



# Implementation of State Auditor's Recommendations

Audits Released in January 2006 Through December 2007

Special Report to  
*Assembly Budget Subcommittee #5—Information Technology/  
Transportation*

February 2008 Report 2008-406 A5



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February 21, 2008

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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. 5—Information Technology/Transportation. 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 an appendix that identifies monetary benefits that auditees could realize if they implemented our recommendations, and is available on our Web site at [www.bsa.ca.gov](http://www.bsa.ca.gov). Finally, we notify auditees of the release of these special reports.

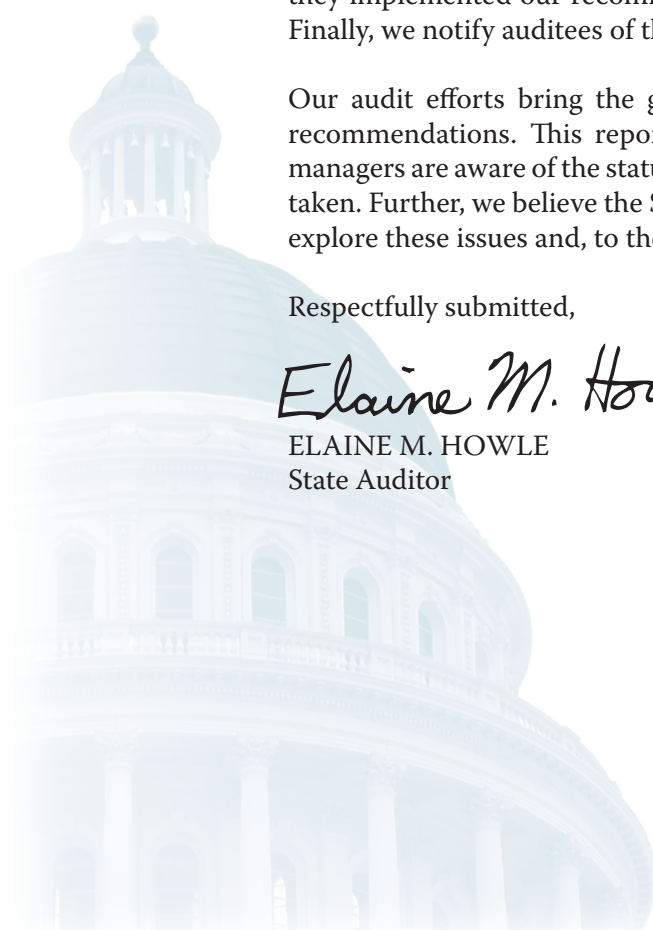
Our audit efforts bring the greatest returns when the auditee acts upon our findings and recommendations. This report is one vehicle to ensure that the State's policy makers and managers are aware of the status of corrective action agencies and departments report they have taken. Further, we believe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

This report summarizes the major findings and recommendations from audit and investigative reports we issued from January 2006 through December 2007, that relate to agencies and departments under the purview of the Assembly Budget Subcommittee No. 5—Information Technology/Transportation. 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 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 the auditee provides 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 we may 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 2008.

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# Home-To-School Transportation Program

## The Funding Formula Should Be Modified to Be More Equitable

REPORT NUMBER 2006-109, MARCH 2007

### *California Department of Education's response as of September 2007*

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

### **Finding: The prescribed funding formula does not allow some school districts to receive transportation funding.**

Home-to-School program funding is contingent upon receiving funds for this program in the immediately preceding fiscal year. Consequently, some school districts and county offices of education (school districts) are not eligible to receive these funds. Current laws require that Education allocate Home-to-School program funds to each school district based on the lesser of its prior year's allocation or approved cost of providing transportation services, increased by the amount specified in the budget act. School districts that did not previously receive Home-to-School program allocations for special education transportation, regular education transportation, or both, are not eligible to receive these allocations under the current laws. Furthermore, some school districts have experienced dramatic increases in student population over the years. Although the funding method provides for some adjustments for the increase in statewide average daily attendance, the allocations have not always increased at the same rate as the increase in student population at individual school districts.

To determine the fiscal impact on school districts that do not receive the Home-to-School program funds, we recommended that Education identify all school districts that provide transportation services to their students but are not eligible to receive Home-to-School program

### **Audit Highlights . . .**

*Our review of the Home-to-School Transportation (Home-to-School) program administered by the California Department of Education found that:*

- » *The current legally prescribed funding mechanism prevents some school districts from receiving Home-to-School program funds because of the basis of allocation.*
- » *Although the annual budget act increases the Home-to-School program funds to account for the increases in the statewide average daily attendance, these increases are less than the student population growth some school districts have experienced over the years.*
- » *Urban school districts received less overall Home-to-School program payments per student transported than rural school districts (\$559 versus \$609) and paid for more overall costs per student transported from non-Home-to-School program funds (\$828 versus \$299).*
- » *While all school districts typically incurred higher costs to transport a special education student, such costs were higher in rural school districts (\$5,315) than in urban school districts (\$4,728).*
- » *Staffing levels and student test scores bear no relationship to the amount of transportation expenditures the school districts paid per student from non-Home-to-School program funds during fiscal year 2004–05.*

funds for regular education transportation, special education transportation, or both. In addition, we recommended that Education determine the actual costs these school districts incur and the funding sources they use to pay them. Further, we recommended that Education seek legislation to revise the current laws to ensure that all school districts that provide transportation services to regular education, special education, or both, are eligible for funding. To ensure that school districts are funded equitably for the Home-to-School program, we also recommended that Education seek legislation to revise the law to ensure that funding is flexible enough to account for changes that affect school districts' transportation programs, such as large increases in enrollment.

***Education's Action: Partial corrective action taken.***

Education noted that it does not have the resources to identify all the school districts that provide transportation services to their students but are not eligible to receive Home-to-School program funds for regular education transportation, special education transportation, or both; and determine the actual costs these school districts incur and the funding sources they use to pay them. However, Education stated that it submitted a Budget Change Proposal for the fiscal year 2008–09 budget for a new consultant position to, among other things, develop a pupil transportation funding reform proposal aimed at ensuring that all eligible school districts receive state funds for the Home-to-School program.



# California K-12 High-Speed Network

## The Network Architecture Is Sound, but Opportunities Exist to Increase Its Use

REPORT NUMBER 2005-116, JANUARY 2006

*The Department of Education's response as of January 2007*

The California K-12 High-Speed Network (High-Speed Network) connects the vast majority of kindergarten through 12th grade (K-12) schools, school districts, and county offices of education statewide to each other, to California's universities and community colleges, and to various Internet service providers that provide access to the commodity Internet. The Joint Legislative Audit Committee (audit committee) requested the Bureau of State Audits (bureau) to determine whether the State is efficiently using its resources by supporting the maintenance of the High-Speed Network. Specifically, the audit committee asked the bureau to determine the roles and responsibilities of the various entities involved since the inception of the High-Speed Network project, to identify the network's funding sources and determine whether there are any limitations or restrictions on the use of this funding or on the disposition of unused funds, and to review the methods used to allocate the costs of the High-Speed Network to determine if they are reasonable. In addition, the audit committee instructed the bureau to review the cost, usage, and, to the extent possible, benefits of the High-Speed Network and to determine whether these costs and benefits are comparable to those of other Internet service providers. The audit committee also directed the bureau to examine any information the State, consortium, or other entity has used to determine whether the benefits of the network outweigh its costs. Further, the bureau was asked to evaluate the reasonableness of any options or plans the State or consortium of county offices of education considered to maximize the use of the High-Speed Network. Moreover, the audit committee requested that the bureau determine the ownership rights to purchases made or services related to the High-Speed Network, including but not limited to intellectual property rights and how the State may exercise those rights. Finally, the bureau was asked to review and evaluate the laws, rules, and regulations significant to the objectives stated above.

### **Finding #1: From the beginning, state law has provided limited guidance and oversight for the High-Speed Network project.**

Between fiscal years 2000–01 and 2003–04, the budget control language that appropriated more than \$93 million to the University of California (UC) for the High-Speed Network stated only that the purpose of the funding was for “expanding the Internet connectivity and network infrastructure for K-12.” This budget control language did not impose any more specific requirements or controls on the expenditure of these funds, nor did the Legislature enact legislation to further define the parameters of this project or what was meant by “Internet connectivity and network infrastructure for K-12.” Therefore, it is difficult to determine if the Legislature got what it sought in appropriating the funds.

### **Audit Highlights . . .**

*Our review of the California K-12 High-Speed Network (High-Speed Network) found that:*

- » *The State most likely spent less on the building and operation of the High-Speed Network by expanding the existing infrastructure used by the University of California and other higher education institutions than it would have spent for a separate network with comparable services.*
- » *A study conducted by our technical consultant in 2005 found that the High-Speed Network has adequate bandwidth for potential growth but is not overbuilt. Furthermore, our technical consultant found no compelling technical or financial reason to abandon the existing High-Speed Network.*
- » *Because of the lack of specific performance measures in state law and because the Imperial County Office of Education (ICOE), which currently administers the project, is in the early stages of developing a suitable plan for measuring the success of the High-Speed Network, it is difficult to determine whether the network accomplishes the Legislature's goals.*
- » *As of June 30, 2005, the Corporation for Education Network Initiatives in California (CENIC), the nonprofit that built and currently operates the network, held \$13.6 million in High-Speed Network funds and it expects to receive an additional \$3.6 million related to telecommunication discounts in fiscal year 2005–06. These funds are being used to keep the network operating in fiscal year 2005–06 or are held for future equipment replacement.*

*continued on next page . . .*

» *Opportunities exist for ICOE to strengthen its agreements with CENIC to better protect the State's interests. Specifically, its agreements lack detailed service-level agreements, do not ensure that it retains ownership of tangible nonshared assets, and do not ensure that interest earned on advance payments made to CENIC or funds held by CENIC on its behalf accrue to the benefit of the High-Speed Network.*

In the Budget Act of 2004, the Legislature effectively transferred the responsibility for managing the Internet connectivity and infrastructure for K-12 educational institutions from UC to the California Department of Education (Education). Although the Legislature shifted control of this project from UC to Education and ultimately to the Imperial County Office of Education (ICOE), it still has not enacted legislation that clearly prescribes the goals to be accomplished using these funds. Until legislation is enacted, Education cannot be certain that the design and use of the High-Speed Network are achieving the Legislature's desired outcomes.

We recommended that to ensure that the High-Speed Network meets its expectations, the Legislature should consider enacting legislation that prescribes the specific goals and outcomes it wants from the High-Speed Network project.

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

Legislation (Assembly Bill 1228) was enacted on September 28, 2006, that requires the Superintendent of Public Instruction (Superintendent) to, among other things, establish a High-Speed Network advisory board. The legislation requires the advisory board to meet quarterly and to recommend policy direction and broad operational guidance to the Superintendent and the Lead Education Agency responsible for administering the High-Speed Network on behalf of the Superintendent. The advisory board, in consultation with the Lead Education Agency, shall develop recommendations for measuring the success of the network, improving network oversight and monitoring, strengthening accountability, and optimizing the use of the High-Speed Network and its ability to improve education. The advisory board shall report its recommendations to the Legislature, the governor, the Department of Finance, the Legislative Analyst's Office, and the Office of the Secretary for Education by March 1 2007. It is the Legislature's intent that the report identifies and recommends specific annual performance measures that should be established to assess the effectiveness of the network.

**Finding #2: The current agreement between ICOE and the Corporation for Education Network Initiatives in California (CENIC) could be strengthened to better protect the State's interests.**

UC contracted with CENIC to carry out the High-Speed Network project. After its selection as the lead agency in 2004, ICOE entered into agreements with CENIC under terms that were substantially similar to UC's agreement. The first was executed December 1, 2004, and the second was executed June 24, 2005, and became effective July 1, 2005, after the first agreement expired. Both agreements continue to lack service-level agreements. A service-level agreement describes the specific level of service a vendor is required to provide and typically provides a penalty if that level is not provided. The lack of a service-level agreement makes it difficult to monitor CENIC's

performance. Additionally, the agreements fail to contain provisions that fully address the issue of the State's ownership of assets and that require CENIC to limit the use of interest earned on advance payments it receives related to the High-Speed Network.

We recommended that to ensure that the High-Speed Network is appropriately managed, Education should ensure that ICOE does the following:

- Develops a comprehensive and extensive set of service-level agreements based upon applications to be delivered via the High-Speed Network project.
- Requests that CENIC provide a master service-level agreement for its review.
- Includes the appropriate service-level agreements in its ongoing contracts with CENIC and other service providers for the High-Speed Network, using industry standards.

To ensure adequate protection of the State's interest in tangible, nonshared assets, we also recommended that Education should direct ICOE to transfer ownership of those types of assets to the State, to the extent that ICOE is able to bargain for the provision.

Finally, we recommended that to ensure that the interest earned on advance payments made to CENIC are used to benefit the High-Speed Network, Education should direct ICOE to amend its agreement with CENIC to stipulate the allowable use of the interest earned.

***Education's Action: Corrective action taken.***

Legislation (Assembly Bill 1228) was enacted on September 28, 2006, that requires the Lead Education Agency to enter into appropriate contracts for the provision of high-speed, high-bandwidth Internet connectivity, provided such contracts secure the necessary terms and conditions to adequately protect the interests of the State. The terms and conditions are to include, but are not limited to, all of the following:

- (a) Development of comprehensive service level agreements.
- (b) Protection of any ownership rights of intellectual property of the State that result due to its participation in the High-Speed Network.
- (c) Appropriate protection of state assets acquired due to its participation in the High-Speed Network.
- (d) Assurance that appropriate fee structures are in place.
- (e) Assurance that any interest earned on funds of the State for this purpose are used solely to the benefit of the project.

Education stated that ICOE has not entered into any agreements with service providers, and that, if and when it does, those agreements will include the appropriate service-level agreement terms. Education also stated that ICOE and CENIC have reached agreement on both a master-service level agreement and a service-level agreement for the services CENIC delivers to the High-Speed Network. Our review of the first amendment to the master agreement executed by ICOE and CENIC on January 30, 2007, found that the amendment does contain these provisions. Additionally, the amendment contains language that will require CENIC to transfer ownership of tangible non-shared assets to the State if CENIC ceases to serve K-12 entities. Finally, Education reported that fiscal year 2006–07 budget control language requires “any interest earned on state monies is used for operating the CalREN serving the UC, CSU, CCC, and K-12 segments. Any segment-specific cash reserves held by CENIC for an individual segment shall be held separately and accrue interest to that segment.” The amended agreement between ICOE and CENIC stipulates that interest earned be used in accordance with this budget control language.

**Finding #3: CENIC's charges for commodity Internet use could have been lower.**

CENIC provides connections to Internet service providers, enabling High-Speed Network users to access the commodity Internet. Although the annual fees it charges for this access are lower than state negotiated pricing, it could further reduce the amount it charges users by consistently using funds left over from prior-year fees to offset the next year's cost of providing the service.

CENIC's commodity Internet service, which became effective during fiscal year 2002–03, has generated a surplus each year; as of June 30, 2005, this surplus was \$2.1 million. The commodity Internet service model approved by its board in June 2001 specifically states that the fixed rate charged per unit of commodity Internet usage should be set to enable CENIC to recover the entire cost of providing the services, should be reviewed semiannually, and should be adjusted downward if cost recovery is projected to be excessive. CENIC did use a portion of its fiscal year 2002–03 surplus revenues to reduce its per-unit rate in fiscal year 2003–04 by 38 percent. For fiscal year 2004–05, however, although CENIC reduced its per-unit rate by a further 25 percent compared to its fiscal year 2003–04 per-unit rate, it did not use the surplus revenues to do so. It achieved its reduction by reducing its estimated annual costs and increasing the minimum usage commitments for commodity Internet service for certain users. We believe that further reductions would have been possible if CENIC had also used a portion of the surplus.

We recommended that to ensure that CENIC's per-unit rate for access to the commodity Internet is closer to its actual cost to provide the service, Education should require ICOE to amend its agreement with CENIC to stipulate that to the extent possible, CENIC should use its surplus Internet service program revenues from each year to offset the per-unit rate that it sets the following year. ICOE should also stipulate in its agreement that if CENIC is unable to apply the surplus revenue due to a change in its financial position, that CENIC should provide ICOE with documentation to support its inability to do so.

***Education's Action: Corrective action taken.***

Education reported that ICOE is currently a participating member of CENIC's Business Advisory Council and board. Additionally, K-12 representatives are participating members of CENIC's audit and finance committees. Education believes that this participation on behalf of K-12 provides equal input (compared with other public segments participating in CENIC) into CENIC's decisions regarding rates and the use of surplus revenues. Finally, the first amendment to the master agreement executed by ICOE and CENIC indicates that for fiscal year 2006–07 CENIC now recovers the fixed portion of commodity Internet costs using a flat rate contribution by the participating entities. Consequently, CENIC was able to reduce its per-unit rate for the entities' actual usage of the commodity Internet from \$95 to \$29, a reduction of almost 70 percent.

**Finding #4: CENIC has a portion of the High-Speed Network's funds in its consolidated equipment replacement account.**

During its September 12, 2002 meeting, CENIC's board approved the following three action items related to the High-Speed Network funds held by CENIC for equipment replacement: (1) the creation of a consolidated designated equipment replacement account as part of its CalREN account, the transfer of \$5.7 million in High-Speed Network funds from an account designated solely for the High-Speed Network into this new account, and the transfer of future High-Speed Network equipment replacement funds into this new account; (2) the transfer of \$970,000 of the interest income in an account designated solely for the High-Speed Network into the consolidated designated equipment replacement account; and (3) the transfer of \$6 million from the consolidated designated equipment replacement account into a one-year certificate of deposit with a bank, the borrowing of \$6 million from the same bank, and the use of the certificate of deposit as collateral against the loan. According to CENIC's accounting records, on June 30, 2004, an additional \$1.5 million was placed into the consolidated designated equipment replacement reserve account using state appropriations for the High-Speed Network.

The board's decision to include the High-Speed Network's equipment replacement funds into a consolidated account appears inconsistent with CENIC's agreement with UC, which requires CENIC to set up and use a separate financial account for the High-Speed Network funds and to not use that account to hold or disperse any other funds. The purpose of establishing a separate financial account for the High-Speed Network funds is to ensure that these funds are being used to benefit the project. The transfer of these funds to CENIC's consolidated account makes it difficult to identify those funds belonging to the High-Speed Network.

Further, CENIC could not provide us with a technology refresh plan. An effective technology refresh plan establishes the points along the service life of a product or system at which it is optimal to change system components. Without a technology refresh plan, we do not believe CENIC can support its assertion that it needs the full \$7.2 million, or that only \$4.9 million represents funds for the replacement of equipment specific to the High-Speed Network.

Finally, although CENIC is holding \$7.2 million in High-Speed Network funds for equipment replacement, any interest earned on this money does not accrue to the benefit of the High-Speed Network. Specifically, its agreement with ICOE does not contain a provision that limits the use of any interest earned on state appropriations to the High-Speed Network. By including this provision in its agreement, ICOE can ensure that the project benefits directly from any interest earnings.

To ensure that High-Speed Network equipment replacement funds are used to benefit the K-12 education community, we recommended that Education should direct ICOE to request that CENIC reestablish a reserve for equipment replacement that is in an account solely for the High-Speed Network. Further, CENIC should consult with ICOE on the development of a technology refresh plan, which ICOE should use to establish its own equipment replacement funds for the High-Speed Network. Finally, ICOE should amend its agreement with CENIC to stipulate that interest earned on the funds held in the High-Speed Network's equipment replacement account accrues to the benefit of the High-Speed Network.

***Education's Action: Corrective action taken.***

Our review of ICOE's amended master agreement with CENIC found that it requires K-12 equipment replacement funds to be segregated into a separate account. Additionally, ICOE and CENIC developed a 2006–2009 technology refresh plan in January 2007 to address the appropriate use of the funds for the replacement of equipment specific to the High-Speed Network. Education stated that upon the advisory board's approval, and contingent upon available funding, the implementation of the plan will occur over two years and modifications will be made as necessary in response to industry changes. Finally, Education reported that the fiscal year 2006–07 budget control language requires that "any interest earned on state monies is used for operating the CalREN serving the UC, CSU, CCC, and K-12 segments. Any segment-specific cash reserves held by CENIC for an individual segment shall be held separately and accrue interest to that segment." The amended agreement between ICOE and CENIC stipulates the use of interest earned, including interest earned on funds held in an equipment replacement account, in accordance with this budget control language.

**Finding #5: ICOE's agreement does not require CENIC to increase the amount that it holds on behalf of ICOE by any interest earned on funds related to E-rate or California Teleconnect Fund discounts.**

In accordance with their contract executed on December 6, 2004, ICOE and CENIC plan to use unspent E-rate and California Teleconnect Fund discounts to continue the operation of the High-Speed Network in fiscal year 2005–06. The contract states, "To the extent that program revenue balances generated by E-rate and California Teleconnect fund discounts from fiscal year 2002–03, or prior fiscal years exist, such balances will be held by CENIC to help meet cash flow needs." The contract further stipulates, "Such funds will be held in trust by CENIC for the benefit of the High-Speed Network and

will not be expended without advance consultation with ICOE.” Finally, ICOE and CENIC agreed that any E-rate and California Teleconnect Fund discounts for fiscal year 2004–05 circuit expenditures received in that year shall be held by CENIC and applied against the network circuits, backbone fees, and related costs in fiscal year 2005–06.

E-rate—or, more precisely, the Schools and Libraries Universal Service Support Mechanism—is a federal program that provides discounts to assist most schools and libraries in the United States to obtain affordable telecommunications and Internet access. Eligible schools can receive discounts ranging from 20 percent to 90 percent. All customers eligible to receive E-rate discounts for telecommunication services can also receive discounts from the California Public Utilities Commission, via the California Teleconnect Fund program. The discounts are 50 percent and must be applied after deducting the E-rate discount.

As of December 2005, according to CENIC’s estimate, a total of \$10 million was available for use toward the fiscal year 2005–06 High-Speed Network operational costs. However, ICOE’s agreement does not require CENIC to increase the amount that it holds on behalf of ICOE by any interest earned on the funds. Until ICOE modifies its agreement with CENIC, the State will continue to lose the ability to use interest earnings to reduce High-Speed Network costs.

We recommended that to ensure that any interest earnings received for E-rate and California Teleconnect Fund discounts accrue to the benefit of the High-Speed Network, Education should direct ICOE to amend its agreement and require CENIC to credit any interest earnings to the High-Speed Network project. Additionally, ICOE should require CENIC to provide a detailed accounting of E-rate and California Teleconnect Fund discounts so that it can verify that it received the appropriate amount of interest.

***Education’s Action: Corrective action taken.***

Education reported that the fiscal year 2006–07 budget control language requires that “any interest earned on state monies be used for operating the CalREN serving the UC, CSU, CCC, and K-12 segments. Any segment-specific cash reserves held by CENIC for an individual segment shall be held separately and accrue interest to that segment.” The amended agreement between ICOE and CENIC stipulates the use of interest earned, including interest earned on E-rate and California Teleconnect Fund discounts, in accordance with this budget control language.

The amended master agreement requires CENIC to keep detailed records and to work closely with ICOE to monitor and track revenues and interest related to E-rate and California Teleconnect Fund discounts. Further, Education stated that if CENIC holds E-rate and California Teleconnect Fund discounts on behalf of K-12 in the future, periodic audits will be conducted to ensure the appropriate amounts of revenue are received and that, if such funds are retained by CENIC instead of paid over immediately to ICOE, appropriate interest is credited to K-12.

**Finding #6: Although ICOE has worked to increase awareness of content it postponed awarding grant funds to develop content hosted on the High-Speed Network.**

As lead education agency for the High-Speed Network, ICOE is responsible for technical oversight of the project, financial and administrative services, collaboration and coordination with other agencies and projects, and the advancement of network uses.

ICOE currently provides certain videoconferencing services at no cost to schools in California that are connected to the High-Speed Network. Videoconferencing is a tool that connects two or more locations with interactive voice and video. Additionally, in November 2004, ICOE began operating its own High-Speed Network Web site that includes links and information related to learning resources, such as the UC College Preparatory Initiative, and the California Digital Library. Moreover, ICOE’s application coordination committee (application committee) is evaluating some methods related to

linking with academic content, from various sources, that are aligned with the California content standards for placement on the High-Speed Network. For example, ICOE plans to identify and work with academic content providers to develop strategies for placing their content on the network.

ICOE created the Advancing Network Uses Grant program to support the development and sharing of applications and learning resources that meet the critical needs of California's schools and that make good use of the benefits of the High-Speed Network. However, ICOE did not award the grant funds of roughly \$650,000 in fiscal year 2005–06 as planned because it was uncertain as to whether the High-Speed Network would receive state funding in fiscal year 2005–06. According to ICOE, should state funds be appropriated in the future, and provided enough funding exists, it will award funds to the winners of that previous grant competition.

Finally, both CENIC and ICOE have made an effort to increase the usage of the High-Speed Network by assisting schools and school districts in connecting their LANs to existing node sites, which is commonly referred to as the last mile connection. However, in June 2005, given the uncertainty of the fiscal year 2005–06 budget, ICOE decided to table the awarding of \$1.1 million in last mile grants. ICOE estimated that it would cost roughly \$10 million to connect the remaining roughly 500 schools and school districts without any connection. It further stated that when funds become available, it would determine how best to proceed with the last mile grant program.

We recommended that to maximize the benefits of the High-Speed Network, Education should ensure that ICOE does the following:

- Continue its efforts to implement statewide videoconferencing.
- Continue the efforts of its application committee to identify academic content and application uses to place on the High-Speed Network.
- Continue with its plans to fund the Advancing Network Uses Grant applicants.
- Proceed with its last mile grant program.

***Education's Action: Partial corrective action taken.***

Education stated that ICOE has implemented a fully functional statewide videoconferencing system. Education also stated that the application committee continues to assist the High-Speed Network project staff in identifying applications and Web-based resources to support teaching and learning.

Finally, Education stated that the Budget Act of 2006 did not include funding for the Advancing Network Uses Grant and last mile grant program, but it will continue to work with resource providers and to seek ways to cost-effectively connect schools and districts across the State. During fiscal year 2006–07, the High-Speed Network project staff collected up-to-date information on the state of connectivity in California. If resources are available, the project staff will be able to prioritize location for the last mile grant program.

**Finding #7: ICOE is in the early stages of developing a suitable plan for evaluating the success of the High-Speed Network.**

Although Education requires administrators of certain education technology projects to work with ICOE on the High-Speed Network project, ICOE is in the early stages of developing a method to evaluate the statewide success of the High-Speed Network. According to ICOE, it is working closely with Education to obtain existing data from certain education technology projects and is evaluating

these data to determine if they will assist it in tracking the types of applications the K-12 education community is using. Establishing a method to track K-12 network use is key to measuring the success of the High-Speed Network project.

Until ICOE establishes a process to measure the success of the High-Speed Network that includes tracking the type of applications the K-12 education community is using, and the Legislature establishes clear goals for the program, it is difficult to determine whether the network has achieved such goals.

We recommended that Education should ensure that ICOE develops a process to measure the success of the High-Speed Network.

***Education's Action: Partial corrective action taken.***

Education stated that it and ICOE are collaborating with various stakeholders to assess the impact technology has on education. Specifically, they are coordinating the use of information collected from certain education technology projects and will continue to work toward developing analyses and reports as well as modifying data collection tools as appropriate. Additionally, ICOE contracted with an evaluator who will assist it with the development of an evaluation framework with specific goals and objectives for the program. Education expects to finalize the framework and present it to the advisory board in February 2007.



# California Highway Patrol

## Investigations of Improper Activities by State Employees, February 2007 Through June 2007

### INVESTIGATION I2007-0715 (REPORT I2007-2), SEPTEMBER 2007

#### *California Highway Patrol's response as of November 2007*

We investigated and substantiated an allegation that the California Highway Patrol (CHP) wasted state funds when it purchased numerous vans that it left virtually unused for at least two years.

#### **Finding: The CHP wasted state funds.**

Using three purchase orders, the CHP bought 51 vans for its Motor Carrier program, surveillance, and mail delivery. However, as of June 30, 2007, the 30 vans purchased in October 2004 and the 21 vans purchased in August 2005—at a combined cost of \$881,565—had not been used for the special purposes for which they had been purchased. In addition, the CHP has left all but five of the 51 vehicles virtually unused since it purchased them. Further, because the CHP did not postpone its purchases of the vans until it needed them, the State lost interest earnings of approximately \$90,385.<sup>1</sup>

The CHP intended to use 48 vans for field inspections in its Motor Carrier program, two vans for surveillance purposes, and one van for mail delivery. Vehicles must be specially modified before they can be put to use for field inspections, surveillance, or mail delivery. However, the CHP does not expect to have any of the 48 vehicles that it purchased for field inspections modified and available for that use until October 2007—more than two years after they were purchased. The CHP completed the necessary modifications to the mail van in June 2007, and as of August 2007 it reported that the modifications to the two surveillance vans were only 50 percent complete because of the State's failure to approve a budget in a timely manner.

In addition, our review of vehicle mileage information shows that the CHP left 46 of the 51 vans almost entirely idle, parked on the CHP property in an outdoor location. Specifically, we determined that as of April 2007 the CHP had driven the 46 vans a total of only 401 miles—an average of nine miles for each van—since it had purchased them in 2004 and 2005. We found that 14 vans had not been driven at all, another 27 vans had been driven from one to 20 miles, and five vans had been driven from 21 to 34 miles. Most of the mileage related to trips to facilities where various items such as roof vents, antennas, and flooring needed to modify these vehicles for their intended purpose were installed. The CHP used the remaining five vans for temporary assignments or to transport equipment. As of April 2007 the Highway Patrol had driven each of the five vans between 167 and 3,420 miles, or an average of 1,901 miles.

<sup>1</sup> This amount is based on interest rates available to the State through its Pooled Money Investment Account Earning Yield Rate.

#### *Investigative Highlights . . .*

##### *The California Highway Patrol:*

» *Paid \$881,565 for 51 vans it had not used for their intended purposes more than two years after it purchased them.*

» *Did not postpone its purchase of the vans until it needed them, resulting in \$90,685 in lost interest earnings to the State.*

The CHP gave several reasons for not using the 51 vans for their intended purposes between the time it purchased them in 2004 and 2005 and the completion of our investigation in June 2007. The CHP told us that it planned to assign the vans to the field in fiscal year 2006–07. Further, it stated that modification of the vans had been delayed because of competing priorities, staff shortages, and the development of an equipment strategy that could meet all its users' needs. The CHP officials we interviewed told us that the vans were originally intended for modification and use within the CHP's normal replacement cycle time of approximately 18 months from purchase. However, the CHP stated that because of its workload, the labor-intensive installation of equipment in the two vehicles it purchased for surveillance was delayed beyond the normal cycle. In addition, the CHP officials stated that, although it completed modifications to the mail van, the CHP did not plan to use it until the mail van it was intended to replace either reaches the replacement mileage target of 150,000 miles or was no longer cost-effective to operate. Further, the CHP stated that modification of the 30 vans it received in October 2004—originally scheduled for April 2006—was canceled because of an unforeseen increase in demand for marked patrol cruisers. However, it appears the CHP had not yet developed an equipment strategy for the Motor Carrier program vans at the time it was modifying the marked patrol cruisers.

The CHP did not develop a workable strategy to make the 48 vans it purchased for the Motor Carrier program available for field use prior to making the purchases in 2004 and 2005. We believe the primary cause for delays was the CHP's attempt to develop a prototype vehicle design that could meet the needs of all of its employees who perform field inspections. The CHP developed two prototypes and it expected to complete the second prototype in September 2007, more than two years after it received its first shipment.

***CHP's Action: Corrective action taken.***

The CHP stated it had revised its fleet operations manual to address the manner in which its vehicles are equipped, painted, and marked. It also now requires the CHP commissioner's approval for any vehicle modifications or redesign.

In addition, the CHP stated that delays in equipping the vans were not due to the lack of a workable strategy but were instead the result of its decision to cease its normal process of equipping the vehicles under its existing configuration while awaiting the completion of the prototype. Further, the CHP stated that as of November 6, 2007, all 51 vans had been assigned to locations across the state.

Finally, the CHP asserted that, had it delayed the van purchases until the equipment design was resolved, it would have spent \$235,233 more for 51 vans than it did for the vans mentioned in our report. Thus, the CHP believes that because it incurred no additional cost to store the vehicles on its property, its decision to purchase these vans more than two years before they were needed or used represents a savings of \$235,233. We disagree with this assertion because it ignores the \$90,385 in interest the State would have earned if the funds had remained in the State Treasury. Further, the CHP's analysis does not recognize the difference in product quality and resale value of the 2007 and 2008 model year vehicles when compared to the 2004 and 2005 model year vehicles it purchased.

## Department of Mental Health, Coalinga State Hospital

### Investigations of Improper Activities by State Employees, February 2007 Through June 2007

#### INVESTIGATION I2006-1099 (REPORT I2007-2), SEPTEMBER 2007

##### *Department of Mental Health's response as of December 2007*

We investigated and substantiated the allegation that the Department of Mental Health (Mental Health) violated provisions of state law that require a state agency to justify its need to purchase motor vehicles and to receive prior approval for the purchase from the Department of General Services (General Services).

**Finding: Mental Health misused and wasted state funds by purchasing law enforcement vehicles and using them for non-law enforcement purposes, failed to maintain accurate home-storage permits, and failed to maintain required mileage logs.**

In seeking approval from General Services, Mental Health indicated that it intended to use two 2005 Ford Crown Victoria Police Interceptors (Police Interceptors) for law enforcement purposes. However, after it received approval and purchased the vehicles, the Coalinga State Hospital (hospital) misused state funds and violated state law when it assigned the Police Interceptors first to its general motor pool and later to three hospital officials, who used them for non-law enforcement purposes including commuting. General Services indicated that it would not have approved the purchases of the Police Interceptors had it known how they would be used.

Additionally, we found that the purchase of the Police Interceptors was wasteful because Mental Health paid between \$18,682 and \$19,640 more to purchase the two Police Interceptors than it would have for two light-class sedans.

Also in violation of a state regulation, the hospital did not accurately list the officials' addresses on home-storage permits, thus failing to disclose that two of the officials used the Police Interceptors to commute between 390 and 980 miles per week. Further, the three hospital officials did not maintain the required mileage logs for the Police Interceptors they drove.

##### ***Mental Health's Action: Partial corrective action taken.***

Mental Health stated that hospital management erred when it assigned the vehicles to the motor pool and subsequently to the officials who were not entitled to use law enforcement vehicles. It reported that hospital officials are now assigned light-class vehicles for business use only. It further reported that the hospital intended to transfer the two Police Interceptors to another Mental Health hospital until the hospital needs them. However, in December 2007 Mental Health still had not transferred the two Police Interceptors to another Mental Health hospital.

##### ***Investigative Highlight . . .***

*The Department of Mental Health misused state funds designated to purchase two law enforcement vehicles by using the vehicles for non-law enforcement purposes.*

Regarding the home-storage permits and the vehicle mileage logs, Mental Health stated that the long commutes to the officials' "home" residences were inappropriate. It also reported that all home-storage permits are now accurate. Further, Mental Health reported that as of June 2007 all hospital employees who are assigned vehicles are maintaining vehicle mileage logs and that hospital motor pool staff are maintaining mileage logs for pool vehicles.

Finally, Mental Health reported that two of the officials have retired and that the remaining official was transferred to another hospital.

# Grade Separation Program

## An Unchanged Budget and Project Allocation Levels Established More Than 30 Years Ago May Discourage Local Agencies From Taking Advantage of the Program

REPORT NUMBER 2007-106, SEPTEMBER 2007

### *California Department of Transportation's response as of November 2007*

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) perform an audit of the funding and approval process required for state and local transportation agencies for grade separation projects. Specifically, the audit committee asked the bureau to assess the roles and responsibilities of the various agencies involved in the funding and approval of grade separation projects to determine if any duplication of effort or program exists. Further, the audit committee requested that the bureau determine whether the Grade Separation Program is being administered and operated in accordance with the appropriate statutes and regulations, and that it identify any obstacles that state and local agencies face in meeting the program's legislative goals.

We also were asked to identify the funding sources for the Grade Separation Program and to determine whether the program uses the sources available and whether funding levels are reasonable and consistent with other comparable programs. The audit committee asked that we identify any changes in statutes that would improve the program's administration or any alternative funding mechanisms that could facilitate meeting its legislative goals. In addition, we were asked to determine which local agencies have received state funding for grade separation projects and, to the extent possible, to review estimated and actual costs for the projects. We also were asked to review a sample of these projects to determine the reasons for any cost overruns, the efforts local agencies made in planning and funding the projects, best practices available to local agencies to improve projections and control costs, and whether all local agencies face similar issues with projecting and controlling costs.

### **Finding #1: Local agencies believe allocations are not sufficient to allow them to take advantage of the Grade Separation Program.**

Once they have nominated a grade separation project to the Public Utilities Commission (Commission) and the project has been placed on the Commission's priority list, many local agencies we surveyed are not taking the additional steps to apply to the California Department of Transportation (Caltrans) for funding under the Grade Separation Program. Many of these agencies indicated that they are not applying for this funding because they are having difficulty securing the funds to cover their portion of the costs of grade separation projects. We found that the portion of project costs that local agencies are expected to pay has increased dramatically over the past 30 years. According to data provided by the Commission, the average cost of a grade separation project increased from \$2.5 million in 1974 to more than \$26 million currently, while the annual budget of \$15 million for the Grade Separation Program has remained unchanged since 1974. A report

### **Audit Highlights . . .**

*Our review of the Grade Separation Program found that:*

- » *Although the average cost of a grade separation project has increased from \$2.5 million in 1974 to a current average of just more than \$26 million, the annual funding of \$15 million available for the Grade Separation Program has not changed since 1974.*
- » *Local agencies say they are experiencing difficulties securing the funding necessary to pay for their share of grade separation projects; thus, some are not nominating new projects to be included on the Public Utilities Commission's (Commission) priority list and many are not applying for funds for the projects already on the priority list.*
- » *A report prepared by the Commission in March 2007 showed that \$165 million is needed to provide funding for the same number of grade separation projects that \$15 million provided in 1974.*
- » *Additional funding will be available for grade separation projects from a bond measure approved by California voters in November 2006, which will provide a one-time amount of \$250 million to improve railroad crossing safety.*
- » *The California Department of Transportation does not always comply with state regulations when allocating supplemental funds to projects for which the final costs exceed the preliminary cost estimates.*

prepared by the Commission showed that \$165 million is needed to provide funding for the same number of grade separation projects as \$15 million provided in 1974. However, some local agencies have been able to secure funding from other sources to pay for their projects without using funds from the Grade Separation Program. A recently approved bond measure will provide additional funding for grade separation projects. In addition to the proceeds from the bond measure, the State Transportation Improvement Program can also fund various local transportation projects including grade separation projects.

We recommended that in light of local agencies' limited participation in the Grade Separation Program, the Legislature should reconsider its intent for the program and the extent to which it wishes to continue assisting local agencies with their grade separation projects. Among possible courses of action, the Legislature could discontinue the program after the proceeds from the bond measure approved in November 2006 have been allocated and require local agencies to compete with a broader range of projects for funding available to them through other programs such as the State Transportation Improvement Program. Alternatively, the Legislature could continue the program and increase the annual budget of \$15 million and allocation limits per project because it desires to continue providing a specific source of funding focused on grade separation projects.

*Legislative Action: Unknown.*

**Finding #2: Caltrans does not always follow regulations when allocating supplemental funds, and some regulations are inconsistent with statutes.**

We found that Caltrans does not always comply with state regulations when allocating supplemental funds to projects for which the final costs exceed the preliminary cost estimates. For example, four of the six applications we reviewed did not include one or more of the required certifications, and two were missing a statement explaining in detail why the original allocation was insufficient. Additionally, Caltrans' current regulations are inconsistent with statutes; thus, applicants may not be aware of changes in law and may either choose not to submit an application or submit inconsistent applications.

To ensure that it administers the Grade Separation Program in compliance with state regulations, we recommended that Caltrans follow state regulations when making supplemental allocations. Further, to be consistent with statute, it should seek to revise current regulations to conform to recent amendments to statute.

*Caltrans' Action: Partial corrective action taken.*

Caltrans stated it has developed a checklist to verify that requests for supplemental allocations include all of the documentation required by the California Code of Regulations. Further, Caltrans stated its Division of Rail has assigned one of its staff to take the lead in revising the regulations to conform to current statutes and is working with Caltrans' legal office on plans to implement the regulation amendments.

# California Department of Transportation

## Although Encouraging Contractors to Use Recycled Materials in Its Highway Projects, Caltrans Collects Scant Data on Its Recycling and Solid Waste Diversion Efforts

REPORT NUMBER 2005-135, JULY 2006

*California Department of Transportation's response as of June 2007*

The Joint Legislative Audit Committee (audit committee) asked the Bureau of State Audits (bureau) to evaluate the California Department of Transportation's (Caltrans) compliance with the California Public Resources Code, Section 42701, which requires it to write contracts so construction contractors can use recycled materials, unless its director determines that using such materials is not cost-effective. The audit committee also asked us to assess the process Caltrans uses to determine the cost-effectiveness of using recycled materials. Further, we were asked to identify any impediments to Caltrans' use of recycled aggregate material. In addition, the audit committee asked the bureau to determine the extent to which Caltrans communicates the State's recycling requirements to its contractors and encourages them to use recycled materials in its construction projects. Lastly, the audit committee asked us to determine whether Caltrans maintains data on how much recycled aggregate base material its contractors use. If Caltrans does not track this information, the committee asked the bureau to identify, to the extent feasible and using available data, the amount of recycled material used by a sample of Caltrans' geographically diverse road construction and repair projects, both small and large, over the last five years.

### **Finding #1: Neither Caltrans nor the Public Resources Code requires contractors to report how much recycled aggregate they use in highway construction projects.**

Although it encourages contractors to use recycled aggregate in its construction projects, Caltrans does not track how much recycled material contractors actually use for highway construction. Caltrans gives contractors the option to use up to 100 percent recycled aggregate and does not generally perceive any impediments to using such material as long as it meets Caltrans' established standards. However, contractors do not report data on how much recycled aggregate they actually use in highway projects, because statutes do not require and Caltrans does not ask contractors to submit such information. As a result, Caltrans lacks complete data on how much recycled aggregate contractors use. Nevertheless, to comply with statutes requiring it to limit the solid waste disposed of in landfills, Caltrans does collect some data on the amount of highway construction waste, primarily asphalt and concrete, its contractors recycle.

### **Audit Highlights . . .**

*Our review of the California Department of Transportation's (Caltrans) use of recycled aggregate in its highway construction projects found that:*

- » *Although Caltrans does not generally see any impediments to using recycled aggregate in its construction projects and allows its contractors to use up to 100 percent recycled materials, it allows contractors to decide when and to what extent recycled aggregate is more cost-effective than virgin aggregate.*
- » *With no statutory requirement to report how much recycled aggregate is used, Caltrans does not collect this data and thus does not know how much recycled materials its contractors use in highway construction projects.*
- » *To demonstrate compliance with 1999 legislation, Caltrans captures and reports some data on how much waste construction material its contractors generate for highway construction projects and divert away from landfills.*
- » *Caltrans did not report the solid waste generated on all its construction projects and often could not support the data it did report.*

**Finding #2: Caltrans cannot demonstrate that it is meeting the State's goals for diverting solid waste.**

Caltrans cannot be sure that it is meeting state goals for diverting solid waste from landfills because the data it collects and reports to the California Integrated Waste Management Board (board) are incomplete and unsupported. Our review of Caltrans' annual reports on its efforts to divert construction waste materials found that between January 2002 and December 2004 the reports accounted for only a few of the several hundred projects that were active during those years. Although based on more projects than in prior years, Caltrans' 2005 reports to the board contained data for only 14 percent of the projects that should have been included in those reports. Also, the annual reports' project data—collected from the Solid Waste Disposal and Recycling Reports (diversion forms)—are not reliable. In particular, 24 of the 28 diversion forms that were available to us, out of our sample of 30 contracts, contained obvious errors or were not signed by resident engineers. Taking into account these omissions and errors, it is unclear whether Caltrans is meeting state goals for diverting at least 50 percent of its solid waste from landfills.

To ensure that its annual waste management reports to the board are complete and supported, we recommended that Caltrans ensure that its contractors for all projects annually submit diversion forms to the projects' resident engineers in a timely fashion and that its resident engineers submit a copy of all reviewed diversion forms to the appropriate recycling coordinator in a timely fashion. In addition, we recommended that Caltrans ensure that its resident engineers consistently review and sign all diversion forms and consistently follow up with contractors to resolve any discrepancies in material type or volume.

***Caltrans' Action: Corrective action taken.***

Through issuance of a construction policy bulletin, revisions to its construction manual, and development of a new recycling form, Caltrans has finalized guidance procedures for its district recycling coordinators to improve data collection and submission and to clarify reporting requirements. In addition, Caltrans has developed a training module for resident engineers on the updated procedures, which it plans to include in the resident engineers' winter 2007 training. Lastly, Caltrans noted that it will perform an evaluation in January 2008 to determine if its changes have improved the quantity and quality of its data collection and reporting.



# San Francisco-Oakland Bay Bridge Worker Safety

## Better State Oversight Is Needed to Ensure That Injuries Are Reported Properly and That Safety Issues Are Addressed

REPORT NUMBER 2005-119, FEBRUARY 2006

### *Department of Industrial Relations' and the California Department of Transportation's responses as of April 2007*

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

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

### **Finding #1: The division does not exercise sufficient control over the injury reporting process to ensure that employers properly report injuries.**

Although the reported injury rate of the prime contractor for the Skyway project is one-fourth that of the injury rate of similar projects, we question whether relying upon these statistics as an indication of project safety conditions is justified. The federal Occupational Safety and Health Administration's (federal OSHA) Form 300: Log of Work-Related Injuries and Illnesses (annual injury report), which employers are required to complete, summarizes the workplace injuries as defined in regulations, occurring during the year and is the basis for the calculation of injury rates. The acting chief of the division explained that division investigators review annual injury reports and may ask employees about injuries as part of on-site inspections, but the division does not collect these reports and it does not have a systematic process to detect injuries that go unrecorded. In addition, the acting chief stated that because the resources of the division are finite, a decision to invest resources into the policing of the recording of injuries in the annual injury reports necessarily means that other resource-dependent activities will suffer. Consequently, the division was not aware of a number of alleged workplace injuries and an alleged illness that potentially meet recording requirements but were not included in annual injury reports of the Skyway's prime contractor.

### **Audit Highlights . . .**

*Our review of safety oversight on the Skyway project of the San Francisco-Oakland Bay Bridge East Span replacement revealed the following:*

- » *The Division of Occupational Safety and Health (division) of the Department of Industrial Relations did not discover the potential underreporting of alleged workplace injuries and an alleged illness on the Skyway because it lacks procedures to ensure the reasonable accuracy of employer's annual injury reports.*
- » *The division failed to adequately follow up on three of the six complaints received from Skyway workers, including an April 2004 complaint in which it found two alleged serious violations but did not issue citations to the contractor.*
- » *The California Department of Transportation's safety oversight of the Skyway appears sufficient but improvements, such as increasing safety training and meeting attendance, could be made.*

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

*Division's Action: None.*

The division has concluded that developing a mechanism to obtain and review employers' annual injury reports to detect the underreporting of workplace injuries is impractical without having an electronic information management system. Further, it believes that the site investigation needed to establish a violation based on such a review would be time consuming. Using its recent investigation of the Skyway's prime contractor, Kiewit/FCI/Manson, a joint venture (KFM) as an example, the division indicates the investigation required over 400 hours of an inspector's time as well as managerial and legal review to find evidence that violations occurred. The division also states that stakeholders at an April 2006 meeting of the Cal/OSHA Advisory Committee (advisory committee) concluded that reviewing employers' annual injury reports for the underreporting of workplace injuries would not be in the best interest of the division. Rather, the division indicates it is working with another division within the department on the feasibility of electronically receiving employer's reports of injury and possibly physician's reports of injury, which would facilitate an automated review of these reports for targeting workplaces most likely to cause death or serious injury to workers.

**Finding #2: The division did not follow up adequately on all Skyway complaints.**

The division did not adequately follow up on three of the six complaints received from Skyway workers. In one instance, it chose to review an April 2004 complaint from former KFM employees, using the compliance assistance approach outlined by its informal partnership agreement with KFM. Because the agreement precluded issuing citations if KFM promptly abated hazardous conditions, the division did not issue citations that otherwise are required when it found two alleged serious violations of health and safety regulations while investigating this complaint. In another instance, because of internal miscommunication, the division failed to investigate a complaint at all. Finally, despite state law requiring it to conduct on-site investigations for employee complaints having a reasonable basis, the division decided to use its nonemployee complaint procedure to handle a complaint it received from a KFM employee.

We recommended that if the division believes it will use the partnership model in the future, it should create a plan for how it will operate under the model so its activities will provide appropriate oversight and be aligned with state law. Specifically, it should ensure that roles and responsibilities are communicated clearly and that critical information is shared with all relevant individuals.

*Division's Action: Partial corrective action taken.*

The division also discussed the continued use of the partnership model with the advisory committee. This discussion concluded that the division would attempt to keep as clear a separation as feasible between enforcement staff and compliance assistance staff when using the partnership model. Using its recent involvement with flavoring manufacturers located in California, the division indicates offering the manufacturers a consultative inspection in lieu of an enforcement inspection, with separate units performing these functions. The division's discussion with the advisory committee did not conclude that there was a need for a plan for how it will operate under the partnership model. In addition, the division states it will keep the advisory committee informed on emerging partnerships and seek its input on significant issues.

**Finding #3: Caltrans' safety oversight on the Skyway project appears sufficient, but improvements could be made.**

Although Caltrans worked to implement the safety oversight procedures required by its policies on the Skyway project, some improvements can be made to better emphasize safety. For example, the project safety coordinator's position within the organization has limited independence from construction managers. In addition, because Caltrans' inspectors observe the safety conditions of the work site while monitoring the construction and engineering aspects of KFM's work, it is important that they are able to identify unsafe conditions. To do so, Caltrans' policy and state regulations require that construction personnel attend safety meetings every 10 working days and attend general and job-specific hazard training. However, our review of the attendance records for a sample of Caltrans' staff assigned to the Skyway project, including all seven construction managers who set an example for staff, indicated they have attended only 76 percent of safety classes identified as necessary for their jobs and only 66 percent of mandatory biweekly safety sessions.

To ensure that the project safety coordinator assigned to the Skyway project has the necessary independence and authority to evaluate and report on project safety, we recommended that Caltrans make this position be independent of the managers whose safety performance the coordinator must oversee. In addition, we recommended that Caltrans should ensure its construction managers and staff on the Skyway project attend the mandatory biweekly safety sessions and other necessary safety training.

***Caltrans' Action: Corrective action taken.***

Caltrans indicates establishing a safety coordinator position that is responsible for overseeing employee and contractor safety on the East Span's construction projects. To provide for the position's independence, the position will submit safety reports to the East Span's construction manager, but a safety manager from Caltrans' District 4 office will supervise the position. An individual was hired for the position in October 2006. Caltrans also reports taking steps to improve attendance at required safety meetings and training, and indicates that employees' attendance has improved.

