based on Public Health's response to the state auditor as of June 2011 and a follow-up interview with Public Health's staff in July 2011.

#### **Recommendation 1.1—See pages 23—26 of the audit report for information on the related finding.**

To ensure that Public Health maximizes its use of available funding for breast cancer screening services, it should evaluate each of the EWC program's existing contracts to determine whether the funds spent on nonclinical activities are a better use of taxpayer money than paying for a woman's breast or cervical cancer screening. To the extent that Public Health continues to fund its various contracts, it should establish clearer expectations with its contractors concerning how much money is to be spent directly on the different aspects of the EWC program and should monitor spending to confirm that these expectations are being met.

***Public Health's Action: Partially implemented.***

Public Health provided members of the Legislature with a briefing on the EWC program on November 5, 2010. During that briefing, Public Health reported that it had renegotiated its contracts with many of the regional centers that had previously provided support services to the EWC program. The result of these renegotiations often reduced the total amounts to be paid to these contractors. For example, Table 4 of our audit report shows that the contract amounts for these regional centers, which expired on June 30, 2010, varied between \$332,000 and \$489,000 per year. In its November 2010 briefing, Public Health informed members of the Legislature that the budgeted amounts for each of these contracts for fiscal year 2010–11 had been reduced to roughly \$200,000 per year. In its one-year response to the audit, Public Health reported that it has completed its review of the EWC program's remaining contracts and has reduced the funds committed to one of its contracts with the San Diego State University Research Foundation by nearly 50 percent.

We reviewed several of Public Health's current contracts with its regional centers and observed that the value of these contracts had been reduced. However, our review found that Public Health has not developed budgets within these contracts indicating how much is to be spent on specific scope-of-work items. Instead, Public Health's process is to make payments to its contractors based on invoices that identify costs by type—such as salary or equipment costs—but not by specific task or objective. As a result, as we state on page 23 of the audit report, Public Health cannot measure the true cost of specific contractor activities and evaluate whether its spending on these areas is the best possible use of program funds.

**Recommendation 1.2.a—See pages 26—28 of the audit report for information on the related finding.**

To ensure that Public Health can maintain fiscal control over the EWC program, we recommend that it develop budgets for the EWC program that clearly communicate to the Legislature the level of service that it can provide based on available resources. One way Public Health could do this would be to estimate the number of women that can be screened at different levels of funding.

***Public Health's Action: Fully implemented.***

In its one-year response, Public Health indicated that it had developed a formal budget estimate package for the EWC program that was included in the Governor's Budget for fiscal year 2011–12. This package contained the estimated number of women served based on its projection of the amount of clinical claims the EWC program would pay during the fiscal year.

We reviewed the formal budget estimate package that Public Health provided to the Legislature as part of the fiscal year 2011–12 budget process and confirmed that it provided the Legislature with information on the expected number of women to be served. We also noted that Public Health has posted its estimate packages on the EWC program's Web site. Public Health's one-year response also indicated that it is attempting to track the social security numbers of the women who access the EWC program in an effort to better track caseload.

**Recommendation 1.2.b—See page 28 of the audit report for information on the related finding.**

To ensure that Public Health can maintain fiscal control over the EWC program, we recommend that it seek legislation or other guidance from the Legislature to define actions the program may take to ensure that spending stays within amounts appropriated for a fiscal year.

***Public Health's Action: Fully implemented.***

Public Health's one-year response to this recommendation focused on its efforts to develop and promulgate regulations that will direct its future administration of the EWC program, and discussed its efforts to develop a formal caseload estimation process as a tool to better communicate to the Legislature the affect of proposed appropriations.

***Legislative Action: Legislation enacted.***

Chapter 717, Statutes of 2010 (Senate Bill 853), requires Public Health to provide the Legislature with quarterly updates on caseload, estimated expenditures, and related program monitoring data for the EWC program. Moreover, 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

**Recommendation 1.3.a—See pages 29 and 30 of the audit report for information on the related finding.**

To ensure better public transparency and accountability for how the EWC program is administered, Public Health should comply with state law to develop regulations, based on input from the public and interested parties, that will direct how Public Health administers the EWC program. At a minimum, such regulations should define the eligibility criteria for women seeking access to EWC screening services.

***Public Health's Action: Partially implemented.***

Public Health's one-year response acknowledged that it had only partially implemented this recommendation, indicating that it has identified the necessary steps to promulgate effective regulations and has formed an internal rulemaking team to provide program-specific expertise throughout the regulation-making process. Public Health indicated that it is developing draft articles to address key program components, such as definitions, patient eligibility, provider participation, clinical standards, and other program considerations. Public Health has not yet developed an expectation on when its draft regulations for the EWC program will be available for public comment.

**Recommendation 1.3.b—See pages 30 and 31 of the audit report for information on the related finding.**

To ensure better public transparency and accountability for how the EWC program is administered, Public Health should provide the Legislature and the public with a time frame indicating when Public Health will issue its annual report on the effectiveness of the EWC program. Further, Public Health should inform the Legislature and the public of the steps it is taking to continue to comply with the annual reporting requirement in the future.

***Public Health's Action: Fully implemented.***

Although Public Health acknowledged in its one-year response that it had not submitted its annual report to the Legislature regarding the effectiveness of the EWC program, we noted that it released its report on June 21, 2011. The report is available on Public Health's Web site under the EWC program's web page. According to the annual report, Public Health anticipates releasing its next report on the EWC program's effectiveness in February 2012.



# Medi-Cal Managed Care Program

## The Departments of Managed Health Care and Health Care Services Could Improve Their Oversight of Local Initiatives Participating in the Medi-Cal Two-Plan Model

**REPORT NUMBER 2011-104, ISSUED DECEMBER 2011**

This report concludes that both the departments of Managed Health Care (Managed Health Care) and Health Care Services (Health Care Services) have inconsistencies in the financial reviews they conduct of local initiatives that participate in the California Medi-Cal Assistance Program's (Medi-Cal) managed care two-plan model. Under this model, both a county entity, known as a local initiative and a commercial health plan provide managed care services to Medi-Cal beneficiaries. Managed Health Care is chronically late in completing its financial report reviews, thus seriously lessening their value as an oversight tool. Further, Managed Health Care does not have an effective process to monitor local initiatives' responses to corrective action plans that result from its financial examinations. For its part, Health Care Services is inconsistent in performing financial reviews, does not always ensure that all financial requirements are included, and has not performed financial reviews with the frequency outlined in its fiscal monitoring unit's internal policy. Analyses performed by Health Care services overlap the financial viability analysis that Managed Health Care generates from local initiatives' consolidated financial reports. Finally, both Managed Health Care and Health Care Services fail to conduct medical audits—intended to review several aspects of the provision of health care—of the health delivery system of each local initiative within the frequency required by law.

Our review also included the local initiatives' administration of the Medi-Cal two-plan model. Although most local initiatives hold tangible net equity (TNE) balances—the central measure of financial viability under the Knox-Keene Health Care Service Plan Act of 1975—that are significantly higher than the required TNE minimum balances—Health Care Services' performance indicators show that California's eight local initiatives in operation during the time covered by our audit provide a satisfactory level of care to beneficiaries. The four local initiatives we visited generally had adequate fiscal processes and internal controls to monitor their administrative expenses, although weak past policies at Kern Health Systems allowed it to enter into two contracts for medical claims reviews that were not cost-effective. Our review also found that the four local initiatives we visited use similar methods to set and approve salaries, although the salaries and retirement benefits of their highest-paid executives vary significantly.

In the report, the California State Auditor (state auditor) made the following recommendations to Managed Health Care and Health Care Services. We made no recommendations to the local initiatives. The state auditor's determination regarding the current status of recommendations is based on Managed Health Care and Health Care Services' responses to the state auditor as of December 2011.

### **Recommendation 1.1—See pages 16—19 of the audit report for information on the related finding.**

To monitor local initiatives' financial viability and compliance with the Knox-Keene Act requirements, Managed Health Care should develop a formal policy to ensure that it reviews financial reports in a timely manner, and that administrative expenses are correctly categorized.

#### ***Managed Health Care's Action: Pending.***

Managed Health Care indicates it will develop and implement formal policies and procedures, make necessary changes or additions to its financial filing system to help implement and monitor the policies and procedures, ensure that staff and management are informed and trained on the new policies and procedures, and develop a management reporting tool to monitor adherence to the policies and procedures. Managed Health Care also stated that it will remind staff that review of administrative expenses, and correct categorization of such expenses, is part of the overall financial review process.

**Recommendation 1.2—See pages 20 and 21 of the audit report for information on the related finding.**

To ensure that all four financial soundness elements included in Health Care Services' contract are being reviewed, it should conduct financial reviews consistently and update its review tool to include working capital.

***Health Care Services' Action: Fully implemented.***

Health Care Services' Fiscal Monitoring Unit has developed and implemented a revised worksheet that includes all four financial soundness elements.

**Recommendation 1.3—See pages 20 and 21 of the audit report for information on the related finding.**

Health Care Services should develop a formal policy to ensure that it conducts financial reviews in a timely manner.

***Health Care Services' Action: Pending.***

Health Care Services states it drafted a written policy that addressed the timeliness of the financial reviews, which it anticipates executive management will review and approve by the end of January 2012.

**Recommendation 1.4—See pages 21 and 22 of the audit report for information on the related finding.**

To make its financial solvency reviews more efficient and reduce the risk of errors, Health Care Services should coordinate with Managed Health Care when analyzing local initiatives' consolidated financial reports.

***Health Care Services' Action: Pending.***

Health Care Services said that it would collaborate with Managed Health Care to eliminate duplication of effort in to the consolidated review of financial statements and that it will place reliance on the automated ratios that Managed Health Care generates.

**Recommendation 1.5—See pages 22—24 of the audit report for information on the related finding.**

To ensure that local initiatives implement corrective action plans, Managed Health Care should devise a more effective process to track, monitor, and review the status of local initiatives' corrective actions as they relate to financial examination requirements.

***Managed Health Care's Action: Pending.***

Managed Health Care said it will develop a corrective action plan tracking feature in its database to allow for the ready identification of corrective action plans and their status, as well as the decisions staff make concerning the corrective actions taken.

**Recommendation 1.6—See pages 25—27 of the audit report for information on the related finding.**

Health Care Services should ensure that it performs annual medical audits of local initiatives as required by law.

***Health Care Services' Action: Pending.***

Health Care Services asserts that it will resume annual medical audits of all Medi-Cal managed care plans in early 2012 and that it will work in conjunction with Managed Health Care, to the extent feasible.

**Recommendation 1.7—See pages 25—27 of the audit report for information on the related finding.**

Managed Health Care should ensure that it obtains timely medical audits from Health Care Services. If it is unable to obtain timely medical audits from Health Care Services, it should conduct them itself.

***Managed Health Care's Action: Fully implemented.***

Managed Health Care has developed and implemented a written policy to track and secure copies of Health Care Services' medical audits and findings, and to the extent necessary, to timely schedule a Knox-Keene Act medical audit in the event that Health Care Services does not conduct its annual medical audit.





# California's Postsecondary Educational Institutions

## More Complete Processes Are Needed to Comply With Clery Act Crime Disclosure Requirements

### REPORT NUMBER 2009-032, ISSUED JANUARY 2010

This report concludes that the postsecondary educational institutions (institutions) we reviewed did not always comply with the requirements of the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). Of the six California institutions we visited, one did not issue an annual security report, three did not properly notify students and staff of the availability of their security policies or crime statistics, and four did not disclose all required security policies. Further, the six institutions disclosed inaccurate crime statistics to varying degrees for 2007. We identified similar concerns among the 10 other institutions we surveyed. Failure to comply with the Clery Act may result in financial penalties of up to \$27,500 per violation. Also, the U.S. Department of Education (Education) has stated that choosing an institution is a major decision for students and their families, and that along with academic, financial, and geographic considerations, the issue of campus safety is a vital concern. Education also believes that compliance with the Clery Act provides students and their families with information necessary to make informed decisions. Several reasons contributed to institutions' lack of compliance with the Clery Act. These reasons included an inadequate understanding of the Clery Act's requirements, the use of incorrect geographic areas or incorrect definitions of crimes when compiling statistics, failing to request crime statistics from local law enforcement agencies, and not using guidance available from Education. Finally, the California Community Colleges Chancellor's Office (Chancellor's Office) could increase its role in helping community colleges improve their compliance with the Clery Act. The Chancellor's Office informed us that although it currently does not provide any guidance to its community colleges on the Clery Act, it would consider it reasonable to provide limited guidance in the future.

In the report, the California State Auditor (state auditor) made the following recommendations to the institutions or to the Chancellor's Office. The state auditor's determination regarding the current status of recommendations is based on the responses to the state auditor from the six institutions we visited and the Chancellor's Office as of September 2011. Please note that because not all recommendations or parts of recommendations applied to all six institutions we visited or to the Chancellor's Office, the following recommendations will not always include responses from all audited entities.

#### **Recommendation 1.1.a—See pages 14 and 15 of the audit report for information on the related finding.**

To ensure that they provide students and others with a single source of information related to campus security policies and crime statistics, and to help avoid federal financial penalties, institutions should comply with the requirements of the federal Clery Act. Specifically, institutions should issue annual security reports.

#### ***Institution's Action: Fully implemented.***

Ohlone Community College (Ohlone) created a single security report that included both campus security policies and crime statistics.

#### **Recommendation 1.1.b—See pages 15—17 of the audit report for information on the related finding.**

To ensure that they provide students and others with a single source of information related to campus security policies and crime statistics, and to help avoid federal financial penalties, institutions should comply with the requirements of the federal Clery Act. Specifically, institutions should include all required policy disclosures in their annual security reports.

***Institutions' Action: Fully implemented.***

For Mt. San Antonio Community College (Mt. San Antonio), Ohlone, Western Career College–Sacramento (Western Career–Sacramento), and Western University of Health Sciences (Western Health), we reviewed annual security reports that they issued after we issued our audit report. These more recent annual reports included all required policy disclosures or links to where the information could be found.

**Recommendation 1.1.c—See pages 15—19 of the audit report for information on the related finding.**

To ensure that they provide students and others with a single source of information related to campus security policies and crime statistics, and to help avoid federal financial penalties, institutions should comply with the requirements of the federal Clery Act. Specifically, institutions should properly notify all students and employees of the availability of their annual security reports.

***Institutions' Action: Fully implemented.***

Mt. San Antonio stated that it created a Notification of Availability Statement to comply with the notification requirement of the Clery Act and that it provides the statement to all students or prospective students as well as employees or prospective employees using various methods such as a “portal system” and campus-wide email, and during Senior Day events.

Ohlone stated it notifies students and employees of the availability of the annual security report via publication in the college catalog and schedule of classes, and placement on the student and employee pages of the Ohlone Web site.

Western Health stated that it notified all students and staff via e-mail of the security report's availability and provided a link to it.

**Recommendation 1.2.a—See pages 19—25 of the audit report for information on the related finding.**

To help ensure that they comply with the Clery Act's disclosure requirements, institutions should review and adhere to applicable guidance related to the Clery Act, including the handbook and tutorial issued by the U.S. Department of Education's Office of Postsecondary Education (OPE) and the Uniform Crime Reporting (UCR) handbook issued by the Federal Bureau of Investigation.

***Institutions' Action: Fully implemented.***

California State University, Fresno (Fresno) indicated that it has reviewed its crime report process to ensure that the federal definitions of crimes found in the UCR are not confused with definitions found in California law. It also stated that it created a review team to ensure accuracy.

Mt. San Antonio acknowledged that the Clery Act requires the use of crime definitions found in the UCR and stated that it will strictly adhere to those definitions. It also stated that a three-member team of public safety management staff will review incident reports to ensure accuracy.

According to its Web site, Ohlone acknowledged that schools are expected to follow the classifying methods in the UCR handbook.

Riverside stated that it provides crime statistics that are classified according to the UCR administered by the Federal Bureau of Investigation.

For its annual reports issued after we issued our audit report, Western Career–Sacramento stated that it reported crime statistics in accordance with UCR procedures.

**Recommendation 1.2.b—See pages 19—29 of the audit report for information on the related finding.**

To help ensure that they comply with the Clery Act's disclosure requirements, institutions should identify and provide sufficient training to those employees responsible for compiling crime statistics and issuing annual security reports.

***Institutions' Action: Fully implemented.***

Mt. San Antonio stated that it purchased Clery Act training reference guides and provided them to members of the Public Safety Department responsible for drafting and distributing the annual security report.

Ohlone stated it has trained employees responsible for compiling crime statistics and for issuing the annual security reports to ensure that correct data is recorded and reported.

**Recommendation 1.3—See pages 20—24 of the audit report for information on the related finding.**

To ensure that they correctly report all applicable crimes in accordance with the Clery Act, institutions should request crime information from campus security authorities and local or state law enforcement agencies. Further, they should carefully review all information for errors. Additionally, institutions should develop a clear understanding of the definitions of Clery Act crimes. For example, they could create or obtain a conversion list for crimes with differing definitions under the state Penal Code and the Clery Act, such as battery and aggravated assault.

Note: For recommendation 1.3, we directed the first part of the recommendation (related to requesting crime information from campus security authorities and local or state law enforcement agencies) to only the institutions we surveyed, not the institutions we visited. All six institutions we visited requested crime information from relevant officials. We did not ask the institutions we surveyed to provide written responses to our recommendations.

***Institutions' Action: Fully implemented.***

To ensure that crime statistics are reported accurately, Mt. San Antonio developed a conversion chart allowing comparison of Penal Code definitions to UCR handbook definitions of all Clery Act reportable crimes. In addition, Mt. San Antonio purchased Clery Act training reference guides and provided them to members of the Public Safety Department responsible for drafting and distributing the annual security report. Finally, Mt. San Antonio stated it has created a three-member team made up of Public Safety Department management staff that will review all incident reports involving a crime.

Ohlone stated that information requested from the Fremont and Newark police departments will be more closely reviewed and screened to reflect accurate data.

Riverside stated that it will continue its process of evaluating the data per the Clery Act requirements, using the crime conversion list provided by the U.C. Office of the President as necessary, and reviewing the report for accuracy. Also, Riverside included definitions of Clery Act reportable crimes on its Web site.

**Recommendation 1.4—See pages 19—29 of the audit report for information on the related finding.**

To ensure that they include only reportable crimes from reportable areas in their annual security reports, institutions should request specific information from local or state law enforcement agencies. Such information should include addresses and details of specific crimes. If institutions wish to disclose crime statistics for areas outside those required by federal law, they should clearly distinguish those statistics from the ones required under the Clery Act.

***Institutions' Action: Fully implemented.***

Fresno stated that it reviewed the reportable areas per Figure 2 in our report and informed the Clovis Police Department of the necessary changes to ensure accurate reporting. Further, Fresno stated that it formed a review team to review reported crimes to help ensure accurate reporting.

Ohlone stated that information requested from the Fremont and Newark police departments will be more closely reviewed and screened to reflect accurate data.

Western Career—Sacramento provided a checklist that it now uses to help ensure compliance with the Clery Act. This checklist includes such items as making a good-faith effort to collect crime statistics for Clery Act crimes in applicable geographic areas from all local police agencies, documenting the institution's efforts to obtain crime statistics from police agencies or noncompliance on the part of the police, and obtaining crime statistics from all the appropriate police agencies.

Western Health stated that it verified that the Pomona Police Department could not provide campus-specific crime statistics. It also stated that it believed that it was appropriate to continue to provide the crime statistics for the surrounding area and that this information is provided in addition to the crime statistics for the campus. Western stated that it noted that statistics for the surrounding area include crimes reported for private properties and that the information is not required by the Clery Act.

**Recommendation 1.5—See pages 29 and 30 of the audit report for information on the related finding.**

To improve compliance among California's community colleges, the Chancellor's Office should provide direction to the institutions regarding the provisions of the Clery Act. This direction should include a discussion of the need to review and adhere to currently available Clery Act guidance such as OPE's handbook and tutorial, as well as the UCR handbook. The Chancellor's Office should also inform institutions of training opportunities for those employees responsible for compiling Clery Act crime statistics and distributing annual security reports. Finally, the Chancellor's Office should inform community colleges of the negative effects of not complying with the Clery Act.

***Chancellor's Office's Action: Fully implemented.***

The Chancellor's Office manages a Web site with emergency management resources, where it included a "toolbox" with links to Clery Act guidance such as the OPE handbook and other resources. Further, the Chancellor's Office created a peer support network by asking employees responsible for compiling Clery Act crime statistics to be available to each other to compare and suggest best practices. Contact information for the peer support network can be found on the emergency management resources Web site. In addition, the director of Emergency Planning and Preparedness (director) maintains a comprehensive email contact list of college employees involved in emergency management. The director used this list to notify the colleges of an upcoming Clery Act training opportunity. Finally, the Chancellor's Office stated that it contracted with a retired police chief to provide Clery Act training specific for community colleges. In addition to offering a webinar and workshop, the chief will be available to give colleges one-on-one mentoring. All training and support the chief provides to colleges will be free of charge to the colleges.

# University of California

## Although the University Maintains Extensive Financial Records, It Should Provide Additional Information to Improve Public Understanding of Its Operations

### REPORT NUMBER 2010-105, ISSUED JULY 2011

The report concludes that the University of California (university) budgeted widely varying amounts to its 10 campuses. For fiscal year 2009–10, the per-student budget amount ranged from \$12,309 for the Santa Barbara campus to \$55,186 for the San Francisco campus. Although the university identified four factors that it believes contributed to the differing budget amounts, it did not quantify their effects. The university can also improve the transparency of its financial operations. Despite the university's recent efforts to improve the transparency of its budget process, it should take additional steps to increase the ability of stakeholders to better hold the university accountable for how it distributes public funding to various campuses, and to reduce the risk that the allocation process may be perceived as inequitable. Further, although the university publishes annually a report of the campuses' financial schedules, it could provide other information including beginning and ending balances for individual funds and could publish consistent information for its auxiliary enterprises. We further reported that the Office of the President needs to more precisely track about \$1 billion of expenses annually that it currently tracks in a single accounting code—Miscellaneous Services—and that a recent change in university policy allows campuses to subsidize auxiliary enterprises with funding from other sources, despite the intent that they be self-supporting. Finally, we discovered two instances when the university designated \$23 million in student funding to pay for capital projects on the Los Angeles campus that were not authorized by the student referendum establishing the fee.

In the report, the California State Auditor (state auditor) made the following recommendations to the university. The state auditor's determination regarding the current status of recommendations is based on the university's response to the state auditor as of November 2011.

#### **Recommendation 2.1—See pages 31—38 of the audit report for information on the related finding.**

To address the variations in per student funding of its campuses, the university should complete its reexamination of the base budgets to the campuses and implement appropriate changes to its budget process. As part of its reexamination of the base budget, it should:

- Identify the amount of general funds and tuition budget revenues that each campus receives for specific types of students (such as undergraduate, graduate, and health sciences) and explain any differences in the amount provided per student among the campuses.
- Consider factors such as specific research and public service programs at each campus, the higher level of funding provided to health sciences students, historical funding methods that favored graduate students, historical and anticipated future variations in enrollment growth funding, and any other factors applied consistently across campuses.
- After accounting for the factors mentioned earlier, address any remaining variations in campus funding over a specified period of time.
- Make the results of its reexamination and any related implementation plan available to stakeholders, including the general public.

***University's Action: Pending.***

The university stated that it has established a systemwide work group to examine variation in funding across the system. This work group consists of chancellors and other campus leadership, faculty representatives, and leadership from the Office of the President. The university further stated that the work group will review the base budgets and consider changes "going forward"; it will not attempt to quantify the existing variation. The university stated that the work group will likely consider many factors in its evaluation, such as the amount of funding provided per-student, the distribution of graduate and undergraduate students at each campus, and the numbers of students and cost for the various types of graduate and undergraduate programs (e.g., health sciences programs). The work group will also consider funding for noninstructional programs operated by the campuses, such as agricultural experiment stations. The university stated that the work group had held three meetings by September 2011 and would continue to meet monthly through early 2012, at which time it expects the work group to submit recommendations to the president. The university also stated that the recommendations will be made public.

**Recommendation 2.2.a—See pages 38—40 of the audit report for information on the related finding.**

To help improve accountability in the university's budget process, and to help minimize the risk of unfair damage to its reputation, the university should take additional steps to increase the transparency of its budget process. Specifically, the Office of the President should continue to implement the proposed revisions to its budget process.

***University's Action: Fully implemented.***

The university stated that it has implemented proposed revisions to its budget process for fiscal year 2011–12. Specifically, it stated that these changes resulted in individual campuses retaining all student tuition and fee revenue, all research indirect cost recovery funds, and all other campus-generated funds.

**Recommendation 2.2.b—See pages 38—40 of the audit report for information on the related finding.**

To help improve accountability in the university's budget process, and to help minimize the risk of unfair damage to its reputation, the university should take additional steps to increase the transparency of its budget process. Specifically, the Office of the President should update its budget manual to reflect current practices and make its revised budget manual, including relevant formulas and other methodologies for determining budget amounts, available on its Web site.

***University's Action: Pending.***

The university stated that the Office of the President is developing a new budget manual that describes current budget practices. The university also stated that it should complete the new manual by July 2012, and will publish the manual on its Web site.

**Recommendation 2.2.c—See pages 38—40 of the audit report for information on the related finding.**

To help improve accountability in the university's budget process, and to help minimize the risk of unfair damage to its reputation, the university should take additional steps to increase the transparency of its budget process. Specifically, the Office of the President should continue its efforts to increase the transparency of its budget process beyond campus administrators to all stakeholders, including students, faculty, and the general public. For example, the Office of the President could make information related to its annual campus budget amounts, such as annual campus budget letters and related attachments, available on its Web site.



***University's Action: Pending.***

The university stated that it is reviewing the information about budget allocations currently available on its Web site, as well as other financial information made available on systemwide and campus Web sites.

**Recommendation 3.1—See pages 49—51 of the audit report for information on the related finding.**

To increase the transparency of university funds, the Office of the President should make available annually financial information regarding its funds, including beginning and ending balances; revenues, expenses, and transfers; and the impact of these transactions on the balances from year to year.

***University's Action: Pending.***

The university stated that it plans to start implementing this recommendation after it completes its annual financial statement closing process in mid-November.

**Recommendation 3.2—See pages 52—55 of the audit report for information on the related finding.**

To ensure that the campus financial information published by the Office of the President can be better evaluated by interested stakeholders, the university should disclose instances in which campuses subsidize auxiliary enterprises with revenues from other funding sources and should disclose the sources of that funding.

***University's Action: Pending.***

The university stated that it plans to start implementing this recommendation after it completes its annual financial statement closing process in mid-November.

**Recommendation 3.3—See pages 51 and 52 of the audit report for information on the related finding.**

To improve the transparency of its expenses, the university should identify more specific categories for expenses that are recorded under the Miscellaneous Services accounting code and should implement object codes that account for these expenses in more detail.

***University's Action: Pending.***

The university stated that it plans to start implementing this recommendation after it completes its annual financial statement closing process in mid-November. The university added that it has already gathered data from the campuses for the year ending June 30, 2010, and is reconciling and analyzing the data to determine what additional level of reporting from the campuses would be useful.

**Recommendation 3.4—See pages 55—57 of the audit report for information on the related finding.**

To ensure that campuses do not inappropriately use revenues generated from student fees imposed by referenda, the university should ensure that it, the regents, and the campuses do not expand the uses for such revenues beyond those stated in the referenda.

***University's Action: Pending.***

The university does not agree with this recommendation. The university restated its position that the Regents of the university (regents), and, by delegation, the university president, retain authority to make modifications to the terms of the uses of revenue for all campus-based fees. However, the



university also stated that it will request from the regents at a future meeting approval of policy changes that would clarify the university's position. The university stated that the Office of the President and the campuses are collaborating on efforts to avoid the need for changes from referenda language. It stated that campuses frequently provide draft referenda to the Office of the President for review, and staff work closely with the campuses to clarify language and, in the case of capital project fees, to ensure that the financial planning for building projects has been sound.

# Department of Housing and Community Development

## Despite Being Mostly Prepared, It Must Take Additional Steps to Better Ensure Proper Implementation of the Recovery Act's Homelessness Prevention Program

### REPORT NUMBER 2009-119.3, ISSUED FEBRUARY 2010

The Department of Housing and Community Development (department) has taken many steps to position itself to successfully administer its portion of the Homelessness Prevention and Rapid Re-Housing Program (Homelessness Prevention program). For example, it has implemented processes to minimize the time that elapses between drawing down Homelessness Prevention funds and disbursing them to subrecipients such as cities, counties, and local nonprofit organizations, and to help ensure that these funds are spent by certain deadlines. However, the department could take additional steps to improve its administration of the program. These steps include developing and implementing processes to ensure that subrecipients do not maintain excessive balances of federal funds and finalizing and implementing guidelines for monitoring subrecipients. Additionally, the department could develop written policies for practices that it states it currently follows, such as its periodic review of its spending for administrative costs. Further, it could document actions it takes while administering the program, such as recording the date that it submits Recovery Act information to the State.

In the report, the California State Auditor (state auditor) made the following recommendations to the department. The state auditor's determination regarding the current status of recommendations is based on the department's response to the state auditor as of September 2011.

#### **Recommendation 1.1—See pages 11—14 of the audit report for information on the related finding.**

To strengthen the processes involved in its administration of the Homelessness Prevention program, the department should develop and implement necessary policies that are currently absent. Specifically, the department should develop and implement policies for ensuring that subrecipients limit the time that elapses between receiving federal funds and disbursing them, as well as policies for ensuring that subrecipients maintain an appropriate level of federal cash balances.

#### ***Department's Action: Fully implemented.***

The department stated that to help limit the time from when the subrecipients receive the Homelessness Prevention funds to when they disburse them, it requires subrecipients to submit expenditure reports no later than 30 days after the end of each quarter. The department indicated that it reviews these quarterly expenditure reports to determine the amount of the subrecipient's next cash advance. Specifically, the department plans to reduce the amount of additional Homelessness Prevention funds that subrecipients request for a quarter by the amount of their grant funds remaining from the previous quarter. Additionally, we reviewed the most recent expenditure reports for the seven subrecipients we identified in our audit report that held excessive cash balances and found that they no longer did so.

#### **Recommendation 1.2.a—See pages 8—9 of the audit report for information on the related finding.**

To strengthen the processes involved in its administration of the Homelessness Prevention program, the department should finalize and implement those policies that are currently in draft form. Specifically, the department should finalize and implement its draft guidelines for monitoring subrecipients, including its plans to conduct quarterly surveys of subrecipients and to perform risk assessments of the subrecipients. These guidelines should ensure that subrecipients comply with the following:

- Costs incurred are for only those services allowed by law.
- The time period between receiving and spending federal funds is minimized, which has the effect of limiting the federal cash balances that subrecipients maintain.
- Federal cash balances are maintained in interest-bearing accounts.
- Households receiving services are eligible to participate.
- Eligible households are not charged fees to participate.
- The two- and three-year spending deadlines are met.
- Administrative costs stay within applicable limits.
- Reports submitted to the department contain accurate and complete information.
- The 11 requirements identified in the March 2009 notice issued by the U.S. Department of Housing and Urban Development are met, including habitability standards for housing units, nondiscrimination and equal opportunity requirements, and requirements involving lead-based paint.
- Registration in the federal Central Contractor Register is maintained.

***Department's Action: Fully implemented.***

The department finalized and implemented its guidelines for monitoring subrecipients, including guidelines for reviewing quarterly expenditure reports to ensure subrecipients expended program funds on only those services allowed by law, and a quarterly subrecipient questionnaire to solicit contract management information and identify possible red flags. Additionally, to help ensure that subrecipients meet spending deadlines, the guidelines also include a policy and procedure for monitoring subrecipients no later than 120 days before the deadlines. The guidelines also include procedures to review information included in quarterly expenditure reports to ensure accuracy and completeness, as well as procedures for performing site monitoring and desk audits of subrecipients that incorporate the requirements identified in federal guidance.

**Recommendation 1.2.b—See pages 8—10 of the audit report for information on the related finding.**

The department should also finalize and implement its draft plan to perform site visits or desk audits of subrecipients between April 2010 and the end of March 2011.

***Department's Action: Fully implemented.***

In July 2010 the department finalized and implemented its schedule for performing site monitoring visits and desk audits. The new schedule indicates that the department plans to complete its site visits and desk audits of all subrecipients by the end of September 2011 rather than the end of March 2011, as originally planned.

**Recommendation 1.3.a—See page 11 of the audit report for information on the related finding.**

To strengthen the processes involved in its administration of the Homelessness Prevention program, the department should put into writing those practices that it states it currently follows. Specifically, the department should put into writing its current practices for minimizing the time from the date it draws down federal funds to the date it disburses the funds to subrecipients.

***Department's Action: Fully implemented.***

The department has put into writing the current practices it states it follows. Specifically, in March 2010 the department developed written procedures for minimizing the time between the date it draws down federal funds and the date it disburses those funds to the subrecipients.

**Recommendation 1.3.b—See page 14 of the audit report for information on the related finding.**

The department should also put into writing its current practices for management's periodic review of the department's level of spending for administrative costs, to help ensure that it does not exceed the applicable limit.

***Department's Action: Fully implemented.***

The department has put into writing the current practices it states it follows. Specifically, in March 2010 the department developed written procedures for its periodic review of administrative cost spending.

**Recommendation 1.3.c—See pages 17—19 of the audit report for information on the related finding.**

The department should also put into writing its current practices for preparing, reviewing, and submitting required federal reports.

***Department's Action: Fully implemented.***

The department has put into writing the current practices it states it follows. Specifically, the department developed written procedures for preparing, reviewing, and submitting its required federal reports.

**Recommendation 1.4.a—See pages 14—15 of the audit report for information on the related finding.**

To strengthen the processes involved in its administration of the Homelessness Prevention program, the department should document actions that it takes while administering the program. Specifically, the department should document the results of management's periodic review of the department's level of spending for administrative costs.

***Department's Action: Fully implemented.***

The department indicated that it documents management's periodic review of administrative costs and the date it submits required federal reports. As a part of its budget review procedure, the department implemented a method for management to document its periodic review of administrative cost spending.

**Recommendation 1.4.b—See page 19 of the audit report for information on the related finding.**

The department should also document the date on which it submits its Recovery Act information using the State's accountability tool.

***Department's Action: Fully implemented.***

The department provided evidence that it now documents the date it submits its quarterly reports required by the Recovery Act.

**Recommendation 1.5—See page 21 of the audit report for information on the related finding.**

The department should notify its subrecipients of the federal award number for the Homelessness Prevention program.

***Department's Action: Fully implemented.***

The department notified its subrecipients of the federal award number for the Homelessness Prevention program in February 2010.

# Department of Developmental Services

## A More Uniform and Transparent Procurement and Rate-Setting Process Would Improve the Cost-Effectiveness of Regional Centers

### REPORT NUMBER 2009-118, ISSUED AUGUST 2010

This report concludes that while most of the expenditures we reviewed for the purchase of services appeared allowable and were supported by proper vendor invoices, the regional centers—nonprofit entities the Department of Developmental Services (Developmental Services) contracts with to coordinate services for Californians with developmental disabilities (consumers)—could not consistently demonstrate the rationale behind their rate-setting and vendor-selection decisions or how contracts are procured. In some cases, the ways in which the regional centers established payment rates and selected vendors had the appearance of favoritism or fiscal irresponsibility and did not demonstrate compliance with recent statutory amendments attempting to control the costs of purchased services. Further, we found that Developmental Services systematically audits and reviews whether services purchased for consumers are allowable but generally did not examine how regional centers established rates or selected particular vendors for services. Lastly, a survey of employees at the six regional centers we visited identified several issues in the working environment at some regional centers, including a concern that many regional centers' employees do not feel safe reporting suspected improprieties.

After discussing our concerns with Developmental Services, it has made a number of improvements to its oversight processes, including new fiscal audit procedures designed to evaluate how regional centers establish vendor rates and to ensure compliance with a statutory rate freeze on all negotiated rates. Developmental Services also developed a written process for receiving and reviewing complaints from regional center employees.

In the report, the California State Auditor (state auditor) made the following recommendations to Developmental Services. The state auditor's determination regarding the current status of recommendations is based on Developmental Services' response to the state auditor as of August 2011.

#### **Recommendation 1.1—See pages 23 and 24 of the audit report for information on the related finding.**

To ensure that it is providing oversight in accordance with state law and Medicaid Waiver requirements, Developmental Services should ensure that it performs audits of each regional center every two years as required.

#### ***Developmental Services' Action: Fully implemented.***

As of December 2011 Developmental Services appears to be on track to complete fiscal audits of each regional center every two years as required.

#### **Recommendation 1.2—See pages 25 and 26 of the audit report for information on the related finding.**

Developmental Services should require that the regional centers prepare and follow written procedures for their purchase of services that detail what documents will be retained for payment of invoices. Additionally, if regional centers move to an electronic authorization process, Developmental Services should determine whether it needs to revise its regulations.

#### ***Developmental Services' Action: Fully implemented.***

Developmental Services issued a directive dated August 16, 2010, to regional centers requiring them to update their administrative policies and procedures for purchasing consumer services and retain required documentation for payment of invoices. Developmental Services revised its regulations to allow for electronic authorizations and record keeping for regional centers' purchase of services.



**Recommendation 1.3—See pages 26—28 of the audit report for information on the related finding.**

Developmental Services should ensure that the system the Valley Mountain Regional Center (Valley Mountain) implements to correct its transportation invoicing process collects individual consumer data as necessary to ensure compliance with Medicaid Waiver requirements.

***Developmental Services' Action: Fully implemented.***

Based on the results of a follow-up review Developmental Services performed in October 2010, Valley Mountain implemented a new invoicing process that is now in compliance with Medicaid Waiver requirements.

**Recommendation 1.4.a—See pages 28 and 29 of the audit report for information on the related finding.**

To ensure that negotiated rates are cost-effective, Developmental Services should require regional centers to document how they determine that the rates they negotiate or otherwise establish are reasonable for the services to be provided. Developmental Services should encourage regional centers to use, when applicable, the cost-statement approach exemplified by Far Northern. If Developmental Services believes it needs statutory or regulatory changes to provide effective oversight of the regional centers' rate-setting practices, the department should seek these changes.

***Developmental Services' Action: Fully implemented.***

Developmental Services issued a directive dated August 16, 2010, to regional centers requiring them to maintain documentation on the process used to determine and the rationale for granting any negotiated rate.

***Legislative Action: Legislation enacted.***

Chapter 9, Statutes of 2011 (Senate Bill 74), includes a requirement for regional centers to timely disclose requests for proposals, contract awards, and payment rates for service providers on their Web sites.

**Recommendation 1.4.b—See page 24 of the audit report for information on the related finding.**

To ensure that negotiated rates are cost-effective, Developmental Services should follow and refine, as necessary, its newly established fiscal audit procedures requiring a review of a representative sample of negotiated rates as part of its biennial fiscal audit of each regional center. If Developmental Services believes it needs statutory or regulatory changes to provide effective oversight of the regional centers' rate-setting practices, the department should seek these changes.

***Developmental Services' Action: Fully implemented.***

Developmental Services expanded its fiscal audit protocols to include a review of negotiated rates during its biennial fiscal audits.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

**Recommendation 1.5—See pages 37 and 38 of the audit report for information on the related finding.**

Unless rescinded by the Legislature, Developmental Services should carry out its newly developed fiscal audit procedures for ensuring compliance with provisions of the Legislature's July 2008 rate freeze. If Developmental Services needs to streamline its current fiscal audit program to enable it to incorporate this review of rate-freeze compliance and still adhere to mandated deadlines, we encourage it to do so.

***Developmental Services' Action: Fully implemented.***

Developmental Services expanded its fiscal audit protocols to include testing for compliance with the July 2008 rate freeze.

**Recommendation 1.6—See pages 35 and 36 of the audit report for information on the related finding.**

Developmental Services should review the five instances of noncompliance with the rate freeze that we identified and require corrective action by the respective regional centers. This corrective action should include remedies for future rate payments to these vendors as well as repayment by the regional centers of any state funds awarded in a manner not in compliance with state law.

***Developmental Services' Action: Fully implemented.***

Developmental Services completed its reviews of the five instances identified in our audit report and found over \$4.1 million in payments that violated rate freeze provisions (\$3.2 million at Inland Regional Center; \$742,000 at San Andreas Regional Center; \$146,000 at Tri-Counties Regional Center) and that must be repaid to the State.

**Recommendation 2.1—See pages 44—46 of the audit report for information on the related finding.**

To ensure that consumers receive high-quality, cost-effective services that meet the goals of their Individual Program Plans (IPP) consistent with state law, Developmental Services should require the regional centers to document the basis of any IPP-related vendor selection and specify which comparable vendors (when available) were evaluated. Developmental Services should then review a representative sample of this documentation as part of its biennial waiver reviews or fiscal audits to ensure that regional centers are complying with state law—and particularly with the July 2009 amendment requiring selection of the least costly available provider of comparable service.

***Developmental Services' Action: No action taken.***

Developmental Services does not believe it has the legal authority to implement the recommendation, as it places the department in a role inconsistent with the intent of the Lanterman Act. Developmental Services asserts that to require documentation of all vendors considered and an explanation of why the vendor selected constitutes the least costly vendor, and presumably all other factors required by law, could delay needed services to consumers and their families. Finally, Developmental Services asserts that if it required extensive documentation of one factor and not all factors considered in the IPP process the likely response would be litigation claiming that the department has overstepped its authority. As outlined in the Comments Section of our August 2010 audit report (Notes 2 and 3), the bureau does not agree with Developmental Services' assertions or interpretation of the Lanterman Act.

**Recommendation 2.2—See pages 46—49 of the audit report for information on the related finding.**

To ensure that the regional centers achieve the greatest level of cost-effectiveness and avoid the appearance of favoritism when they award purchase-of-service contracts, Developmental Services should require regional centers to adopt a written procurement process that specifies the situations and dollar thresholds for which contracts, request for proposals, and evaluations of competing proposals will be implemented, and when applicable, requires the regional centers to notify the vendor community of contracting opportunities and to document the competitive evaluation of vendor proposals, including the reasons for the final vendor-selection decision.

***Developmental Services' Action: Fully implemented.***

Developmental Services' contract with each regional center now requires regional centers to have a board-approved policy specifying the circumstances under which the regional center will issue request for proposals, the applicable dollar thresholds, and how the submitted proposals will be evaluated.

**Recommendation 2.3—See pages 43 and 44 of the audit report for information on the related finding.**

To ensure that the regional centers adhere to their procurement process, Developmental Services should review the documentation for a representative sample of purchase-of-service contracts during its biennial fiscal audits.

***Developmental Services' Action: Fully implemented.***

Audit procedures are now in place to review the procurement policies and processes of regional centers during the department's biennial fiscal audits.

**Recommendation 2.4—See pages 47 and 48 of the audit report for information on the related finding.**

To deter unsupported and potentially wasteful spending of state resources by the regional centers, Developmental Services should determine the extent to which Inland needs to repay state funds it provided to a transportation vendor for an assessment of Inland's transportation conditions.

***Developmental Services' Action: Fully implemented.***

Developmental Services conducted a review of Inland in fall 2010 and found over \$4.2 million in payments to the transportation vendor (roughly \$1 million related to the transportation assessment and \$3.2 million related to how the regional center established transportation vendor's rate of payment) that were not appropriate and that must be repaid to the State.

**Recommendation 3.1—See pages 57—59 of the audit report for information on the related finding.**

To ensure that regional center employees have a safe avenue for reporting suspected improprieties at the regional centers, Developmental Services should follow its newly documented process for receiving and investigating these types of allegations it put into writing in July 2010 and should continue to notify all regional centers that such an alternative is available.

***Developmental Services' Action: Fully implemented.***

Developmental Services now has a formal intake and investigation process for complaints about regional centers and vendors. The department includes information about this process on its Web site and instructed the regional centers to do the same. All regional centers have posted Developmental Services' and their own whistleblower complaint policies on their Web sites.

**Recommendation 3.2—See page 58 of the audit report for information on the related finding.**

To ensure that appropriate action is taken in response to allegations submitted by regional center employees, Developmental Services should centrally log these allegations and track follow-up actions and the ultimate resolution of allegations, as required by its new procedures.

***Developmental Services' Action: Fully implemented.***

In July 2010 Developmental Services formally documented procedures that describe how it accepts, tracks, and resolves complaints from regional center employees and others. We confirmed, as of December 2011, that Developmental Services continues to use a central log of allegations that documents complaints, follow-up actions, and ultimate resolutions.

# Foster Family Home and Small Family Home Insurance Fund

## Expanding Its Coverage Will Increase Costs and the Department of Social Services Needs to Improve Its Management of the Insurance Fund

### REPORT NUMBER 2010-121, ISSUED SEPTEMBER 2011

In September 1986 the Legislature established the Foster Family Home and Small Family Home Insurance Fund (insurance fund) to pay, on behalf of foster family homes and small family homes (licensed homes), the claims of foster children, their parents, or their guardians stemming from an accident that results in bodily injury or personal injury neither expected nor intended by the foster parent.

This report concludes that almost 90 percent of the foster parents running licensed homes who responded to our survey were unaware of the insurance fund's existence. In addition, approximately a third of these foster parents reported that the possibility of liability claims against them made them less likely to continue as foster parents in the future. Expanding the insurance fund's coverage to homes that are certified by foster family agencies (FFAs), which are organizations that recruit, certify, and train parents who provide foster family homes not licensed by the State, may be costly. If the Legislature desires to expand the insurance fund's coverage to include the FFAs' certified homes, it will have to make statutory amendments to expressly permit the insurance fund to pay claims on behalf of certified homes. Based on our survey results and the insurance fund's claims history, our consultant estimated that expanding the insurance fund's coverage to the FFAs' certified homes could potentially cost the State a minimum of \$967,500 each year. Further, if the Legislature desires to enable the insurance fund to cover legal guardians participating in the Kinship Guardianship Assistance Payment (Kin GAP) program, it will have to amend the pertinent statutes to expressly provide coverage for these guardians. Due to limitations in obtaining readily available and pertinent data, we were unable to survey the Kin GAP families and project the financial impact of adding them to the insurance fund.

This report also concludes that the Department of Social Services (Social Services) did not ensure that the Department of General Services (General Services), its designated contract agency, approved or rejected claims filed against the insurance fund within the 180 day time frame state law mandates. Social Services also failed to obtain key information from General Services, and as a result, Social Services has been unable to accurately project the insurance fund's budget needs. As of December 31, 2010, the insurance fund had a balance of roughly \$5.4 million, which is significantly higher than the \$1 million amount we estimate it needs to maintain as a reserve. Should the Legislature choose to expand the insurance fund's coverage to include certified homes and Kin GAP families, Social Services will need to reevaluate this reserve amount.

In the report, the California State Auditor (state auditor) made the following recommendations to Social Services and the Legislature. The state auditor's determination regarding the current status of recommendations is based on Social Services' response to the state auditor as of December 2011.

#### **Recommendation 1.1—See page 18 of the audit report for information on the related finding.**

To mitigate foster parents' concerns about liability and to increase the likelihood that they will continue to serve as foster parents, Social Services should develop more effective methods to inform and remind licensed homes about the availability of the insurance fund.

#### ***Social Services' Action: Fully implemented.***

Social Services issued a memo on September 28, 2011, instructing its Community Care Licensing Division (licensing division) program analysts to provide foster parents with General Services' insurance fund handout during the pre-licensing visit. In addition, Social Services posted the insurance

fund information on the licensing division's Web site on October 20, 2011. Finally, Social Services included the insurance fund information in the licensing division's fall 2011 Children's Residential Quarterly Update Newsletter.

**Recommendation 1.2—See pages 21 and 22 of the audit report for information on the related finding.**

If the Legislature desires that the insurance fund provide coverage to the FFAs' certified homes and Kin GAP families, it should amend the pertinent statutes to expand the insurance fund's coverage to include them.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

**Recommendation 1.3.a—See pages 23—25 of the audit report for information on the related finding.**

To comply with state law and improve the timeliness of claims processing, Social Services should ensure that General Services approves or rejects all claims within the mandated 180-day deadline.

***Social Services' Action: Pending.***

Social Services stated that General Services has implemented a system to be in compliance with the mandated 180-day deadline, by either accepting or rejecting a claim within 180 days. In addition, Social Services stated that it has implemented a process to track claims pending at General Services to ensure they are processed in 180 days. However, Social Services did not provide us with supporting documentation to demonstrate that this process has been implemented.

**Recommendation 1.3.b—See pages 23—25 of the audit report for information on the related finding.**

To comply with state law and improve the timeliness of claims processing, Social Services should require General Services to ensure that claimants receive prompt notification of its decision to approve or reject their claims.

***Social Services' Action: Pending.***

Social Services stated that General Services has implemented a system to be in compliance with the mandated 180-day deadline, by either accepting or rejecting a claim within 180 days. In addition, Social Services stated that it has implemented a process to track claims pending at General Services to ensure they are processed in 180 days. However, Social Services did not provide us with supporting documentation to demonstrate that this process has been implemented.

**Recommendation 1.4—See pages 23—25 of the audit report for information on the related finding.**

To ensure the expedient disposition of claims, the Legislature should consider amending state law to provide claimants the option of litigating against the insurance fund if General Services does not approve or reject their claims within the 180-day deadline described in state law.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

**Recommendation 1.5.a—See pages 26 and 27 of the audit report for information on the related finding.**

To ensure that the insurance fund makes the most efficient use of the State's limited resources, Social Services should ensure that General Services provides it with all the claims information specified in the interagency agreement.

***Social Services' Action: Pending.***

Social Services stated that it is working with General Services to obtain the most recent pending claims data. However, Social Services did not address how it will ensure that General Services provides it with all of the claims information specified in the interagency agreement on a quarterly basis.

**Recommendation 1.5.b—See pages 27—29 of the audit report for information on the related finding.**

To ensure that the insurance fund makes the most efficient use of the State's limited resources, Social Services should use these claims and expenditure data to determine the annual appropriation amount needed for the insurance fund to meet its anticipated liabilities.

***Social Services' Action: Pending.***

Social Services stated that it is working with General Services to obtain the most recent pending claims data and will adjust the fiscal year 2012–13 annual appropriation requested for the fund based on the variable factors that impact the submittal and adjudication of claims.

**Recommendation 1.5.c—See pages 27—29 of the audit report for information on the related finding.**

To ensure that the insurance fund makes the most efficient use of the State's limited resources, Social Services should establish a written policy or procedures to guide staff on the appropriate methodology to use when calculating these anticipated liabilities.

***Social Services' Action: Pending.***

Social Services stated that it has begun to draft procedures to document the methodology to use in determining an appropriate fund balance. However, Social Services did not state when it expects to complete and implement the procedures.

**Recommendation 1.5.d—See pages 27—29 of the audit report for information on the related finding.**

To ensure that the insurance fund makes the most efficient use of the State's limited resources, Social Services should establish an adequate reserve amount for the insurance fund and reevaluate it annually.

***Social Services' Action: Pending.***

Social Services stated that the insurance fund appropriation will be officially proposed to be adjusted in the 2012–13 Governor's Budget that will be released on January 10, 2012. However, Social Services did not address its plans for reevaluating the reserve amount annually.





## Child Welfare Services

### California Can and Must Provide Better Protection and Support for Abused and Neglected Children

#### REPORT NUMBER 2011-101.1, ISSUED OCTOBER 2011

This report concludes that California can and must provide abused and neglected children better protection and support. Specifically, the Department of Social Services (Social Services), which oversees the child welfare services (CWS) system, needs to use the Department of Justice's (Justice) Sex and Arson Registry to better ensure that children—when removed from their homes—are provided safe out-of-home placements. Our comparison of addresses for registered sex offenders to Social Services' addresses for licensed facilities and out-of-home child placements found more than 1,000 matches. In July 2011 our office referred these address matches to Social Services for investigation. Social Services reported in October 2011 that it and county CWS agencies had investigated nearly all of these matches and found several registered sex offenders living or present in licensed facilities. Specifically, Social Services indicates it has begun legal actions against eight licensees (four temporary suspension orders and four license revocations) and issued 36 immediate exclusion orders (orders barring individuals from licensed facilities).

This report also concludes that county CWS agencies' increased reliance on foster family agencies has led to unjustified increases in out-of-home placement costs. The increased reliance on foster family agencies, which were originally meant as substitutes for expensive group homes for children with elevated treatment needs, has instead been accompanied by a matching drop in the use of less expensive licensed foster homes. One potential explanation for this trend is that Social Services does not require county CWS agencies to document the treatment needs of children who are placed with foster family agencies. Additionally, Social Services could not provide us with support for the monthly rate it pays foster family agencies—a rate that includes a 40 percent administrative fee.

Our review of county CWS agencies' investigatory and ongoing case management practices found that they generally comply with state regulations and county policies. Nonetheless, the agencies still need to improve the timeliness of investigations and the consistency of ongoing case visits. Our review also found that county CWS agencies generally performed required background checks before placing children in out-of-home placements, although they did not always forward information regarding instances of abuse or neglect to Justice, as required by state law at the time of our audit. Finally, we determined that county CWS agencies that do not formally conduct internal evaluations of the services they delivered to a family prior to a child's death from abuse or neglect are missing opportunities to identify needed changes that may prevent similar future tragedies.

In the report, the California State Auditor (state auditor) made the following recommendations to Social Services. The state auditor's determination regarding the current status of recommendations is based on Social Services' response to the state auditor as of December 2011.

#### **Recommendation 1.1—See pages 20—22 of the audit report for information on the related finding.**

To ensure that vulnerable individuals, including foster children, are safe from sex offenders, Social Services should complete follow-up on any remaining address matches our office provided in July 2011 and take appropriate actions, as well as relay information to Justice or local law enforcement for any sex offenders not in compliance with registration laws.

#### ***Social Services' Action: Fully implemented.***

Social Services reported that it finished following-up on the outstanding address matches that our office provided in July 2011. In addition, it stated that it reported erroneous address data that it identified through the investigations to Justice. In a few instances, we questioned the appropriateness

of the actions taken by county CWS agencies in which they allowed sex offenders to remain in homes of children in the CWS system. Social Services stated that in certain circumstances counties do not have an obligation under current regulation or policy to remove children from homes due to the presence of a registered sex offender. However, counties are still required to determine the immediate risk and take appropriate steps to ensure the safety of children in these instances. Social Services indicated that counties have discretion over the action they take and that in certain situations it may be determined appropriate for a child to be in the home of a registered sex offender.

Assembly Bill 493 was amended in January 2012 and, if enacted, would create a general prohibition on registered sex offenders living or working in licensed children facilities or CWS placements. The bill provides that a registered sex offender could live in these locations as a client or if the prohibition is waived by a court because the offender is a parent or relative, and the placement of the child in the residence is in his or her best interest.

**Recommendation 1.2—See pages 22—24 of the audit report for information on the related finding.**

Social Services should begin to conduct regular address comparisons using Justice's sex offender registry and its Licensing Information System and Child Welfare Services/Case Management System (CWS/CMS). If Social Services believes it needs additional resources to do so, it should justify and seek the appropriate level of funding. If efforts to obtain additional resources fail, Social Services should assign this high-priority task to existing staff.

***Social Services' Action: Partially implemented.***

Social Services indicated that, in late December 2011, it began its first address comparison using its databases and Justice's sex offender registry. Social Services stated that it will continue to refine this process to perform these address comparisons in an efficient manner and on a regular basis. Social Services added that it will assess its resource needs after it has had a chance to refine its process and determine the actual impact on its existing workload. If enacted, Assembly Bill 493 would require Social Services to perform these address comparisons at least quarterly.

**Recommendation 1.3.a—See pages 24 and 25 of the audit report for information on the related finding.**

To help keep children safe, the Legislature should consider enacting a general prohibition of registered sex offenders living or working in licensed children's facilities or CWS placements.

***Legislative Action: Legislation introduced.***

Assembly Bill 493 would create a general prohibition on registered sex offenders living or working in licensed children facilities or CWS placements. The bill provides that a registered sex offender could live in these locations as a client or if the prohibition is waived by a court because the offender is a parent or relative, and the placement of the child in the residence is in his or her best interest.

**Recommendation 1.3.b—See pages 24 and 25 of the audit report for information on the related finding.**

To help keep children safe, the Legislature should consider enacting a requirement that all law enforcement staff overseeing sex offenders make sure that the addresses sex offenders submit for registration do not match a licensed facility for children or a foster home.

***Legislative Action: Legislation introduced.***

Assembly Bill 493 would implement this recommendation by requiring entities responsible for registering sex offenders to ensure that the address submitted by a sex offender does not match the address of a licensed facility for children or a CWS placement.

**Recommendation 1.3.c—See pages 24 and 25 of the audit report for information on the related finding.**

To help keep children safe, the Legislature should consider enacting a requirement that Social Services make available to law enforcement in an efficient manner the addresses of its children's facilities and foster homes.

***Legislative Action: Legislation introduced.***

Assembly Bill 493 would implement this recommendation by requiring Social Services to provide the addresses of licensed facilities for children and CWS placements to entities responsible for registering sex offenders.

**Recommendation 1.4—See pages 25—27 of the audit report for information on the related finding.**

To provide sufficient oversight of county CWS agencies with delegated authority to license foster homes, Social Services should complete comprehensive reviews of these agencies' licensing activities at least once every three years.

***Social Services' Action: Partially implemented.***

Social Services stated that it completed nine of the 13 county licensing reviews in 2011 that its departmental standards require. Based on information from 2008, 2009, and 2010, these nine reviews represent a dramatic improvement on previous years' performance. Social Services added that the four remaining reviews will be completed in 2012, in addition to the 13 regularly scheduled reviews for 2012.

**Recommendation 1.5—See pages 25—27 of the audit report for information on the related finding.**

To ensure that its licensees, including state-licensed foster homes, foster family agencies, and group homes, are in compliance with applicable requirements and that children are protected, Social Services should complete on-site reviews at least once every five years as required by state law.

***Social Services' Action: Pending.***

Social Services stated that historically, it has substantially met the five-year-visit requirement and added that with a new, evidenced-based inspection tool that it is continuing to refine, it will be able to complete facility reviews more frequently than once every five years. Social Services indicated that full implementation of this recommendation will occur by July 2012.

**Recommendation 1.6—See page 31 of the audit report for information on the related finding.**

To encourage more effective communication from county CWS agencies regarding its licensees, Social Services should specify in regulations what types of situations or allegations the agencies should forward to its licensing division.

***Social Services' Action: Pending.***

Social Services believes a previous letter to counties specified when a report to its licensing division is necessary. However, Social Services stated that it is drafting a notice to all counties reminding them of reporting requirements and methods.

**Recommendation 1.7—See page 31 of the audit report for information on the related finding.**

To ensure that county CWS agencies send required reports of abuse and neglect to Justice, Social Services should remind these agencies of applicable requirements and examine the feasibility of using CWS/CMS to track compliance with these statutory provisions.

***Social Services' Action: Pending.***

Social Services indicated that it will draft a notice to all counties reminding them of the conditions that warrant cross reporting to appropriate law enforcement agencies. Social Services added that it is currently examining the feasibility of using CWS/CMS to automatically document reports to law enforcement agencies.

**Recommendation 2.1.a—See pages 35—37 of the audit report for information on the related finding.**

To ensure that rates paid to foster family agencies are appropriate, Social Services should analyze the rates and provide reasonable support for each component, especially the 40 percent administrative fee it currently pays these agencies.

***Social Services' Action: Pending.***

Social Services continues to assert that it will examine this recommendation in conjunction with its existing efforts on congregate care reform. Social Services projected that implementation of this recommendation would not occur until June 2013. Similar to our statement on page 89 of the audit report, we continue to be concerned that Social Services does not fully appreciate that establishing support for foster family agency rates—a portion of which is federally reimbursed—should be a high priority task that should be accomplished regardless of the timeline of any other reform effort.

**Recommendation 2.1.b—See pages 35—37 of the audit report for information on the related finding.**

Social Services should create and monitor compliance with clear requirements specifying that children placed with foster family agencies must have elevated treatment needs that would require a group home placement if not for the existence of these agencies' programs. Specifically, Social Services should revise its regulations so licensed foster homes have higher priority than foster family agencies for children that do not have identified treatment needs.

***Social Services' Action: Pending.***

Although Social Services agrees that licensed foster homes are the preferred placement type for children who do not have identified treatment needs, Social Services indicated that it will continue to consider this recommendation in the context of congregate care reform and realignment. We continue to believe, as we state on page 90 of the audit report, that Social Services should expeditiously establish a requirement that county CWS agencies provide adequate justification for placements with foster family agencies and this action should not be dependent on the timeline of some larger reform effort.

**Recommendation 2.1.c—See pages 35—37 of the audit report for information on the related finding.**

Social Services should require county CWS agencies to file in CWS/CMS a detailed justification for any child placed with a foster family agency.

***Social Services' Action: Pending.***

Social Services indicated that it would recommend to a CWS/CMS oversight committee that a workgroup be formed to determine the feasibility of standardizing the format and location of placement justifications.

**Recommendation 2.1.d—See pages 35—37 of the audit report for information on the related finding.**

Social Services should create a mechanism by which it can efficiently check for compliance with the needs-justification requirement.

***Social Services' Action: Pending.***

Social Services indicated that it will determine the feasibility of developing standards for counties to provide placement needs justifications based on the findings of the workgroup described previously.

**Recommendation 2.2—See pages 37—40 of the audit report for information on the related finding.**

To achieve greater cooperation from county CWS agencies and to make it possible for some of these agencies to improve their placement practices, Social Services should develop a funding alternative that allows the agencies to retain a portion of state funds they save as a result of reducing their reliance on foster family agencies and only making placements with these agencies when justified by the elevated treatment needs of the child. The agencies would use these funds to support placement activities necessary to achieve the savings (for example, assessment centers and placement resource units).

***Social Services' Action: Partially implemented.***

Social Services stated that the intent of this recommendation has been essentially implemented by the realignment of CWS funding. Social Services indicated that, under realignment, county CWS agencies now have financial incentives to place children in the lowest cost placement necessary to effectively meet the needs of individual children. However, Social Services added that it will consider the need for any alternative funding incentives when the impact of realignment can be assessed, and it will also assess the need for such incentives as part of its broader congregate care reform effort.

**Recommendation 3.1—See pages 50 and 51 of the audit report for information on the related finding.**

To encourage continued progress and innovation in keeping children safe, Social Services should add to its current CWS performance metrics a measure of the percentage of investigatory visits (both immediate and 10-day) completed on time that excludes attempted investigatory visits from its calculation of successful outcomes.

***Social Services' Action: Pending.***

Social Services stated that, to develop a fully informed measure of investigatory visits, it is evaluating policy and regulations associated with these visits. Social Services indicated that when this evaluation is completed, it will have the ability to develop quantitative measures for investigatory visits.

**Recommendation 3.2—See pages 52—54 of the audit report for information on the related finding.**

Social Services should work with the Alameda County CWS agency to improve its percentage of ongoing case visits completed until it at least meets Social Services' compliance goal of 90 percent.

***Social Services' Action: Partially implemented.***

Social Services stated that it continues to work with all counties to improve the frequency of case worker visits to bring them above the 90 percent threshold. Social Services asserted that Alameda has made progress this last calendar year on case worker visits, exceeding the 90 percent threshold in several of those months.

**Recommendation 3.3—See pages 54—58 of the audit report for information on the related finding.**

To determine whether the hold harmless provision has been effective in reducing caseloads and whether it should be revised or rescinded, Social Services should refine and use CWS/CMS to calculate and report county CWS caseloads.

***Social Services' Action: No action taken.***

- ➞ In its October 2011 response to the audit report, Social Services disagreed that one purpose of the hold harmless provision was to reduce caseloads, but nonetheless agreed that CWS/CMS could and should be used to calculate and report county caseloads. Rather than provide an update on its progress towards creating this measure, Social Services once again asserted its disagreement regarding our description of the purpose of the hold harmless provision.

**Recommendation 4.1—See page 61 of the audit report for information on the related finding.**

To improve agency practices and increase the safety of children within the CWS system, all county CWS agencies should perform a formal internal review of the services they delivered to each child before he or she died of abuse or neglect and implement any resulting recommendations.

***Social Services' Action: Pending.***

Social Services stated that it will release, in spring 2012, a letter to all counties encouraging them, as a best practice, to conduct internal reviews of fatalities resulting from abuse or neglect. Additionally, Assembly Bill 1440, which was introduced in January 2012, would require each county CWS agency to conduct a formal death review within 60 calendar days of determining that abuse or neglect led to the death of a child. If enacted, Assembly Bill 1440 would also require counties to submit death review reports to Social Services within 10 days of their completion.

**Recommendation 4.2—See pages 69—71 of the audit report for information on the related finding.**

To encourage county CWS agencies to conduct formal internal death reviews, Social Services should revise its annual report on child deaths resulting from abuse or neglect to provide information on whether county CWS agencies conducted such a review of child deaths with prior CWS history. To obtain this information, Social Services should revise its regulations to require all county CWS agencies to not only report child deaths resulting from abuse or neglect but to also require a subsequent report indicating whether an internal child death review was completed.

***Social Services' Action: Pending.***

Social Services disagrees with this recommendation because it does not believe that its annual report on child deaths is an appropriate vehicle for encouraging counties to conduct formal death reviews. It also does not believe it has the statutory authority to require counties to conduct formal death reviews or report completion of these reviews to Social Services. Rather, Social Services points to the letter it is drafting that will encourage counties to conduct formal internal child death reviews. As we indicate on page 90 of the audit report, Social Services' plan for implementing this recommendation fails to create a mechanism to determine whether county CWS agencies are heeding its advice. If enacted, Assembly Bill 1440 would implement our recommendation by requiring county CWS agencies to submit death reviews to Social Services within 10 days of their completion and by requiring Social Services to include in its annual report information on whether county CWS agencies completed formal death reviews.



**Recommendation 4.3—See pages 69—71 of the audit report for information on the related finding.**

As part of its instructions related to its outcome review process, Social Services should direct county CWS agencies to include completed internal death reviews in the development of their self-assessments and improvement plans.

***Social Services' Action: Pending.***

Social Services stated that it agrees with this recommendation and is conducting research to determine how the death reviews can be incorporated into county self-assessments and improvement plans.

**Recommendation 4.4—See pages 66—69 of the audit report for information on the related finding.**

As part of its oversight of the outcome review process, Social Services should follow up on whether Fresno and Sacramento counties implemented recommendations resulting from their respective internal death reviews.

***Social Services' Action: Pending.***

Social Services stated that it will follow up with Fresno and Sacramento counties to determine whether they have implemented the recommendations resulting from their respective child death reviews. Social Services indicated that it will provide more information in its next update.

**Recommendation 4.5—See pages 69—71 of the audit report for information on the related finding.**

To ensure that they report all requisite child deaths to Social Services and investigate all child deaths involving abuse or neglect, county CWS agencies should annually reconcile their child death information with other reliable information on child deaths, such as county child death review team data.

***Social Services' Action: Pending.***

Social Services agrees that county CWS agencies should reconcile their child death information with other reliable information on child deaths, such as county child death review team data, and indicated it is researching best practices in this area. Social Services stated that it plans to issue a notice in spring 2012 to all counties describing best practices in this area.

**Recommendation 4.6—See pages 69—71 of the audit report for information on the related finding.**

To provide more useful information in its annual report, Social Services should provide child death information broken out by county, not just statewide totals. Further, Social Services should provide more analysis, such as comparing child death information over multiple years and presenting each county's child deaths as a percentage of its total child population.

***Social Services' Action: Pending.***

Social Services continues to disagree with this recommendation, stating that county-specific information is already available from each county. As we indicate on pages 90 and 91 of the audit report, Social Services' assertion that this information is already available from the 58 counties does little to help state decision makers and stakeholders who may be interested in this information. Social Services has this information by county readily available and could present this information in its annual report. If enacted, Assembly Bill 1440 would require Social Services to enhance its annual report to include the information we suggested.





# Employment Development Department

## Its Unemployment Program Has Struggled to Effectively Serve California's Unemployed in the Face of Significant Workload and Fiscal Challenges

### REPORT NUMBER 2010-112, ISSUED MARCH 2011

This report concludes that over the last 10 years the Employment Development Department (department) has consistently failed to perform at a level the United States Department of Labor considers acceptable regarding its timely delivery of unemployment benefits. The department's attempts to resolve its performance deficiencies have had mixed results. Although increasing its staff and allowing them to work overtime has enabled the department to process significantly more claims, mitigate the effects of furloughs, and likely improve its performance, it has not fully implemented certain key corrective actions and the impact of others has been minimal or remains unclear. In addition, historical data the department provided us indicated that its previous phone system did not have the capacity to handle the necessary volume of calls and a high percentage of callers requesting to speak to an agent were unable to do so. The department activated its new phone system at its six main call center locations by December 2010. Although it is too early to tell using data from the new system, our limited capacity analysis suggests that the new system should be able to handle a substantially higher volume of calls; however, access to agents may continue to be a challenge. Moreover, in order to receive \$839 million in federal stimulus funds, the department must implement an alternate base period no later than September 2012 that would allow certain unemployed workers (claimants) to qualify for benefits if their earnings are not sufficient under the standard base period. Although the department stated that it will implement the alternate base period in April 2012, it is critical that it does so before the federal deadline. Finally, the department's process for determining California Training Benefits program eligibility for claimants has taken an average of four or more weeks, during which time the claimants did not receive unemployment benefits. Although the department has streamlined this process for some claimants, it does not appear to have a clear plan to improve its procedures for 80 percent of its determinations that involve claimants who desire to participate in self-arranged training.

In the report, the California State Auditor (state auditor) made the following recommendations to the department and the California Technology Agency. The state auditor's determination regarding the current status of the recommendations is based on the department's response to the state auditor as of September 2011, and the California Technology Agency's response as of November 2011.

#### **Recommendation 1.1.a—See pages 27—34 of the audit report for information on the related finding.**

To further enhance its corrective action planning process as a means of improving the unemployment program, the department should identify corrective actions that specifically address the timeliness measures it is trying to meet.

#### ***Department's Action: Pending.***

In the department's six-month response, it acknowledged that it has not yet met federal timeliness measures for promptly issuing initial unemployment payments (first payment timeliness) and making nonmonetary determinations of claimants' eligibility for benefits. However, it indicated that it has made significant improvements in these areas from July 2010 through June 2011 based on its annualized performance for this period. Nevertheless, the department did not tie this improvement in performance to the results of specific corrective actions in its response.

Further, although the department indicated it will continue its efforts to further improve performance in these areas, it provided only one example of a corrective action plan that it is taking to do so. Specifically, the department believes that its launch of EDD Debit Cards<sup>sm</sup> in July 2011 will improve its first payment timeliness by at least one day once it implements a programming change to calculate this measure using the electronic payment date. However, the department provided no milestone indicating when it expects this change to be implemented.

**Recommendation 1.1.b—See pages 27—34 of the audit report for information on the related finding.**

To further enhance its corrective action planning process as a means of improving the unemployment program, the department should develop milestones that are specific and are tied to corrective actions to allow for monitoring the incremental progress of its corrective actions, similar to the milestones it established for some of the activities in its federal fiscal year 2011 corrective action plans.

***Department's Action: Pending.***

As described in response 1.1.a above, the department provided only one example of a corrective action in its six-month response. Therefore, the development of related milestones is pending the department's identification of additional corrective actions.

**Recommendation 1.1.c—See pages 27—34 of the audit report for information on the related finding.**

To further enhance its corrective action planning process as a means of improving the unemployment program, the department should establish several key performance targets or benchmarks that are tied to each specific corrective action, to effectively gauge the impact of the actions on its goal of achieving the acceptable levels related to the timeliness measures.

***Department's Action: Pending.***

As described in response 1.1.a above, the department provided only one example of a corrective action in its six-month response. Therefore, establishment of key performance targets or benchmarks is pending the department's identification of additional corrective actions.

**Recommendation 1.2.a —See pages 34—40 of the audit report for information on the related finding.**

As part of an overall strategy to limit the number of calls it receives while still providing timely and effective customer service, the department should use existing data and additional data from the new phone system to gain a better understanding of why people request to speak to an agent. Using this information, the department should further develop strategies and measurable goals related to achieving a reduction in call volumes. For example, to ensure that virtually all calls are able to gain access to the voice response portion of its new phone system, the department should monitor the volume of blocked call attempts and work with its phone system vendor if necessary to increase the system's capacity.

***Department's Action: Pending.***

The department indicated that its unemployment customers have experienced greatly improved access to call center services. For example, the department stated that in the first six months of calendar year 2011, there was an 88.5 percent decrease in call attempts and a 97 percent decrease in the number of customers unable to access the interactive voice response system for benefit and other program information when compared to the same six month period in 2009. The department attributed these results to service level improvements related to this recommendation, but did not provide specifics. In addition, the department indicated that in the first half of calendar year 2011, it had a 124.6 percent increase in the number of unemployment customers who received services from a department representative compared to the same period in 2009. However, as we show in Table 4 of our report, 89 percent of the calls requesting an agent were unable to access an agent for the first

half of fiscal year 2009–10 through May 2010. This means that only about 11 percent of the calls were answered by agents. Thus, despite the improvement it reports, it appears the department continues to struggle in this area.

The department also reported that it has finished implementing its Call Center Network Platform and Application Upgrade Project to all six of the Primary Call Centers and eight Primary Adjudication Centers. The department stated that it added a final unemployment center that was not part of the original project scope in June 2011. The department believes that the call center network, combined with an increase in staffing and self-service options, provides better service to unemployment customers and a reduction in call volume.

Finally, the department indicated it continues to analyze data from the new system including network performance and the volume of blocked call attempts to ensure call needs are being met. Although the department indicated that early data analysis and call volume trends are being used to develop strategies to continue to improve services to unemployment customers and reduce call volume, it did not identify any specific new strategies in its response.

**Recommendation 1.2.b—See pages 34—40 of the audit report for information on the related finding.**

To evaluate the effectiveness of its other efforts to provide services to claimants in ways that do not require them to speak to agents, such as Web-Cert and Tele-Cert, the department should periodically summarize and assess the more robust management information available under its new phone system.

***Department's Action: Pending.***

As described in response 1.2.a above, the department stated that it continues to analyze data from the new phone system. However, it provided no specifics about the results of its analysis thus far.

**Recommendation 2.1—See pages 44—47 of the audit report for information on the related finding.**

To maximize federal funding and provide unemployment benefits to those eligible under the alternate base period, the department should closely monitor its resources and project schedule to avoid any further delays in implementing the client database and ensure that it completes the alternate base period project by the federal deadline.

***Department's Action: Pending.***

The department indicated that the Alternate Base Period project is on schedule to be implemented in April 2012; thus, it expects to meet the federally-required implementation date of September 2012. The department stated that it is committed to continuously manage the project schedule and resources to ensure that California meets the target date. In addition, the department asserted that in June 2011, California received the \$838.7 million in Unemployment Modernization Incentive Funds made available through the American Recovery and Reinvestment Act of 2009. The department believes that receipt of these funds illustrates the United States Department of Labor's confidence that California will complete the project timely. As we reported, the department will need to implement the alternative base period by September 22, 2012, at the latest, or risk losing the \$839 million in incentive payments.

**Recommendation 2.2—See pages 44—47 of the audit report for information on the related finding.**

To help ensure that the department completes the alternate base period project by the federal deadline so that the State preserves its eligibility to receive \$839 million in incentive funds, the California Technology Agency should closely monitor the department's progress toward implementing the client database and alternate base period projects and provide assistance to the department, as necessary.

***California Technology Agency's Action: Pending.***

The California Technology Agency indicated that, in addition to monitoring monthly project status reports and schedules, it meets with the department bi-weekly to review progress, issues and risks specific to the alternate base period and the client database projects. Further, the California Technology Agency stated that it has standing weekly checkpoints with the department's Chief Information Officer and bi-weekly briefings from the department Portfolio Division Chief for targeted focus on these projects.

The California Technology Agency stated that the department reported that it is on target to meet the implementation dates for both projects. The California Technology Agency indicated that because the department continues to meet the additional reporting requirements described in the Special Project Reports for these projects, it continues to support these projects.

**Recommendation 2.3.a—See pages 48—57 of the audit report for information on the related finding.**

To better track and improve the timeliness of determinations for the training benefits program and to assist claimants in understanding self-arranged training requirements, the department should take measures to ensure that its staff correctly enter all data into the training benefits program's streamline database.

***Department's Action: Pending.***

The department indicated in its 60-day response that it has taken actions involving both procedures and updates to automated processes to ensure staff correctly enter all data into the training benefits program's streamline database to better track determination timeliness for training program participants. After we asked the department to support this assertion, it was unable to demonstrate that the actions it has taken thus far have fully addressed our recommendation. Specifically, despite its claims related to taking actions involving procedures, the department was only able to provide us with the same procedures that were in place at the time of our audit, and thus, are not indicative of a corrective action. In addition, the department provided a "guide card" which it asserted is a comprehensive guide to processing incoming streamline mail. However, our review concluded that it provides a high level overview of processing steps, and it does not clearly identify the data fields that are required for processing.

Moreover, the department provided us with a compact disc that we found to be a source code dump that did not include programmer's notes or other documentation explaining the code. Thus, without investing a considerable amount of time by our Information Technology Audit Support unit, we cannot confirm that the streamline database is working as intended.

**Recommendation 2.3.b—See pages 48—57 of the audit report for information on the related finding.**

To better track and improve the timeliness of determinations for the training benefits program and to assist claimants in understanding self-arranged training requirements, the department should track and report the number of claimants it determines are both eligible and ineligible for the self-arranged training and the reasons for these determinations, to better focus some of its recommendations toward how it can assist claimants in understanding the program's criteria.

***Department's Action: Pending.***

The department stated that it implemented provisions of Assembly Bill 2058 (AB 2058) by July 1, 2011, as statutorily required. According to the department, now that it has implemented AB 2058, it can expand the automated streamline process to individuals in self-arranged training. However, the department indicated that during the review to implement this phase, it discovered that a larger database is necessary to support the expansion of the streamline system and that it is currently in

the process of developing a solution to this issue. As we concluded in our audit report, this is the area where we believe the department faces the most significant challenges in expediting eligibility determinations for these claimants.

The department stated that from February 2010 through August 2011, it processed over 12,000 streamline training enrollment applications and determined eligibility for the two programs it implemented in 2010—the Workforce Investment Act and the Trade Adjustment Assistance programs. As we discuss in our report, these two programs represent a much smaller portion of the determinations the department makes when compared to the remaining training benefits program determinations. The department asserts that it is processing these applications within two days, which exceeds the department’s goal of three to five days. The department stated that its streamline effort has resulted in a more efficient way to expedite the training program determinations for customers and eliminates the need to schedule a non-monetary determination interview. However, as we indicated in response 2.3.a, the department has been unable to demonstrate that its staff correctly enter all data into the training benefits program’s streamline database, and therefore, we continue to question whether the streamline database is sufficiently reliable for the purposes of determining the average duration for the department to process an application from receipt until a determination is made.

In addition, the department indicated it continues to track the results of eligibility determinations, which show if the claimant was training benefits program eligible or ineligible for self-arranged training, including the specific subsections of the unemployment code cited when a claimant was ineligible to participate in the training benefits program for self-arranged training. In its one-year response, we look forward to the department discussing the results and reasons for these determinations and its efforts to assist claimants in understanding the program’s criteria.

**Recommendation 2.3.c—See pages 48—57 of the audit report for information on the related finding.**

To better track and improve the timeliness of determinations for the training benefits program and to assist claimants in understanding self-arranged training requirements, the department should track the number of claimants that it finds to be both ineligible for self-arranged training and ultimately ineligible for unemployment benefits and develop strategies to expedite the determination process for these claimants.

***Department’s Action: No action taken.***

The department did not specifically address this recommendation in its initial response, its 60-day response, or its six-month response.







# High Risk Update—American Recovery and Reinvestment Act of 2009

## The California Recovery Task Force and State Agencies Could Do More to Ensure the Accurate Reporting of Recovery Act Jobs

### REPORT NUMBER 2010-601, ISSUED DECEMBER 2010

Our report concludes that although the federal Office of Management and Budget (OMB) and the California Recovery Task Force (task force) provide explicit guidance to Recovery Act recipients on how to calculate the jobs data each quarter—as mandated by the American Recovery and Reinvestment Act of 2009 (Recovery Act)—state agencies do not always report their jobs data accurately. Of the five state agencies we reviewed that reported recipient-level jobs data, two did not follow this guidance. For example, one state agency reported triple the actual number of jobs created and retained, which resulted in an overstatement of 71 full-time equivalent positions. In addition, that same state agency calculated its jobs data using incorrect months. Further, three of the five state agencies did not include paid time off in the total number of hours worked as specified in the task force guidance.

Additionally, we found that although OMB advises recipients to be prepared to justify their jobs data estimates and the task force provides recommendations to state agencies on how to ensure that data submitted by their subrecipients is accurate and supported, state agencies do not follow the guidance completely. Specifically, all of the state agencies conducted an analysis for reasonableness of their subrecipients' data, whereas only one state agency reviewed their subrecipients' jobs data calculation methodology, and none of the state agencies reviewed supporting documentation to ensure the accuracy of the jobs data. In one example, a state agency tripled the number of actual jobs reported by its subrecipient in addition to other errors, which resulted in a net overstatement of 545 jobs for the quarter. Furthermore, we identified jobs data errors for two of the five local subrecipients we reviewed.

In the report, the California State Auditor (state auditor) made the following recommendations to the task force. The state auditor's determination regarding the current status of recommendations is based on the task force's response to the state auditor as of June 2011. In its response, the task force indicated that the 2011–12 Governor's Budget May Revision included elimination of the task force as of January 1, 2012. It also stated that beginning in October 2011 departments will report directly to the federal reporting Web site rather than the task force's reporting system. Finally, it explained that this six-month response will be the only response to the state auditor's recommendations.

### **Recommendation 1.1—See pages 11 and 12 of the audit report for information on the related finding.**

The task force should provide targeted technical assistance and training to state agencies that are not calculating their jobs data in accordance with OMB guidance.

#### ***Task Force's Action: Fully implemented.***

The task force indicated that it individually communicated with representatives and reporting personnel from all of the programs found to have reporting errors in their jobs data. Further, the task force stated that it held a meeting with departments to review how to accurately calculate and report jobs, the logistics of the federal reporting period, and addressed questions raised by users.

### **Recommendation 1.2.a— See page 14 of the audit report for information on the related finding.**

The task force should issue clarifying guidance to state agencies to ensure jobs are not triple-counted because monthly totals have been summed and not averaged.

***Task Force's Action: Fully implemented.***

On December 21, 2010, the task force issued a bulletin to agency secretaries, department directors, departmental budget officers, departmental accounting officers, and the Department of Finance budget staff communicating job calculation errors discovered by our audit. This bulletin directed state departments to review the previously released bulletins that detail the appropriate job calculation methodology. It also directed departments to ensure that their methodologies conform with the one outlined in the previous bulletins.

**Recommendation 1.2.b— See pages 12—14 of the audit report for information on the related finding.**

The task force should issue clarifying guidance to state agencies to ensure jobs data estimates are reported for the correct reporting months and state agencies use the correction period to revise their estimates when actual data becomes available.

***Task Force's Action: Fully implemented.***

The December 2010 bulletin directed departments to take advantage of the continuous quality assurance period to update and more accurately report Recovery Act data. In addition, as stated under Recommendation 1.1, the task force held a meeting with departments to review the methodology for reporting jobs data.

**Recommendation 1.2.c—See page 13 of the audit report for information on the related finding.**

The task force should issue clarifying guidance to state agencies to ensure state agencies understand the task force's guidance on including paid time off in the quarterly jobs estimates.

***Task Force's Action: Fully implemented.***

The December 2010 bulletin reiterated information outlined in its previous bulletin on the hours that should be included when calculating jobs funded by Recovery Act funds. In addition, as stated under Recommendation 1.1, the task force held a meeting with departments to review the methodology for reporting jobs data.

**Recommendation 1.3—See page 17 of the audit report for information on the related finding.**

The task force should instruct state agencies to review their subrecipients' methodologies for calculating jobs data and, at least on a sample basis, review supporting documentation to ensure the accuracy of the subrecipients' jobs data reported, or use alternative procedures that mitigate the same risks before certifying their jobs data report.

***Task Force's Action: Fully implemented.***

The December 2010 bulletin pointed out that departments were not ensuring that subrecipients calculated jobs correctly. It reiterated the steps the task force had provided in a previous bulletin that departments should take to ensure the accuracy of the reported jobs data.

# Administrative Office of the Courts

## The Statewide Case Management Project Faces Significant Challenges Due to Poor Project Management

### REPORT NUMBER 2010-102, ISSUED FEBRUARY 2011

This report concludes that the Administrative Office of the Courts (AOC) has not adequately planned the statewide case management project since 2003 when the Judicial Council of California (Judicial Council) directed the AOC to continue its development. The statewide case management project includes two interim systems and the most recent version, the California Court Case Management System (CCMS). Further, the AOC has not analyzed whether the project would be a cost-beneficial solution to the superior courts' technology needs and it is unclear on what information the AOC made critical decisions during the project's planning and development. In addition, the AOC did not structure its contract with the development vendor to adequately control contract costs. As a result, over the course of seven years, the AOC entered into 102 amendments and the contract has grown from \$33 million to \$310 million. Further, although the AOC fulfilled its reporting requirements to the Legislature, the four annual reports it submitted between 2005 and 2009 did not include comprehensive cost estimates for the project, and the AOC's 2010 report failed to present the project's cost in an aggregate manner. Moreover, the AOC has consistently failed to develop accurate cost estimates for the statewide case management project, which is now at risk of failure due to a lack of funding.

As of June 2010 the AOC and several superior courts had spent \$407 million on the project. The AOC's records show that as of fiscal year 2015–16—the year it expects that CCMS will be deployed statewide—the full cost of the project will be \$1.9 billion. However, this amount does not include \$44 million that the seven superior courts reported to us they spent to implement the interim systems or the unknown but likely significant costs the superior courts will incur to implement CCMS.

In addition, our survey of the seven superior courts using interim versions of the statewide case management project found they experienced challenges and difficulties in implementation, and some are reluctant to implement the CCMS. Many of the remaining 51 superior courts not using an interim version expressed uncertainty about various aspects of the project. Although the Judicial Council has the authority to compel the superior courts to implement CCMS, our survey results indicate that its successful implementation will require the AOC to more effectively foster court support. Although state-level justice partners indicated to us they look forward to CCMS, the extent to which local justice partners will integrate their systems with CCMS is unclear due to cost considerations.

Finally, the AOC has not contracted for adequate independent oversight of the statewide case management project. Our information technology expert believes that as a result of the AOC's failure to address significant independent oversight concerns and quality problems experienced, CCMS may be at risk of future quality problems. In light of these issues, we believe that prior to proceeding with the AOC's plan to deploy CCMS at three courts that will be early adopters of the system, there would be value in conducting an independent review to determine the extent of any quality issues and problems.

In the report, the California State Auditor (state auditor) made the following recommendations to the AOC. The state auditor's determination regarding the current status of recommendations is based on the AOC's response to the state auditor as of August 2011.

#### **Recommendation 1.1—See pages 24—26 of the audit report for information on the related finding.**

To understand whether CCMS is a cost-beneficial solution to the superior courts' case management needs, the AOC should continue with its planned cost-benefit study and ensure it completes this study before spending additional significant resources on the project. The AOC should ensure that this study includes a thorough analysis of the cost and benefits of the statewide case management project, including a consideration of costs and benefits it believes cannot be reasonably quantified. The AOC

should carefully evaluate the results of the study and present a recommendation to the Judicial Council regarding the course of action that should be taken with CCMS. Further, the AOC should fully share the results of the study as well as its recommendation to all interested parties, such as the superior courts, justice partners, the Legislature, and the California Technology Agency (Technology Agency).<sup>2</sup> The AOC should update this cost-benefit analysis periodically and as significant assumptions change.

***AOC's Action: Partially implemented.***

In October 2010 the AOC engaged a consultant to perform a cost-benefit analysis for developing CCMS and deploying it to all 58 superior courts in California, which was completed on February 22, 2011. The AOC stated it will use the results of the analysis and the underlying cost-benefit model to develop recommendations regarding the CCMS deployment strategy for key decision makers. We released our review of this cost-benefit analysis on March 3, 2011. The AOC additionally stated it concurs that the cost-benefit analysis should be updated at key junctures, and further stated it has already directed that the cost benefit analysis be updated after deployment to the three early adopter courts before further deployment decisions are finalized. The AOC stated the Judicial Council is regularly updated on the status and progress of the development of the case management system and makes decisions about the allocation of funding to support its further development and deployment. The AOC stated its intent is to be fully transparent with the cost-benefit study and to share it with the superior courts, justice partners, the Legislature, the Technology Agency, and all other interested parties, and it has made the study publicly available on its Web site. The AOC further stated that the new governance structure makes it clear that any changes to the CCMS program budget that increases the total cost of the program will require approval by the AOC Project Review Board and the Judicial Council.

**Recommendation 1.2—See pages 26—29 of the audit report for information on the related finding.**

To ensure the statewide case management project is transparent, the AOC should make sure all key decisions for future activities on CCMS are documented and retained.

***AOC's Action: Fully implemented.***

The AOC stated all key decisions will be documented and all documentation provided to or produced by the CCMS governance committees and the CCMS Project Management Office will be retained throughout the life of the CCMS project. It also stated all available documentation predating this new governance model will also be retained throughout the life of the CCMS project. The AOC stated that CCMS documentation will be available to the public in a manner consistent with rule 10.500 of the California Rules of Court, which strives for transparency of judicial administrative records and to ensure the public's right of access to such records.

**Recommendation 1.3—See pages 32—34 of the audit report for information on the related finding.**

To ensure its contract with the development vendor protects the financial interests of the State and the judicial branch, the AOC should consider restructuring its current contract to ensure the warranty for CCMS is adequate and covers a time period necessary to ensure that deployment of CCMS has occurred at the three early-adopter courts and they are able to operate the system in a live operational environment.

<sup>2</sup> Chapter 404, Statutes of 2010, which became effective January 1, 2011, renames the Office of the State Chief Information Officer as the California Technology Agency and the position of the State's chief information officer as the Secretary of California Technology.

***AOC's Action: Pending.***

The AOC agreed that the warranty needs to be of sufficient length to allow CCMS to operate in a live environment before the expiration of the warranty. The existing contract includes a 12-month system warranty for CCMS that will begin no later than eight months after system acceptance, which occurred on November 28, 2011. However, the AOC indicates that it is continuing to negotiate the terms of the warranty period with the development vendor.

**Recommendation 1.4.a—See pages 34 and 35 of the audit report for information on the related finding.**

If the Judicial Council determines that CCMS is in the best interest of the judicial branch and it directs the AOC to deploy the system statewide, assuming funding is available, the AOC should ensure that any contract it enters into with a deployment vendor includes cost estimates that are based on courts' existing information technology (IT) environments and available resources to assist with deployment activities.

***AOC's Action: Pending.***

The AOC stated any deployment contract will take into account assessments of each court's existing IT environment and available resources. The AOC also stated information gathered through the deployments to the early adopter courts will enable the AOC to accurately estimate deployment costs. The AOC indicated it will take into account both the state auditor and Technology Agency recommendations on this issue and will consider all options for deployment to best protect the financial interests of the branch, including consideration of not outsourcing deployment services for some smaller court deployments.

**Recommendation 1.4.b—See pages 35 and 36 of the audit report for information on the related finding.**

If the Judicial Council determines that CCMS is in the best interest of the judicial branch and it directs the AOC to deploy the system statewide, assuming funding is available, the AOC should ensure that any contract it enters into with a deployment vendor includes well-defined deliverables.

***AOC's Action: Pending.***

The AOC indicated it will ensure that any deployment contract requires the vendor to provide all services necessary to complete the deliverables due under the contract and that all deliverables are well-defined.

**Recommendation 1.4.c—See pages 34 and 35 of the audit report for information on the related finding.**

If the Judicial Council determines that CCMS is in the best interest of the judicial branch and it directs the AOC to deploy the system statewide, assuming funding is available, the AOC should ensure that any contract it enters into with a deployment vendor includes that adequate responsibility be placed on the vendor for conducting key steps in the deployment of the system.

***AOC's Action: Pending.***

The AOC stated it will negotiate the most favorable terms possible when entering into a deployment contract, including placing appropriate responsibility on the vendor.

**Recommendation 1.5—See pages 29—32 of the audit report for information on the related finding.**

The Judicial Council should make certain that the governance model for CCMS ensures that approval of contracts and contract amendments that are significant in terms of cost, time extension, and/or change in scope occur at the highest and most appropriate levels, and that when contracts or contract amendments above these thresholds are approved, that the decision makers are fully informed regarding both the costs and benefits.

***AOC's Action: Pending.***

The AOC stated the CCMS governance committees, the CCMS Project Management Office, and the AOC Project Review Board will have structured protocols in place to ensure that all significant contract amendments, changes in cost and scope, and extensions to time frames will be approved at the appropriate levels based on full and complete information, including costs and benefits associated with the contract or contract amendments. The AOC explained the governance committees are charged with providing oversight of the CCMS program, including the program scope, program budget, application functionality, implementation priorities, and deployment schedules. The AOC further indicated that key decisions, as appropriate within the governance model, will be elevated to the Administrative Director of the Courts or the Judicial Council.

**Recommendation 1.6.a—See pages 24—26 of the audit report for information on the related finding.**

To ensure that any future IT projects are in the best interest of the judicial branch and the State, the AOC should complete a thorough analysis of the project's cost and benefits before investing any significant resources and time into its development, and update this analysis periodically and as significant assumptions change.

***AOC's Action: Fully implemented.***

The AOC stated it has been working diligently with the Technology Agency since its review of CCMS. The AOC further stated it has taken steps to integrate the Technology Agency's recommendations into its existing technology project management process. The AOC reported this includes working with the Technology Agency on project concept documents and the project charters for future IT projects and using project planning documents more similar to those typically used for executive branch IT projects.

**Recommendation 1.6.b—See pages 26—29 of the audit report for information on the related finding.**

To ensure that any future IT projects are in the best interest of the judicial branch and the State, the AOC should document and retain all key decisions that impact the project in general, including the goals of the project.

***AOC's Action: Fully implemented.***

The AOC indicates incorporating the Technology Agency's recommendations into its existing processes, and using and retaining project concept documents, project charters, and other project planning documents more similar to those typically used for executive branch IT projects.

**Recommendation 1.6.c—See pages 29—36 of the audit report for information on the related finding.**

To ensure that any future IT projects are in the best interest of the judicial branch and the State, the AOC should better structure contracts with development and deployment vendors to protect the financial interests of the judicial branch and ensure the contracts provide for adequate warranty periods.



***AOC's Action: Fully implemented.***

The AOC stated it will continue to work with the best qualified legal counsel to ensure that its development and deployment contracts protect the financial interests of the judicial branch and the State. The AOC also stated it will include appropriate warranty periods in IT projects and will ensure that any future development and deployment contracts address the length and timing of a warranty period to ensure necessary protection.

**Recommendation 2.1.a—See pages 40—47 of the audit report for information on the related finding.**

To ensure that the financial implications of the statewide case management project are fully understood, the AOC should report to the Judicial Council, the Legislature, and stakeholders a complete accounting of the costs for the interim systems and CCMS. This figure should be clear about the uncertainty surrounding some costs, such as those that the AOC and superior courts will incur for deployment of CCMS.

***AOC's Action: Partially implemented.***

The AOC issues an annual report to the Legislature on case management project costs. In future reports the AOC stated it will also include all identifiable costs related to CCMS incurred by the trial courts. It will work with the courts to identify and report, on an ongoing basis, the costs they are incurring for other local interim case management systems. The AOC stated these reports will be submitted to the Judicial Council and the Legislature and posted on the Judicial Council's Web site, consistent with the distribution of prior year's reports.

**Recommendation 2.1.b—See pages 44—47 of the audit report for information on the related finding.**

The AOC should require superior courts to identify their past and future costs related to the project, particularly the likely significant costs that superior courts will incur during CCMS deployment, and include these costs in the total cost.

***AOC's Action: Partially implemented.***

The AOC reported it has already modified the trial court's financial reporting system to enable courts to track current and future case management system costs distinct from other technology expenditures. The AOC stated it provided guidance to the trial courts to assist them to identify costs specific to development, deployment, and ongoing operations. The AOC further stated it will work with the trial courts to identify any additional expenditure information not already included in its reporting for prior fiscal years. Although the AOC believes that a substantial portion of court costs for the deployment of CCMS have been identified and captured in the costs already projected and reported, the AOC will be better able to estimate and refine the costs that superior courts will likely incur based on information gathered from early adopter and subsequent court deployments. It will include such costs in the total CCMS cost estimates where applicable.

**Recommendation 2.1.c—See pages 44—47 of the audit report for information on the related finding.**

Further, the AOC should be clear about the nature of the costs that other entities, such as justice partners, will incur to integrate with CCMS that are not included in its total cost.



***AOC's Action: Partially implemented.***

The AOC stated it currently identifies the nature of costs that justice partners will incur to integrate with CCMS and will continue to do so. To ensure broader understanding of the types of costs justice partners may incur to integrate with CCMS, the AOC stated it will begin including this information in the annual CCMS report to the Legislature. The AOC additionally stated, as part of the comprehensive cost-benefit analysis of the CCMS project currently being performed, it will evaluate integration costs likely to be incurred by the justice partners of the early adopter courts. The AOC stated the Justice Partner Advisory Committee will also be working with justice partners to help ascertain the administrative and financial benefits, in addition to costs, accruing as a result of CCMS deployment or enhancements.

**Recommendation 2.1.d—See pages 40—47 of the audit report for information on the related finding.**

The AOC should update its cost estimate for CCMS on a regular basis as well as when significant assumptions change.

***AOC's Action: Partially implemented.***

The AOC stated it currently updates its cost estimates on a regular basis or when significant assumptions change. The AOC also stated as part of its Information Technology Investment Management Program (ITIMP), the estimated cost and allotted budget for CCMS are reviewed monthly and revised and updated when scope or other project changes with cost implications are identified or approved. The AOC provided a cost update in its 2011 report to the Legislature, which was released in May 2011, but it has not provided a cost update since that time despite a one-year increase in the timeline for full CCMS deployment.

**Recommendation 2.2—See pages 47—49 of the audit report for information on the related finding.**

To address the funding uncertainty facing CCMS, the AOC should work with the Judicial Council, the Legislature, and the governor to develop an overall strategy that is realistic given the current fiscal crisis facing the State.

***AOC's Action: Partially implemented.***

The AOC stated it has, as directed and authorized by the Judicial Council, modified its strategy and will continue to do so in light of current and foreseeable future economic realities as well as the needs of courts whose current systems are at imminent risk of failing. The AOC also stated it will continue to work with the Legislature and the governor to explore all potential approaches for securing sufficient funding to complete the statewide deployment of CCMS. The AOC indicated such options may include consideration of project financing, as well as state, federal, and private funding. The AOC reported the Judicial Council, in coordination with legislative and executive branch leadership, has demonstrated prudence and flexibility in its overall funding strategy in light of the fiscal crisis, redirecting more than \$200 million in the last two fiscal years from funding that would have been available for technology projects to cover reduced court funding, and scaling back initial CCMS deployment plans to three early adopter courts.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

**Recommendation 2.3.a—See pages 40—44 of the audit report for information on the related finding.**

To better manage costs of future IT projects, the AOC should estimate costs at the inception of projects.

***AOC's Action: Partially implemented.***

The AOC stated its ITIMP already incorporates many of the steps identified in our recommendation, but that it will be revised to incorporate the fiscal impact on local courts and justice partners.

**Recommendation 2.3.b—See pages 43 and 44 of the audit report for information on the related finding.**

To better manage costs of future IT projects, the AOC should employ appropriate budget and cost management tools to allow it to appropriately budget, track, manage, and estimate costs.

***AOC's Action: Partially implemented.***

See the AOC's response under recommendation 2.3.a.

**Recommendation 2.3.c—See pages 44—47 of the audit report for information on the related finding.**

To better manage costs of future IT projects, the AOC should ensure that cost estimates are accurate and include all relevant costs, including costs that superior courts will incur.

***AOC's Action: Partially implemented.***

See the AOC's response under recommendation 2.3.a.

**Recommendation 2.3.d—See page 46 of the audit report for information on the related finding.**

To better manage costs of future IT projects, the AOC should disclose costs that other entities will likely incur to the extent it can reasonably do so.

***AOC's Action: Partially implemented.***

See the AOC's response under recommendation 2.3.a.

**Recommendation 2.3.e—See pages 40—44 of the audit report for information on the related finding.**

To better manage costs of future IT projects, the AOC should update cost estimates on a regular basis and when significant assumptions change.

***AOC's Action: Partially implemented.***

See the AOC's response under recommendation 2.3.a.

**Recommendation 2.3.f—See pages 40—47 of the audit report for information on the related finding.**

To better manage costs of future IT projects, the AOC should disclose full and accurate cost estimates to the Judicial Council, the Legislature, and stakeholders from the beginning of projects.

***AOC's Action: Partially implemented.***

See the AOC's response under recommendation 2.3.a.

**Recommendation 2.3.g—See pages 47—49 of the audit report for information on the related finding.**

To better manage costs of future IT projects, the AOC should ensure that it has a long-term funding strategy in place before investing significant resources in a project.

***AOC's Action: Partially implemented.***

The AOC stated its ITIMP already incorporates many of the steps identified in our recommendation, but that it will be revised to incorporate the fiscal impact on local courts and justice partners.

**Recommendation 3.1.a—See pages 52—64 of the audit report for information on the related finding.**

Although the Judicial Council has the legal authority to compel the courts to adopt CCMS, to better foster superior court receptiveness to deploying CCMS, the AOC should use the results from its consultant's survey of the superior courts to identify and better understand the courts' input and concerns regarding CCMS, including the manner in which the project has been managed by the AOC. To the extent the survey results indicate courts have significant concerns regarding CCMS or that they believe their case management systems will serve them for the foreseeable future, the AOC should take steps to address these concerns and overcome any negative perceptions and modify its deployment plan for CCMS accordingly.

***AOC's Action: Partially implemented.***

The AOC stated participation and input from the courts are vital to the success of CCMS. The AOC indicated the results from a consultant's survey, which was prepared as part of the cost benefit study, will be used to refine a variety of deployment alternatives for consideration by the AOC, the CCMS governance committees, and the Judicial Council. Along with the experience gained and lessons learned from deployment of CCMS at early adopter courts, further information on the impact of CCMS implementation on court business processes, courts' concerns regarding the timing for deployment of the system, status of existing legacy systems, anticipated cost savings, and needs of the court users will all be factors given great weight in assessing the several deployment alternatives.

**Recommendation 3.1.b—See pages 52—57 of the audit report for information on the related finding.**

Although the Judicial Council has the legal authority to compel the courts to adopt CCMS, to better foster superior court receptiveness to deploying CCMS, the AOC should continue to work with the superior courts that have deployed the civil system to ensure it is addressing their concerns in a timely and appropriate manner.

***AOC's Action: Partially implemented.***

The AOC stated, going forward, the CCMS Operational Advisory Committee is responsible for setting the priorities for defects and enhancements for CCMS. The AOC further indicated the CCMS Project Management Office has dedicated staff assigned to work with courts using the interim civil system to address their needs and concerns. Since deployment of the interim civil system, the AOC reported, there have been numerous releases to improve the functionality and enhance the system in response to suggestions raised by the courts using it.

**Recommendation 3.1.c—See pages 52 and 57—59 of the audit report for information on the related finding.**

Although the Judicial Council has the legal authority to compel the courts to adopt CCMS, to better foster superior court receptiveness to deploying CCMS, the AOC should work with superior courts to address concerns about hosting data at the California Court Technology Center (Technology Center). Further, the AOC should take steps to ensure that superior courts do not lose productivity or efficiencies by hosting data at the Technology Center.

***AOC's Action: Partially implemented.***

The AOC stated it is committed to ensuring that the performance of systems hosted at the Technology Center is comparable to performance of a locally hosted system. The AOC further stated that it is presently working closely with the courts, and will continue to do so, to address their concerns. The AOC indicated the CCMS Operational Advisory Committee will work directly with the CCMS Project Management Office and the courts to review, modify, and add service level metrics as needed to ensure that centrally delivered services are provided in a manner that is fully responsive to the courts' business needs.

**Recommendation 3.2—See pages 64—65 of the audit report for information on the related finding.**

The AOC should continue working with local and state justice partners to assist them in their future efforts to integrate with CCMS, and in particular provide local justice partners the information needed to estimate the costs involved.

***AOC's Action: Partially implemented.***

The AOC stated it has a data integration team dedicated to working with state and local justice partners to prepare them to integrate with CCMS. The AOC indicated this team participates in justice partners' association meetings, conferences, and other events to create awareness about CCMS and highlight the benefits of integration. The AOC also stated the CCMS justice partner data integration team disseminates information about tools, resources, and information to support their integration efforts. The AOC has developed and maintains a justice partner integration website which provides information about the 121 CCMS data exchanges and offers instructions for their implementation. All justice partners have access to the site, which identifies resources they may need to integrate with CCMS. The AOC stated the information provided helps partners estimate their costs of integrating with CCMS. Finally, the AOC stated the CCMS Justice Partner Advisory Committee is charged with ensuring that the implementation of CCMS and its data exchanges maximizes state and local justice partner participation and minimizes disruptions to existing automated processes between courts and their justice partners.

**Recommendation 3.3.a—See pages 52—64 of the audit report for information on the related finding.**

Before embarking on future statewide IT initiatives and to ensure it secures appropriate support from users of the systems being proposed, the AOC should determine the extent to which the need for the IT initiative exists, including the necessary information to clearly demonstrate the extent of the problem the IT initiative will address.

***AOC's Action: Fully implemented.***

The AOC stated it has both formal and informal processes and procedures in place to identify and assess the need for statewide technology improvements for the judicial branch in partnership with the courts. The AOC also stated it is committed to these processes and will continue to leverage these opportunities. As technology project needs are identified through these many communication channels, the AOC stated project concept documents are drafted that include statements of the problem, anticipated costs and benefits of the IT solution, impacts on courts and court operations, and known risks.

**Recommendation 3.3.b—See pages 52—64 of the audit report for information on the related finding.**

Before embarking on future statewide IT initiatives and to ensure it secures appropriate support from users of the systems being proposed, the AOC should take steps to ensure that superior courts support the solution the AOC is proposing to address the need, which could include conducting a survey of courts to determine their level of support.

***AOC's Action: Fully implemented.***

The AOC stated regional meetings provide a solid foundation for the AOC and the courts to share information to learn about, better understand, and evaluate statewide technology needs. The AOC also stated the Judicial Council's Court Technology advisory committee, trial court presiding judges advisory committee, and court executives advisory committee provide additional avenues of communication that enhance the exchange of information between and among the AOC and the courts to influence the direction and strategies for future statewide technology improvements. The AOC indicated that statewide meetings of presiding judges and court executive officers build on those committee meetings to ensure that superior court feedback is received.

**Recommendation 3.3.c—See pages 64 and 65 of the audit report for information on the related finding.**

Before embarking on future statewide IT initiatives and to ensure it secures appropriate support from users of the systems being proposed, the AOC should if necessary, determine whether other stakeholders, including local and state justice partners, support the IT initiative.

***AOC's Action: Fully implemented.***

The AOC stated its Project Review Board is to ensure that all branch-wide technology projects follow a structured analysis protocol that will produce the information required to adequately assess the need for and value of the project proposal. The AOC further stated court and stakeholder surveys will be included in this structured analysis protocol.

**Recommendation 4.1—See pages 68—78 of the audit report for information on the related finding.**

To provide for an appropriate level of independent oversight on CCMS, the AOC should expand and clarify the scope of oversight services and require that oversight consultants perform oversight that is consistent with best practices and industry standards.

***AOC's Action: No action taken.***

The AOC stated it strongly agrees the project oversight should be performed consistent with best practices and industry standards, although it does not agree that this can only be done by external contractors that are independent of the vendor developing CCMS. The AOC continues to assert that the approach it used for the verification and validation process—which includes independent verification and validation (IV&V) and independent project oversight (IPO), as well as using AOC and court experts independent of the CCMS project—is entirely consistent with industry standards and guidelines and best practices for information technology projects of the size and complexity of CCMS. The AOC plans to request an interpretation from the Institute of Electrical and Electronic Engineers, Inc (IEEE) regarding whether the verification and validation approach that the AOC has been using for CCMS complies with the IEEE Standard 1012. However, as we noted in our audit report, we believe the AOC does not fully understand the purpose and importance of IV&V and IPO on a project of the size, scope, and complexity of CCMS. As we indicated in our audit report, IV&V services should be documented in a software verification and validation plan; be scaled in level of rigor based on complexity, criticality, and other project characteristics; and be performed by an organization that is technically, managerially, and financially independent. Moreover, our audit found that the AOC lacked a software verification and validation plan, which according to IEEE Standard 1012, would define and document its verification and validation effort. Such a plan would also describe the organization of the AOC staff's effort, including the degree of independence required. The IEEE Standard 1012 does indicate that many different verification and validation structures will work well as long as project responsibilities, data flows, and reporting flows are defined and documented. Because the AOC had no such plan, we could not analyze or evaluate the verification and validation efforts the AOC asserts were conducted. Further, the AOC provided us no reports resulting from the staff's efforts it asserts were performed and we found no mention of AOC staff effort in any of the oversight documents provided to us during the audit.

**Recommendation 4.2—See pages 69—72 of the audit report for information on the related finding.**

To ensure that no gaps in oversight occur between CCMS development and deployment, the AOC should ensure that it has IV&V and IPO services in place for the deployment phase of CCMS. Further, to allow for independent oversight of the IV&V consultant, the AOC should use separate consultants to provide IV&V and IPO services.

***AOC's Action: Pending.***

The AOC indicates that it will contract with separate entities to perform IPO and IV&V services for CCMS deployment.

**Recommendation 4.3—See pages 80—86 of the audit report for information on the related finding.**

To ensure no significant quality issues or problems exist within CCMS, the AOC should retain an independent consultant to review the system before deploying it to the three early-adopter courts. This review should analyze a representative sample of the requirements, code, designs, test cases, system documentation, requirements traceability, and test results to determine the extent of any quality issues or variances from industry standard practices that would negatively affect the cost and effort required of the AOC to operate and maintain CCMS. If any quality issues and problems identified by this review can be adequately addressed, and system development can be completed without significant investment beyond the funds currently committed, the AOC should deploy it at the early-adopter courts during the vendor's warranty period.



***AOC's Action: Partially implemented.***

The AOC commissioned two independent assessments of CCMS which were published in August 2011. Integrated Systems Diagnostics, Inc. performed a review of the development process employed by the CCMS development vendor, Deloitte Consulting. The *Appraisal Report* by Integrated System Diagnostics, Inc. found that the development vendor did not follow certain best practices during CCMS development, meaning that the development vendor did not perform at the standard it had originally promised.

K3 Solutions, LLC (K3) performed an assessment of software quality and whether the CCMS product has been developed as designed. In its *Final CCMS Application Assessment Report*, K3 found that CCMS appears to be architecturally sound and comprehensively tested. However, it did identify seven areas that, if not addressed going forward, could have significant implications for the maintenance and deployment of CCMS. To address these issues, the AOC indicates working with the development vendor and K3 to develop an action plan that addresses both reports' findings and recommendations. The AOC maintains that if the plan is followed, concerns regarding the maintenance and deployment of CCMS should be alleviated and no additional costs to the State should be incurred going forward. AOC has reiterated that the development vendor is committed to providing a quality product to protect its professional reputation and that it will follow the action plan accordingly. We received the action plan in December 2011 but we have not reviewed it.<sup>3</sup>

**Recommendation 4.4.a—See pages 68—72 of the audit report for information on the related finding.**

To ensure that future major IT projects receive appropriate independent oversight over technical aspects and project management, the AOC should obtain IV&V and IPO services at the beginning of the projects and ensure this independent oversight is in place throughout and follows best practices and industry standards appropriate for the size and complexity of the project.

***AOC's Action: Partially implemented.***

The AOC stated it strongly agrees that it is critical that information technology projects receive the necessary and appropriate project oversight and that it will follow the Technology Agency's guidance as well as all appropriate industry guidance. The AOC also stated it will assess each project for its risk, sensitivity, and criticality and will give great deference to the Technology Agency's guidance to determine the manner and extent of project oversight that will be implemented. The AOC stated it commits to timely obtaining and maintaining the appropriate independent project oversight services based on the size, scope, and complexity of the project and to ensuring that complete access is granted to all necessary materials. However, the AOC continues to believe that its staff is able to act independently of the AOC to perform significant elements of this oversight, as noted under its action for recommendation 4.1 above.

**Recommendation 4.4.b—See pages 69—72 of the audit report for information on the related finding.**

To ensure that future major IT projects receive appropriate independent oversight over technical aspects and project management, the AOC should employ separate firms for IV&V and IPO services to allow for the IPO consultant to provide independent oversight on the IV&V consultant as well as the project team's response to IV&V findings.

***AOC's Action: Fully implemented.***

The AOC stated it will work closely with the Technology Agency on all future IT projects that will have a cost in excess of \$5 million, and will carefully consider its recommendations for such projects, including those relating to oversight and risk mitigation.

<sup>3</sup> The AOC indicates that the development vendor has completed all action plan items, but as of March 13, 2012, the AOC has not provided us sufficient information to confirm their completion.



**Recommendation 4.4.c—See pages 68—78 of the audit report for information on the related finding.**

To ensure that future major IT projects receive appropriate independent oversight over technical aspects and project management, the AOC should ensure that the staff performing IV&V and IPO services have experience and expertise that is commensurate with the size, scope, and complexity of the project they are to oversee.

***AOC's Action: Fully implemented.***

See the AOC's response under recommendation 4.4.b.

**Recommendation 4.4.d—See pages 78—80 of the audit report for information on the related finding.**

To ensure that future major IT projects receive appropriate independent oversight over technical aspects and project management, the AOC should ensure that independent oversight is not restricted in any manner and that all parties—the IV&V and IPO consultants, senior management, the project management team, and the development vendor—understand that the IV&V and IPO consultants are to have complete access to all project materials.

***AOC's Action: Fully implemented.***

See the AOC's response under recommendation 4.4.b.

**Recommendation 4.4.e—See pages 80—86 of the audit report for information on the related finding.**

To ensure that future major IT projects receive appropriate independent oversight over technical aspects and project management, the AOC should address promptly and appropriately the concerns that independent oversight consultants raise.

***AOC's Action: Fully implemented.***

The AOC stated it concurs with the importance of the identification of concerns raised by IV&V and IPO consultants and that their concerns be reported and monitored to ensure they are appropriately addressed. The AOC also stated concerns raised by IV&V and IPO consultants will be taken off watch status only after careful consideration and discussion of all risks and mitigation efforts that must occur to ensure that system function is unaffected.



## Sacramento and Marin Superior Courts

### Both Courts Need to Ensure That Family Court Appointees Have Necessary Qualifications, Improve Administrative Policies and Procedures, and Comply With Laws and Rules

#### REPORT NUMBER 2009-109, ISSUED JANUARY 2011

This report concludes that both superior courts need to do more to ensure that the individuals who provide mediation and evaluation services and who act as counsel for minors in cases before their family courts have the necessary qualifications and required training. In addition, the two superior courts should follow their established procedures for handling complaints, improve their processes for payments related to counsel appointed to represent the interests of minors involved in family law cases, and strengthen their procedures for dealing with conflicts of interest within the family courts.

In the report, the California State Auditor (state auditor) made the following recommendations to the superior courts and their family courts. The state auditor's determination regarding the current status of the recommendations is based on the superior courts' responses to the state auditor as of July 2011.

#### **Recommendation 1.1.a—See pages 25—27 of the audit report for information on the related finding.**

To ensure that its Office of Family Court Services (FCS) mediators are qualified, the Sacramento superior and family courts should retain in the mediator's official personnel file any decisions to substitute additional education for experience or additional experience for the educational requirements.

##### ***Sacramento Superior and Family Courts' Action: No action taken.***

The Sacramento superior and family courts did not provide a response to this recommendation.



#### **Recommendation 1.1.b—See pages 25—27 of the audit report for information on the related finding.**

To ensure that its FCS mediators are qualified, the Sacramento superior and family courts should update the current mediators' official personnel files with any missing information.

##### ***Sacramento Superior and Family Courts' Action: Fully implemented.***

The Sacramento superior and family courts reported that they have documentation to demonstrate that the FCS mediators meet the minimum qualifications and training. The courts also stated that the documents will be placed in the FCS mediators' personnel files.

#### **Recommendation 1.1.c—See pages 25—27 of the audit report for information on the related finding.**

To ensure that its FCS mediators are qualified, the Sacramento superior and family courts should verify the initial training of those FCS mediators they hire who have worked at other superior courts.

##### ***Sacramento Superior and Family Courts' Action: Fully implemented.***

The Sacramento superior and family courts reported that they verified that the FCS mediator mentioned in the audit report met the minimum qualifications and training requirements when employed by another court.

**Recommendation 1.1.d—See pages 25—27 of the audit report for information on the related finding.**

To ensure that its FCS mediators are qualified, the Sacramento superior and family courts should develop a policy to retain training completion records for at least as long as an FCS mediator is a court employee.

***Sacramento Superior and Family Courts' Action: Fully implemented.***

The Sacramento Superior Court stated it established a retention policy that requires all training records to be kept in its staff's official personnel files for five years after the FCS mediator separates from the court.

**Recommendation 1.1.e—See pages 25—27 of the audit report for information on the related finding.**

To ensure that its FCS mediators are qualified, the Sacramento superior and family courts should take all reasonable steps to ensure that the FCS mediators meet all of the minimum qualifications and training requirements before assigning them to future mediations. If necessary, and as soon as reasonably possible, the court should require the FCS mediators to take additional education or training courses to compensate for the minimum qualifications and training requirements that were not met.

***Sacramento Superior and Family Courts' Action: Fully implemented.***

The Sacramento superior and family courts reported that they have documentation to demonstrate that the FCS mediators have completed additional training education or training courses to compensate for the minimum requirements for which there was no documentation. The courts also stated that the documents will be placed in the FCS mediators' personnel files.

**Recommendation 1.2.a—See pages 27—30 of the audit report for information on the related finding.**

To make certain that the FCS evaluators are qualified, the Sacramento family court should develop processes to ensure that it signs all FCS evaluator declarations of qualifications annually.

***Sacramento Family Court's Action: No action taken.***

The Sacramento Superior Court reported to us that effective July 2011 FCS will no longer conduct Family Code Section 3111 evaluations. The court cited budget reductions as its reason for discontinuing this service.

**Recommendation 1.2.b—See pages 27—30 of the audit report for information on the related finding.**

To make certain that the FCS evaluators are qualified, the Sacramento family court should ensure that its unlicensed FCS evaluators complete the licensing portion of the annual declarations of qualifications.

***Sacramento Family Court's Action: No action taken.***

See the Sacramento Family Court's response under recommendation 1.2.a.

**Recommendation 1.2.c—See pages 27—30 of the audit report for information on the related finding.**

To make certain that the FCS evaluators are qualified, the Sacramento family court should identify the training each of the FCS evaluators need to satisfy the court rules' requirements and ensure that they attend the trainings.

***Sacramento Family Court's Action: Partially implemented.***

The Sacramento Superior Court stated that it began taking steps to change its Family Court Counselor classification specifications to include the requirement that employees in the classification complete the mandatory training the court rules require. However, the court reported to us that effective July 2011 FCS will no longer conduct Family Code Section 3111 evaluations. The court cited budget reductions as its reason for discontinuing this service.

**Recommendation 1.2.d—See pages 27—30 of the audit report for information on the related finding.**

To make certain that the FCS evaluators are qualified, the Sacramento family court should develop a policy to retain training completion records for at least as long as an FCS evaluator is a court employee.

***Sacramento Family Court's Action: Fully implemented.***

The Sacramento Superior Court established a record retention policy to retain all training records for a total of five years after an FCS evaluator separates from the court. However, the Sacramento Superior Court reported to us that effective July 2011 FCS will no longer conduct Family Code Section 3111 evaluations. The court cited budget reductions as its reason for discontinuing this service.

**Recommendation 1.2.e—See pages 27—30 of the audit report for information on the related finding.**

To make certain that the FCS evaluators are qualified, the Sacramento family court should develop processes to ensure that evaluator declarations of qualifications include all relevant information, such as the evaluator's experience.

***Sacramento Family Court's Action: No action taken.***

See the Sacramento Family Court's response under recommendation 1.2.a.

**Recommendation 1.2.f—See pages 27—30 of the audit report for information on the related finding.**

To make certain that the FCS evaluators are qualified, the Sacramento family court should ensure that FCS evaluators attach certificates for their domestic violence training to each Family Code Section 3111 evaluation report they prepare.

***Sacramento Family Court's Action: No action taken.***

See the Sacramento Family Court's response under recommendation 1.2.a.

**Recommendation 1.2.g—See pages 27—30 of the audit report for information on the related finding.**

To make certain that the FCS evaluators are qualified, the Sacramento family court should take all reasonable steps to ensure its FCS evaluators meet the minimum qualifications and training requirements before assigning them to any future Family Code Section 3111 evaluations. If necessary, and as soon as reasonably possible, the court should require the FCS evaluators to take additional education or training courses to compensate for the minimum qualifications and training requirements that were not met.

***Sacramento Family Court's Action: No action taken.***

See the Sacramento Family Court's response under recommendation 1.2.a.

**Recommendation 1.3—See pages 30—33 of the audit report for information on the related finding.**

To determine whether staff are capable and suitable for positions, the Sacramento FCS should ensure it follows the superior court's probationary policy for any former employees the court rehires.

***Sacramento Superior Court's Action: Partially implemented.***

The Sacramento Superior Court stated it completed the revision of the forms it uses to evaluate probationary staff as of July 2011.

**Recommendation 1.4.a—See pages 30—33 of the audit report for information on the related finding.**

To ensure that it assists nonprobationary staff in developing their skills and improving their job performance, the Sacramento Superior Court should ensure that the FCS adheres to its employee appraisal policy.

***Sacramento Superior Court's Action: Partially implemented.***

The Sacramento Superior Court stated it completed the revision of the forms it uses to provide nonprobationary staff their annual performance reviews.

**Recommendation 1.4.b—See pages 30—33 of the audit report for information on the related finding.**

To ensure that it assists nonprobationary staff in developing their skills and improving their job performance, the Sacramento Superior Court should clarify the employee appraisal policy by specifying how often updates to the duty statement should occur.

***Sacramento Superior Court's Action: Partially implemented.***

The Sacramento Superior Court stated that it is revising its employee appraisal policy, and will include a statement to ensure that duty statements are reviewed with staff at least annually. The court anticipated implementing its policy during the fourth quarter of 2011.

**Recommendation 1.5.a—See pages 34—38 of the audit report for information on the related finding.**

To verify that its private mediator and evaluator panel members meet the minimum qualifications and training requirements before appointment, the Sacramento family court should obtain any missing applications and training records for private mediators and evaluators on its current panel list before appointing them to future cases.

***Sacramento Family Court's Action: No action taken.***

The Sacramento Superior Court stated that it does not have the resources to maintain training records for private mediators and evaluators beyond requiring copies of their training certificates with their initial application and the submission of declarations under penalty of perjury.

**Recommendation 1.5.b—See pages 34—38 of the audit report for information on the related finding.**

To verify that its private mediator and evaluator panel members meet the minimum qualifications and training requirements before appointment, the Sacramento family court should ensure that if it continues to rely on the evaluators' licensure to satisfy the training requirements, the training courses that evaluators on its current panel list take are approved by the Administrative Office of the Courts (AOC) or that the evaluator seek individual approvals from the AOC to take the courses.

***Sacramento Family Court's Action: Fully implemented.***

The Sacramento Family Court stated that it notified private evaluator panel members that they must attend training approved by the AOC or seek individual approval of required courses.

**Recommendation 1.5.c—See pages 34—38 of the audit report for information on the related finding.**

To verify that its private mediator and evaluator panel members meet the minimum qualifications and training requirements before appointment, the Sacramento family court should create a record retention policy to retain the applications and training records related to private mediators and evaluators on its panel list for as long as they remain on the list.

***Sacramento Family Court's Action: Fully implemented.***

The Sacramento Family Court stated it established a policy to maintain applications and training records with the private mediator's or evaluator's initial application for as long as the private mediator or evaluator remains on the court's panel list.

**Recommendation 1.5.d—See pages 34—38 of the audit report for information on the related finding.**

To verify that its private mediator and evaluator panel members meet the minimum qualifications and training requirements before appointment, the Sacramento family court should establish a process to ensure that the private mediators and evaluators file their declarations of qualifications with the court no later than 10 days after notification of each appointment and before they begin work on a case.

***Sacramento Family Court's Action: Fully implemented.***

The Sacramento Family Court modified its *Order for Private Mediation* and its *Order Appointing Child Custody Evaluator* to include a requirement that the appointed private mediator or private evaluator file a declaration regarding qualifications within 10 days of notification of the appointment and before beginning work on the case.

**Recommendation 1.5.e—See pages 34—38 of the audit report for information on the related finding.**

To verify that its private mediator and evaluator panel members meet the minimum qualifications and training requirements before appointment, the Sacramento family court should reinstate its local rules for private mediators and evaluators to provide a minimum of three references, and for private evaluators to provide a statement that they have read the court's evaluator guidelines.

***Sacramento Family Court's Action: No action taken.***

The Sacramento Superior Court stated that because the declaration they must complete confirms their qualifications, it does not believe it is necessary to reinstitute the local rule requiring private mediators and evaluators to provide a minimum of three references or the local rule requiring private evaluators to provide a statement that they have read the court's evaluator guidelines. The court also stated that it does not have the resources to maintain and update a guideline, the contents of which are based upon statute, local rules, and the rules of court. Finally, the court stated it expects that appointees are aware of and have read all applicable statutes and rules.



**Recommendation 1.6.a—See pages 38—41 of the audit report for information on the related finding.**

The Sacramento family court should ensure that minor's counsel submit, within 10 days of their appointment, the required declarations about their qualifications, education, training, and experience. Specifically, the family court should send annual notices to the minor's counsel it appoints, instructing them to file the declaration.

***Sacramento Family Court's Action: No action taken.***

The Sacramento Superior Court stated that it does not believe it is necessary to send annual notices to appointed minor's counsel of the need to file a declaration. The court stated that the order appointing minor's counsel includes a specific requirement that the minor's counsel submit a declaration within 10 days of appointment and before beginning any work on a case. The court stated that it will provide minor's counsel with an order in each case it appoints counsel.

**Recommendation 1.6.b—See pages 38—41 of the audit report for information on the related finding.**

The Sacramento family court should ensure that minor's counsel submit, within 10 days of their appointment, the required declarations about their qualifications, education, training, and experience. Specifically, the family court should continue to ensure the appointment orders direct the minor's counsel to complete and promptly file the declaration.

***Sacramento Family Court's Action: Fully implemented.***

The Sacramento Family Court included in its Order Appointing Counsel for a Child the specific requirement to file a declaration of qualifications within 10 days of appointment or before beginning work on a case.

**Recommendation 1.7.a—See pages 38—41 of the audit report for information on the related finding.**

To make sure that the minor's counsel it appoints meet the additional standards required by the superior court's local rules, the Sacramento family court should obtain any missing applications for minor's counsel before appointing them to any future cases.

***Sacramento Family Court's Action: No action taken.***

The Sacramento Superior Court stated that it does not have the resources to obtain and review all previous training records or to require and review the resubmission of applications for each minor's counsel.

**Recommendation 1.7.b—See pages 38—41 of the audit report for information on the related finding.**

To make sure that the minor's counsel it appoints meet the additional standards required by the superior court's local rules, the Sacramento family court should create a record retention policy to retain the minor's counsel applications for as long as they remain on its panel list.

***Sacramento Family Court's Action: Fully implemented.***

The Sacramento Family Court stated it established a policy to maintain applications and training records with the minor's counsel initial application for as long as the minor's counsel remains on the court's panel list.

**Recommendation 1.8.a—See pages 41—43 of the audit report for information on the related finding.**

To ensure that the FCS mediators are qualified, the Marin superior and family courts should retain documentation in the FCS mediators' official personnel files to demonstrate that they met the minimum qualifications.

***Marin Superior and Family Courts' Action: Fully implemented.***

The Marin superior and family courts adopted a policy requiring FCS mediators to submit annually their original certificates of training for retention in their official personnel files.

**Recommendation 1.8.b—See pages 41—43 of the audit report for information on the related finding.**

To ensure that the FCS mediators are qualified, the Marin superior and family courts should verify the initial training of those FCS mediators hired who have worked at other superior courts.

***Marin Superior and Family Courts' Action: Fully implemented.***

The Marin superior and family courts adopted a policy requiring its newly hired FCS mediators who have worked at other superior courts to submit to it copies of their certificates of training for retention in their official personnel files. If the mediator is unable to produce these records, the court will attempt to obtain the records from the FCS mediator's former court employer. If the records are unavailable, the court will require the FCS mediator to prepare a sworn statement that he or she has met these requirements in another court.

**Recommendation 1.8.c—See pages 41—43 of the audit report for information on the related finding.**

To ensure that the FCS mediators are qualified, the Marin superior and family courts should ensure that the FCS mediators receive supervision from someone who is qualified to perform clinical supervision so that they can resume their participation in performance supervision, as the court rules require.

***Marin Superior and Family Courts' Action: Fully implemented.***

The Marin superior and family courts contracted with a clinical supervisor to provide three onsite visits per year to conduct performance supervision.

**Recommendation 1.9.a—See pages 44—46 of the audit report for information on the related finding.**

To confirm that the private evaluators the family court appoints are qualified, the Marin superior and family courts should establish a process to ensure that the private evaluators file declarations of their qualifications with the court no later than 10 days after notification of each appointment and before they begin any work on a case.

***Marin Superior and Family Courts' Action: Fully implemented.***

The Marin superior and family courts developed procedures to ensure that private evaluators file their declarations of qualifications no later than 10 days after notification of each appointment and before they begin any work on a case.

**Recommendation 1.9.b—See pages 44—46 of the audit report for information on the related finding.**

To confirm that the private evaluators the family court appoints are qualified, the Marin superior and family courts should adopt a local rule regarding procedures for the private evaluators to notify the family court that they have met the domestic violence training requirements. If the superior

court chooses not to adopt a local rule, the family court should establish a process to ensure that the private evaluators attach copies of their domestic violence training certificates to their completed evaluation reports.

***Marin Superior and Family Courts' Action: Fully implemented.***

The Marin Superior Court adopted a local rule requiring private evaluators to submit annually to the court copies of their domestic violence training certificates.

**Recommendation 1.10—See pages 46 and 47 of the audit report for information on the related finding.**

To verify that the private minor's counsel it appoints are qualified, the Marin family court should establish a process to ensure that minor's counsel submit, no later than 10 days after notification of their appointment and before working on a case, the required declaration of qualifications.

***Marin Family Court's Action: Fully implemented.***

The Marin superior and family courts developed procedures to ensure that minor's counsel file their declarations of qualifications no later than 10 days after notification of each appointment and before they begin any work on a case.

**Recommendation 1.11—See page 46 of the audit report for information on the related finding.**

To make certain that it orders evaluations as the court rules require, the Marin family court should consistently use the standard form.

***Marin Family Court's Action: Fully implemented.***

The Marin Family Court acknowledged that the *Order Appointing Child Custody Evaluator* was the standard form and stated that it would consistently use the form for all future private evaluator appointments.

**Recommendation 2.1.a—See pages 53 and 54 of the audit report for information on the related finding.**

To ensure that all complaints regarding FCS staff are tracked properly and reviewed promptly, the Sacramento FCS and family court should keep a complete log of all verbal and written complaints they receive regarding FCS staff.

***Sacramento Superior and Family Courts' Action: Fully implemented.***

The Sacramento FCS and family court developed a log to track all verbal and written FCS staff complaints it receives.

**Recommendation 2.1.b—See pages 53 and 54 of the audit report for information on the related finding.**

To ensure that all complaints regarding FCS staff are tracked properly and reviewed promptly, the Sacramento FCS and family court should follow the established complaint process, including retaining the appropriate documentation to demonstrate adherence to the process.

***Sacramento Superior and Family Courts' Action: Fully implemented.***

The Sacramento FCS and family court stated that it uses a log to document the steps taken to resolve complaints.

**Recommendation 2.1.c—See pages 53 and 54 of the audit report for information on the related finding.**

To ensure that all complaints regarding FCS staff are tracked properly and reviewed promptly, the Sacramento FCS and family court should establish specific time frames for responding to complaints.

***Sacramento Superior and Family Courts' Action: Fully implemented.***

The Sacramento FCS and family court modified the client complaint process to reflect that FCS will act on all verbal and written complaints within 90 days of receiving them.

**Recommendation 2.2.a—See pages 53—55 of the audit report for information on the related finding.**

To make certain that all complaints regarding FCS staff are tracked properly and reviewed promptly, the Marin Superior Court should keep a complete log of all verbal and written complaints it receives regarding FCS staff.

***Marin Superior Court's Action: Fully implemented.***

The Marin Superior Court developed a log to track all verbal and written FCS staff complaints it receives.

**Recommendation 2.2.b—See pages 53—55 of the audit report for information on the related finding.**

To make certain that all complaints regarding FCS staff are tracked properly and reviewed promptly, the Marin Superior Court should ensure that FCS follows the court's established complaint process, including retaining the appropriate documentation to demonstrate adherence to the process.

***Marin Superior Court's Action: Fully implemented.***

The Marin Superior Court developed an FCS mediator complaint tracking form and stated that its human resources manager will complete the form while investigating the complaint, attach the form to the written complaint or to the notes pertaining to a verbal complaint, and retain the form in the FCS complaint file for mediators.

**Recommendation 2.3—See pages 55 and 56 of the audit report for information on the related finding.**

To verify that all complaints received about the private mediators or evaluators that the family court appoints are tracked and reviewed promptly, the Sacramento Superior Court should keep a log of all complaints it receives.

***Sacramento Superior Court's Action: Fully implemented.***

The Sacramento Superior Court established a log for complaints about private mediators and private evaluators.

**Recommendation 2.4.a—See pages 55 and 56 of the audit report for information on the related finding.**

To verify that all complaints received about the private mediators or evaluators that the family court appoints are tracked and reviewed promptly, the Marin Superior Court should keep a log of all complaints it receives.

***Marin Superior Court's Action: Fully implemented.***

The Marin Superior Court developed a log to track all written private evaluator complaints it receives.

**Recommendation 2.4.b—See pages 55 and 56 of the audit report for information on the related finding.**

The Marin Superior Court should make certain that for future complaints it may receive, the court follows the steps stated in its process for registering complaints about evaluators.

***Marin Superior Court's Action: Fully implemented.***

The Marin Superior Court developed an evaluator complaint tracking form and stated that its human resources manager will complete the form while overseeing the investigation of the complaint, attach the form to the written complaint along with the evaluator's written response and the written response from the other party if one is provided, and retain the form in the FCS complaint file for private evaluators.

**Recommendation 2.5—See pages 56 and 57 of the audit report for information on the related finding.**

To ensure that it provides transparency for the parties in family court cases, the Sacramento Superior Court should develop a local rule that defines its process for receiving, reviewing, and resolving complaints against private mediators and evaluators.

***Sacramento Superior Court's Action: Partially implemented.***

The Sacramento Superior Court drafted local rules related to the complaint process for private mediators and evaluators. If approved by the Judicial Council, the rules will take effect January 1, 2012.

**Recommendation 2.6—See page 57 of the audit report for information on the related finding.**

To clearly identify its process for registering complaints about private evaluators, the Sacramento Superior Court should make the necessary corrections to its 2012 local rules to add the complaint procedures that were omitted in error.

***Sacramento Superior Court's Action: Partially implemented.***

The Sacramento Superior Court drafted local rules related to the complaint process for private mediators and evaluators. If approved by the Judicial Council, the rules will take effect January 1, 2012.

**Recommendation 2.7.a—See pages 58—62 of the audit report for information on the related finding.**

To strengthen its accounting process for California Family Code Section 3111 evaluations, the Sacramento Superior Court should update its accounting procedures related to billing FCS evaluation costs to include steps for verifying the mathematical accuracy of the FCS summary and the proper allocation of costs between the parties.

***Sacramento Superior Court's Action: No action taken.***

The Sacramento Superior Court reported to us that effective July 2011 FCS will no longer conduct Family Code Section 3111 evaluations. The court cited budget reductions as its reason for discontinuing this service.

**Recommendation 2.7.b—See pages 58—62 of the audit report for information on the related finding.**

To strengthen its accounting process for California Family Code Section 3111 evaluations, the Sacramento Superior Court should update its process for collecting amounts it is owed for California Family Code 3111 evaluations.

***Sacramento Superior Court's Action: Fully implemented.***

The Sacramento Superior Court reported that it mailed out delinquent account notices. In addition, the court noted that the accounting unit will provide up to two delinquent account notices and any remaining outstanding accounts will be referred to a private collection agency.

**Recommendation 2.7.c—See pages 58—62 of the audit report for information on the related finding.**

To strengthen its accounting process for California Family Code Section 3111 evaluations, the Sacramento Superior Court should develop a written policy for reviewing periodically the hourly rate it charges parties for 3111 evaluations.

***Sacramento Superior Court's Action: Fully implemented.***

The Sacramento Superior Court developed a written policy for reviewing periodically the hourly rate it charges parties for Family Code Section 3111 evaluations. However, the Sacramento Superior Court reported to us that effective July 2011 FCS will no longer conduct Family Code Section 3111 evaluations. The court cited budget reductions as its reason for discontinuing this service.

**Recommendation 2.8.a—See pages 62—66 of the audit report for information on the related finding.**

To strengthen its processes related to minor's counsel fees, the Sacramento superior and family courts should ensure that determinations about the parties' ability to pay are made in accordance with the court rules and are properly reflected in the orders appointing minor's counsel.

***Sacramento Superior and Family Courts' Action: Fully implemented.***

The Sacramento superior and family courts stated that they have developed a process for documenting the judicial determination and allocation of the payment of minor's counsel fees.

**Recommendation 2.8.b—See pages 62—66 of the audit report for information on the related finding.**

To strengthen its processes related to minor's counsel fees, the Sacramento superior and family courts should finalize, approve, and implement the draft procedures for processing minor's counsel invoices.

***Sacramento Superior and Family Courts' Action: Fully implemented.***

The Sacramento superior and family courts stated that the accounting staff implemented procedures for processing minor's counsel invoices.

**Recommendation 2.8.c—See pages 62—66 of the audit report for information on the related finding.**

To strengthen its processes related to minor's counsel fees, the Sacramento superior and family courts should make certain that accounting follows the appropriate court policy when reviewing minor's counsel costs and that accounting does not pay costs that the policy does not allow.

***Sacramento Superior and Family Courts' Action: Fully implemented.***

The Sacramento superior and family courts stated that the accounting staff continue to follow the court policy so that only costs permitted by that policy are paid.

**Recommendation 2.8.d—See pages 62—66 of the audit report for information on the related finding.**

To strengthen its processes related to minor's counsel fees, the Sacramento superior and family courts should take the steps necessary to confirm that accounting does not make duplicate or erroneous payments to minor's counsel.

***Sacramento Superior and Family Courts' Action: Fully implemented.***

The Sacramento superior and family courts stated that the accounting staff implemented the procedures for processing minor's counsel invoices and have taken steps to assure the duplicate payments are not remitted to minor's counsel.

**Recommendation 2.8.e—See pages 62—66 of the audit report for information on the related finding.**

To strengthen its processes related to minor's counsel fees, the Sacramento superior and family courts should take necessary steps to collect minor's counsel costs that accounting has paid improperly.

***Sacramento Superior and Family Courts' Action: Fully implemented.***

The Sacramento Superior Court stated that overpayments to minor's counsel have either been billed or deducted from a subsequent invoice payment.

**Recommendation 2.9— See pages 67 and 68 of the audit report for information on the related finding.**

To ensure that it reimburses only appropriate and necessary minor's counsel costs, the Marin Superior Court should develop a written policy that outlines the costs it will reimburse and that requires the attorneys to provide original receipts for their costs.

***Marin Superior Court's Action: Fully implemented.***

The Marin Superior Court developed a policy for reviewing incidental costs on minor's counsel invoices. The policy reflects the court's reimbursement rates and, in certain circumstances, requires minor's counsel to provide receipts.

**Recommendation 2.10—See pages 69 and 70 of the audit report for information on the related finding.**

To make its conflict-of-interest policy more effective, the Marin Superior Court should modify its conflict-of-interest policy to include documenting the cause of potential conflicts of interest in writing and tracking their final disposition.

***Marin Superior Court's Action: Fully implemented.***

The Marin Superior Court modified its conflict-of-interest policy to require the mediator to notify the human resources manager in writing if an actual, potential, or perceived conflict of interest exists. The policy requires the human resources manager to notify the mediator in writing regarding the final disposition.



**Recommendation 2.11.a—See pages 70 and 71 of the audit report for information on the related finding.**

To make its conflict-of-interest process more effective, the Sacramento FCS should continue to maintain its log recording potential conflicts of interest.

***Sacramento Office of Family Court Services' Action: Fully implemented.***

The Sacramento Family Court stated that it will continue to maintain its log of all FCS mediator conflicts of interest.

**Recommendation 2.11.b—See pages 70 and 71 of the audit report for information on the related finding.**

To make its conflict-of-interest process more effective, the Sacramento FCS should update its conflict-of-interest policy to match its practice of identifying cases that could present a real or perceived conflict of interest, including cases involving court employees, and to include its current practice of documenting potential conflicts of interest in the FCS files.

***Sacramento Office of Family Court Services' Action: Fully implemented.***

The Sacramento Family Court updated its policy to document its current practice of identifying cases that could present an actual or perceived conflict of interest. The court also stated it implemented a process to maintain records pertaining to conflicts of interest in the FCS case files.

**Recommendation 2.12—See pages 71—73 of the audit report for information on the related finding.**

The Sacramento Superior Court should develop and implement processes to review periodically the court rules to ensure that its local rules reflect all required court rules.

***Sacramento Superior Court's Action: Fully implemented.***

The Sacramento Superior Court stated that it has assigned to its family law research attorney the ongoing responsibility of reviewing all changes to the court rules, which necessitate any change to its local rules.

**Recommendation 2.13—See pages 71—73 of the audit report for information on the related finding.**

The Marin Superior Court should develop and implement processes to review periodically the court rules to ensure that its local rules reflect all required court rules.

***Marin Superior Court's Action: Fully implemented.***

The Marin Superior Court has developed a process to review periodically the court rules to ensure that its local rules reflect all required court rules. According to the court executive officer, she made assignments to court managers to review new and amended court rules to ensure that the court is aware of any provisions that require the court to adopt them.



# State Bar of California

## Its Lawyer Assistance Program Lacks Adequate Controls for Reporting on Participating Attorneys

### REPORT NUMBER 2011-030, ISSUED MAY 2011

This report concludes that the Lawyer Assistance Program (assistance program) of the State Bar of California (State Bar) lacks controls to ensure that the case managers for the program's participants submit reports of noncompliance promptly and consistently to such disciplinary bodies as the State Bar Court of California. Our review of case files for 25 participants in the assistance program showed that it does not have adequate procedures for monitoring case managers to ensure that they are appropriately sending reports of participants' noncompliance, such as missed or positive laboratory testing results for drugs or alcohol. In fact, case managers failed to send six reports to disciplinary bodies when participants missed laboratory tests and failed to send 10 other reports in a timely manner.

Further, the assistance program lacks adequate controls and procedures to ensure that case managers treat all noncompliance issues consistently. The assistance program relies on case managers to bring participants' noncompliance to the attention of the program's evaluation committee when appropriate; however, the program has issued only limited guidance to help case managers determine when to notify the evaluation committee. Further, the assistance program does not have any formal process for monitoring case managers' adherence to policies and procedures. Nine of the 25 participants we reviewed each had 10 or more instances of noncompliance, but we did not always see evidence that the case managers brought these issues to the attention of the evaluation committee.

Finally, the assistance program needs to adopt mechanisms to better gauge its effectiveness in achieving its mission of enhancing public protection and identifying and rehabilitating attorneys who are recovering from substance abuse or mental health issues. Until it develops these mechanisms, the State Bar will be unable to determine how well the assistance program is performing.

In the report, the California State Auditor (state auditor) made the following recommendations to the State Bar. The state auditor's determination regarding the current status of recommendations is based on the State Bar's response to the state auditor as of November 2011.

#### **Recommendation 1.1—See pages 17—20 of the audit report for information on the related finding.**

The assistance program should ensure that case managers are submitting to the appropriate entity the required reports in a timely manner, as required by its policies. Specifically, the assistance program should make certain that the new automated process for tracking and monitoring case managers' reporting of noncompliance is implemented properly and is being used as intended.

#### ***State Bar's Action: Fully implemented.***

The assistance program implemented an automated mechanism to assist the director, case managers, and administrative assistants in tracking and monitoring the immediate report filing process.

#### **Recommendation 1.2—See pages 20—22 of the audit report for information on the related finding.**

To make certain that case managers treat consistently the noncompliance issues that do not require immediate reports to disciplinary bodies, the assistance program should finish implementing its case file review process. Further, the assistance program should develop guidelines to help case managers determine when to submit noncompliance issues to the evaluation committee.

***State Bar's Action: Fully implemented.***

According to the State Bar, it has fully implemented its annual case review process, which requires case managers to meet on a monthly basis and review a random selection of case files. The review process involves an assessment of each selected case and a discussion of any changes that may be required. At the end of the case review process, the case management supervisor is required to follow up to ensure each case manager has made the necessary changes. In addition, the assistance program has developed guidelines to help case managers determine when to submit noncompliance issues to the evaluation committee.

**Recommendation 1.3—See pages 22—24 of the audit report for information on the related finding.**

Finally, the assistance program should take steps to better gauge its effectiveness. For example, it could measure how long its participants remain in the program and assess the program's impact on any further actions that disciplinary bodies impose on these attorneys. Further, if the assistance program believes that the effectiveness of the program is better measured through other means, it should develop these alternative measures and assess the program's effectiveness in meeting its stated goals.

***State Bar's Action: Partially implemented.***

The State Bar states that the assistance program has undertaken the process of identifying performance measures to supplement those that are currently in place and reported in the annual report to the Board of Governors. According to the State Bar, assistance program staff has met with the Board Committee on Member Oversight to receive its input and guidance in this process so that meaningful measures can be developed to assist the State Bar's stakeholders in further evaluating the effectiveness of the program. For example, staff has discussed with the Member Oversight Committee two separate preliminary studies gauging the impact on attorneys by length of time participating in the program. These studies suggest that participants in the assistance program for six months or longer have shown positive results on the rate of disciplinary sanctions imposed. According to the State Bar, further analysis of this nature will be developed in the 2011–12 board year.

# Department of Resources Recycling and Recovery

## Deficiencies in Forecasting and Ineffective Management Have Hindered the Beverage Container Recycling Program

### REPORT NUMBER 2010-101, ISSUED JUNE 2010

This report concludes that because of forecasting deficiencies, the Department of Resources Recycling and Recovery (department) was not always able to reliably project the revenues and expenditures in the department's Beverage Container Recycling Fund (beverage fund). Moreover, ineffective supervision and errors hindered the department's forecasting reliability and more recently resulted in a \$158.1 million overstatement of the projected beverage fund balance in the 2009–10 Governor's Budget. Further, we found that the department could do more to effectively manage the Beverage Container Recycling Program (beverage program). For example, the department has not followed its plan to audit the top 100 beverage distributors that provided 90 percent of the revenues to the beverage fund, and when audits were conducted, a significant lag existed between the audit's completion and billing for identified underpayments, which increased its risk for failing to collect underpayments before the two-year statute of limitations. In fact, we noted three instances where the department exceeded the statute of limitations and lost the opportunity to collect up to \$755,000. Further, the department could improve its efforts to prevent fraud by better tracking fraud leads and having a systematic method for analyzing recycling data for potential fraud. In addition, the department is currently conducting enhanced efforts to prevent fraud before it occurs, but has not yet set specific goals to evaluate the success of these efforts. Our review also revealed that the department did not consistently oversee recycling grants and for six grants we reviewed it did not ensure that grantees met their commitments, which ultimately cost the State nearly \$2.2 million. Finally, although the department has a strategic plan, we believe it should consider establishing benchmarks or metrics that would allow it to more clearly measure the success of the beverage program.

In the report, the California State Auditor (state auditor) made the following recommendations to the department. The state auditor's determination regarding the current status of recommendations is based on the department's response to the state auditor as of December 2011.

#### **Recommendation 1.1.a—See pages 13—22 of the audit report for information on the related finding.**

To improve its forecasting of revenues and expenditures for the beverage fund, the department should implement a new forecasting model in time for it to be used for the fiscal year 2011–12 Governor's Budget.

#### ***Department's Action: Fully implemented.***

The department redesigned its forecasting methodology, which it used for the October 2010 fund projection.

#### **Recommendation 1.1.b—See pages 13—22 of the audit report for information on the related finding.**

To improve its forecasting of revenues and expenditures for the beverage fund, the department should place appropriate controls over the forecast model, including having management review the reliability of forecasting results before they are used and monitoring the reliability of forecast results against actual figures on a monthly and yearly basis.

#### ***Department's Action: Fully implemented.***

The department implemented review procedures, including a process to compare actual sales and return values with prior projections.

**Recommendation 1.1.c—See pages 13—22 of the audit report for information on the related finding.**

To improve its forecasting of revenues and expenditures for the beverage fund, the department should ensure that the contingency reserve for the beverage fund does not exceed the statutory limit specified in the Public Resources Code.

***Department's Action: Fully implemented.***

The department followed the Public Resources Code when calculating the contingency reserve and has implemented review procedures to evaluate the appropriateness of the contingency reserve.

**Recommendation 1.1.d—See pages 13—22 of the audit report for information on the related finding.**

To improve its forecasting of revenues and expenditures for the beverage fund, the department should continue with its efforts to hire an economist to lead its forecasting efforts.

***Department's Action: Fully implemented.***

Following the August 2010 hiring freeze, the department indicated that it suspended its process for hiring an economist to lead its forecasting efforts. Nevertheless, to mitigate this impact, it assigned a department employee to assist in reviewing and revising the forecasting model.

**Recommendation 1.1.e—See pages 13—22 of the audit report for information on the related finding.**

To improve its forecasting of revenues and expenditures for the beverage fund, the department should ensure that the actual fund balances of the beverage fund in future governor's budgets reflect actual revenues and expenditures from its accounting records.

***Department's Action: Fully implemented.***

The department developed a procedure to reconcile its records with the State Controller's Office data to ensure correct information is presented to the Department of Finance for preparing the governor's budget.

**Recommendation 1.2—See pages 22—27 of the audit report for information on the related finding.**

The department should better follow its three-year plan to audit beverage distributors. Steps to accomplish this goal could include performing an analysis of risks that could result in underpayment of redemption payments or implementing policies to terminate audits after the department's initial assessment of a beverage distributor concludes that it is unlikely that an underpayment exists.

***Department's Action: Fully implemented.***

The department has included a risk-based evaluation in its audit program to determine whether there is material harm to the fund and to terminate audits based on initial assessments. The department updated its current three-year audit plan to reflect this change, and its auditors received training on this risk-based process.

**Recommendation 1.3—See pages 22—27 of the audit report for information on the related finding.**

To avoid exceeding the statute of limitations for collecting underpayments, and to bill for collection sooner, the department should strive to complete the fieldwork for audits in a more timely fashion. Further, the department should implement policies to shorten the time needed to review completed audits before billings are made, and should also develop policies to expedite reviews when an audit identifies a significant underpayment.

***Department's Action: Fully implemented.***

The department indicated that its Division of Recycling Integrated Information System (DORIIS) tracks audit activity including the statute of limitations for each audit. The department provided statute of limitations training for audit staff in its investigations and audits units in December 2010.

**Recommendation 1.4—See pages 27—29 of the audit report for information on the related finding.**

The department should continue with its efforts to implement regulation changes that will require beverage distributors to register with the department and to notify the department if another entity has agreed to report and make payments on behalf of that beverage distributor.

***Department's Action: Pending.***

The department is pursuing regulatory changes to regulate reporting of agreements where an entity has agreed to make payments on behalf of that beverage distributor.

**Recommendation 1.5.a—See pages 29—33 of the audit report for information on the related finding.**

To improve management of its fraud investigations, the department should track all fraud leads that the investigations unit receives and track the disposition of those leads, as well as document the reasons for closing leads without an investigation.

***Department's Action: Fully implemented.***

The department adopted procedures for analyzing fraud tips and entering them into DORIIS for tracking and follow-up.

**Recommendation 1.5.b—See pages 29—33 of the audit report for information on the related finding.**

To improve management of its fraud investigations, the department should formalize the approach used to analyze recycling data for potential fraud and develop criteria for staff to use when deciding whether to refer anomalies for investigation. Because DORIIS will be a central data source for recycling activities once it is implemented, the department should continue with its plan to automate the review of recycling data within DORIIS to identify potential fraud.

***Department's Action: Pending.***

The department indicated that it has contracted with an outside vendor to develop statistical models for identifying patterns of program-related fraud. The department indicated that the project is scheduled to be completed in December 2011 and will be implemented thereafter.

**Recommendation 1.5.c—See pages 29—33 of the audit report for information on the related finding.**

To improve management of its fraud investigations, the department should continue to evaluate the effectiveness of the fraud prevention project and whether it is a cost-beneficial activity.

***Department's Action: Fully implemented.***

As a result of staffing constraints and implementation of DORIIS-based analytical tools to identify potential fraud, the department decided to gradually phase out the fraud prevention project as originally envisioned beginning in 2011. The department further indicated that it will continue to evaluate new procedures to improve management of its fraud investigations.



**Recommendation 1.6.a—See pages 33—42 of the audit report for information on the related finding.**

To improve oversight of grants and ensure that the intended value is received from the grant funds it awards, the department should perform site visits to ensure that grantees are progressing on projects as expected.

***Department's Action: Fully implemented.***

The department revised its grant management procedures manual regarding grantee site visit requirements and created site visit forms to document these visits.

**Recommendation 1.6.b—See pages 33—42 of the audit report for information on the related finding.**

To improve oversight of grants and ensure that the intended value is received from the grant funds it awards, the department should require that grantees provide regular status reports that sufficiently describe their progress toward meeting the goals of the grant.

***Department's Action: Fully implemented.***

The department's grant management procedures manual requires all grantees to submit periodic status reports, which includes withholding grantee payments when status reports are not current. The department also indicated that it will emphasize to staff that grantees are to submit status reports in a timely manner.

**Recommendation 1.6.c—See pages 33—42 of the audit report for information on the related finding.**

To improve oversight of grants and ensure that the intended value is received from the grant funds it awards, the department should more closely scrutinize the risks associated with proposed market development grants.

***Department's Action: Fully implemented.***

According to state law, the annual funding for market development and expansion grants will end on January 1, 2012, and the department indicated that no new funding is anticipated. Thus, the department indicated that any further review of new grants is suspended until new funding is reinstated.

**Recommendation 1.6.d—See pages 33—42 of the audit report for information on the related finding.**

To improve oversight of grants and ensure that the intended value is received from the grant funds it awards, the department should, for recipients of market development grants that are unable to meet the goals of their grants, maintain contact with grantees after the project is completed to determine if the goals may ultimately be achieved.

***Department's Action: Pending.***

The department indicated that it is committed to following up and maintaining contact with grantees that are unable to fulfill their goals. Specifically, the department developed a survey and indicated that it will be sent to grantees whose projects were closed, without the project being completed. This survey includes questions related to additional efforts to complete the project after the grant was closed, and whether or not the project goal was ultimately achieved.

**Recommendation 1.6.e—See pages 33—42 of the audit report for information on the related finding.**

To improve oversight of grants and ensure that the intended value is received from the grant funds it awards, the department should make determinations to approve grant extension requests in a timely manner.

***Department's Action: Fully implemented.***

The department implemented a review schedule to determine, at least three months prior to the end of a grant agreement, whether an extension is required.

**Recommendation 1.6.f—See pages 33—42 of the audit report for information on the related finding.**

To improve oversight of grants and ensure that the intended value is received from the grant funds it awards, the department should implement policies to ensure that cities and counties spend grant funds for recycling purposes by requiring periodic reporting of expenses or reporting of how funds were used after the grant ends.

***Department's Action: Fully implemented.***

The department developed a methodology to annually review a statistically valid sample of city and county payment programs recipients to ensure funds are appropriately utilized. Further, the department indicated it will complete this review by January 2013.

**Recommendation 1.7—See pages 42—44 of the audit report for information on the related finding.**

The department should weave benchmarks, coupled with metrics to measure the quality of its activities, into the strategic plan for the beverage program to allow it to better measure progress in meeting goals.

***Department's Action: Pending.***

The department stated that as it refines its strategic plan, relevant beverage program activities such as metrics to achieve audit plans, inspections, and enforcement objectives as well as other program activities will be incorporated along with the means to measure the quality of the outcomes.

**Recommendation 1.8—See pages 42—44 of the audit report for information on the related finding.**

The department should ensure that the strategic plan incorporates all relevant activities of the beverage program.

***Department's Action: Pending.***

The department stated that as it refines its strategic plan, relevant beverage program activities such as metrics to achieve audit plans, inspections, and enforcement objectives as well as other program activities will be incorporated along with the means to measure the quality of the outcomes.



# State Lands Commission

## Because It Has Not Managed Public Lands Effectively, the State Has Lost Millions in Revenue for the General Fund

### REPORT NUMBER 2010-125, ISSUED AUGUST 2011

This report concludes the State Lands Commission (commission) has not always managed its more than 4,000 leases in the State's best interest with the result that it has missed opportunities to generate millions of dollars in revenues for the State's General Fund. For example, the commission has allowed lessees whose rent is past due to remain on state land for years without paying rent. In fact, we estimated losses totaling \$1.6 million for a sample of 10 delinquent leases we reviewed. Additionally, about 140 of the commission's 1,000 revenue-generating leases are currently expired. We estimate the commission has lost \$269,000 for 10 expired leases because lessees continue to pay the rent established by an old appraisal that may not be indicative of the property's current value. Further, although the commission has a mechanism in place to periodically review—and potentially increase—rental amounts, we found that it generally failed to promptly conduct rent reviews, causing it to lose \$6.3 million in increased rent it may have been able to collect. Moreover, the commission does not appraise its leased properties as frequently as the lease agreements allow, and when it does conduct appraisals, it sometimes undervalues its properties because it uses outdated methods, some of which were established more than 18 years ago.

We also found that the commission does not adequately monitor its leases. Specifically, the database used by the commission to store lease information is both inaccurate and incomplete, and is not used by staff to monitor the status of its leases. As a result, the commission is not appropriately tracking the status of some of its leases. For example, the commission apparently lost track of one of its leases, and as a result failed to bill the lessee for 12 years while the lessee remained on state property. Additionally, the commission does not regularly audit its revenue-generating leases, nor does it adequately oversee granted lands.

Finally, although the commission has undergone a series of staff reductions since 1990 and has made attempts to replace these lost positions, it has not taken sufficient steps to quantify its need for additional staff. Specifically, the commission has not developed any analyses to determine an appropriate workload and the number of staff needed to address such a workload.

In the report, the California State Auditor (state auditor) made the following recommendations to the commission. The state auditor's determination regarding the current status of recommendations is based on the commission's response to the state auditor as of October 2011.

#### **Recommendation 1.1.a—See pages 16 and 17 of the audit report for information on the related finding.**

To ensure that it manages delinquent leases in an effective and timely manner and collects all the amounts owed to it, the commission should determine the amount of past due rent that should be included in its accounts receivable account.

#### ***Commission's Action: Fully implemented.***

The commission asserted that it identified the amount of past-due rent that should be included in its accounts receivable account and it provided us the list of accounts receivable that included those receivables identified as contingent receivables.

**Recommendation 1.1.b—See page 18 of the audit report for information on the related finding.**

To ensure that it manages delinquent leases in an effective and timely manner and collects all the amounts owed to it, the commission should develop and adhere to policies and procedures that incorporate the administrative manual's guidance, including the steps staff should take when a lessee is delinquent, time standards for performing those steps, and a process for consistently tracking the status of delinquent leases between divisions.

***Commission's Action: Fully implemented.***

The commission provided draft policies and procedures that specified the steps staff should take when a lessee is delinquent, including time standards and a process for tracking the status of delinquent leases between divisions. The commission also plans to convene a team of senior management that will meet at least quarterly to discuss delinquent leases. According to the commission, the new process will be in place by November 1, 2011.

**Recommendation 1.1.c—See page 19 of the audit report for information on the related finding.**

To ensure that it manages delinquent leases in an effective and timely manner and collects all the amounts owed to it, the commission should conduct and document cost-benefit analyses when it contemplates either referring a delinquent lessee to the attorney general or pursuing the delinquent lessee through other means.

***Commission's Action: Fully implemented.***

The commission's draft procedures regarding delinquent lessees specify that a management team will make a determination regarding pursuing a delinquent lessee after weighing available resources. According to the commission's chief counsel, while its draft procedures did not use the phrase "cost-benefit analysis," the analysis of whether to pursue a trespass or lease compliance issue includes the elements of a cost-benefit analysis in addition to policy and legal considerations.

**Recommendation 1.2—See pages 19 and 20 of the audit report for information on the related finding.**

When the commission determines that it will pursue delinquent lessees itself, it should use a collection agency or a program such as the Franchise Tax Board's Interagency Intercept Collections Program.

***Commission's Action: Pending.***

The commission stated that it is conducting an analysis to determine if it is currently authorized to use a collection agency or if it can participate in the Franchise Tax Board's Interagency Intercept Collections Program.

**Recommendation 1.3.a—See page 22 of the audit report for information on the related finding.**

To ensure that as few leases as possible go into holdover, the commission should continue to implement its newly established holdover reduction procedures and periodically evaluate whether its new procedures are having their intended effect of reducing the number of leases in holdover.

***Commission's Action: Fully implemented.***

The commission believes that its new holdover reduction procedures are effective with the result that the number of leases in holdover has decreased by 75 percent.

**Recommendation 1.3.b—See pages 21 and 22 of the audit report for information on the related finding.**

To ensure that as few leases as possible go into holdover, the commission should consistently assess the 25 percent penalty on expired leases.

***Commission's Action: Fully implemented.***

The commission stated that its new holdover reduction policies include a provision to assess the 25 percent penalty.

**Recommendation 1.4.a—See pages 22 and 23 of the audit report for information on the related finding.**

To complete its rent reviews promptly and obtain a fair rental amount for its leases, the commission should consistently notify lessees of impending rent reviews or rental increases within established timelines.

***Commission's Action: Partially implemented.***

The commission stated that it updated a rent review checklist and now requires staff to pull lease files one year in advance of the rent review date rather than nine months. Further, the commission requested additional staff to accommodate the rent review workload. According to the commission, these changes have helped staff to complete rent reviews in a timely manner.

**Recommendation 1.4.b—See page 25 of the audit report for information on the related finding.**

To complete its rent reviews promptly and obtain a fair rental amount for its leases, the commission should establish time standards for each step of the rent review process and ensure that all staff adhere to those time standards.

***Commission's Action: Partially implemented.***

The commission provided its rent review policies and procedures; however, none of these include time standards for each step in the rent review process, including appraisals.

**Recommendation 1.4.c—See pages 25 and 26 of the audit report for information on the related finding.**

To complete its rent reviews promptly and obtain a fair rental amount for its leases, the commission should develop a methodology for prioritizing its workload that focuses its staff on managing the higher revenue generating leases until such time as it addresses its workload needs.

***Commission's Action: No action taken.***

The commission provided policies and procedures that instructed staff to focus on significant leases—those with rent over \$10,000—to reduce the number of leases in holdover. Although the commission provided evidence that it requested additional staff to perform rent reviews, it did not provide a methodology for prioritizing its workload that focuses its staff on managing the higher revenue generating leases for rent reviews.

**Recommendation 1.4.d—See page 26 of the audit report for information on the related finding.**

To complete its rent reviews promptly and obtain a fair rental amount for its leases, the commission should conduct rent reviews on each fifth anniversary as specified in the lease agreements or consider including provisions in its leases that allow for the use of other strategies, such as adjusting rents annually using an inflation indicator.



***Commission's Action: Pending.***

The commission stated that it is exploring the use of an inflation indicator to streamline the rent review process. Additionally, as we indicated under recommendation 1.4.c, the commission is requesting additional staff to perform rent reviews.

**Recommendation 1.5—See pages 26 and 27 of the audit report for information on the related finding.**

To ensure that it receives rent from the lessee that reflects the approximate value for the State's property at those times when a lessee disputes a modification to the rental amount after the commission exercises its right to perform a rent review or because the lease expired, the commission should include in its lease agreements a provision that requires lessees to pay the commission's proposed increased rental amount, which would be deposited into an account within the Special Deposit Fund. The increased rental amounts deposited, plus the corresponding interest accrued in the account, should then be liquidated in accordance with the amount agreed to in the final lease agreement.

***Commission's Action: Pending.***

The commission stated that other strategies such as enforcing the 25 percent rental increase for holdover leases should negate the need to establish an account within the Special Deposit Fund. However, during our review we identified several circumstances in which a lessee disputed the rental amount after a rent review, rather than after a lease had expired. The commission does not address this situation and we believe the commission should still explore the use of the Special Deposit Fund when lessees dispute a modification to the rental amount after a rent review.

**Recommendation 1.6.a—See page 28 of the audit report for information on the related finding.**

To ensure that it is charging rent based on the most current value of its properties, the commission should appraise its properties as frequently as the lease provisions allow—generally every five years.

***Commission's Action: Pending.***

The commission stated that it requested additional staff to accommodate the appraisal workload. Additionally, the commission is exploring the use of an inflation indicator to appraise its properties.

**Recommendation 1.6.b—See pages 28—31 of the audit report for information on the related finding.**

To ensure that it is charging rent based on the most current value of its properties, the commission should use the sales comparison method when it establishes values for leases having the greatest revenue potential, and develop policies that specify when and how often it is appropriate to use the other methods of appraising properties. These policies should address the coordination of leasing staff with appraisal staff as part of the process for determining which appraisal method should be used.

***Commission's Action: Partially implemented.***

The commission indicated that Land Management has directed staff to request sales comparison appraisals for all high value leases. However, the commission did not address whether it has developed a policy that specifies when and how often it is appropriate to use the other methods of appraising properties, or coordinates leasing and appraisal staff.



**Recommendation 1.7.a—See pages 31 and 32 of the audit report for information on the related finding.**

To ensure that it does not undervalue certain types of leases, the commission should amend its regulations for establishing pipeline rents on state land as staff recommended in the 2010 survey of methods used by agencies in other states to establish pipeline rents.

***Commission's Action: Pending.***

The commission stated that it is moving forward with the regulatory process to revise and update the regulations regarding rents, including those for pipelines.

**Recommendation 1.7.b—See pages 33 and 34 of the audit report for information on the related finding.**

To ensure that it does not undervalue certain types of leases, the commission should implement and follow its plan to regularly update its benchmarks for determining rental amounts.

***Commission's Action: Partially implemented.***

The commission provided an updated benchmark for San Francisco County. The commission asserted that it is progressing on the scheduled periodic updates of the other benchmarks.

**Recommendation 1.7.c—See page 34 of the audit report for information on the related finding.**

To ensure that it does not undervalue certain types of leases, the commission should periodically analyze whether collecting oil royalties in cash or in kind would maximize revenues to the State, and use that method to collect its oil royalties.

***Commission's Action: Fully implemented.***

The commission requested the city of Long Beach to perform an analysis of the sale of oil from the Long Beach leases. The city of Long Beach determined that it will not collect royalties in kind as such sales would be detrimental to the State. Commission staff conducted an analysis of its non-Long Beach leases and made a similar determination.

**Recommendation 2.1.a—See pages 38—40 of the audit report for information on the related finding.**

To improve its monitoring of leases, the commission should create and implement a policy, including provisions for supervisory review, to ensure that the information in the Application Lease Information Database (ALID) is complete, accurate, and consistently entered to allow for the retrieval of reliable lease information. To do so, the commission should consult another public lands leasing entity, such as the Department of General Services, to obtain best practices for a lease tracking database.

***Commission's Action: Partially implemented.***

The commission asserts that all income-producing leases have been verified for data elements related to rent review dates, lease term, and expiration dates. Further, commission staff is developing management reports that, according to the commission, will allow access to data in a format that will be useful for decision making. Finally, the commission is pursuing an off-the-shelf software program that could potentially replace ALID. However, the commission has not implemented a policy that includes provisions for a supervisory review of the data entered into ALID. Further, the commission has not yet consulted with other public lands leasing agencies to obtain best practices for a lease tracking-database.

**Recommendation 2.1.b—See page 39 of the audit report for information on the related finding.**

To improve its monitoring of leases, the commission should require all of its divisions to use ALID as its one centralized lease-tracking database.

***Commission's Action: Partially implemented.***

The commission stated that the steps it has taken should reduce the need for staff to use multiple data sources.

**Recommendation 2.2.a—See page 42 of the audit report for information on the related finding.**

To adequately monitor its revenue generating oil and gas leases, the commission should track the recoveries and findings identified in its audits and use this information to develop an audit plan that would focus on leases that have historically generated the most revenue and recoveries for the State, as well as those that historically have had the most problems.

***Commission's Action: Partially implemented.***

The commission developed an audit plan for all mineral leases that considers a combination of factors, including risk and specifies that the commission will track the recoveries and findings identified in its audits. However, the commission does not believe that it can implement the plan without additional staff but has recently requested several staff to accommodate the workload.

**Recommendation 2.2.b—See page 43 of the audit report for information on the related finding.**

To adequately monitor its revenue generating oil and gas leases, the commission should work with lessees that entered into a lease with the commission before 1977 to put in place a reasonable time period within which lessees must resolve other types of deduction claims similar to the regulations already in place for dehydration costs.

***Commission's Action: Partially implemented.***

The commission stated that staff will continue to work with lessee when the opportunity arises to implement the recommendation where appropriate and when it is in the best interests of the State. However, we believe the commission should implement a policy that demonstrates that the commission intends to make this a regular practice.

**Recommendation 2.2.c—See pages 43 and 44 of the audit report for information on the related finding.**

To adequately monitor its revenue generating oil and gas leases, the commission should explore and take advantage of other approaches to fulfill its auditing responsibilities, such as contracting with an outside consulting firm that could conduct some of its audits on a contingency basis.

***Commission's Action: Pending.***

The commission is withholding consideration of this approach until after the completion of a project for which the commission is currently contracting with an outside consulting firm.

**Recommendation 2.3—See pages 44 and 45 of the audit report for information on the related finding.**

The commission should establish a monitoring program to ensure that the funds generated from granted lands are expended in accordance with the public trust.

***Commission's Action: Pending.***

The commission is requesting additional staff to establish this monitoring program.

**Recommendation 2.4—See pages 46 and 47 of the audit report for information on the related finding.**

To ensure that all of its oil and gas leases have current surety bonds and liability insurance, as required by law and certain lease agreements, the commission should require lessees to provide documentation of their surety bonds and liability insurance. If the commission believes that assessing a monetary penalty will be effective in encouraging lessees to obtain surety bonds or liability insurance, it should seek legislation to provide this authority. Finally, if it obtains this authority, the commission should enforce it.

***Commission's Action: Partially implemented.***

The commission is requesting additional staff to establish a lease compliance program that would ensure lessees maintain current surety bonds and liability insurance, and is exploring regulations that would give it authority to penalize non-compliance.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

**Recommendation 3.1.a—See pages 52 and 53 of the audit report for information on the related finding.**

To better demonstrate its need for additional staff, the commission should conduct a workload analysis to identify a reasonable workload for its staff and use this analysis to quantify the need for additional staff.

***Commission's Action: Fully implemented.***

The commission conducted workload analyses that it included as part of its request for additional staff.

**Recommendation 3.1.b —See pages 53—55 of the audit report for information on the related finding.**

To better demonstrate its need for additional staff, the commission should quantify the monetary benefits of its staff's duties other than processing lease applications, and consider billing lessees for those activities.

***Commission's Action: Pending.***

The commission asserts that it is incorporating management fees into larger leases and is exploring legislative and regulatory changes necessary to address this issue.

**Recommendation 3.1.c—See page 55 of the audit report for information on the related finding.**

To better demonstrate its need for additional staff, the commission should ensure that the workload analysis takes into consideration the additional responsibilities and staffing needs that the commission will receive if the section of the state law that provides for rent free leases is repealed.

***Commission's Action: Fully implemented.***

The section of the state law that provided for rent-free leases was repealed during this past legislative session. The commission stated that it identified additional staffing needs in its enrolled bill report.

**Recommendation 3.2—See pages 55—57 of the audit report for information on the related finding.**

To better address current and potential future staffing shortages, as well as the impending loss of institutional knowledge, the commission should create a succession plan.

***Commission's Action: No action taken.***

Although the commission agrees with this recommendation, it indicated that it does not plan to address this recommendation until it has sufficient staff to do so.

# California Department of Corrections and Rehabilitation

## Inmates Sentenced Under the Three Strikes Law and a Small Number of Inmates Receiving Specialty Health Care Represent Significant Costs

### REPORT NUMBER 2009-107.2, ISSUED MAY 2010

This report concludes that inmates sentenced under the three strikes law, and a small number of inmates receiving specialty health care, represent significant costs. Specifically, about 25 percent of the inmate population was incarcerated under the three strikes law, which requires longer terms for individuals convicted of any felony if they were previously convicted of a serious or violent crime as defined in state law. On average, we estimate that these individuals' sentences are nine years longer because of the requirements of the three strikes law and that these additional years of incarceration represent a cost to the State of \$19.2 billion. Furthermore, the current conviction for which many of these individuals are incarcerated is not for a serious or violent crime, as defined in state law, and many were convicted of multiple serious or violent crimes that occurred on the same day.

Our review also found that of the \$529 million that California Prison Health Care Services (Health Care Services) incurred for contracted specialty health care providers in fiscal year 2007–08, \$469 million could be associated with individual inmates. Among the inmates with specialty health care costs, 70 percent averaged slightly more than \$1,000 per inmate and cost \$42 million in total, while the remaining 30 percent of inmates amassed specialty health care costs totaling more than \$427 million. Furthermore, specialty health care costs for 1,175 inmates, or just one-half of 1 percent of the inmates incarcerated during the year, totaled \$185 million. In addition, specialty health care costs totaled \$8.8 million for the 72 inmates who died during the last quarter of the year, exceeding \$1 million in the case of one inmate.

Finally, a significant amount of custody staff overtime is the result of a medical guarding and transportation workload that does not have associated authorized positions. Overtime is also necessary when custody staff positions are vacant, but is decreased by staff who do not use the full amount of leave they earn. However, the unused leave of custody staff—increased by the additional leave provided through the furlough program—represents a liability to the State that we estimate is at least \$546 million and could be more than \$1 billion.

In the report, the California State Auditor (state auditor) made the following recommendations to the California Department of Corrections and Rehabilitation (Corrections) and Health Care Services. The state auditor's determination regarding the current status of recommendations is based on Corrections' and Health Care Services' responses to the state auditor as of May 2011.

#### **Recommendation 1.1.a—See pages 31—33 of the audit report for information on the related finding.**

To address the erroneous sentencing information and inappropriately assigned convictions in its data system, Corrections should complete its cleanup of data that will be transferred into the new system, ensuring that this review includes a detailed evaluation of convictions that have been assigned outdated sentencing information as well as deleting erroneous sentencing information, before it begins using its new data system.

#### ***Corrections' Action: Pending.***

In August 2011 Corrections stated that the conversion activities to migrate data will be part of the module in the Strategic Offender Management System (SOMS) that will not be implemented until 2012. Corrections stated that the Case Records unit has staff reviewing various tables in preparation for the data conversion effort for the sentence calculation module of SOMS. The Case Records unit also has staff reviewing specific cases as identified by the state auditor.

**Recommendation 1.1.b—See pages 31—33 of the audit report for information on the related finding.**

To address the erroneous sentencing information and inappropriately assigned convictions in its data system, Corrections should create a schedule for regular checks of the accuracy of existing sentencing information, as well as the accuracy with which sentencing information has been assigned to convictions.

***Corrections' Action: Partially implemented.***

In its six-month response, Corrections had reviewed and updated its procedures for adding or altering sentencing information in its Offender Based Information System. However, we noted that this response failed to completely address the recommendation. Specifically, Corrections did not address the evaluation of the accuracy of existing sentencing information as we recommended. As of its one-year response and additional inquiry in August 2011, Corrections did not provide any additional information or documentation related to our concerns.

**Recommendation 2.1—See pages 40—43 of the audit report for information on the related finding.**

Health Care Services should continue to explore methods of reducing the costs of medical care to the State, including those of inmates with high medical costs. These efforts could include proposing a review of the program that allows for the early release of terminally ill or medically incapacitated inmates, and other possible means of altering the ways in which inmates are housed without unduly increasing the risk to the public.

***Health Care Services' Action: Fully implemented.***

Health Care Services provided a copy of the emergency regulations for the new medical parole process, which were approved and adopted in April 2011. According to Health Care Services, as of April 2011, it had identified 38 potential candidates for medical parole and reported that it was working to provide these cases to the Board of Parole Hearings for consideration.

**Recommendation 2.2—See pages 43 and 44 of the audit report for information on the related finding.**

To improve its ability to analyze and demonstrate the effectiveness of current and future utilization management efforts in containing health care costs, Health Care Services should identify a method to associate cost information with utilization management data.

***Health Care Services' Action: Fully implemented.***

Health Care Services stated that it has developed various reports that link volume data with paid claims so that high volume and high cost specialty and hospital data can be analyzed. Health Care Services provided copies of a sample from these reports and provided its Utilization Management Monthly Cost Report for February 2011.

**Recommendation 2.3.a—See page 44 of the audit report for information on the related finding.**

To determine whether the additional expansion of telemedicine is cost-effective within the California correctional system, Health Care Services should identify and collect the data it needs to estimate the savings of additional telemedicine through an analysis of the cost of specialty care visits currently provided outside of the institution that could be replaced with telemedicine.

***Health Care Services' Action: Partially implemented.***

Health Care Services indicated that its Office of Telemedicine Services and Utilization Management have developed a report to track and measure the percentage of telemedicine visits compared to offsite consultations. Health Care Services provided a sample of some of the information compiled. Health Care Services indicated that its third-party administrator is currently testing and modifying reports tracking initial and follow-up for specialist visits. Additionally, Health Care Services stated that its contracted network health care provider is currently recruiting for provider specialists and that trending and analysis will be produced once data is gathered for a minimum of six months.

**Recommendation 2.3.b—See pages 44—46 of the audit report for information on the related finding.**

To determine whether the additional expansion of telemedicine is cost-effective within the California correctional system, Health Care Services should further analyze the cost-effectiveness of telemedicine through a more robust estimate of savings, including considering factors such as the percent of telemedicine consultations that required subsequent in-person visits because the issue could not be addressed through telemedicine.

***Health Care Services' Action: Pending.***

Health Care Services stated that to incentivize telemedicine, provider rate structures are the same for telemedicine and in-person visits and as telemedicine visits increase, and improves access to health care, improvements in public safety and decreases in travel and custody costs for off-site specialty visits and follow-ups should result. Cost avoidance outcomes are to be determined by a health care access team and will be reflected in decreased transportation and guarding costs. As noted in the previous recommendation, trending and analysis will be produced once data is gathered for a minimum of six months.

**Recommendation 3.1—See pages 51 and 52 of the audit report for information on the related finding.**

To ensure that the State Controller's Office has accurate information on the number of authorized and filled positions, Corrections should determine why the number of positions the State Controllers' Office indicates are vacant is higher than the number of vacant positions it is aware of, and submit information to the State Controller's Office to correct this situation as necessary.

***Corrections' Action: Fully implemented.***

Corrections stated that it completed the design and development of all Human Resource functions in its Enterprise Resource Solution, the same system as the State Controller's Office uses and that this automated system includes a strong position maintenance module that will improve the accuracy of position information. Corrections also stated that it has completed various efforts to improve its position data, including reconciling position data with the State Controller's Office data, completing data cleansing activities, establishing a baseline position data set, and developing processes to ensure ongoing maintenance of position data. Corrections also stated that it is monitoring compliance and these efforts are ongoing. In August 2011 Corrections provided its monthly discrepancy summary for the months of February through August 2011 demonstrating its efforts to correct and reduce the number of discrepancies and continuous effort to reconcile budget information with the State Controller's Office.



**Recommendation 3.2—See pages 52 and 53 of the audit report for information on the related finding.**

To ensure that the total amount of overtime worked by custody staff does not unduly reduce their effectiveness and result in unsafe operations, Health Care Services should monitor overtime closely. If its efforts to reduce the number of referrals of inmates to outside specialty services do not reduce the amount of overtime worked by custody staff for the purpose of medical guarding and transportation, Health Care Services should explore other methods of reducing the total amount of overtime worked by custody staff.

***Health Care Services' Action: Pending.***

In its six-month response, Health Care Services stated that it is participating in a joint effort with Corrections to assess medical guarding and transportation staffing, as well as the use of overtime to ensure custody staffing needs are addressed. In its one-year response, Health Care Services noted that its efforts have been delayed because it is waiting on Corrections to complete its portion of the effort. Health Care Services also stated that further review of staffing will be addressed in subsequent follow-up assessments in the next fiscal year.

**Recommendation 3.3—See pages 55—58 of the audit report for information on the related finding.**

To ensure that custody staffing meets institutional needs, and to provide staff the opportunity to use the amount of leave that they earn in the future, Corrections should update its staffing formulas to accurately represent each of the factors for which custody staff are unavailable to work, such as vacation or sick leave. Corrections should attend to this project before implementing its new business information system to ensure the updated formulas can be used as soon as practical. In addition, Corrections should create a policy for regularly scheduled reviews of the data used in the staffing formulas and update the formulas as necessary.

***Corrections' Action: Pending.***

In May 2011 Corrections stated that it plans to conduct an annual review of the average usage and accrual rates for various leave categories and that it had collected the data and is in the process of reviewing the data. In August 2011 Corrections provided a summary of the data collected for fiscal year 2010–11. Corrections' one-year response also stated that it is currently working to replace the relief methodology with a ratio driven formula and that the new formula will ensure staffing levels are adequate to allow custody staff to use the leave balances they earn. Corrections indicated that it anticipates completing the methodology update by December 2011.

**Recommendation 3.4.a—See pages 59—63 of the audit report for information on the related finding.**

To better communicate to policy makers the annual cost of incarceration, and to provide a more accurate estimate of expenditures associated with changes in the large leave balances of custody staff—many of whom require relief coverage when they are absent—Corrections should provide a calculation of the annual increase or decrease in its liability for the leave balances of custody staff to better explain the cause of changes in expenditures to the relevant legislative policy and fiscal committees.

***Corrections' Action: No action taken.***

Corrections references its previous discussion regarding efforts to replace its staffing formula that will ensure adequate staffing levels to allow custody staff to use the leave they earn. However, in no way does this action communicate to the relevant legislative policy and fiscal committees the amount, or increase or decrease in Corrections' liability for custody staff leave balances, as we recommended.

**Recommendation 3.4.b—See pages 59—63 of the audit report for information on the related finding.**

To better communicate to policy makers the annual cost of incarceration, and to provide a more accurate estimate of expenditures associated with changes in the large leave balances of custody staff—many of whom require relief coverage when they are absent—Corrections should provide an estimate of the annual cost of leave balances likely to be paid for retiring custody staff to the relevant legislative policy and fiscal committees.

***Corrections' Action: No action taken.***

Corrections states that due to a number of factors influencing retirement decisions, it is difficult to accurately estimate the annual cost of leave balances paid out to retiring custody staff. As a result, it does not intend to provide any further response to this recommendation.





# California Prison Industry Authority

## It Can More Effectively Meet Its Goals of Maximizing Inmate Employment, Reducing Recidivism, and Remaining Self-Sufficient

### REPORT NUMBER 2010-118, ISSUED MAY 2011

This report concludes that although one of its primary responsibilities is to offer inmates the opportunity to develop effective work habits and occupational skills, the California Prison Industry Authority (CALPIA) cannot determine the impact it makes on post-release inmate employability because it lacks reliable data. Specifically, both CALPIA and a consultant it hired were unable to match the social security number of parolees from the California Department of Corrections and Rehabilitation's (Corrections) Offender Based Information System to employment data from the Employment Development Department. We attempted to measure CALPIA's impact using a different source—Corrections' CalParole Tracking System (CalParole)—but could not because we found more than 33,000 instances of erroneous parolee employer information in this system. Our audit also revealed that while CALPIA created a set of comprehensive performance indicators for the entire organization, its opportunity to track its performance is limited because it only recently finalized a tracking matrix in March 2011. Moreover, several of these indicators are either vague or not measureable.

We also noted that CALPIA could improve the accuracy of its annual reports to the Legislature. Although we found that the recidivism rate for parolees who worked for CALPIA were consistently lower than the rates of the general prison population, CALPIA overstated by \$546,000 the savings it asserts result from the lower recidivism rate. Further, CALPIA did not acknowledge that factors other than participating in one of its work programs may have contributed to the lower recidivism rates among its parolees.

CALPIA's closure of more enterprise locations than it has opened has resulted in a decline of work opportunities for inmates. Since 2004 it has established two new enterprises and reactivated or expanded four others; however, during the same time period it closed, deactivated, or reduced the capacity of six other enterprises at 10 locations, resulting in a net loss of 441 inmate positions. Finally, although CALPIA's five largest state agency customers paid more for certain CALPIA products, overall they saved an estimated \$3.1 million during fiscal year 2009–10 when purchasing the 11 products and services that we evaluated.

In the report, the California State Auditor (state auditor) made the below recommendations to CALPIA and Corrections. The state auditor's determination regarding the current status of recommendations is based on CALPIA's and Corrections' responses to the state auditor as of November 2011.

#### **Recommendation 1.1.a—See pages 17—20 of the audit report for information on the related finding.**

To improve the reliability of employment data contained in CalParole, Corrections should ensure that parole agents correctly follow procedures related to populating the data fields of and maintaining CalParole.

#### ***Corrections' Action: Pending.***

According to Corrections, it intends to release a policy memorandum in April 2012 to provide direction to field staff about entering offender data into CalParole, which will include detail on the integrity of employment information. Further, Corrections indicates that it will release another policy memorandum in April 2012 outlining the use of the parole performance index (PPI), a new tool used to monitor data input within CalParole. The policy memorandum is to include instructions for managers to audit the frequency and quality of CalParole updates. As of January 12, 2012, Corrections indicates that executive management is using PPI while it is being finalized for release to parole staff for general use.

**Recommendation 1.1.b—See pages 17—20 of the audit report for information on the related finding.**

In addition, supervisors of parole agents should conduct periodic reviews of parolee files to verify whether employment fields are completed appropriately and whether employment is documented adequately.

***Corrections' Action: Pending.***

In addition to existing department procedures that require parole agent supervisors to review all cases subject to active supervised parole, Corrections indicated that the new PPI is a secondary monitoring tool for parole agent supervisors to ensure data put into CalParole is correct. As previously stated, currently the PPI is being used by executive management while being finalized for release to parole staff for general use.

**Recommendation 1.2—See pages 17—20 of the audit report for information on the related finding.**

As Corrections prepares to move CalParole data into the Strategic Offender Management System (SOMS), it should modify existing employment related fields and add to SOMS new fields that are currently not available in CalParole so that Corrections can minimize the opportunity for erroneous data entries and make employment data more reliable.

***CALPIA's Action: Pending.***

According to Corrections, it is in the process of modifying existing employment-related fields in SOMS in a thorough, more detailed manner than that currently captured within CalParole.

**Recommendation 1.3—See pages 20—23 of the audit report for information on the related finding.**

To ensure that it has a uniform set of inmate assignment standards, CALPIA should continue its efforts to issue regulations and complete the amendment of Corrections' operations manual. It should then work with Corrections to implement the changes to the inmate assignment criteria and the assignment process when the regulations take effect.

***CALPIA's Action: Pending.***

CALPIA indicates that its proposed amendment regarding inmate hiring and assignment criteria to Corrections' operating manual is still under review by Corrections' Policy and Regulations Unit. Once Corrections approves the amendment, CALPIA will draft regulations for review and approval by the Office of Administrative Law.

**Recommendation 1.4.a—See pages 23—25 of the audit report for information on the related finding.**

To allow it to measure progress in meeting the goals in its strategic plan, CALPIA should ensure that all of its performance indicators are clear, measurable, and consistently tracked. It should also continue its efforts to properly measure its performance and to track each performance indicator.

***CALPIA's Action: Fully implemented.***

According to CALPIA, it formed a strategic business council of five CALPIA managers, who are each responsible for one of the five strategic plan goals. The strategic business council is to assess progress on the goals each month. Further, at least monthly, these five managers also meet with their staff to assess whether its strategic business plan's underlying objectives and actions steps are relevant to accomplishing the plan's goals and that measures used to track progress are properly utilized.

In addition, CALPIA indicates that its performance measurement matrix has been improved to capture results with performance indicators in a dashboard-style chart that uses color codes and is updated and reviewed monthly by management. Instructions have been developed to provide clear and standardized instructions for managers and staff when reporting and utilizing the improved performance measurement dashboard matrix.

**Recommendation 1.4.b—See pages 23—25 of the audit report for information on the related finding.**

Further, CALPIA needs to create a process that will allow its management to review the results of performance tracking and ensure that the results can be recreated at least annually.

***CALPIA's Action: Fully implemented.***

CALPIA indicates the strategic business council reviews the performance measurement dashboard on a monthly basis. Further, to ensure that its results can be recreated at least annually, CALPIA states that it retains all documentation related to its strategic planning efforts. This documentation includes minutes of meetings, project management timelines, completed performance measure checklists, data collection and analysis, and periodic compilations of performance results for the five strategic goals.

**Recommendation 1.5.a—See pages 25—29 of the audit report for information on the related finding.**

CALPIA should maintain the source documentation used in calculating the savings it brings to the State as well as ensure that an adequate secondary review of its calculation occurs.

***CALPIA's Action: Pending.***

According to CALPIA, it has hired two graduate student assistants to review CALPIA's recidivism calculation and revise the calculation as needed. Once the final recidivism calculation has been produced, CALPIA indicates it will memorialize the calculation's methodology and supporting documentation so the same figures can be reproduced or updated as needed.

**Recommendation 1.5.b—See pages 25—29 of the audit report for information on the related finding.**

It should also qualify its savings by stating that employment at CALPIA enterprises may be just one of several factors that contribute to the lower recidivism of its inmates.

***CALPIA's Action: Pending.***

CALPIA agrees that there may be other factors that contribute to the lower recidivism rate of CALPIA participants. According to CALPIA, since the completion of our audit, it has endeavored to develop a more accurate method to calculate the recidivism rate of its inmates and the related savings to the State's general fund. CALPIA stated that upon completion of the recidivism study, it will provide qualifying information about the recidivism calculation, including other contributing factors, if they are found.

**Recommendation 2.1—See page 34 of the audit report for information on the related finding.**

CALPIA should continue to use its recently improved method of identifying new product ideas and the changing needs of state agencies.

***CALPIA's Action: Fully implemented.***

CALPIA states that it is continuing to use the recently updated product development process to ensure product and enterprise concepts are properly screened prior to their launch. It also indicates that it is documenting instructions for using this process on the CALPIA intranet for staff.

**Recommendation 2.2—See pages 37 and 38 of the audit report for information on the related finding.**

When performing analyses to establish prices for its products, CALPIA should document the basis for each product's or service's profit margin and should also ensure that it always considers and documents market data when making pricing decisions.

***CALPIA's Action: Fully implemented.***

CALPIA indicates that each product price analysis now includes the basis for the product's profit margin as well as market data for comparable products.

**Recommendation 2.3—See pages 43 and 45 of the audit report for information on the related finding.**

CALPIA should continue to ensure that its managers use the estimated net profit report on a regular basis to review the profitability of each enterprise and to make decisions on how to improve the profitability of those enterprises that are unprofitable.

***CALPIA's Action: Fully implemented.***

CALPIA asserts it continues to ensure that managers use the estimated net profit report to monitor each enterprise's profitability.



# Sex Offender Commitment Program

## Streamlining the Process for Identifying Potential Sexually Violent Predators Would Reduce Unnecessary or Duplicative Work

### REPORT NUMBER 2010-116, ISSUED JULY 2011

This report concludes that the Department of Corrections and Rehabilitation (Corrections) and the Department of Mental Health's (Mental Health) processes for identifying and evaluating sexually violent predators (SVPs) are not as efficient as they could be and at times have resulted in the State performing unnecessary work. The current inefficiencies in the process for identifying and evaluating potential SVPs stems in part from Corrections' interpretation of state law. These inefficiencies were compounded by recent changes made by voters through the passage of Jessica's Law in 2006. Specifically, Jessica's Law added more crimes to the list of sexually violent offenses and reduced the required number of victims to be considered for the SVP designation from two to one, and as a result many more offenders became potentially eligible for commitment. Additionally, Corrections refers all offenders convicted of specified criminal offenses enumerated in law but does not consider whether an offender committed a predatory offense or other factors that make the person likely to be an SVP, both of which are required by state law. As a result, the number of referrals Mental Health received dramatically increased from 1,850 in 2006 to 8,871 in 2007, the first full year Jessica's Law was in effect. In addition, in 2008 and 2009 Corrections referred 7,338 and 6,765 offenders, respectively. However, despite the increased number of referrals it received, Mental Health recommended to the district attorneys or the county counsels responsible for handling SVP cases about the same number of offenders in 2009 as it did in 2005, before the voters passed Jessica's Law. In addition, the courts ultimately committed only a small percentage of those offenders. Further, we noted that 45 percent of Corrections' referrals involved offenders whom Mental Health previously screened or evaluated and had found not to meet SVP criteria. Corrections' process did not consider the results of previous referrals or the nature of parole violations when re-referring offenders, which is allowable under the law.

Our review also found that Mental Health primarily used contracted evaluators to perform its evaluations—which state law expressly permits through the end of 2011. Mental Health indicated that it has had difficulty attracting qualified evaluators to its employment and hopes to remedy the situation by establishing a new position with higher pay that is more competitive with the contractors. However, it has not kept the Legislature up to date regarding its efforts to hire staff to perform evaluations, as state law requires, nor has it reported the impact of Jessica's Law on the program.

In the report, the California State Auditor (state auditor) made the following recommendations to Mental Health and Corrections. The state auditor's determination regarding the current status of recommendations is based on Mental Health's and Corrections' responses to the state auditor as of September 2011.

#### **Recommendation 1.1—See pages 15—17 of the audit report for information on the related finding.**

To enable it to track trends and streamline processes, Mental Health should expand the use of its database to capture more specific information about the offenders whom Corrections refers to it and the outcomes of the screenings and evaluations that it conducts.

#### ***Mental Health's Action: Pending.***

Mental Health reported that it has identified database enhancements that will enable it to track more specific information and that these changes will enable Mental Health to track trends and streamline processes. In August 2011 Mental Health's project team began discussing development of the enhancements and estimates fully implementing this recommendation by January 2013.

**Recommendation 1.2.a—See pages 19 and 20 of the audit report for information on the related finding.**

To eliminate duplicative effort and increase efficiency, Corrections should not make unnecessary referrals to Mental Health. Corrections and Mental Health should jointly revise the structured screening instrument so that the referral process adheres more closely to the law's intent.

***Mental Health's Action: Pending.***

Mental Health stated that it is working with Corrections to further streamline the referral process to eliminate duplicative effort and increase efficiency. Mental Health also stated that in July 2011 it began meeting with Corrections bi-weekly to focus on referrals, access to records, systems and equipment.

**Recommendation 1.2.b—See pages 19—23 of the audit report for information on the related finding.**

To eliminate duplicative effort and increase efficiency, Corrections should not make unnecessary referrals to Mental Health. For example, Corrections should better leverage the time and work it already conducts by including in its referral process: (1) determining whether the offender committed a predatory offense, (2) reviewing results from any previous screenings and evaluations that Mental Health completed and considering whether the most recent parole violation or offense might alter the previous decision, and (3) using STATIC-99R to assess the risk that an offender will reoffend.

***Corrections' Action: Pending.***

Corrections stated that it will explore the best method to evaluate the circumstance of the qualifying conviction to determine if the elements of the offense were predatory in nature and evaluate the circumstance of the new parole violation and or new conviction to determine if the new elements alter the previous decision. Corrections stated that in September 2011 its Board of Parole Hearings met with Mental Health to discuss the screening process and plans to meet again to evaluate and discuss Mental Health's screening process, whether the current screening process could be replicated within Corrections using existing resources, and to work with Mental Health to develop a screening form for use by Corrections to determine which cases will be referred to Mental Health for full evaluations.

**Recommendation 1.3—See pages 23 and 24 of the audit report for information on the related finding.**

To allow Mental Health sufficient time to complete its screenings and evaluations, Corrections should improve the timeliness of its referrals. If it does not achieve a reduction in referrals from implementing recommendation 1.2.b, Corrections should begin the referral process earlier than nine months before offenders' scheduled release dates in order to meet its six-month statutory deadline.

***Corrections' Action: Pending.***

Corrections stated that it is taking various steps to evaluate potential efficiencies to streamline its screenings and is establishing a new database for tracking cases requiring review. These actions are scheduled to be completed during the last quarter of 2011 and Corrections plans to complete a six-month report in January 2012. Corrections did not provide documentation of its efforts but we look forward to its report and corroborating documentation of its efforts in its six-month update.

**Recommendation 1.4—See pages 27—29 of the audit report for information on the related finding.**

To reduce costs for unnecessary evaluations, Mental Health should either issue a regulation or seek a statutory amendment to clarify that when resolving a difference of opinion between the two initial evaluators of an offender, Mental Health must seek the opinion of a fourth evaluator only when a third evaluator concludes that the offender meets SVP criteria.

***Mental Health's Action: Pending.***

Mental Health stated that it is preparing rulemaking packages, which will include the submission of regulations, to the Office of Administrative Law by the end of 2011.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

**Recommendation 1.5—See pages 29—32 of the audit report for information on the related finding.**

To ensure that it will have enough qualified staff to perform evaluations, Mental Health should continue its efforts to obtain approval for a new position classification for evaluators. If the State Personnel Board (SPB) approves the new classification, Mental Health should take steps to recruit qualified individuals as quickly as possible. Additionally, Mental Health should continue its efforts to train its consulting psychologists to conduct evaluations.

***Mental Health's Action: Partially implemented.***

Mental Health stated that its SVP Evaluator classification proposal is to be heard by SPB in October 2011 and if approved, Mental Health will immediately recruit and train evaluators once the position is approved. Additionally, Mental Health reported that Senate Bill 179, approved in September 2011, allows for an extension to use contractors until January 2013.

**Recommendation 1.6—See page 32 of the audit report for information on the related finding.**

To ensure that the Legislature can provide effective oversight of the program, Mental Health should complete and submit as soon as possible its reports to the Legislature about Mental Health's efforts to hire state employees to conduct evaluations and about the impact of Jessica's Law on the program.

***Mental Health's Action: Partially implemented.***

Mental Health submitted a combined report on its efforts to hire state employees in July 2011. This report covered its activities for the period July 2009 through January 2011. Mental Health stated that it planned to submit two additional reports to the Legislature by October 1, 2011: a report covering its efforts to hire state employees through July 2011 and a report on the impact of Jessica's Law on the program.



# Department of Corrections and Rehabilitation

## The Benefits of Its Correctional Offender Management Profiling for Alternative Sanctions Program Are Uncertain

### REPORT NUMBER 2010-124, ISSUED SEPTEMBER 2011

Our report concludes that the benefits from the Department of Corrections and Rehabilitation's (Corrections) use of the Correctional Offender Management Profiling for Alternative Sanctions Program (COMPAS) are, at best, uncertain. Specifically, Corrections' use of COMPAS in its reception centers—facilities where inmates entering the correctional system are evaluated and assigned to a prison—does not meaningfully affect its decision making concerning prison assignments, and by extension, the rehabilitative programs inmates might access at those facilities. Further, the COMPAS core assessment identifies up to five different needs; however, Corrections has rehabilitative programs that address only two. Corrections has not established regulations defining how COMPAS assessments are to be used despite legal requirements to do so.

Our review also revealed other problems with Corrections' deployment of COMPAS that negatively affect its usefulness. Some correctional staff we spoke with at reception centers and parole offices indicated a lack of acceptance of COMPAS, suggesting the need for further training or clarification regarding COMPAS's value. Further, Corrections' use of COMPAS for placing inmates into its in-prison rehabilitative programs is limited to its substance abuse program. However, we found that many in this program either lack COMPAS assessments or have a low COMPAS-identified need for substance abuse treatment. Moreover, relatively few inmates with moderate to high substance abuse treatment needs, as determined through the COMPAS core assessment, are assigned to a treatment program. Finally, we found that Corrections lacks accounting records demonstrating how much it cost to fully deploy and implement COMPAS at its reception centers, prisons, and parole offices.

In the report, the California State Auditor (state auditor) made the following recommendations to Corrections. The state auditor's determination regarding the current status of recommendations is based on Corrections' response to the state auditor as of November 2011.

#### **Recommendation 1.1.a—See pages 21, 37, and 38 of the audit report for information on the related finding.**

To ensure that the State does not spend additional resources on COMPAS while its usefulness is uncertain, Corrections should suspend its use of the COMPAS core and reentry assessments until it has issued regulations and updated its operations manual to define how Corrections' use of COMPAS will affect decision making regarding inmates, such as clarifying how COMPAS results will be considered when sending inmates to different prison facilities, enrolling them in rehabilitative programs to address their criminal risk factors, and developing expectations for those on parole.

#### ***Corrections' Action: Pending.***

Corrections does not agree with our overarching recommendation to suspend its use of COMPAS until it takes certain steps; however, it indicated that it intends to issue regulations and update its operations manual that will discuss COMPAS. Specifically, Corrections indicated that it is coordinating with internal stakeholders to update the California Code of Regulations through the emergency regulation process on the use of the COMPAS core assessment. Corrections anticipates it will adopt regulations by January 2012 and update its department operations manual next year on the use of the COMPAS core assessment. Regarding the use of its COMPAS reentry assessment, Corrections reports that it has developed regulations that will be incorporated into Title 15 of the California Code of Regulations, will develop by late December 2012 procedures to include in its department operations manual, and will implement by September 2014 the California Parole Supervision and Reintegration Model requiring the use of the reentry assessment to identify criminogenic needs and how to address those needs.

**Recommendation 1.1.b—See page 29 of the audit report for information on the related finding.**

To ensure that the State does not spend additional resources on COMPAS while its usefulness is uncertain, Corrections should suspend its use of the COMPAS core and reentry assessments until it has demonstrated to the Legislature that it has a plan to measure and report COMPAS's effect on reducing recidivism. Such a plan could consider whether inmates enrolled in a rehabilitative program based on a COMPAS assessment had lower recidivism rates than those provided rehabilitative programming as a result of non-COMPAS factors.

***Corrections' Action: No action taken.***

Corrections indicated it plans to use COMPAS assessment data in future recidivism reports as one component of many within an evaluation framework to assess the effectiveness of Corrections' rehabilitative programs. Corrections' response did not demonstrate that it has communicated with the Legislature regarding how it plans to measure COMPAS's usefulness.

**Recommendation 1.2.a—See pages 19, 20, and 37 of the audit report for information on the related finding.**

Once Corrections resumes its use of COMPAS core and reentry assessments, it should provide ongoing training to classification staff representatives, parole agents, and others that may administer or interpret COMPAS assessment results to ensure that COMPAS is a valuable inmate assessment and planning tool.

***Corrections' Action: Partially implemented.***

According to Corrections, some of its staff received training in September 2011 while other staff will be receiving training in 2012 and 2013.

**Recommendation 1.2.b—See pages 28 and 36 of the audit report for information on the related finding.**

Once Corrections resumes its use of COMPAS core and reentry assessments, it should develop practices or procedures to periodically determine whether its staff are using COMPAS core or reentry assessments as intended. Such a process might include performing periodic site visits to corroborate that COMPAS is being used as required.

***Corrections' Action: Pending.***

According to Corrections, it is developing a site visit process that will include a review of the assessment process and a report that outlines any issues that were found during the site visit.

**Recommendation 1.2.c—See page 23 of the audit report for information on the related finding.**

Once Corrections resumes its use of COMPAS core and reentry assessments, it should develop practices or procedures to periodically compare the demand for certain rehabilitative programs, as suggested by a COMPAS core assessment, to the existing capacity to treat such needs.

***Corrections' Action: Partially implemented.***

According to Corrections, it produces monthly statistics to show the percentage of inmates in a substance abuse program with medium to high COMPAS needs and the number and percentage of inmates released to parole that received programming consistent with their risk and need. However, Corrections did not provide evidence that it is comparing the demand for rehabilitative programs—as suggested by COMPAS—to its program capacity.

**Recommendation 1.3.a—See pages 39 and 40 of the audit report for information on the related finding.**

To ensure transparency and accountability for costs associated with information technology projects such as COMPAS, Corrections should disclose that it lacks accounting records to support certain COMPAS expenditure amounts it reported to the California Technology Agency and seek guidance on how to proceed with future reporting requirements for its deployment of the COMPAS core assessment to its adult institutions.

***Corrections' Action: Fully implemented.***

Corrections' staff met with the California Technology Agency in October 2011 and disclosed that it lacked accounting records to support certain COMPAS expenditures that Corrections has been submitting to the California Technology Agency. The California Technology Agency stated that Corrections' reporting of COMPAS costs were appropriate.

**Recommendation 1.3.b—See page 40 of the audit report for information on the related finding.**

To ensure transparency and accountability for costs associated with information technology projects such as COMPAS, Corrections should develop policies to ensure that accounting or budget management personnel are involved in the project planning phase of future information technology projects so that appropriate accounting codes are established for reporting actual project costs.

***Corrections' Action: Pending.***

According to Corrections, it has begun discussions with its Corrections' budget staff to revise its cost-tracking guidelines.





# High-Speed Rail Authority

## It Risks Delays or an Incomplete System Because of Inadequate Planning, Weak Oversight, and Lax Contract Management

### REPORT NUMBER 2009-106, ISSUED APRIL 2010

This report concludes that the High-Speed Rail Authority (Authority) has not adequately planned for the future development of the high-speed rail network (program). For example, in its 2009 business plan, the Authority outlined the sources from which it expected to receive the funds necessary to meet the estimated \$42.6 billion cost of the program. The Authority stated it would need \$17 billion to \$19 billion from the federal government; however, the Authority has received a federal commitment of only \$2.25 billion. In addition, the business plan does not make clear which government would be responsible for a revenue guarantee needed to attract private investors, or how much it might cost. The program risks significant delays without more well-developed plans for obtaining funds.

The Authority also needs to improve some administrative practices. State law requires the Authority to establish an independent peer review group (review group) to review the Authority's plans, but only five of the eight members have been appointed. Thus, the Authority cannot fully benefit from the expertise the review group would provide. Additionally, the Authority does not currently categorize and track expenditures for administration, which state law limits to 2.5 percent (\$225 million) of the \$9 billion in bond funds authorized. Unless it tracks these funds and develops long-range plans for spending them, it risks running out of them prematurely.

Finally, a primary tool for monitoring the program has been inadequate and the Authority has not implemented effective controls over invoice processing and in some cases has paid for work that was not part of contracts or work plans. Three recent monthly progress reports the contractor managing the program (program manager) submitted to the Authority contained inconsistent information and did not compare actions performed and products created to what contractors promised to complete in their work plans. Additionally, the Authority paid at least \$4 million of invoices for which it had no evidence from the program manager that the contractors had performed the work invoiced. The Authority also paid more than \$268,000 for work that was not included in contractors' work plans, impairing its ability to measure performance against those plans, and it misused public funds when it paid \$46,000 for furniture not covered in the contract with its program manager.

In the report, the California State Auditor (state auditor) made the following recommendations to the Authority. The state auditor's determination regarding the current status of recommendations is based on the Authority's response to the state auditor as of April 2011.

#### **Recommendation 1.1—See pages 17—24 of the audit report for information on the related finding.**

To ensure that it can respond adequately to funding levels that may vary from its business plan, the Authority should develop and publish alternative funding scenarios that reflect the possibility of reduced or delayed funding from the planned sources. These scenarios should detail the implications of variations in the level or timing of funding on the program and its schedule.

#### ***Authority's Action: Pending.***

The Authority stated that it will release a funding plan and updated business plan in October 2011. To help develop the plan, it chose a financial services consultant but could not reach agreement on contract terms and conditions. According to the Authority, it released a revised request for proposal in April 2011 and expected to execute a contract for financial services in mid-May 2011.

**Recommendation 1.2—See pages 22—24 of the audit report for information on the related finding.**

In order to plan adequately for private investment, the Authority should further specify the potential costs of planned revenue guarantees and who would pay for them.

***Authority's Action: Pending.***

The Authority stated that it continues working with financial and legal consultants to provide a discussion of revenue guarantees. It expects that the issue of planned revenue guarantees will be addressed in the October 2011 funding and business plans.

**Recommendation 1.3—See pages 24 and 25 of the audit report for information on the related finding.**

In order to respond effectively to circumstances that could significantly delay or halt the program, the Authority should ensure that it implements planned actions related to managing risk.

***Authority's Action: Pending.***

The Authority stated that it needs, but cannot hire, a senior risk manager and management auditors due to an executive order freezing hiring. It says it is seeking an exemption from the freeze and is moving ahead with conducting interviews for a senior management auditor.

**Recommendation 1.4—See pages 26 and 27 of the audit report for information on the related finding.**

To avert possible legal challenges, the Authority should ensure that the review group adheres to the Meeting Act or seek a formal opinion from the Office of the Attorney General regarding whether the review group is subject to this act.

***Authority's Action: Pending.***

The Authority provided a letter from Assemblymember Galgiani stating that, as the author of Assembly Bill 3034, it was not her intent that the peer review group not be subject to open-meeting rules. However, the Authority has not sought a formal legal opinion on the matter.

**Recommendation 1.5—See pages 28 and 29 of the audit report for information on the related finding.**

To ensure that it does not run out of funds for administrative and preconstruction tasks prematurely, the Authority should track expenditures for these activities and develop a long-term spending plan for them. It also should develop procedures and systems to ensure that it complies with Recovery Act requirements.

***Authority's Action: Partially implemented.***

The Authority stated that system enhancements went online in May 2010. At present, the system contains data that allows for the output of expenditure data. Further, staff continues to enhance and refine system capabilities. Also, the Authority provided an expenditure report showing amounts expended for administration by category, by fiscal year, and in total. Travel, rent, and interagency services made up most of the costs. However, the Authority did not provide evidence of a long-term spending plan.

**Recommendation 1.6—See pages 29—31 of the audit report for information on the related finding.**

The Authority should participate in the development of key policy documents, such as its business and strategic plans. Further, Authority members should adhere to their policies and procedures, including those outlining how they may communicate with contractors.

***Authority's Action: Fully implemented.***

The Authority added language to its policies and procedures stating that the Authority—meaning the appointed members of the board—is responsible for developing key policy documents, including approving business plans and strategic plans. The Authority also added language to its policies and procedures requiring that board members communicate with contractors through the Authority's chief executive officer.

**Recommendation 1.7—See pages 32—34 of the audit report for information on the related finding.**

In order to ensure that staff receive relevant information on the program's status, the Authority should amend the oversight consultant's work plan to include a critical review of the progress reports for accuracy and consistency. Authority staff also should request that the program manager revise its progress reports to include information on the status of contract products and services in relationship to what was promised.

***Authority's Action: Fully implemented.***

The Authority's project management oversight consultant amended its work plan to include review of the program manager's progress reports. The Authority provided a March 2011 progress report from the program manager, which included a table of past-due deliverables and an analysis of the "earned value" of its work based on the deliverables.

**Recommendation 1.8—See pages 35 and 36 of the audit report for information on the related finding.**

To determine if it is paying invoices that accurately reflect work performed, the Authority should ensure that staff adhere to controls for processing invoices.

***Authority's Action: Fully implemented.***

The Authority developed an invoice review, verification, and approval process. Invoices now include cover sheets requiring signatures from both the program manager and the Authority. The Authority documented the process in its *Contract Administration Manual*, as discussed below in Recommendation 1.10.

**Recommendation 1.9—See pages 37 and 38 of the audit report for information on the related finding.**

To ensure that it does not misuse public funds and can hold contractors accountable, the Authority should adhere to the conditions of its contracts and work plans, and make any amendments and modifications in writing.

***Authority's Action: Fully implemented.***

The Authority amended its contract with a contractor to include work on an effort called "Vision California" that was originally under an oral agreement. Further, the Authority amended its contract with its program manager to require an audit-adjusted field rate for staff co-located with the Authority and using Authority facilities, also originally under an oral agreement. An "audit-adjusted field rate" is a discounted overhead rate used when consultants use client facilities.

**Recommendation 1.10—See pages 38 and 39 of the audit report for information on the related finding.**

To better determine if payment controls are implemented, the Authority should ensure that its written policies and procedures reflect intended controls over invoice processing and offer sufficient detail to guide staff. These procedures should include steps for documenting implementation of invoice controls.

***Authority's Action: Fully implemented.***

The Authority amended its *Contract Administration Manual* to include detailed procedures for implementation of invoice review and documentation of invoice controls.

# California Department of Transportation

## Its Capital Outlay Support Program Should Strengthen Budgeting Practices, Refine Its Performance Measures, and Improve Internal Controls

### REPORT NUMBER 2010-122, ISSUED APRIL 2011

This report concludes that, despite a stated goal to reduce overruns in its support project budgets, the California Department of Transportation (Caltrans) has performed little analysis to determine the frequency or magnitude of support cost budget overruns. Our review of projects that completed construction in fiscal years 2007–08 through 2009–10 indicates that 62 percent of the projects had support costs that exceeded their respective budgets. These overruns totaled more than \$305 million of the \$1.4 billion in total support cost expenditures for the projects that completed construction during these fiscal years. Our analysis found that the primary cause for support cost overruns was an increase in the hourly rate for support costs. For example, one project was approximately 14,600 hours under budget but exceeded its budgeted dollar amount by nearly \$6.8 million, representing a support cost overrun of 83 percent. The changes in the hourly rate for support costs were due, in part, to salary increases of more than 40 percent during fiscal years 2005–06 through 2008–09 for certain Caltrans employees, including engineers. We also found that project managers for 12 of the 40 projects we reviewed monitored their budgets based primarily on the hours charged and not dollars spent. If project managers do not pay attention to costs, escalations in the rate paid per hour could cause a support cost overrun, even if the project remains under its budgeted hours. Further, project managers for 10 of the 40 projects we reviewed did not use a detailed approach to develop a support budget when a project was ready for construction.

Moreover, although Caltrans has established a goal of reducing support costs to represent a ratio of 32 percent of the total capital costs (support-to-capital ratio), according to our assessment Caltrans generally did not meet its goal for fiscal years 2007–08 through 2009–10. In addition, Caltrans has failed historically to use a consistent method to calculate this ratio over time, thus decreasing the value of the ratio for assessing Caltrans' performance in managing the support program. Furthermore, the support-to-capital ratio has limitations and could be defined more precisely to better measure efficiency, given that support costs can vary greatly depending on a project's size and type.

We also noted that Caltrans' time-reporting system lacks strong internal controls, and better project monitoring and consistent use of performance metrics, such as earned value metrics, could help it minimize support cost overruns. Further, although Caltrans recently sought to hire consultants rather than permanent employees to address a temporary increase in workload, it was not successful in doing so because requests for consultants have historically been revised during the legislative budget process to align with a staffing ratio of 10 percent consultants to 90 percent state staff.

In the report, the California State Auditor (state auditor) made the following recommendations to Caltrans. The state auditor's determination regarding the current status of recommendations is based on Caltrans' response to the state auditor as of October 2011.

#### **Recommendation 1.1.a—See pages 28—37 of the audit report for information on the related finding.**

To improve accountability internally and with the public, Caltrans should create and incorporate an analysis of support cost budget variances in its quarterly report to the agency and in its annual report to the Legislature and the governor. The analysis should report on the number of completed projects with budget variances and on the number of open projects for which the estimates at completion predict budget variances. Further, the analysis should report on the overrun and underrun ratios for those projects, and the portions of the variances due to rates and hours. Also, Caltrans should include in its strategic plan a measurable goal for reducing variances.

***Caltrans' Action: Partially implemented.***

Caltrans established a performance measure that targets support expenditures that are within a specified range of the support budget. The performance measure is now in place and Caltrans stated that it is on track to incorporate it into the quarterly reports to the California Transportation Commission (CTC) and annual reports to the Legislature and governor by December 31, 2011.

**Recommendation 1.1.b—See pages 32 and 33 of the audit report for information on the related finding.**

To improve accountability internally and with the public, Caltrans should establish budgets for those State Transportation Improvement Program (STIP) projects programmed before the passage of Senate Bill 45 so that overruns may be reported in the quarterly report to the agency and in the annual report to the Legislature and the governor.

***Caltrans' Action: Fully implemented.***

Caltrans has established support budgets for the 24 projects it identified as having started (projects programmed) prior to the passage of Senate Bill 45.

**Recommendation 1.1.c—See page 33 of the audit report for information on the related finding.**

To improve accountability internally and with the public, Caltrans should develop a system to report on the total budgets of support program projects—including initial project support budgets—of projects that have been divided into multiple projects or combined into a larger project.

***Caltrans' Action: Fully implemented.***

Caltrans stated that it has developed improved business practices to allow for easier tracking of project budgets. Specifically, Caltrans provided a project management directive outlining a process for managing project funding and costs when projects are split or combined into one or more construction contracts. The process allows for tracking the origin of projects split into multiple projects or combined into one project. That directive took effect in August 2011.

**Recommendation 1.2.a—See pages 41—43 of the audit report for information on the related finding.**

To improve performance metrics related to the support program, Caltrans should devise, use, and publicize a consistent method for reporting the support-to-capital ratio on its Web site and in other reports to the public. Further, Caltrans should recalculate past support-to-capital ratios using the method devised to allow for comparison across years.

***Caltrans' Action: Partially implemented.***

Caltrans stated that it developed a consistent methodology for reporting the support-to-capital ratio and posted the methodology on its project management intranet site. Caltrans also recalculated past support to capital ratios consistent with this new methodology. However, it did not indicate that it has or will publish this information on its Web site or in other reports to the public. Further, Caltrans stated that it would incorporate these indicators into a quarterly report to the California Transportation Commission by December 31, 2011.

**Recommendation 1.2.b—See pages 43—45 of the audit report for information on the related finding.**

To improve performance metrics related to the support program, Caltrans should develop goals—and publicly report on the progress against those goals—for the support-to-capital ratio, based on project type—STIP or the State Highway Operation and Protection Program (SHOPP)—and project size.



***Caltrans' Action: Pending.***

Caltrans stated it is on track to have preliminary goals and a normalization methodology, which will be used to normalize data across years, for STIP and SHOPP projects by size and capital dollar amount by December 31, 2011.

**Recommendation 1.2.c—See pages 45 and 46 of the audit report for information on the related finding.**

To improve performance metrics related to the support program, Caltrans should continue to explore the use of additional metrics, such as a measure based on a productivity index as described in a March 2011 draft study by the University of California, Davis.

***Caltrans' Action: Pending.***

Caltrans stated that it has been moving away from using the support-to-capital ratio as a measure of performance but will continue to use it as an indicator. Caltrans stated that it is on track to develop an additional metric by July 2012.

**Recommendation 1.3—See pages 37—39 of the audit report for information on the related finding.**

To better develop and manage project budgets for support, Caltrans should instruct project managers to submit requests to update the budget when assumptions on which the budget was based are no longer valid, regardless of the phase of the project. Additionally, it should direct its project managers to use a detailed approach based on project tasks, such as those included in a project work plan, when finalizing project support budgets before construction.

***Caltrans' Action: Fully implemented.***

Caltrans issued a project management directive titled "Management of Capital Outlay Support," in August 2011. The directive gives direction on updating budgets for construction on or before the date the project is voted on by the CTC and proceeds to the construction phase. Further, the directive includes instruction to update estimated hours in the project's work plan when hours change and to review and update—if needed—resource estimates on an ongoing basis, and at least quarterly. Further, the directive requires that the project development team review and update support budgets at the completion of each major milestone.

**Recommendation 1.4.a—See pages 38 and 39 of the audit report for information on the related finding.**

To ensure that it monitors the status of projects, Caltrans should continue to implement the policies described in its February 2010 memorandum to the districts describing an approach Caltrans will take to monitor support costs within budget. Moreover, Caltrans should direct its project managers to monitor budgets for all projects according to both hours and costs.

***Caltrans' Action: Fully implemented.***

Caltrans issued a project management directive in August 2011 clarifying the responsibility of project managers in the development and maintenance of project workplans, including planned hours and support costs throughout the life of the project. Further, Caltrans stated that it has added a standing agenda item to a quarterly teleconference to discuss support budget corrective action plans.

**Recommendation 1.4.b—See pages 48—50 of the audit report for information on the related finding.**

To ensure that it monitors the status of projects, Caltrans should implement earned value management throughout its districts in a manner similar to the implementation in the Los Angeles district. To allow for performance evaluation of project work, Caltrans should ensure that these performance metrics are available at the task level for both active and completed projects. Caltrans should instruct districts to aggregate this information for all projects by task level, to better assess the effectiveness and efficiency of support costs by task level. Caltrans should also make available to project managers graphical displays of project cost and schedule performance.

***Caltrans' Action: Pending.***

In its 60-day response, Caltrans stated that it was reviewing policies, business processes, existing systems and data, to implement a statewide standard approach to earned value management in advance of the implementation of its Project Resource and Schedule Management (PRSM) system. In its six-month response, Caltrans stated that it is on track for having a standard approach to earned value management in place by December 31, 2011.

**Recommendation 1.5.a—See pages 46—48 of the audit report for information on the related finding.**

To better address costs associated with the support program, Caltrans should ensure that the PRSM system contains strong controls that ensure employees only charge time to projects and phases for which they are assigned.

***Caltrans' Action: Pending.***

Caltrans stated that when PRSM is fully implemented, only those employees with approved cost centers will be allowed to charge to projects.

**Recommendation 1.5.b—See pages 50—52 of the audit report for information on the related finding.**

To better address costs associated with the support program, Caltrans should commission an independent study of the costs and benefits of using consultants to address temporary increases in workload and, if the study reveals cost savings, use consultants. To the extent possible, Caltrans should also use temporary staff appointments for temporary increases in workload when consultants are unavailable.

***Caltrans' Action: Partially implemented.***

The Caltrans Division of Research and Innovation contracted with CTC and Associates LLC to compare in-house staff and consultant costs for highway design and construction. In July 2011 Caltrans received a preliminary report from the consultant, which aims to synthesize completed and in-process national- and state-related research that compares the cost of outsourcing highway design and construction activities with the cost of completing those tasks with in-house staff. Caltrans stated it is reviewing the recommendations to determine the next steps to be taken.

**Recommendation 1.6—See pages 42 and 43 of the audit report for information on the related finding.**

To ensure that it receives more complete information on the support program, the Legislature should require Caltrans to include in its annual report an expanded methodology for reporting support to capital ratios to include, in addition to a support-to-cost ratio analysis based on costs incurred up to the award of the construction contract of STIP projects, a separate support-to-capital ratio analysis for STIP projects that have completed construction. Further, the Legislature should require Caltrans to report on similar ratios for SHOPP projects based on costs incurred up to the award of the construction contract and for those projects that completed construction.

***Legislative Action: Legislation enacted.***

Chapter 6, Statutes 2011 (Assembly Bill 105), requires the department to submit to the Legislature information to substantiate the proposed capital outlay budget. In addition, Chapter 38, Statutes 2011 (Assembly Bill 115), requires the department to include in that submittal the capital-to-support ratio for all projects completed in the prior fiscal year.

**Recommendation 1.7—See page 40 of the audit report for information on the related finding.**

To increase accountability for budget overruns of support costs, the Legislature should consider legislation that would expressly require CTC to review and approve project construction support costs when they differ from the amount budgeted by 20 percent or more.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

**Recommendation 1.8—See pages 50—52 of the audit report for information on the related finding.**

To ensure that Caltrans does not hire permanent state staff beyond its need for such staff, the Legislature should consider appropriating funding for consultants to address temporary increases in Caltrans' workloads when Caltrans requests such funding.

***Legislative Action: Unknown.***

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.



## General Obligation Bonds

### The Departments of Water Resources and Finance Should Do More to Improve Their Oversight of Bond Expenditures

#### REPORT NUMBER 2010-117, ISSUED MAY 2011

This report concludes that the Department of Water Resources (Water Resources) demonstrated effective oversight of general obligation bonds, but it could improve in certain areas. During our review of a sample of 10 projects, we noted that Water Resources made appropriate decisions when awarding bond funds and making payments for project activities. However, for two of the 10 projects, Water Resources could not demonstrate that it performed site visits or took other steps to ensure the projects achieved their expected outcomes. We also found that Water Resources lacks a documented review process to ensure information posted to the Bond Accountability Web site is correct. Our review of the Web site revealed instances where Water Resources posted inaccurate award information for certain projects and in some cases did not post any information at all.

We also found that the Department of Finance (Finance) should do more to ensure transparency and accountability for bond spending related to the general obligation bonds approved by voters in November 2006 to fund the State's Strategic Growth Plan. The former governor's executive order from January 2007 required Finance to establish a Bond Accountability Web site that was to include information on the amounts spent on each bond-funded project. However, Finance's approach to establishing the Web site required departments to post information on the amounts awarded and not the amounts spent. By not providing the public with periodic information on the amounts spent for each project—to then compare against amounts awarded—the public lacks a way to measure each project's progress towards completion. In addition, Finance lacks a tracking process to ensure that state departments update the Bond Accountability Web site and describe the expected or realized benefits of bond-funded projects in terms the public can readily understand. Finally, we noted that the executive order requires state agencies to either contract with Finance for audits of bond expenditures or make alternative arrangements for audits with Finance's approval. However, as of late April 2011, Finance had issued audit reports on only three of the state agencies administering the general obligation bonds that support the State's Strategic Growth Plan, and none were of Water Resources.

In the report, the California State Auditor (state auditor) made the following recommendations to the Governor and the audited agencies. The state auditor's determination regarding the current status of recommendations is based on Water Resources' response as of November 2011 and Finance's response as of July 2011.

#### **Recommendation 1.1—See pages 22—27 of the audit report for information on the related finding.**

To ensure that its expenditures of bond funds achieve the intended purposes, Water Resources needs to strengthen its monitoring of project deliverables. For example, it should review the policies and practices of its various divisions, ensuring that periodic progress reports are obtained from grant recipients, and that final site visits document the results of the reviews performed.

#### ***Water Resources' Action: Partially implemented.***

In its 60-day response to the audit, Water Resources stated that two of its divisions had developed procedure manuals for administering grant awards and meeting bond accountability reporting requirements. Water Resources also indicated that it completed all grant close-out procedures for one of the projects we reviewed during the audit that had highlighted some of Water Resources' monitoring weaknesses. Water Resources' six-month response generally stated that it had considered all of our recommendations and incorporated them into its business practices. However, neither Water Resources' 60-day update nor its six-month response clarified how its staff would ensure they obtain periodic progress reports from grant recipients. Similarly, Water Resources' responses did not discuss how it would ensure that its employees document the results of their site visits to bond-funded projects.

**Recommendation 1.2—See pages 31—34 of the audit report for information on the related finding.**

To provide the public with accurate and complete information on the bond-funded projects it administers, Water Resources should develop and consistently use a formalized, documented review process that will provide greater assurance that project information posted to the Bond Accountability Web site is regularly updated and contains accurate information.

***Water Resources' Action: Partially implemented.***

In its 60-day update to the audit, Water Resources indicated that each division is creating review guidelines in response to this recommendation, and that these guidelines will be under the authority of Water Resources' Bond Accountability Office. Water Resources' six-month response generally stated that it had considered all of our recommendations and incorporated them into its business practices. However, Water Resources did not provide examples of its new review guidelines to corroborate its response.

**Recommendation 1.3—See pages 36—42 of the audit report for information on the related finding.**

To enhance transparency and accountability regarding the State's use of general obligation bond funds, the governor should require administering agencies to report actual amounts spent on bond funded projects and update the expenditure information at least semiannually.

***Governor's Action: Unknown.***

We are unaware of any additional guidance issued by the Governor's Office.

**Recommendation 1.4.a—See pages 36—42 of the audit report for information on the related finding.**

To enhance the value of the Bond Accountability Web site, Finance should require administering agencies to provide information about the actual amounts of bond funds spent on posted projects at least semiannually.

***Finance's Action: No action taken.***

Finance does not intend to implement this recommendation. In its 60-day update to the audit, Finance stated that its current practice requires state departments and agencies to post the amounts awarded for specific projects on the Bond Accountability Web site. Finance further explained its expectation that state departments and agencies update a project's awarded amount with actual expenditures if there is a difference once the project is complete. Finance maintains that its current policies comply with the former governor's executive order. Further, Finance questions the benefits of this recommendation and stated that it would be costly for many state departments and agencies to implement. Finance did not provide a six-month response to the audit.

**Recommendation 1.4.b—See pages 42—45 of the audit report for information on the related finding.**

To enhance the value of the Bond Accountability Web site, Finance should develop a tracking and review process to periodically assess the completeness of the project information posted to the Bond Accountability Web site. Such a process should include a review of whether state agencies are describing, in terms the public can easily understand, the expected or realized benefits of bond-funded projects.

***Finance's Action: No action taken.***

Finance does not intend to take any additional steps to implement this recommendation. In its 60-day update, Finance stated that it will continue to review state agencies compliance during department audits and during special project reporting compliance reviews. Finance explained that its audits include a review of whether state departments are appropriately reporting project information. Finance did not provide a six-month response to the audit.

**Recommendation 1.5—See pages 45—47 of the audit report for information on the related finding.**

To ensure that expenditures were consistent with bond laws and that the project achieved the intended benefits or outcomes agreed to when the project was originally awarded, Finance should conduct audits of, or approve and assure that, Water Resources and other agencies obtain audits of, Strategic Growth Plan (SGP) bond expenditures.

***Finance's Action: Partially implemented.***

In its 60-day update, Finance stated that since the audit was published, Finance has issued four additional audit reports, for a total of six SGP bond audit reports in fiscal year 2010–11. Additionally, Finance indicated that all state agencies administering SGP bonds have either entered into interagency agreements with Finance to conduct audits or have made arrangements with other entities, with the approval of Finance, to conduct the required audits. Accordingly, Finance intends to continue to conduct audits as required by the former governor's executive order. Finance's 60-day update did not provide any additional material to corroborate its assertions. Finance did not provide a six-month response to the audit.





# California State University, Northridge

## Misuse of State Property, Incompatible Activities (Case I2008-1037)

### REPORT NUMBER I2010-1, CHAPTER 3, ISSUED JUNE 2010

This report concludes that for almost five years an employee of California State University (university), Northridge (Northridge), improperly allowed the owner of a small pharmaceutical company and three of his associates to use a Northridge laboratory facility along with university-owned equipment and supplies without their compensating Northridge, thus costing it \$20,790 in usage fees.

In the report, the California State Auditor (state auditor) made the below recommendations to Northridge. The state auditor's determination regarding the current status of recommendations is based on Northridge's response to the state auditor as of May 2010.

#### **Recommendation 1—See pages 22 and 23 of the investigative report for information on the related finding.**

Northridge should formally remind its staff about the specific actions that must be taken before outside individuals and entities may use university facilities, and it should develop policies and procedures specifically to address the use of laboratory facilities and university equipment and supplies by individuals and entities not affiliated with the university.

#### ***Northridge's Action: Fully implemented.***

Northridge implemented a policy that bans the use of its College of Science and Mathematics' facilities, equipment, and supplies for industry use and it notified faculty and staff of this new policy.

#### **Recommendation 2—See pages 22 and 23 of the investigative report for information on the related finding.**

Northridge also should recover the amount owed for the misuse of its facilities, equipment, and supplies.

#### ***Northridge's Action: Fully implemented.***

Northridge notified us that as of August 2009, it had received \$20,790 from the business owner's company as compensation for the unauthorized use of Northridge's facility, equipment, and supplies. It also placed a letter of reprimand in the personnel file of the university employee.



# Department of Corrections and Rehabilitation

## Misuse of State Employees' Time, Waste of State Funds (Case I2008-0920)

### REPORT NUMBER I2010-1, CHAPTER 2, ISSUED JUNE 2010

This report concludes that a supervisor at a Department of Corrections and Rehabilitation (Corrections) facility misused the time of two psychiatric technicians by assigning them to perform clerical and administrative duties rather than provide direct care to the facility's patients. The supervisor's misuse of the employees' time resulted in a loss to the State of \$110,797 for direct psychiatric technician services not rendered.

In the report, the California State Auditor (state auditor) made the below recommendations to Corrections. The state auditor's determination regarding the current status of recommendations is based on Corrections' response to the state auditor as of December 2010.

#### **Recommendation 1.a—See pages 18 and 19 of the investigative report for information on the related finding.**

Corrections should formally remind the supervisor about the duties delineated by job classifications for employees that the supervisor oversees.

#### ***Corrections' Action: Fully implemented.***

Corrections reported that it provided the clinical administrator overseeing the supervisor with a directive to ensure that all staff in medical classifications perform their assigned duties. In addition, Corrections stated that its juvenile division management would conduct periodic checks to ensure that staff members are assigned to tasks within their job classifications.

#### **Recommendation 1.b—See pages 18 and 19 of the investigative report for information on the related finding.**

Corrections should seek corrective action against the supervisor for his misuse of the employees' time.

#### ***Corrections' Action: Fully implemented.***

Corrections stated that rather than pursue disciplinary actions, it had verbally chastised the supervisor for his misuse of the employees' time.



## Department of Industrial Relations

### Misuse of State Time and Resources, Incompatible Activities, Inadequate Administrative Controls (Case I2008-1066)

#### REPORT NUMBER I2010-1, CHAPTER 1, ISSUED JUNE 2010

This report concludes that for more than six years, an inspector for the Department of Industrial Relations (Industrial Relations), Division of Occupational Safety and Health (Cal/OSHA), performed duties related to her secondary employment during her Cal/OSHA work hours. In doing so, the inspector misused state time and resources and received improper payments totaling \$70,105. In addition, our review of the inspector's misconduct revealed that Cal/OSHA management did not properly implement controls that could have prevented the improper acts.

In the report, the California State Auditor (state auditor) made the below recommendations to Industrial Relations. The state auditor's determination regarding the current status of recommendations is based on Industrial Relations' response to the state auditor as of December 2010.

**Recommendation 1.a—See pages 10—15 of the investigative report for information on the related finding.**

Industrial Relations should take appropriate action against the Cal/OSHA inspector for her improper acts and against her manager for his failure to adequately manage the inspector.

***Industrial Relations' Action: Fully implemented.***

Industrial Relations informed us that the inspector resigned while still under investigation. Subsequently, it filed a civil lawsuit against her in an effort to obtain reimbursement from her. In addition, it notified us that in October 2010 it formally reprimanded the manager who was the inspector's direct supervisor.

**Recommendation 1.b—See pages 12 and 13 of the investigative report for information on the related finding.**

Industrial Relations should evaluate current controls designed to ensure that inspectors work the required number of hours and implement changes as necessary to ensure that time and attendance abuse does not recur.

***Industrial Relations' Action: Fully implemented.***

Industrial Relations reported that in October 2010 it provided training to Cal/OSHA supervisors to ensure that they understood and complied with the policies regarding accurate reporting of time and attendance.

**Recommendation 1.c—See page 14 of the investigative report for information on the related finding.**

Industrial Relations should establish controls to ensure that it does not allow employees to work schedules in which they determine their own hours and in which they track absences and make up hours informally.

***Industrial Relations' Action: Fully implemented.***

Industrial Relations stated that at the October 2010 training it provided to Cal/OSHA supervisors it reiterated the need for proper controls to ensure that employees do not determine their own work hours and make up hours informally.



# California Conservation Corps

## Failure to Follow State Contracting Laws (Case I2008-1021)

### REPORT NUMBER I2010-2, CHAPTER 2, ISSUED JANUARY 2011

This report concludes that the California Conservation Corps (Conservation Corps) evaded competitive bidding requirements by splitting contracts to purchase uniforms costing \$64,666 from a single vendor. In addition, the Conservation Corps did not properly obtain price quotations when approving two other uniform purchases totaling \$19,812 from the same vendor.

In the report, the California State Auditor (state auditor) made the below recommendations to the Conservation Corps. The state auditor's determination regarding the current status of recommendations is based on the Conservation Corps' response to the state auditor as of April 2011.

#### **Recommendation 1—See pages 15—17 of the investigative report for information on the related finding.**

The Conservation Corps should take appropriate corrective action against the employees responsible for the improper purchases.

##### ***Conservation Corps' Action: Fully implemented.***

The Conservation Corps reported in December 2010 that it had issued a corrective action memorandum to each employee responsible for the improper purchases.

#### **Recommendation 2—See pages 15—17 of the investigative report for information on the related finding.**

The Conservation Corps should implement controls to ensure that staff do not split contracts to evade competitive bidding requirements and that staff obtain and document in the procurement file the appropriate number of price quotations from certified small businesses prior to purchasing goods.

##### ***Conservation Corps' Action: Fully implemented.***

The Conservation Corps created a new procedure in February 2011 that requires field staff to submit bid information with every purchase or service order to ensure that staff follow the proper procedures regarding bidding documents and price quotations. The procedure also requires business services staff to review the information to ensure compliance. The Conservation Corps also told us that it randomly had conducted reviews of purchase orders from fiscal years 2007–08 through 2010–11, but it did not keep documentation of the results of these reviews.

#### **Recommendation 3—See pages 15—17 of the investigative report for information on the related finding.**

The Conservation Corps should provide adequate training to staff responsible for preparing and approving purchases.

##### ***Conservation Corps' Action: Fully implemented.***

The Conservation Corps stated that it holds quarterly meetings with its business services officers to discuss procurement matters, including new policies and procedures. In March 2011 it held training for business services officers that focused on proper bidding procedures and other procurement activities. Further, the Conservation Corps stated that it had provided procurement training to its staff in 2007, 2008, and 2009.

**Recommendation 4—See pages 15—17 of the investigative report for information on the related finding.**

The Conservation Corps should correct inconsistent accounting practices and require staff to associate expenditures directly with the purchase orders that authorized the expenditures.

***Conservation Corps' Action: Fully implemented.***

To correct inconsistent accounting practices, the Conservation Corps reported that it planned to provide additional training to supervisors who authorize purchasing documents to ensure consistency in basic accounting principles. In March 2011 it held training for business services officers that focused on proper bidding procedures and other procurement activities.

# Department of Corrections and Rehabilitation

## Improper Overtime Reporting (Case I2007-0887)

### REPORT NUMBER I2010-2, CHAPTER 8, ISSUED JANUARY 2011

This report concludes that an employee with the Department of Corrections and Rehabilitation (Corrections) improperly reported 16 hours of overtime for responding to building alarm activations that never occurred. Because Corrections did not have adequate controls to detect the improper reporting, it compensated the employee \$446 in overtime pay she did not earn. After discovering the employee's misconduct, it failed to take appropriate actions to establish controls, discipline the employee, or collect the improper pay.

In the report, the California State Auditor (state auditor) made the below recommendations to Corrections. The state auditor's determination regarding the current status of recommendations is based on Corrections' response to the state auditor as of December 2010.

#### **Recommendation 1—See pages 41—43 of the investigative report for information on the related finding.**

Take appropriate disciplinary actions against the employee and pursue collection efforts for the compensation she did not earn.

##### ***Corrections' Action: No action taken.***

Corrections reported in December 2010 that, based on its review of the findings, the employee did not engage in any misconduct. Therefore, it has declined to implement our recommendations. Corrections did not provide us any information or evidence that would call into question the accuracy of our findings.



#### **Recommendation 2—See pages 41—43 of the investigative report for information on the related finding.**

Obtain monthly logs from the alarm company and verify that overtime reported for responding to building alarm activations is consistent with the logs.

##### ***Corrections' Action: No action taken.***

Corrections reported in December 2010 that, based on its review of the findings, the employee did not engage in any misconduct. Therefore, it has declined to implement our recommendations. Corrections did not provide us any information or evidence that would call into question the accuracy of our findings.





# Department of Corrections and Rehabilitation

## Delay in Reassigning an Incompetent Psychiatrist, Waste of State Funds (Case I2009-0607)

### REPORT NUMBER I2010-2, CHAPTER 1, ISSUED JANUARY 2011

This report concludes that the Department of Corrections and Rehabilitation (Corrections) placed parolees at risk by allowing a psychiatrist to continue to treat them for four months after it received allegations of his incompetence. In addition, Corrections wasted at least \$366,656 in state funds by not conducting a timely investigation of the allegations. Because it identified the investigation as low priority, Corrections took 35 months to complete it, resulting in the psychiatrist performing only administrative duties for 31 months before being discharged. Nonetheless, during the 35-month investigation, he received over \$600,000 in salary, including two separate merit-based salary increases of \$1,027 and \$818 per month, and he also accrued 226 hours of leave for which Corrections paid him an additional \$29,149 upon his termination.

In reporting on the investigation, the California State Auditor (state auditor) made the following recommendations to Corrections. The state auditor's determination regarding the current status of recommendations is based on Corrections' response to the state auditor as of November 2011.

#### **Recommendation 1—See pages 7—11 of the investigative report for information on the related finding.**

Corrections should establish a protocol to ensure that upon receiving credible information that a medical professional may not be capable of treating patients competently, it promptly relieves that professional from treating patients, pending an investigation.

#### ***Corrections' Action: Fully implemented.***

Corrections established a task force to discuss its policies and procedures for removing the medical professional from treating patients, pending investigation. In June 2011 Corrections reported that it established policies and procedures for collecting information about the costs related to health care employees who are either assigned alternate duties or on administrative time off.

#### **Recommendation 2—See pages 7—11 of the investigative report for information on the related finding.**

Corrections should increase the priority the Office of Internal Affairs (Internal Affairs) assigns to the investigation of high-salaried employees.

#### ***Corrections' Action: Fully implemented.***

Corrections reported that to reduce the fiscal impact to the State, Internal Affairs considers expediting investigations that involve high-salaried employees who are assigned alternate duties. In November 2011 Corrections distributed a memorandum to executive staff members stressing the importance of consulting with Internal Affairs prior to assigning alternate duties to an employee so that Internal Affairs can—among other purposes—consider the case for expedited processing. In addition, Corrections stated that it uses a case management system to track investigations of Corrections employees within Internal Affairs. The tracking includes information about when Internal Affairs was notified about employees under investigation who have been assigned alternate duties or are placed on administrative time off.

**Recommendation 3—See pages 7—11 of the investigative report for information on the related finding.**

Corrections should develop procedures to ensure that Internal Affairs assigns a higher priority for completion of investigations into employee misconduct involving employees who have been assigned alternate duties.

***Corrections' Action: Fully implemented.***

Corrections stated that Internal Affairs communicates with the proper authorities to determine whether an employee under investigation has been removed from primary duties and considers expediting the completion of investigations involving high-salaried staff assigned alternate duties. Corrections identified its procedures in the November 2011 memorandum to executive staff. In addition, Corrections reported in November 2011 that it had conducted eight formal training events in 2011 and stated that Internal Affairs provided the training as needed in various forums, including one-on-one training. It also noted that Internal Affairs usually conducts the training annually with an open invitation to staff members with roles in the employee discipline process.

## Department of General Services

### Misuse of State Resources (Case I2008-1024)

#### REPORT NUMBER I2010-2, CHAPTER 5, ISSUED JANUARY 2011

This report concludes that a manager with the Department of General Services (General Services) improperly used state vehicles for his daily commute for nine years. The cost of the misuse from July 2006 through July 2009, the three years for which complete records are available, totaled an estimated \$12,379. Because the records were not retained, we were not able to accurately estimate the cost to the State for the remaining six years.

In the report, the California State Auditor (state auditor) made the below recommendations to General Services. The state auditor's determination regarding the current status of recommendations is based on General Services' response to the state auditor as of June 2011.

#### **Recommendation 1—See pages 29—31 of the investigative report for information on the related finding.**

General Services should seek reimbursement from the manager for the costs associated with his misuse of state vehicles.

##### ***General Services' Action: Fully implemented.***

In June 2011 General Services and the manager signed an agreement directing the manager to reimburse the State \$12,379 in costs arising from his misuse of state vehicles. The terms of the agreement require the manager to repay the State \$200 a month from June 2011 through August 2016. The manager made his first installment payment in June 2011.

#### **Recommendation 2—See pages 15—17 of the investigative report for information on the related finding.**

General Services should issue a memorandum regarding the appropriate use of state-owned vehicles to all fleet division employees with access to state vehicles.

##### ***General Services' Action: Fully implemented.***

General Services stated that in March 2010, before the completion of our investigation, it issued a number of operating policies to its employees that prohibit the use of state-owned vehicles for travel to and from an employee's home without express permission.





# California Energy Commission

## Falsification of Time and Attendance Records (Case I2010-0844)

### REPORT NUMBER I2011-1, CHAPTER 3, ISSUED AUGUST 2011

This investigation found that an employee and a personnel specialist at the California Energy Commission (Energy Commission) falsified time and attendance records to enable the employee—at the time of her retirement—to receive a payment for unused annual leave that was higher than the amount to which she was entitled, costing the State an estimated \$6,589.

In reporting on the investigation, the California State Auditor (state auditor) made the following recommendations to the Energy Commission. The state auditor's determination regarding the current status of recommendations is based on the Energy Commission's response to the state auditor as of November 2011.

#### **Recommendation 1—See pages 23—25 of the investigative report for information on the related finding.**

The Energy Commission should seek to recover the amount it improperly paid the retiring employee for unused annual leave hours. If it is unable to recover any or all of this reimbursement, the Energy Commission should explain and document its reasons for not obtaining recovery of the funds.

##### ***Energy Commission's Action: Partially implemented.***

The Energy Commission reported that in November 2011 it requested reimbursement from the retired employee for leave hours used inappropriately. The Energy Commission stated that if the retired employee failed to respond to its requests for reimbursement, it would forward this information to the Franchise Tax Board to collect the overpayments from the retired employee's future tax returns.

#### **Recommendation 2.a—See pages 24 and 25 of the investigative report for information on the related finding.**

The Energy Commission should take appropriate disciplinary action against the personnel specialist for making unauthorized changes to the retiring employee's leave balances.

##### ***Energy Commission's Action: Fully implemented.***

The Energy Commission reported that the personnel specialist retired in June 2011. Nevertheless, in October 2011 the Energy Commission reported it had placed a memorandum in the personnel specialist's personnel file describing her actions related to the falsification of the retiring employee's time sheets and the unauthorized changes she made to the employee's leave balances.

#### **Recommendation 2.b—See page 22 of the investigative report for information on the related finding.**

The Energy Commission should monitor the personnel specialist's payroll and leave balance transactions to ensure that she follows Energy Commission policies.

##### ***Energy Commission's Action: Fully implemented.***

The Energy Commission reported that the personnel specialist retired in June 2011, before it learned of our recommendation. Nevertheless, as previously mentioned, it placed a memorandum in her personnel file describing her improper activities.

**Recommendation 2.c—See page 22 of the investigative report for information on the related finding.**

The Energy Commission should provide training to employees responsible for managing leave balance and time-sheet transactions to ensure that they understand the Energy Commission's policies for safeguarding their accuracy and respecting the limitations on the use of sick leave for family member illness as specified by the law and applicable collective bargaining agreements.

***Energy Commission's Action: Fully implemented.***

The Energy Commission stated that it provided training to its personnel specialists in September 2011. It stated that it stressed the importance of accuracy and thoroughness in processing leave usage, the limitations on the use of sick leave for family member illnesses as specified in various bargaining unit agreements, and obtaining supervisory approval on all amended time sheets.

## Department of Corrections and Rehabilitation

### Misuse of State Resources (Case I2009-1203)

#### REPORT NUMBER I2011-1, CHAPTER 2, ISSUED AUGUST 2011

This investigation found that the chief psychologist at a correctional facility operated by the Department of Corrections and Rehabilitation (Corrections) used his state-compensated time and state equipment to perform work related to his private psychology practice, costing the State up to an estimated \$212,261 in lost productivity.

In reporting on the investigation, the California State Auditor (state auditor) made the following recommendations to Corrections. The state auditor's determination regarding the current status of recommendations is based on Corrections' response to the state auditor as of November 2011.

#### **Recommendation 1.a—See pages 15—17 of the investigative report for information about the related findings.**

To ensure that the chief psychologist does not misuse state resources, Corrections should take appropriate disciplinary action against the psychologist for misusing state resources.

##### ***Corrections' Action: Partially implemented.***

Corrections reported that it is in the process of pursuing disciplinary action against the chief psychologist for misuse of state equipment and resources. It also stated that in January 2011 the chief psychologist voluntarily demoted to a staff psychologist position. Corrections further stated that before his voluntary demotion, health care management had attempted to make the chief psychologist comply with Corrections' policies and procedures regarding hours of work and secondary employment.

#### **Recommendation 1.b—See pages 15—17 of the investigative report for information about the related findings.**

To ensure that the chief psychologist and other Corrections employees do not misuse state resources, Corrections should require psychology staff at the correctional facility, including the chief psychologist, to specify hours of duty.

##### ***Corrections' Action: Fully implemented.***

To ensure that psychology staff at the correctional facility specify hours of duty, Corrections reported that it requires each affected employee to have a signed duty statement, secondary employment approval, and documentation of work schedule in the supervisory files. It stated that in September 2011 it trained its supervisors on these requirements and informed staff of the expectations. It also informed us that as of September 2011, the supervisors had provided proof that each employee had signed a copy of his or her duty statement, secondary employment approval form, and documentation of work schedule.

#### **Recommendation 1.c—See pages 15—17 of the investigative report for information about the related findings.**

To ensure that the chief psychologist and other Corrections' employees do not misuse state resources, Corrections should establish a system for monitoring whether psychology staff at the correctional facility, including the chief psychologist, are working during specified hours of duty.

***Corrections' Action: Partially implemented.***

Corrections stated that it planned to take several actions designed to monitor whether psychology staff are working the appropriate hours. It reported that it provided training to management staff on how to use one of its internal systems to compare employee workload to duty statements. In addition, it stated that its supervisors attend weekly meetings where they have access to mental health staff who are capable of responding to technical questions about the internal system. Further, Corrections reported that it issued a memorandum to staff outlining the requirement for staff to complete a request for time off when taking a day off and to report to a supervisor when leaving prior to the end of work hours. Finally, it indicated that it would later establish an operating procedure regarding the requirement and provide training to its staff.

## Department of Fish and Game

### Misuse of a State Vehicle, Improper Travel Reimbursements (Case I2009-0601)

#### REPORT NUMBER I2011-1, CHAPTER 5, ISSUED AUGUST 2011

This investigation found that a manager at the Department of Fish and Game (Fish and Game) improperly directed an employee under his supervision to use a state vehicle for commuting between her home and work locations at a cost to the State of \$8,282 during a nine-month period. In addition, the employee improperly requested—and the manager improperly approved—reimbursement for \$595 in lodging and meal expenses incurred by the employee near her headquarters.

In the report, the California State Auditor (state auditor) made the following recommendations to Fish and Game. The state auditor's determination regarding the current status of recommendations is based on Fish and Game's response to the state auditor as of October 2011.

#### **Recommendation 1.a—See pages 35 and 36 of the investigative report for information on the related finding.**

To recover the cost of the improper use of the state vehicle, Fish and Game should follow the guidelines established in state regulations and initiate repayment from the manager for the costs associated with the misuse of the state vehicle.

##### ***Fish and Game's Action: No action taken.***

In June 2011 Fish and Game reported that it would follow the guidelines established in state regulations and allow the manager to respond to our findings; however, it has not provided us with an update regarding its actions.



#### **Recommendation 1.b—See page 36 of the investigative report for information on the related finding.**

To recover the cost of the improper travel reimbursements, Fish and Game should seek recovery of the \$595 in lodging and meal reimbursements that were paid to the employee.

##### ***Fish and Game's Action: No action taken.***

Fish and Game reported in June 2011 that it would follow the appropriate process to collect the improper reimbursements made to the employee; however, it has not provided us with an update regarding its actions.



#### **Recommendation 1.c—See pages 35 and 36 of the investigative report on the related finding.**

Fish and Game should take appropriate disciplinary action against the manager for directing the misuse of a state vehicle.

##### ***Fish and Game's Action: No action taken.***

Fish and Game stated in June 2011 that it planned to prepare a corrective counseling memorandum for the manager detailing the improper direction he provided to the employee; however, it has not provided us with any updated information regarding its actions.



**Recommendation 1.d—See pages 33—36 of the investigative report for information about the related finding.**

Fish and Game should provide training to the manager and the employee about state rules for the payment of employee travel expenses.

***Fish and Game's Action: No action taken.***

Fish and Game informed us that it would provide training to all senior staff in the manager's region. However, it did not indicate whether it intended to provide any training to the employee. Moreover, Fish and Game has not provided us with any updated information regarding its implementation of this recommendation since June 2011.



## Department of Industrial Relations

### Failure to Monitor Adequately Employees' Time Reporting (Case I2008-0902)

#### REPORT NUMBER I2011-1, CHAPTER 6, ISSUED AUGUST 2011

This investigation found that an official and a supervisor at a district office of the Department of Industrial Relations (Industrial Relations) failed to monitor adequately the time reporting of four subordinate employees from July 2007 through June 2009.

In reporting on the investigation, the California State Auditor (state auditor) made the following recommendation to Industrial Relations. The state auditor's determination regarding the current status of recommendations is based on Industrial Relations' response to the state auditor as of September 2011.

**Recommendation—See pages 39 and 40 of the investigative report for information about the related findings.**

To ensure that employees at this district office follow time-reporting requirements in accordance with applicable state law and department policies, Industrial Relations should continue to monitor the time-reporting practices of the official and his staff.

***Industrial Relations' Action: Fully implemented.***

Industrial Relations reported that it provided further time-reporting and record-keeping training to all of its managers and supervisors. In addition, Industrial Relations issued a memorandum about attendance and reporting requirements to all of its district offices. Finally, Industrial Relations stated that it had provided training to all attendance reporting officers about the proper documentation of all hours worked and leave taken.





# Department of Mental Health

## Waste of State Funds, Misuse of State Resources (Case I2009-0644)

### REPORT NUMBER I2011-1, CHAPTER 1, ISSUED AUGUST 2011

The investigation found that an executive at the Department of Mental Health (Mental Health) wasted at least \$51,244 in state funds in 2009, the one-year period that we examined, by employing a long-time senior official to perform activities that either were undertaken on behalf of a nonstate organization or did not serve a state purpose. In fall 2010 the executive directed the senior official to discontinue using state-compensated time for activities that we found did not benefit the State. Soon thereafter the executive retired from state service, and the senior official began using leave while he awaited new work assignments.

In reporting on the investigation, the California State Auditor (state auditor) made the following recommendations to Mental Health. The state auditor's determination regarding the current status of recommendations is based on Mental Health's response to the state auditor as of June 2011.

#### **Recommendation 1.a—See pages 5—12 of the investigative report for information on the related finding.**

To address the waste and misuse of state resources, Mental Health should evaluate the need for the senior official's position.

#### ***Mental Health's Action: Fully implemented.***

Mental Health reported that in following our recommendations, it reevaluated the necessity of the senior official's position and concluded that the position was unnecessary. Mental Health stated that although a former administration created the position for desirable purposes, it determined that these functions were no longer essential and should not be maintained given current fiscal constraints. The senior official resigned from state service in May 2011, and Mental Health eliminated his position.

#### **Recommendation 1.b—See pages 10 and 11 of the investigative report for information on the related finding.**

If Mental Health determines that the senior official's position can provide a benefit to the State, clarify the job duties associated with the position and increase oversight of the position's activities to ensure that the State receives material benefits from the activities.

#### ***Mental Health's Action: Fully implemented.***

Mental Health eliminated the senior official's position. Thus, it had no need to clarify the job duties and increase oversight for this position.

#### **Recommendation 1.c—See pages 6—12 of the investigative report for information on the related finding.**

Mental Health should evaluate the senior official's workdays during the past three years to determine whether the senior official should have charged leave on workdays that he claimed to have worked but actually devoted himself to nonstate activities.

***Mental Health's Action: Fully implemented.***

Mental Health reported that it was unable to evaluate fully the senior official's workdays during the past three years to determine whether the senior official should have charged more leave. Instead, Mental Health stated that it found scant evidence of how the senior official spent his workdays even though it tried to reconstruct his daily work activities. Mental Health thus concluded that compiling the necessary evidence would require extensive work by staff to evaluate daily activities that occurred "long ago." The official resigned from state service in May 2011.

**Recommendation 1.d—See pages 7—9 of the investigative report for information on the related finding.**

Mental Health should require the senior official to use leave for workdays on which he did not actually perform work for the State or to repay the State the amount of salary he received for those days.

***Mental Health's Action: Fully implemented.***

Mental Health stated that it is unlikely to recover any portion of the senior official's salary. In addition to its inability to evaluate the senior official's workdays, Mental Health stated that even though it expected a 40-hour workweek from the senior official, more or less than eight hours on individual days was permissible. Further, it stated that it had no documented evidence that the senior official failed to perform many of his duties. Finally, Mental Health indicated that even if it were able to determine the salary amount the senior official earned on workdays he did not actually perform work for the State, it could not seek to recover those costs since he no longer is employed by the State.

# California Department of Transportation

## Inexcusable Neglect of Duty (Case I2008-0731)

### REPORT NUMBER I2011-1, CHAPTER 4, ISSUED AUGUST 2011

This investigation found that for nearly three years, a transportation planning supervisor for the California Department of Transportation (Caltrans) neglected his duty to supervise the work of a subordinate transportation planner, resulting in the transportation planner receiving compensation, including overtime pay, for which the State lacked assurance that the transportation planner performed adequate work to justify the compensation.

In reporting on the investigation, the California State Auditor (state auditor) made the following recommendations to Caltrans. The state auditor's determination regarding the current status of recommendations is based on Caltrans' response to the state auditor as of December 2011.

#### **Recommendation 1.a—See pages 28—31 of the investigative report for information on the related finding.**

To address the inexcusable neglect of duty, Caltrans should take appropriate corrective action against the senior transportation planner for neglecting his duty to supervise the transportation planner.

##### ***Caltrans' Action: Fully implemented.***

Caltrans reported that it issued a corrective memorandum to the supervisor and placed a copy in the supervisor's personnel file. However, it stated that the memorandum would be removed from the file after one year, provided that the supervisor does not engage in similar actions or otherwise fail in his duties.

#### **Recommendation 1.b—See page 29 of the investigative report for information on the related finding.**

To prevent similar improper acts from occurring, Caltrans should institute training to ensure that all Caltrans employees are aware of the requirement that all overtime work be preapproved.

##### ***Caltrans' Action: Pending.***

Caltrans reported in December 2011 that it revised its overtime policy. However, Caltrans had not yet required its supervisors and managers to review the policy with all of their employees.

#### **Recommendation 1.c—See pages 29 and 30 of the investigative report for information on the related finding.**

Caltrans should establish controls to ensure that its telecommuting agreements are reviewed and renewed annually in order for an employee to be allowed to continue telecommuting.

##### ***Caltrans' Action: Fully implemented.***

In July 2011 Caltrans revised its employee telework directive, which defines the responsibilities of managers and supervisors to ensure that telecommuting agreements are reviewed annually. It reported subsequently that its telework unit distributes notifications monthly to supervisors about the need to review telecommuting agreements nearing their expiration.

**Recommendation 1.d—See pages 29—31 of the investigative report for information on the related finding.**

Caltrans should revise its telecommuting policy to require that employees participating in the telecommuting program provide regular documentation of the work they perform away from the office.

***Caltrans' Action: Fully implemented.***

Caltrans reported that it had revised its Telework Program Policy and Procedures guidelines in March 2011. According to Caltrans, these guidelines require managers and supervisors to provide specific, measurable, and attainable performance expectations for their telecommuting employees. The agreements must define in writing detailed work tasks, corresponding deadlines, and expected work performance. The policy also requires managers and supervisors to review their expectations with their telecommuting employees at least quarterly.

## State Controller's Office

### Failure to Report Absences, Failure to Monitor Adequately an Employee's Time Reporting (Case I2009-1476)

#### REPORT NUMBER I2011-1, CHAPTER 7, ISSUED AUGUST 2011

This investigation found that an employee of the State Controller's Office (Controller's Office) failed to report an estimated 322 hours of absences over an 18-month period. Because her supervisor, a high-level official, failed to monitor adequately her time reporting, the State paid the employee \$6,591 for hours she did not work.

In reporting on the investigation, the California State Auditor (state auditor) made the following recommendations to the Controller's Office. The state auditor's determination regarding the current status of recommendations is based on the Controller's Office response to the state auditor as of September 2011.

#### **Recommendation 1.a—See pages 44—46 of the investigative report for information on the related finding.**

To address the employee's improper time reporting, the Controller's Office should seek reimbursement from the employee for the wages she did not earn.

##### ***Controller's Office's Action: Fully implemented.***

The Controller's Office reported that before the employee's retirement in August 2010, it subtracted approximately 21 days from her leave balance, equaling \$3,613 in gross payments, and applied this leave to the employee's unauthorized time off. In addition, it established an accounts receivable for the balance of the unauthorized leave, and it notified the employee of the remaining \$2,978 owed to the State. In August 2011 the Controller's Office told us that the employee had repaid the amount owed.

#### **Recommendation 1.b—See page 46 of the investigative report for information on the related finding.**

To address the supervisor's failure to monitor the employee's time adequately, the Controller's Office should take appropriate disciplinary action against the supervisor.

##### ***Controller's Office's Action: Fully implemented.***

The Controller's Office informed us that management representatives counseled the official because it acknowledged that the official was responsible for monitoring the employee's time and that he provided insufficient oversight. It also stated that because the official's busy schedule did not allow him to monitor adequately his support staff's time, his staff was placed under the direct supervision of an office manager effective August 2010.

#### **Recommendation 1.c—See pages 43—46 of the investigative report for information on the related finding.**

The Controller's Office should provide training to the supervisor on proper time-reporting and supervisory requirements.

##### ***Controller's Office's Action: Fully implemented.***

The Controller's Office reported that its chief of Human Resources provided the supervisor with additional training on proper time-reporting and related supervisory requirements. It also provided evidence to us that it had conducted training for all supervisors on proper time-reporting and related supervisory requirements.



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