Implementation of State Auditor's Recommendations

Audits Released in January 2004 Through December 2005

Special Report to

Assembly Budget Subcommittee #3—Resources

February 2006
Report No. 2006-406 A3

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CALIFORNIA STATE AUDITOR

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February 28, 2006 2006-406 A3

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

Dear Governor and Legislative Leaders:

The Bureau of State Audits presents its special report for the Assembly Budget Subcommittee No. 3—Resources. This report summarizes the audits and investigations we issued during the previous two years that are within this subcommittee's purview. This report includes the major findings and recommendations, along with the corrective actions auditees reportedly have taken to implement our recommendations.

This information is also available in a special report that is organized by policy areas that generally correspond to the Assembly and Senate standing committees. This special policy area report includes appendices that summarize recommendations that warrant legislative consideration and monetary benefits that auditees could realize if they implemented our recommendations. This special policy area report is available on our Web site at www.bsa.ca.gov. Finally, we notify auditees of the release of these special reports.

Our audit efforts bring the greatest returns when the auditee acts upon our findings and recommendations. This report is one vehicle to ensure that the State's policy makers and managers are aware of the status of corrective action agencies and departments report they have taken. Further, 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.

Respectfully Submitted,

Elaine M. Howle

ELAINE M. HOWLE
State Auditor

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Assembly Budget Subcommittee #3—Resources

INTRODUCTION

This report summarizes the major findings and recommendations from audit and investigative reports we issued from January 2004 through December 2005, that relate to agencies and departments under the purview of the Assembly Budget Subcommittee No. 3—Resources. The purpose of this report is to identify what actions, if any, these auditees have taken in response to our findings and recommendations. We have placed this symbol ➲ in the left-hand margin of the auditee action to identify areas of concern or issues that we believe an auditee has not adequately addressed.

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

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

Unless otherwise noted, we have not performed any type of review or validation of the corrective actions reported by the auditees. All corrective actions noted in this report were based on responses received by our office as of January 11, 2006.

To obtain copies of the complete audit and investigative reports, access the bureau's Web site at www.bsa.ca.gov or contact the bureau at (916) 445-0255 or TTY (916) 445-0033.

DEPARTMENT OF FISH AND GAME

The Preservation Fund Comprises a Greater Share of Department Spending Due to Reduction of Other Revenues

Audit Highlights . . .

Our review of the Department of Fish and Game's (Fish and Game) administration of its preservation fund disclosed the following:

- ☑ *The preservation fund together with the General Fund pays for many of Fish and Game's programs.*
- ☑ *Although revenues to the preservation fund have increased due to fee increases that took effect in fiscal year 2003–04 for sport fishing licenses, Fish and Game has had its General Fund appropriation reduced by over $20 million between fiscal years 2001–02 and 2003–04.*
- ☑ *Also, between fiscal years 2001–02 and 2003–04, Fish and Game spent down its preservation fund reserves significantly.*
- ☑ *The amount Fish and Game spent on its hatcheries declined less than 3 percent from fiscal years 2001–02 to 2003–04 while spending of other programs declined more significantly.*

continued on next page . . .

REPORT NUMBER 2004-122, JUNE 2005

Department of Fish and Game's response as of December 2005

At the request of the Joint Legislative Audit Committee we reviewed the Department of Fish and Game's (Fish and Game) handling of the preservation fund as well as the funding of the State's fish hatcheries from fiscal year 2001–02 through 2003–04. The audit examined Fish and Game's setting, collecting, and spending of and accounting for revenue generated by the sale of sport fishing licenses. Also, the audit examined Fish and Game's allocation of revenue to program activities, their allocation of indirect costs, and their assessment of the sufficiency of funding levels. Finally, we determined trends in the funding of the hatcheries.

Finding #1: Fish and Game has not established written spending priorities, nor has it identified sufficient funding levels for preservation fund programs.

Because it has not measured the sufficiency of funding levels, Fish and Game is at a disadvantage in accurately projecting the funding necessary to operate programs at their intended capacities. This affects the department's ability to justify program funding allocations as it is difficult to build a convincing case for a given level of funding without having first defined a target service level and the associated costs. Further, Fish and Game never adopted a formal set of priorities to guide its spending. While Fish and Game has had to address frequent budget reductions, it has done so without the benefit of a written list of funding priorities for its activities. Because of recent reductions of General Fund support, and because Fish and Game did not reduce its expenditures to the same degree that revenues declined, the department spent down the reserves that existed in the preservation fund. Fish and Game projects that at the end of fiscal year 2004–05, it will have a balance of only $665,000 in the preservation fund. This is in comparison to the $24.5 million fund balance at the beginning of fiscal year 2001–02.

☑ *Although, a long-range spending plan could serve as a useful tool to guide department decisions, especially in times of fluctuating funding, the department lacks such a tool.*

☑ *Finally, Fish and Game failed to follow its own procedures for properly allocating its indirect costs, resulting in overcharges to some programs and undercharges to others.*

We recommended that Fish and Game update its strategic plan and develop annual operational plans with specific goals and then determine the funding necessary to meet these goals allowing it to better measure the sufficiency of funding for its programs.

Fish and Game's Action: Partial corrective action taken.

In September 2005, Fish and Game updated (currently in draft form), the Strategic Plan Goals and Strategies of the 1995 Strategic Plan. The director of Fish and Game has set forth the core fundamental priorities and has requested management to restructure in order to operate more effectively fiscally, organizationally, and programmatically. Activity codes have been revised to better correlate to the Fish and Game's funding priorities and mandates. In addition, Fish and Game is also in the midst of developing a priority-based budget process for managing funds and its activities. Upon completion of this process, Fish and Game will be able to develop team action plans to execute more new strategies that will improve performance.

Finding #2: Fish and Game spent more for both dedicated and non-dedicated programs than it collected in revenue.

All revenue collected and deposited into the preservation fund can be spent only to support preservation fund programs. Within the fund, certain revenues are restricted to specific purposes established in statute; Fish and Game holds such dedicated money in separate accounts of the preservation fund. For example, Fish and Game Code, Section 7149.8, requires persons taking abalone to purchase an abalone report card in addition to a standard sport-fishing license. Section 7149.9 requires that abalone report card revenue be deposited into the abalone restoration and preservation subaccount within the preservation fund. This section further stipulates that the funds received by this subaccount are to be expended for abalone research, habitat, and enforcement activities. In fiscal year 2003–04, the preservation fund contained 26 of these dedicated accounts, representing 15 percent of the total expenditures from the fund.

Although dedicated programs have revenue streams to support them, from fiscal years 2001–02 through 2003–04, Fish and Game expended more on dedicated programs in total than these programs generated in revenue. For example, the streambed alteration agreement program carried forward a negative beginning balance ranging from $1.4 million to more than $4.4 million during these three fiscal years. The program annually expended close to $3 million, although it only collected between $1.3 million and $1.6 million in annual revenues. Fish and Game told us that the streambed alteration agreement program and similar dedicated programs used existing account balances to make up for these over-expenditures.

In fiscal years 2001–02 and 2002–03, the non-dedicated portion of the preservation fund incurred even more expenditures in excess of revenues. Non-dedicated expenditures exceeded non-dedicated revenues by $4.3 million in fiscal year 2001–02 and by $11.6 million in fiscal year 2002–03.

We recommended that Fish and Game take measures to ensure that revenues streams are sufficient to fund each of its programs, which may require that fees be adjusted or that the department's General Fund be augmented to sustain dedicated and non-dedicated program operations.

Fish and Game's Action: Partial corrective action taken.

Fish and Game is addressing this issue through a complete review of revenues and expenditures. The actions, as proposed in the fiscal year 2006–07 Governor's Budget, include a combination of expenditure reductions, program adjustments, and revenue increases. A fee increase was just approved by the Office of Administrative Law, effective November 12, 2005, for the Lake and Streambed Alteration Account (dedicated).

Finding #3: Fish and Game has not demonstrated that it uses allowable resources to cover certain deficit spending.

It is not clear that Fish and Game always uses dedicated resources in the preservation fund for their intended purposes. Two of the preservation fund's dedicated accounts, as well as the non-dedicated account, had negative overall balances as of June 30, 2004, and some of these deficits have persisted for several years. In essence, accounts with positive balances, whose revenues have exceeded expenditures over the lives of the accounts, are subsidizing the excess expenditures of the accounts with deficits. No problem would exist if the non-dedicated account was covering these deficits because its resources can be used for a broad range of preservation purposes, including any of the purposes for which the dedicated accounts were created. However, with the non-dedicated account itself running a deficit, the only resources available in the preservation fund to cover deficit spending are those dedicated accounts with positive balances. In addition to the non-dedicated account, the lake and streambed alteration account, and the bighorn sheep dedicated account had negative overall balances as of June 30, 2004. For the three accounts, the deficit was $14.7 million in fiscal year 2003–04.

Fish and Game agrees that three of its dedicated accounts have negative overall balances. As a response to these negative funding issues, Fish and Game indicates it has reduced its planned spending by over $1 million in an effort to bring the preservation fund "into balance." However, it did not specify the impact of the proposed reduction on the individual dedicated accounts. Furthermore, Fish and Game has submitted an increased fee proposal for the lake and streambed alteration account to improve the fund condition.

We are still concerned that Fish and Game's responses to these negative balance issues are insufficient. The revenues that flow into the dedicated accounts are restricted to the purpose for which the program and the account were established. Therefore, using the resources of one account to pay for the expenses of another account may not be appropriate. For example, the enabling legislation for the Bay-Delta sport fishing enhancement stamp dedicated account makes it clear that funds collected from the sale of this stamp are for the long-term benefit of Bay-Delta sport fisheries, not to pay for the expenses of another program. We believe it is not sufficient for the department to address these issues by simply going forward with reductions in spending where necessary and increases in fees, although this is a good first step.

We recommended that Fish and Game avoid borrowing from its dedicated accounts to fund expenditures of other accounts. If this is temporarily unavoidable, the department should track those accounts that were the source of the borrowed resources and ensure that the law establishing the account that was borrowed from allows for such borrowing. We further recommended that Fish and Game identify those dedicated accounts that have been used to pay for expenditures of other accounts and pay back these lending accounts.

Fish and Game's Action: Partial corrective action taken.

Fish and Game is addressing this issue through a complete review of revenues and expenditures. The actions, as proposed in the fiscal year 2006–07 Governor's Budget, include a combination of expenditure reductions, program adjustments, and revenue increases. A fee increase was just approved by the Office of Administrative Law, effective November 12, 2005, for the Lake and Streambed Alteration Account (dedicated).

Finding #4: Fish and Game advanced $1.4 million from the preservation fund to the Native Species Conservation and Enhancement Account that may not be paid back.

As of June 30, 2004, Fish and Game's preservation fund showed a loan of $1.4 million to the Native Species Conservation and Enhancement Account (native species account). The loan was formalized in 1989. Fish and Game recorded payments from the native species account to the preservation fund in fiscal years 2001–02, 2002–03, and 2003–04, but Fish and Game could not provide to us an amortization schedule that would demonstrate when the loan would be repaid.

The native species account's revenue sources are donations received for the support of nongame and native plant species conservation and enhancement programs, an appropriation in the annual budget act from the General Fund, and revenues from the sale of annual wildlife area passes and native species stamps, as well as promotional materials and study aids.

Fish and Game told us that it will continue to make annual payments on this loan, but only to the extent of revenues received into the native species account. Unfortunately, revenues to the native species account have not been sufficient to pay down the loan. Therefore, unless revenues to the native species account increase significantly, this loan may never be paid back. When the loan is not collected, the resources are not available for preservation fund programs.

We recommended that Fish and Game resolve the advance from the preservation fund to the native species conservation and enhancement account through administrative or legislative means.

Fish and Game's Action: Partial corrective action taken.

Fish and Game has been tracking all postings to the interfund loan, established by statute in 1988, between Fund 0200, the Fish and Game Preservation Fund and Fund 0213, the Native Species Conservation and Enhancement Account. Any interest, payments, adjustments, and revenue posted to Fund 0213 have been closely monitored for the ongoing payback of the loan.

As of June 30, 2005, the loan balance was $1,150,950. However, the revenues for this account have dwindled over the past four years, from approximately $100,000 to $19,000 annually. Due to the insufficient revenues in Fund 0213, Fish and Game is not in the position to make the necessary payments to retire the entire loan balance and due to this being an interest bearing account, the delay compounds the debt owed daily. Therefore, Fish and Game is requesting forgiveness of this debt due to Fund 0200, the Fish and Game Preservation Fund.

Finding #5: Fish and Game failed to allocate indirect costs in accordance with its cost allocation plan.

Several of Fish and Game's activities have been created for the benefit of all the divisions of the department. These activities, which it calls "shared services," are the license revenue branch, legal services, air services, and geographic information systems. Fish and Game did not adjust the percentages used in allocating the indirect costs associated with these shared services to the divisions that benefited. It used the same percentages for allocating these indirect costs for fiscal years 2001–02, 2002–03, and 2003–04. As a result, some programs were overcharged, while others were undercharged for these costs. Fish and Game has not updated the percentages it used since prior to fiscal year 2001–02, the first year examined by this audit.

According to Fish and Game's own guidelines for allocating shared costs, percentages are to be adjusted annually based on either the governor's budget for the prior year or the actual services provided. Because annual adjustments were not made to the allocation ratios from fiscal years 2001–02 through 2003–04, Fish and Game inaccurately charged these programs for indirect costs. Our comparison showed that from fiscal year 2001–02 through 2003–04, the department's calculations overcharged the hatcheries and fish planting facilities a total of $1.3 million of the license revenue branch's and legal service's indirect costs. During the same time period that some programs were overcharged, Fish and Game's outdated percentages undercharged other programs for license revenue branch and legal service costs.

To prevent inequitable distributions of indirect costs and administrative expenses, we recommended that Fish and Game review and update the percentages used in its allocations method annually.

Fish and Game's Action: Corrective action taken.

Fish and Game has completed its review and update of the indirect cost charge percentages used in the annual allocation methods to ensure correct charges are made against various fund sources.

DEPARTMENT OF PARKS AND RECREATION

It Needs to Improve Its Monitoring of Local Grants and Better Justify Its Administrative Charges

Audit Highlights . . .

Our review of the Department of Parks and Recreation's (Parks) administration of local grants revealed the following:

- ☑ *Parks principally relies on certifications by recipients that they complied with grant requirements and expended grant funds for allowable purposes.*
- ☑ *Parks has not consistently followed its procedures for monitoring recipients' progress on projects, and such monitoring is inconsistently documented.*
- ☑ *Parks could not always demonstrate that specific project objectives for grants were met.*
- ☑ *The expected results from the use of General Fund grants are at times not specifically defined in legislation and are subject to Parks' interpretation.*
- ☑ *Parks does not separately track its actual costs of administering local grants, creating the risk that bond funds have subsidized the cost of administering General Fund grants.*

REPORT NUMBER 2004-138, APRIL 2005

Department of Parks and Recreation's response as of September 2005

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits review Department of Parks and Recreation's (Parks) process for administering local grants. Specifically, the audit committee asked us to assess whether Parks' oversight activities ensure that recipients are fulfilling the terms of their grants and spending the funds only on allowable purposes. The audit committee also asked us to determine how Parks defines administrative activities and related expenses, identifying the amounts charged to bond and other funds for administrative expenses.

Finding #1: The Office of Grants and Local Services (grants office) could strengthen its ongoing monitoring of recipients.

The grants office has not consistently followed its procedures for monitoring recipients' progress on projects. As a result, it has not been in a strong position to identify recipients who are not complying with grant requirements. According to its database, the grants office has disbursed $215 million as advance payments between July 1996 and mid-October 2004. Given the significant amount of funds advanced and the fact that recipients are allowed as much as five or eight years to complete their projects, we expected the grants office to periodically assess recipients' compliance with grant requirements.

The grants office indicated that its project officers have historically conducted annual agency reviews, generally over the telephone, to obtain updates on recipients' progress. However, our review of project files found that annual agency reviews were mentioned in only seven of 14 instances. Further, for these

seven, it was generally unclear exactly what information project officers gathered from the recipients during the reviews. In some instances the files gave no indication of the information obtained or the specific projects discussed.

Parks asserted that, in addition to annual agency reviews, project officers maintain continual contact with recipients, obtaining up-to-date information on the status of projects. However, our review revealed a lack of consistent interaction. For 12 of 18 projects, the files indicated that the grants office went more than 10 months without discussing the status of projects with recipients. For two of the 12 projects, the grants office went longer than two years without obtaining updates. Recognizing its need for improvement, the grants office in December 2004 implemented a new policy requiring recipients to report the status of their projects every six months. However this new requirement is essentially nothing more than another self-certification by grant recipients.

Parks should continue its efforts to more consistently monitor recipients' use of grant funds, including its efforts to implement the new six-month reporting requirement. Additionally, Parks should require recipients to submit evidence of project progress and inform Parks about significant project developments. Finally, Parks should revise its policies to ensure that project officers consistently document their interaction with recipients, providing sufficient detail regarding projects for effective future monitoring.

Parks' Action: Corrective action taken.

Parks indicated that it requires grant recipients to submit a Progress Status Report twice a year for all active projects. As of September 2005, Parks' revised policy requires that it stop payment on projects where this report is past due for more than 15 days. Along with each report, grant recipients will submit photos of work in progress, report on project status, and report on significant project developments and potential obstacles to project completion. Further, recipients sign under penalty of perjury that the information provided in the report is accurate. Finally, Parks states that it continues to contact all recipients that currently have active grant contracts via telephone to conduct annual agency reviews.

Finding #2: The grants office cannot always demonstrate that the public benefited from its local grants as intended.

Because it uses a monitoring process that relies heavily on recipients self-certifying their appropriate use of grant funds, it is important that the grants office conduct thorough final inspections of projects to ensure that the public benefited as intended from the grants. However, our review of project files revealed that the project officers could not always demonstrate that they performed final inspections or that they ensured specific project objectives were met during inspections they did perform. The grants office indicated that it has waived its requirements for final inspections under unusual circumstances, such as small grant amounts and when photographs are available to document the work. However, Parks has not developed procedures outlining when it will waive this requirement, potentially resulting in an inconsistent approach.

Such inconsistency was noted for one $500,000 grant where the grants office waived the final inspection requirement, accepting photographs instead. Given the significant amount of the grant, it would have been prudent to visit the site to ensure that the facilities mentioned in the contract were built as planned. For two other projects of 23 we reviewed, the grants office contended that the projects were visited but a final inspection not documented, including one grant for $985,000. Further, we noted that when final inspections were documented, project officers could not always demonstrate that specific project objectives were met before considering the projects complete. By not documenting that a final inspection was performed, or not documenting that specific objectives were met, the grants office is less able to demonstrate that the public benefited as intended from the grant.

Parks should develop procedures describing the circumstances under which the grants office will conduct final inspections, ensuring that all recipients who expend significant grant funds are consistently reviewed. Additionally, it should continue with its efforts to better document its final inspections, ensuring that it demonstrates that specific project objectives were met.

Parks' Action: Corrective action taken.

Parks has revised its policies regarding final inspections. Specifically, Parks' new policy requires its staff to document, among other things, that project scope items are complete and that the facilities are open to the public. Further, Parks has established policies regarding when final payments on projects can be made before a final inspection has occurred. Parks will permit final payment of a project before a final inspection when certain conditions are met, such as when the dollar amount of the grant is relatively small or when circumstances exist which make timely inspection impractical. Parks' policy states that when a final payment has occurred without a final inspection, a final inspection should nonetheless be conducted as soon as practical. As of September 2005, Parks indicated that it is conducting final inspections on all construction projects and verifying documents to confirm work was completed on all other projects. Parks states that final inspection reports and photos are being filed in the project file and in its computer system as appropriate.

Finding #3: The expected results from the use of General Fund grants are not always clear.

Between July 1996 and mid-October 2004, the grants office disbursed more than $106 million in local grants from the General Fund. However, sometimes the intended uses of these grant funds are not specifically defined. In fact, in our review of the fiscal year 2000–01 budget act, we noted many instances of the Legislature appropriating General Fund grants with only the recipients' names, grant amounts, and project names specified; the budget act provided no information on what was to be accomplished with the funds. The grants office states that in the absence of clear guidance, it works with the recipient

to clarify the project scope. However, the lack of specific legislative direction on the intended use of funds could allow the recipient to potentially submit multiple scope change requests, and the grants office may have little authority to deny the requests.

Sometimes when working with a recipient to identify a project's scope, the grants office interprets what is to be accomplished by the award. For example, the budget act might specify that the purpose of a General Fund grant is to complete construction of a new facility. However, Parks maintains that the legislative intent behind such a grant may not be as clear as it initially appears, questioning whether the Legislature intended the grant to result in a completed facility that would be open to the public or simply to help pay for construction. In such cases the grants office makes decisions as to when it considers a recipient has met its project objectives. However, the grants office does not always clearly establish at the beginning of the grant what the scope of the project is to be and what type of deliverable it expects to see before it makes final payment. Parks indicated that in the future, it will stop action on any General Fund grant when direction is less than perfectly clear in sponsoring legislation. It will ask for further statutory direction from the Legislature before moving forward on the grant.

Should it choose to appropriate General Fund grants in the future, the Legislature should specifically define what is to be accomplished with the funds. In cases where Parks is unclear as to the expected results or deliverables from grant funds appropriated by the Legislature, Parks should continue with its new policy of stopping action on these grants and seeking further statutory language clarifying the intended use of these funds. Finally, to ensure that it is in a stronger position to hold recipients accountable, Parks should clearly document its expectations as to what is to be accomplished with these funds in its grant contracts.

Legislative Action: None.

It appears that the Legislature did not appropriate any General Fund grants to Parks within the Budget Act of 2005. Thus, no legislative action is needed.

Parks' Action: Corrective action taken.

Parks has revised its policies regarding how its grant contracts will document Parks' expectations as to what is to be accomplished with grant funds. Specifically, Parks' new policy requires project scope language in grant contracts to be "sufficiently specific so that the product to be provided by the project is clearly defined." Further, Parks' new policy requires recipients to submit project scope change requests that include a new cost estimate, application, and evidence that the revised project still complies with the law or budget language that established the grant. Further, Parks asserts that it has provided training to its staff regarding its new policies. Finally, Parks provided evidence that it has sought legislative approval for project scope changes for three grants, indicating that it will seek legislative guidance on the intended use of grant funds. Parks indicates that it will advise grant recipients, along with Senate and Assembly members representing the area, whenever there is a question as to the project's scope or applicant.

Finding #4: Parks does not track its actual costs for the grants office's administration of Propositions 12 and 40 programs.

Although Propositions 12 and 40 require Parks to charge only its actual costs of administering each bond's programs to the respective bond fund, Parks does not track its actual administrative costs incurred by the grants office relative to each of the bonds. We focused on the grants office's costs because it is the office that has primary responsibility for monitoring local grants. In general, the actual cost of the grants office is initially charged to a single program cost account, which is funded by Propositions 12 and 40 as well as other funding sources. Although the amounts charged to the account reflect the total cost of the grants office, the costs cannot be directly attributed to Propositions 12, 40, or other funding sources. They typically reflect the total personnel and operating costs of the grants office. Similarly, the sources and amounts funding the single program cost account are not based on the actual work of project officers on programs funded by those sources. The amounts are appropriated by the Legislature based on Parks' administrative cost plan, as modified by statutorily authorized adjustments. Once the program cost account is funded, actual administrative costs are charged to each funding source based on its share of the total funding received by the grants office.

We question whether Parks' methodology for charging the cost of the grants office to bond funds based on the share of funding the grants office receives is valid. Parks' methodology, in effect, allocates more costs to the administration of large grants than that of small grants. However, according to a grants office manager, grant procedures are the same for administering large grants as they are for small grants, and the level of effort necessary to administer a grant does not depend on a dollar amount as much as it does on other variables, such as the experience and knowledge of the recipient and complexity of the project. Further, for federal funds, Parks is required to periodically assess the reasonableness of its cost allocation methodology to actual costs incurred. Following a similar approach for Propositions 12 and 40 funds would be a prudent practice.

To ensure that it is reasonably charging administrative costs to the appropriate funding sources, Parks should perform quarterly comparisons of its actual administrative costs to the costs it recorded and adjust its methodology and recorded costs as necessary.

Parks' Action: Pending.

Parks indicates that it has implemented a week-long sample workload test for the entire grants office staff. The resulting information, and information from subsequent tests conducted in different workload periods, will be utilized to assess the best methods for comparing costs recorded to actual costs. Parks plans to provide an update on this and any subsequent tests in its one-year response to the audit, which is due April 2006.

DEPARTMENT OF PARKS AND RECREATION

Lifeguard Staffing Appears Adequate to Protect the Public, but Districts Report Equipment and Facility Needs

REPORT NUMBER 2004-124, AUGUST 2005

Department of Parks and Recreation's response as of December 2005

Audit Highlights . . .

Our review of the sufficiency of the Department of Parks and Recreation's (Parks) staffing levels and other resources at state beaches necessary to protect the public found that:

- ☑ *Even though Parks reported a significant increase in estimated beach attendance and lifeguard workload from 2000 to 2004, it did not report an increase in drownings where there was a staffed lifeguard tower or station.*
- ☑ *We noted instances in which Parks' aquatic safety statistics were incomplete or inaccurate.*
- ☑ *Although we estimate that Parks' lifeguards worked slightly fewer hours in 2004 than in 2000, its lifeguard staffing patterns and its mix of permanent and seasonal lifeguards seem reasonable.*

continued on next page . . .

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the sufficiency of the Department of Parks and Recreation's (Parks) staffing levels and other resources necessary to protect the public at state swimming beaches. Specifically, the audit committee asked the bureau to review and evaluate the method Parks uses to determine what constitutes a sufficient number of lifeguards at state swimming beaches. As part of an assessment of whether Parks has a sufficient number of lifeguards at state swimming beaches, the audit committee asked us to determine how Parks' lifeguard staffing levels compare with those of cities, counties, and other states, if possible. The audit committee also asked us to evaluate whether Parks has sufficient equipment for lifeguards at state swimming beaches and whether Parks adequately budgeted for lifeguards and equipment to protect the public at those beaches. Finally, the audit committee requested that we determine the number of drowning incidents reported at state, county, and city beaches and whether there is a correlation between the number of drownings and either the number of lifeguards or the resources available to lifeguards stationed at state swimming beaches. Our review revealed the following:

Finding #1: Lifeguard staffing levels have been sufficient to prevent an increase in drownings at guarded waters despite a reported increase in beach attendance and lifeguard workload.

Despite a reported increase in beach attendance and lifeguard workload, Parks reported a total of seven drownings in guarded waters at state beaches within its lifeguard districts over the

- ☑ *While Parks has reported an increasing number of drownings in unguarded waters over the last five years, adding more lifeguards may not be an appropriate response.*
- ☑ *Parks' districts with aquatic safety programs have significantly decreased their spending on the equipment and facility operations portion of their support costs from fiscal years 1999–2000 to 2003–04.*
- ☑ *Even though lifeguard sectors report a need for additional resources to maintain and add to their lifeguard equipment and facilities, Parks' management believes that the department has allocated sufficient funds to provide adequate aquatic safety.*

five-year period from 2000 through 2004. Parks defines guarded water as a location within the viewing area of a staffed lifeguard tower or station. The three local governments we surveyed reported similar results. This suggests that the presence of lifeguards has been effective at state and local beaches in minimizing drownings in guarded waters. These trends are similar to a national trend discussed in a 2001 report by the Centers for Disease Control and Prevention (CDC), which concluded that the total number of reported drownings at lifeguard-staffed beaches has remained relatively stable since 1960 although both beach attendance and rescues by lifeguards have risen steadily.

Based on the data Parks reported, attendance at state beaches and lifeguard workload increased significantly from 2000 to 2004. Specifically, Parks' lifeguard districts reported that attendance at state beaches increased from 23.4 million in 2000 to 41.4 million in 2004, an increase of nearly 77 percent. Parks and the three local beaches we surveyed use various methods involving some level of estimation to calculate their reported attendance. Therefore, it is difficult to closely compare the attendance data they reported. Consistent with its reported increase in beach attendance, Parks reported that the overall workload of lifeguards at state beaches increased significantly from 2000 to 2004. The most dramatic increase was in the number of warnings issued and preventive actions taken. Parks indicated that it issued almost four times the number of warnings and took almost twice the number of preventive actions in 2004 as it did in 2000. In comparison to its other workload statistics, Parks reported more modest increases in aquatic rescues and medical aids of 27 percent and 18 percent, respectively, from 2000 to 2004.

Finding #2: In certain instances, Parks' aquatic safety statistics were incomplete or inaccurate.

Our review of Parks' aquatic safety data for the five-year period ending in 2004, identified instances in which the data were incomplete or inaccurate. For example, we found that one lifeguard district failed to report most of its aquatic safety statistics for 2001. In addition, we found three other lifeguard districts that did not report swimmer-related rescues for 2001 and another that reported certain duplicate statistics for 2001 and 2002. In addition, Parks originally reported to us that 36 unguarded-water drownings occurred within state park boundaries in 2004. Unguarded water is an area where Parks

either has no lifeguard assigned at all or has a lifeguard assigned but the waters are outside the immediate view of the lifeguard. After we reviewed a summary of these incidents and a sample of the related public safety reports it provided, Parks revised the number to 31.

These kinds of problems raise questions about the reliability of the aquatic safety data that Parks reported. Although we did not find an instance where the inaccurate data caused Parks to make an inappropriate management decision, if it is going to spend the time and effort to collect statistics regarding aquatic safety, it is reasonable to expect the information to be as accurate as possible. In addition, ensuring the completeness and accuracy of its aquatic safety statistics will help Parks make better management decisions regarding the allocation of its aquatic safety resources.

We recommended that Parks should:

- Make certain its districts that are required to track and report aquatic safety statistics are submitting them as required.

- Require its staff to review the statistics for accuracy and completeness.

Parks' Action: Corrective action taken.

In November 2005, Parks issued a memorandum to its district superintendents reminding them that all aquatic safety-related statistics are due by January 10, 2006, and asking them to ensure that they review the data for accuracy and completeness. In addition, to help ensure the accuracy of data tabulation, Parks updated its daily log and monthly activity reports into a spreadsheet that automatically tabulates into a year-end summary.

Finding #3: Although we estimate that Parks' lifeguards worked slightly fewer hours in 2004 than in 2000, its lifeguard staffing patterns and its mix of permanent and seasonal lifeguards seem reasonable.

Parks' lifeguards worked slightly fewer hours in 2004 than they did in 2000. Based on payroll data we obtained from the State Controller's Office, we estimate that in 2000, lifeguards worked about 376,000 hours compared with 357,000 in 2004.

Parks appears to adjust its lifeguard staffing levels to deal with changes in beach attendance and to use a reasonable mix of permanent and seasonal lifeguards to provide public protection at state beaches. Parks indicated that it attempts to increase the staffing levels of lifeguards in the summer months to cope with increased attendance at state beaches. According to Parks, the peak attendance season generally runs between April and October each year. For example, we found that the total number of hours lifeguards worked in the San Diego North sector during 2004 generally fluctuated with changes in reported attendance. In addition, this sector appeared to keep pace

with increasing attendance, because the four months with the most hours worked by lifeguards (June through September) coincided with the four months in which the reported levels of attendance were highest.

In addition, we found that, based on the average number of hours lifeguards worked each month over the last five years, Parks used seasonal staff to augment the number of lifeguards on duty during the peak season. Permanent lifeguards worked a relatively steady number of hours each month on average over the five-year period, whereas seasonal lifeguards worked a great deal during the summer months but very little during the nonpeak season. This staffing pattern indicates that Parks relies on permanent lifeguards to protect the public in nonpeak months, while this task falls primarily to seasonal lifeguards during the peak attendance season.

Although seasonal lifeguards contribute heavily during the peak attendance season, 94 percent of seasonal lifeguards worked fewer than 1,000 hours in 2004, with 70 percent working fewer than 500 hours. Given that Parks set 1,778.5 as its standard measure of the annual hours a full-time employee works, it apparently does not need to convert any of its seasonal lifeguards to permanent status.

Finally, Parks requires all its permanent lifeguards to be peace officers. Parks reported that the workload levels related to the law enforcement aspects of a lifeguard's job have increased dramatically. Since Parks relies primarily on permanent lifeguards for about five months of the year during the nonpeak attendance season, it seems important for Parks' permanent lifeguards to be peace officers.

Finding #4: While Parks has reported an increasing number of drownings in unguarded waters, adding more lifeguards may not be an appropriate response.

Parks' lifeguard districts have reported an increasing number of drownings in unguarded waters over the last five years. The majority of the 31 unguarded-water drownings in 2004 occurred in north coast and inland lifeguard districts that generally receive less beach attendance than the south coast lifeguard districts. Overall, given the low number of drownings in guarded waters discussed earlier and the increasing number occurring in unguarded waters, one might conclude that adding more lifeguards would decrease the number of drownings in unguarded waters. However, although every drowning is a tragedy, based on the circumstances surrounding the 31 reported drownings in unguarded waters during 2004, we believe that adding more lifeguards may not be an appropriate response. In particular, for more than half these incidents, the level of lifeguard staffing did not appear to be an issue. Further, at the locations of the remaining incidents, it is not clear that Parks would choose to add more lifeguards if it received additional resources.

We recommended that Parks monitor the circumstances surrounding drowning incidents that occur in unguarded waters to help it determine the amount and best allocation of resources sufficient to protect the public.

Parks' Action: Corrective action taken.

Parks indicated that its aquatic specialist has been collecting all drowning incident reports, both guarded and unguarded water fatalities, for 2005 from the districts, and will be reporting on the primary and contributing factors involved in these drownings in an annual statewide report.

Finding #5: Continued deferral of equipment repair and maintenance may eventually have a negative impact on Parks' ability to adequately protect the public.

Lifeguard districts significantly decreased their spending for equipment and facility operations costs from fiscal years 1999–2000 to 2003–04. As a result, according to the sectors within the lifeguard districts that operate aquatic safety programs (lifeguard sectors), some of their lifeguard equipment and facilities are in poor condition and in need of repair or replacement. Staff at Parks indicated that it generally cuts back on equipment and maintenance expenses when faced with budget cuts for operating expenses because they are nonfixed or discretionary expenses. This is consistent with responses to our survey, in which many lifeguard sectors expressed a need for additional resources to maintain and add to their lifeguard equipment and facilities. These sectors indicated needing primarily vehicles, rescue boats, and portable towers. In addition, although Parks plans to replace two of its permanent lifeguard facilities and expand another, lifeguard sectors reported that several other facilities are in need of repair or replacement. However, management at Parks believes that it has allocated sufficient funds to provide adequate aquatic safety while balancing the needs of all its programs. In contrast, the three local governments we surveyed reported having sufficient and operable equipment.

Although no instances came to our attention in which the poor condition of equipment affected the lifeguard sectors' ability to provide aquatic safety, we observed a few examples of equipment in poor condition. However, we were unable to assess whether the additional equipment needs reported by the lifeguard sectors were necessary, because we are not aware of any standard that specifies the amount of equipment lifeguards must have to perform their duties. Finally, although most lifeguard districts said they need additional funds to maintain their equipment, we are uncertain they would spend the additional funds to fulfill those needs. According to Parks' budget office, the lifeguard districts have some control over their spending for nonfixed or discretionary costs, such as equipment and facilities maintenance, overtime, and temporary staffing.

We recommended that Parks monitor how long it can continue to curtail spending on lifeguard districts' equipment and facilities to avoid a potentially negative impact on its ability to protect the public. In addition, if Parks decides to allocate additional funding to its aquatic safety programs in the future, either for equipment expenses or for additional lifeguards, it should work closely with its lifeguard districts to clarify the intended purposes of any proposed changes in spending. For example, if Parks decides to allocate additional funding to augment its lifeguard staff, it should carefully consider

whether to expand coverage into unguarded waters in districts with existing aquatic safety programs or to implement new aquatic safety programs in districts at coastal or inland waterways without lifeguard coverage.

Parks' Action: Pending.

Parks indicated that it appreciates the vital role that equipment and facilities have in the delivery and effectiveness of its aquatic safety program and recognizes that continuing reductions in spending could have potential impacts on public safety as well as other core programs. Parks also stated that it continues to use systems such as its computerized asset management program to help prioritize maintenance and to justify additional funding for critical programs.

However, given the State's current fiscal challenges and the need to balance resources across all of its core programs, Parks indicated that even critical projects cannot always be completed, or fully funded, in the manner and time it would prefer. Unfortunately, Parks asserts that this situation continues, limiting its options in fully funding the replacement of lifeguard facilities and equipment.

Finding #6: Lifeguard sectors lack evidence to support their reported need for automatic external defibrillators.

Although 15 of the 19 lifeguard sectors we surveyed said they need additional automatic external defibrillators (AEDs), Parks does not presently capture data that would be sufficient to assess its need for these devices. An AED is a piece of medical equipment that lifeguards can use to rescue victims of sudden cardiac arrest. For instance, lifeguard sectors reported that they used AEDs in six cases in 2004, which is the year they began reporting the number of times AED units were used. However, these reported cases might understate Parks' need for AEDs because they may not indicate the number of instances in which AEDs should have been used. A more relevant statistic would be to track the number of times in which a rescue required the use of an AED, but one was not available. Parks could then use these data to assess whether it needs additional AEDs and, if so, how many.

We recommended that, to clarify to what extent it needs AEDs, Parks should track not only its actual usage of AEDs but also the number of times it needed them but they were unavailable. Similar procedures could apply to demonstrating the need for other equipment.

Parks' Action: Corrective action taken.

In the November 2005 memorandum to district superintendents, the chief of Parks' public safety division instructed staff to record the number of medical cases in which AEDs were needed, but were unavailable, by using one of the boxes marked "OTHER" at the bottom of the form used to gather statistics with the heading "AED needed/unavailable."

OFF-HIGHWAY MOTOR VEHICLE RECREATION PROGRAM

The Lack of a Shared Vision and Questionable Use of Program Funds Limit Its Effectiveness

Audit Highlights . . .

Our review of the Off-Highway Motor Vehicle Recreation Program (OHV program) revealed that:

- ☑ *The Off-Highway Motor Vehicle Recreation Commission and the Off-Highway Motor Vehicle Recreation Division (division) have not developed a shared vision to implement an OHV program that is balanced between OHV recreation and the environment.*
- ☑ *The division's recent strategic plan is incomplete and does not include some important elements such as a comprehensive evaluation of the external and internal factors that could affect the OHV program.*
- ☑ *In the absence of a formally adopted strategy, the commissioners voted to approve grants and cooperative agreements based on their individual interests rather than on a strategy to achieve a balanced program.*

continued on next page . . .

REPORT NUMBER 2004-126, AUGUST 2005

Department of Parks and Recreation, Off-Highway Motor Vehicle Division, Off-Highway Motor Vehicle Commission responses as of November 2005

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

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

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

- ☑ *Recent legal requirements to spend designated portions of OHV program revenue for conservation, restoration, and law enforcement have not been met and because the division has not set aside the cash, a growing unfunded obligation exists.*
- ☑ *The division and the Department of Parks and Recreation (department) have spent or earmarked $38 million for three land acquisition project—one completed and two under consideration—that offer little or no additional OHV recreation.*
- ☑ *Based on a questionable legal interpretation and inadequately supported cost estimates, the department is using Off-Highway Trust Fund money—$3.6 million during fiscal year 2003–04—to support state parks that do not have OHV recreation.*
- ☑ *The division made questionable purchases of goods and services using contracts paid with OHV funds and in numerous instances violated state contracting rules.*
- ☑ *The division's management of the funds expended through grants and cooperative agreements needs improvement.*

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Finding #1: The commission and the division have not formally adopted a shared vision for the OHV program, nor have they developed the goals and strategies necessary to meet that vision.

The commission and the division have not formally adopted a shared vision for the OHV program to balance OHV recreation and protection of California's natural and cultural resources, nor have they developed the goals and strategies necessary to meet that vision. In addition, the division and the commission do not collaborate on the planning for the SVRAs and grants program. In the absence of a shared vision and goals, the commissioners, the division, and stakeholders in the OHV program compete for the more than $50 million collected from OHV recreationists each year to serve their diverse interests and further individual agendas, potentially resulting in an inefficient use of funds and discord among the interested parties.

To ensure that the OHV program is adequately balanced between OHV recreation opportunity and environmental concerns as the Legislature intended, we recommended that the division and the commission develop a shared vision that addresses the diverse interests in the OHV program. Once developed, the division and the commission should implement their vision by adopting a strategic plan that identifies common goals for the grants program and the SVRAs, taken as a whole, and specifies the strategies and action plans to meet those goals.

Department's Action: Pending.

The department states that it recognizes a shared vision between the division and the commission is optimal. However, it notes that the implementation of a shared vision implies a willingness of collaborative spirit within the relationship between the two parties. To the extent possible, the department states that the division will continue to do its best to balance the concerns of those communities sharing a vested interest in the program as well as to collaborate with the commission for continued improvement in the program. However, the department notes that as of its November 2005 response to our audit that the commission has not yet held a meeting to discuss findings of the audit report.

Commission's Action: None.

The commission chair reports that because the commission has not met since the release of the audit report, it has taken no formal action in response to the audit. However, the commission chair indicates that the commission will be discussing the concerns the audit raised in its December 2005 meeting and, although he provides no specific details, he indicates that he has requested the division work with the commission to address the audit recommendations.

Finding #2: Although required by the law to do so by January 1, 2005, the division has not yet completed its strategic planning process to identify future OHV recreation needs.

The division prepared a final draft of a strategic plan in March 2005, but it used an abbreviated planning process that did not include some important elements such as a comprehensive evaluation of the external and internal factors that could affect its ability to successfully implement the OHV program. In addition, the commission and the division have not collected the necessary data or prepared the required reports to successfully complete its strategic planning. For example, the division has begun but has not yet completed a new fuel tax study that will provide information on the number and types of off-highway vehicles engaged in OHV recreation and the destinations and types of recreation sought by OHV enthusiasts. Without a comprehensive strategic plan, the division's budgets are not guided by agreed-upon goals and strategies for achieving them but rather on historical spending levels and available funds.

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

Department's Action: Pending.

The department reports that it has been working with the division to further develop the final strategic plan, which will include the elements we recommended. However, the department states that much of the needed data to complete the strategic plan will not be available until the fuel tax study is completed, which was expected in January 2006, but has been delayed until July or August 2006.

Finding #3: The commission has not formally adopted a strategy for grants program funding.

In the absence of a formally adopted strategy, the grants program lacks direction, and commissioners vote to approve grants and cooperative agreements based on their individual interests. As a result, the applicants for the grants program are often unaware of the commission's priorities, and the funding issued by the grants program is not

done to achieve a balanced OHV program. According to the recipients that receive the largest grants and cooperative agreements, unclear guidance on the commission's priorities presents challenges for them when applying for funds from the grants program.

To make efficient use of division staff's time and provide guidance to grants program applicants, we recommended the commission should develop and communicate priorities based on a strategy for using the grants program to promote a balanced OHV program.

Commission's Action: None.

The commission chair reports that because the commission has not met since the release of the audit report, it has taken no formal action in response to the audit. However, the commission chair indicates that the commission will be discussing the concerns the audit raised in its December 2005 meeting and, although he provides no specific details, he indicates he has requested that the division work with the commission to address the audit recommendations.

Finding #4: The commission's accountability for its funding decisions could be improved.

The law currently requires the commission to provide a biennial report on certain elements of the OHV program, including the status of the program and its natural and cultural resources and the results of the division's strategic planning process. However, the law does not require the commission to report its strategies and priorities, and how it awards OHV trust fund money to meet the legislative intent of the OHV program. In addition, the commission has not yet prepared the biennial report that was due to the Legislature on July 1, 2005.

To improve accountability, we recommended the Legislature consider amending state law to require the commission to annually report the grants and cooperative agreements it awards by recipient and project category, and how the awards work to achieve the shared vision that it and the division develop. We also recommended that the commission prepare and submit the required biennial program reports when they are due.

Legislative Action: None.

Commission's Action: None.

The commission chair reports that because the commission has not met since the release of the audit report, it has taken no formal action in response to the audit. However, the commission chair indicates that the commission will be discussing the concerns the audit raised in its December 2005 meeting and, although he provides no specific details, he indicates that he has requested the division work with the commission to address the audit recommendations.

Finding #5: Some spending requirements in the law may impede the ability of the commission and the division to implement a vision for the OHV program.

Based on a stakeholders' consensus reached in 2002 that was adopted into the law, the division is required to spend the portion of fuel tax revenue attributable to unregistered off-highway vehicles and deposited in the Conservation and Enforcement Services Account (conservation account) for restoration, conservation, and enforcement activities. That portion was $28.4 million, or 61 percent, of the OHV program's fiscal year 2003–04 revenues. However, there is disagreement among the commission, the division, and the stakeholders about whether this spending requirement contributes to a balanced OHV program. Further, because the division has not been able to satisfy the spending requirement, since January 2003 it has accumulated an obligation to use unspent conservation account funds of $15.7 million, including $8.3 million designated for restoration activities. The department indicates the unspent cash to pay for this future obligation is not reserved; thus, it may present a substantial financial burden.

We recommended that the division and commission evaluate the current spending restrictions in the law to determine whether they allow for the allocation of funds necessary to provide a balanced OHV program and, if necessary, seek legislation to adjust those restrictions.

Department's Action: Pending.

The division is working with the department's legislation unit to identify draft legislative bill language that will address the spending restrictions that currently exist in state law.

Commission's Action: None.

The commission chair reports that because the commission has not met since the release of the audit report, it has taken no formal action in response to the audit. However, the commission chair indicates that the commission will be discussing the concerns the audit raised in its December 2005 meeting and, although he provides no specific details, he indicates he has requested that the division work with the commission to address the audit recommendations.

Finding #6: The law is not clear on the use of restoration funds.

The present practice of the commission and division is to require areas and trails to be permanently closed to OHV recreation before restoration funds are used to repair damage from OHV recreation. However, the law does not support this practice, especially with respect to restoration funds that are used on federal lands. Rather, it states that when soil conservation standards or wildlife habitat protection standards are not being met in any portion of an OHV recreation project area that is supported by a cooperative agreement, the area that is out of compliance must be temporarily closed until those standards are met.

We recommended that the Legislature consider amending the Public Resources Code to clarify whether using OHV trust fund money to restore land damaged by OHV recreation requires that the land be permanently closed to off-highway vehicles.

Legislative Action: None.

Finding #7: The division and the department have used money from the OHV trust fund for questionable purposes with respect to land acquisition.

For three recent land acquisition projects, with planned costs totaling $38 million, the division and the department could not provide analyses that showed the benefit of these purchases to the OHV program. The division has purchased Deer Creek Hills, and Onyx Ranch and Laborde Canyon are still under consideration, and based on the available documentation, these projects do not appear to be the best use of the funds in implementing the OHV program. In each case, project land will be devoted largely to protecting or preserving natural or cultural resources with a relatively small portion or no portion at all available for OHV recreation.

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

Department's Action: Pending.

The department states that the division is working with the department's Acquisition and Real Property Division to develop and implement a land acquisition strategy, with a goal of completing this strategy by spring of 2006.

Finding #8: The department made questionable and inadequately supported charges to the OHV trust fund to help pay for state park operations and departmental overhead costs.

In fiscal year 2003–04 the department began using the OHV trust fund to pay for some of the costs to operate park districts that are not SVRAs because it interprets the law to mean vehicle use on any unpaved road in the state park system is eligible for OHV program funding. However, we believe the department's interpretation is inconsistent with the Legislature's clear intent for the OHV program and with provisions of law that limit the use of the OHV trust fund. These costs, which we found were inadequately supported, totaled $3.6 million for fiscal year 2003–04 and $2.7 million during the first three quarters of fiscal year 2004–05. The lack of adequate support for these costs is disconcerting because the department plans to use these costs as a basis for its future

charges to the OHV trust fund for these activities. Moreover, because the department allocates its overhead costs based on direct costs to programs, the OHV trust fund was charged an additional $437,000 in fiscal year 2003–04 alone for the questionable costs we found.

In addition, the department charged approximately $72,000 of the director's office costs in fiscal year 2003–04 to the OHV trust fund, even though the law expressly forbids those charges.

To ensure that money from the OHV trust fund is used appropriately, we recommended the Legislature amend the law to specify whether the department's broad interpretation that any road that is not defined as a highway but is open for public use in a state park qualifies for funding by the OHV trust fund, or whether state law restricts the use of OHV trust fund money to areas where non-street-licensed vehicles can engage in traditional OHV activity.

We also recommended that the department either discontinue charging the director's office costs to the OHV trust fund or seek a statutory change to remove this restriction.

Legislative Action: None.

Department's Action: Partial corrective action taken.

The department states that it has discontinued charging costs of the director's office to the OHV trust fund.

Finding #9: The division's contracting practices often violate state contracting rules, and it has not explored less costly alternatives to these contracts.

For various reasons the division has increased its use of contracts over the past five years, with a peak in fiscal year 2002–03. However, the division has used contracts paid from the OHV trust fund for questionable purchases and it also violated rules that govern the use of contracts, including 80 instances of splitting a series of related tasks into multiple contracts to avoid competitive bidding and oversight. Further, the division has not adequately analyzed its operations to determine if either using existing staff or hiring additional employees would be less expensive than contracting for staff-related work and ongoing needs. Most of these contracting problems occurred in fiscal years 2001–02 and 2002–03, but some were more recent.

We recommended the division comply with state contracting requirements and that the department better monitor the division's contracting practices.

Department's Action: Partial corrective action taken.

The department reports that the division now requires the division chief review and approve all headquarters contracts and district superintendents have been counseled and trained on review and approval of contracts. In addition, the division will review all contracts encumbered by the districts on a quarterly basis. Further, the department plans to provide contract training to appropriate division staff in January 2006.

The department also states that some work previously performed by contractors has been permanently transferred to state employees. In particular, division staff are now taking an active role in organizing and setting up commission meetings.

The department states that its Contracts Service Unit reviews all small dollar contracts to ensure compliance with state contracting requirements and alerts the appropriate managers should it identify multiple small contracts to the same vendor.

Finding #10: Administration of the grants program lacks accountability.

The division needs to better track funds it advances to grantees to ensure that advanced funds are used only for allowable activities and that unused funds are returned. Specifically, we identified $881,000 in outstanding advances, including $566,000 advanced to Los Angeles County, which were either not returned or that the division had been unable to determine how the funds were spent. In addition, the division does not ensure that all completed grants and cooperative agreements are audited, and in our review of 12 audit reports the division had not collected ineligible costs of $598,000 related to three audits. The division also circumvented state budget controls and its regulations when it reallocated unspent grant funds totaling $2.2 million among U.S. Forest Service districts. Further, the commission and the division sometimes use the OHV grants program to fund questionable activities. Finally, the division's grants database does not meet its information needs and contains numerous errors and inaccuracies that limit its value.

We recommended that the division keep track of funds advanced to recipients, ensure that all grants and cooperative agreements receive annual fiscal audits and performance reviews, follow-up on audit findings and collect ineligible costs, discontinue its practice of reallocating unspent grant funds among Forest Service districts, and improve its grants database. Additionally, we recommended that the commission allocate funds only for purposes that clearly meet the intent of the OHV program.

Department's Action: Partial corrective action taken.

The department reports the division has implemented policies that provide tracking, monitoring, and recovery of OHV program funds, and that the division is working to recover portions of outstanding grants and cooperative agreements owed to it by grantees identified in our audit report.

The department states that the division is committed to performing site visits and it is developing site review guidelines to include in the OHV program regulations. In addition, the department indicates that the division is working to ensure grants are audited, audit findings promptly scheduled and resolved, and ineligible costs recovered. The division's process includes notification to the grantees of audit exceptions, request for return of ineligible costs, and possible withholding of future payments as enforcement. The division is working with the department's legislation unit to identify draft legislation to clarify the requirement in the law to audit grants and cooperative agreements. In addition, the department indicates it has halted all reallocations of unspent grant funds among U.S. Forest districts or among other grantees. Also, the department reports the division is working with the department's Information Technology Division to improve the grants database.

Finally, the department indicates that the division will follow a competitive process to ensure that funds allocated through grants and cooperative agreements are spent only on projects that meet the intent of the OHV program.

Commission's Action: None.

The commission chair reports that because the commission has not met since the release of the audit report, it has taken no formal action in response to the audit. However, the commission chair indicates that the commission will be discussing the concerns the audit raised in its December 2005 meeting and, although he provides no specific details, he indicates he has requested that the division work with the commission to address the audit recommendations.