

STATE BAR OF CALIFORNIA

It Has Improved Its Disciplinary Process, Stewardship of Members' Fees, and Administrative Practices, but Its Cost Recovery and Controls Over Expenses Need Strengthening

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State Bar of California's response as of April 2002

Audit Highlights . . .

In rebounding from its virtual shutdown, the State Bar of California (State Bar) has made the following improvements:

- Developed a complaint prioritization system that allows staff to address the most serious disciplinary cases first.*
- Increased the amounts it charges disciplined attorneys.*
- Taken steps to ensure that its mandatory membership fees are reasonable and not used to support voluntary programs.*
- Improved controls over contracting.*

However, the State Bar needs to make the following additional improvements:

- Adopt additional collection methods to increase the amounts it actually collects from disciplined attorneys.*
 - Clarify and enforce policies regarding its purchasing cards, business expense account, and contracting.*
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Chapter 342, Statutes of 1999, directed the State Bar of California (State Bar) to contract with the Bureau of State Audits to conduct a performance audit of the State Bar's operations from July 1, 2000, through December 31, 2000. We found that the State Bar has made some improvements to its disciplinary process and has taken steps to ensure that mandatory fees are reasonable and do not support voluntary programs. However, we also found that the State Bar does not consistently follow its improved procedures for using purchasing cards, charging its business expense account, and awarding contracts. Specifically, we found:

Finding #1: The State Bar has made some improvements to its disciplinary process.

Since we issued our May 1996 report on its operations, the State Bar has changed significantly its disciplinary process and its cost model for recovering the expenses associated with this process. It has implemented a priority system to ensure that its staff identify, investigate, and prosecute promptly those cases that pose the most significant threat to the public. In addition, the State Bar has implemented a policy to review random cases periodically to ensure that its staff's actions are consistent with case law and standards and with State Bar policy and procedures. Moreover, the State Bar has revised the cost model for the disciplinary process to include all types of costs that it can recover from disciplined attorneys. Using the new model, the State Bar has more than doubled the highest amount it can charge an attorney for the costs of investigating and pursuing disciplinary action. Overall, these changes have increased the efficiency and reliability of the disciplinary process, which protects the public by addressing attorney misconduct.

Finding #2: The costs the State Bar charges to disciplined attorneys have increased, but efforts to recover them remain poor.

The State Bar has revised the cost model it uses to determine the amounts to charge disciplined attorneys. This change has increased the amounts it bills attorneys for discipline costs. However, the cost model uses 1997 salaries instead of the most current salaries for State Bar employees. Because it has not updated the salaries in the cost model, the State Bar is not billing for all costs that it is entitled to collect. In addition, the State Bar recovers only a small portion of these costs from offending attorneys and its success rate for collecting these costs declined in 2000 compared with its 1995 rate. Because the State Bar's recovery efforts are poor, it uses a greater portion of membership fees than necessary to support its Client Security Fund and disciplinary programs. Consequently, members must pay a fee that is higher than necessary.

We recommended that the State Bar maximize the costs it can recover by using figures for current salary costs to update the cost model. In addition, we recommended that the State Bar pursue additional collection efforts, such as the State's Offset Program.

State Bar Action: Partial corrective action taken.

The State Bar reported that its consultant updated the cost model based on the new bargaining unit agreements with its employees that became effective in January 2002. The State Bar also indicated it has purchased ownership of the cost model from its consultant. In addition, the State Bar reported that it has had preliminary discussions with legislators and legislative staff about possible participation in the Offset Program and that it is developing legislation for possible introduction in the next legislative session.

Finding #3: The State Bar has taken steps to ensure that mandatory fees are reasonable and do not support voluntary programs.

The State Bar has improved its accounting for the voluntary and mandatory fees it charges members and for the programs that the fees support. As a result, it can better ensure that mandatory fees are reasonable and that they do not fund voluntary programs. Also, the State Bar has willingly determined the amount of mandatory fees it needs to perform its required functions. As a result, both the State Bar and its members have

greater assurance that members who choose to pay only the mandatory fees do not bear the costs of voluntary programs. In addition, the State Bar is better able to justify the level of fees it annually charges its members.

Finding #4: The State Bar does not consistently follow its improved procedures for using purchasing cards, charging its business expense account, and awarding contracts.

The State Bar has established controls over the purchasing card program used by its employees. However, it must clarify which purchases constitute appropriate business expenses and which costs employees should charge to the State Bar's business expense account. In addition, the State Bar must enforce more strictly its policy requiring receipts from employees who use the purchasing cards. Although the problems we identified in the use of purchasing cards involved less than \$8,000, weaknesses in controls increase the risk that employees could abuse the purchasing card program. Also, the State Bar has developed a competitive bid methodology for attracting and awarding contracts, but the procedures are not always followed. Furthermore, payments are not always made in accordance with contract terms. Finally, we found two instances in which vendors provided services to the State Bar without prior authorization. Because of these weaknesses, the State Bar cannot be sure that the price it pays for goods and services is competitive or reasonable and that purchases are necessary.

We recommended that the State Bar clarify its definitions of purchases that constitute appropriate business expenses and enforce its policy requiring receipts for purchases exceeding \$25. In addition, we recommended that the State Bar require its employees to charge all discretionary spending to the business expense account, and monitor total charges to this account. Finally, we recommended that the State Bar enforce its policies and procedures for contracting.

State Bar Action: Partial corrective action taken.

The State Bar reported it has updated its procurement manual to provide additional clarification on its purchasing card program and contracting policies and began conducting mandatory training sessions in March 2002. In addition, the State Bar reported that accounting staff check for receipts for purchases exceeding \$25 as part of the account payable review

process. Also, staff check to see that any discretionary spending is charged to the business expense account. Finally, the State Bar indicated it has issued an administrative advisory stating that no business expenses may be incurred beyond the account budget.