



# Recommendations Not Fully Implemented After One Year

The Omnibus Accountability Act of 2006

January 2008 Report 2007-041



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January 18, 2008

2007-041

Dear Governor and Legislative Leaders:

Consistent with the Omnibus Accountability Act of 2006 (California Government Code, sections 8548.7 to 8548.9), the Bureau of State Audits presents its special report for the Joint Legislative Audit Committee, Joint Legislative Budget Committee, and Department of Finance. This report lists 76 recommendations made to 17 agencies in audit reports issued from January 2005 through December 2006, that had been outstanding for more than one year but were not yet fully implemented. In addition, the report contains written responses from each state agency explaining why the recommendations have not yet been fully implemented, and either that the agency plans to begin implementation within 90 days and the estimated date of completion, or that it does not intend to implement the recommendation and the reasons for making that decision.

Based on recent responses to inquiries we sent to each of the agencies, we have identified 36 recommendations that state agencies have not yet fully implemented. Our audit efforts bring the greatest returns when the auditee acts upon our findings and recommendations. This report is another vehicle to ensure California's decision makers are aware of the status of recommendations. If you would like more information or assistance on any of the recommendations or background provided in this report, please contact me or Margarita Fernández, Chief of Public Affairs, at 445-0255.

Respectfully submitted,



*Elaine M. Howle*

ELAINE M. HOWLE  
State Auditor



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## INTRODUCTION

As required by Senate Bill (SB 1452), which took effect on January 1, 2007, the Bureau of State Audits (bureau) presents its report on the status of recommendations made to state agencies that are more than one year old and have not been fully implemented.

## RESULTS IN BRIEF

From January 2005 through November 2006, the bureau issued 38 reports for audits requested through the Joint Legislative Audit Committee or through legislation.<sup>1</sup> The bureau made numerous recommendations to the audited agencies in those reports. While those agencies implemented many of the recommendations, we identified 76 recommendations<sup>2</sup> made to 17 agencies that had been outstanding for more than one year but were not yet fully implemented. Further, based on recent responses to our August 2007 inquiries, agencies still have not fully implemented 36 recommendations and some recommendations will not be implemented until as late as 2010.

For example, to ensure that school districts do not continue to lose out on millions of dollars in federally allowable reimbursements each year from school-based Medi-Cal Administrative Activities (MAA), we recommended in an audit we issued in August 2005 that the Department of Health Services (Health Services):<sup>3</sup>

- Develop written performance criteria for consortia, and local governmental agencies should they continue to be part of MAA, and take appropriate action when performance is unsatisfactory.
- Develop policies on the appropriate level of fees charged by consortia to school districts and the amount of excess earnings and reserves consortia should be allowed to accumulate. Health Services should do the same for local governmental agencies if such entities continue to be part of the program structure.
- Help school districts invoice for all reimbursable costs, including vendor fees, by issuing clear guidance on how to invoice for these costs and instructing consortia, and local governmental agencies should they continue to be part of MAA, to make sure school districts in their respective regions know how to take advantage of these revenue-enhancing opportunities.

Health Services responded that it would implement the first recommendation in July 2008 and the third by December 2010 and would not be implementing the second recommendation at all.

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<sup>1</sup> Excludes the Statewide Single Audit (financial and federal compliance audits) which is mandated as a condition of receiving over \$70 billion of federal funding for California. The recommendations made in those audits are followed-up and reported each year in the bureau's annual report on California's Internal Control and State and Federal Compliance.

<sup>2</sup> Excludes recommendations for legislative changes. We report such recommendations in a separate report to the Legislature.

<sup>3</sup> The Department of Health Services is now the Department of Health Care Services.

Further, in a report issued in September 2005, the bureau made several recommendations to the Department of Corrections and Rehabilitation (Corrections) to improve its projections of inmate populations used in forecasting inmate housing needs and in awarding contracts. While Corrections has implemented some of the report's recommendations, it has not fully implemented those aimed at achieving accurate and reliable inmate projections. Corrections responded that it would not fully implement several of the recommendations until June 2008 and the fall of 2008—nearly three years after the bureau published the report. Accurate inmate projections are crucial in light of the many decisions facing the administration due to prison overcrowding.

The following table summarizes the recommendations the bureau made to state agencies in audit reports issued from January 2005 through November 2006 that were not fully implemented as of one year from the date the report was published, along with the status of each agency's implementation efforts based on its most recent response.

Table

KTHRU 12 EDUCATION							PAGES
REPORT TITLE	REPORT NUMBER	REPORT DATE	RECOMMENDATION	FULLY IMPLEMENTED	ESTIMATED DATE OF COMPLETION	WILL NOT IMPLEMENT	PAGES
Department of Education	2004- 120	June 2005	1. Establish required initial designation and redesignation criteria and pursue necessary legislative action	No		The CDE states that it does not intend to pursue legislative action	11
			2. Document redesignation decisions	Yes			14
			3. Change annual objective that measures students' annual progress	Yes			14
			4. Resolve unallowable expenditures of supplemental English learner program funds	Yes			15
			5. Review and implement the evaluators' recommendations	No	No date provided		16
Department of Education	2005- 104	February 2006	1. Various items, including developing policy and procedures specific to the program, and training staff in their application	No	February 2008		19
			2. Ensure that centers conduct needs assessments	No	February 2008		21
HIGHER EDUCATION							
California Student Aid Commission	2005-120	April 2006	1. Monitor status of proposed federal changes	Yes			23
			2. Ensure completion of critical tasks	No	September 2007		24
			3. Ensure that EDFUND complies with federal regulations in regard to executive salary setting and bonuses	Yes			25
			4. Resolve issues related to measuring EDFUND performance	Yes			25
			5. Various items, including rescinding delegation of approval authority	No	September 2007		26
			6. Various items, including maintaining a confidential minutes book of the business discussed during closed sessions	Yes			30
HEALTH AND HUMAN SERVICES							
Pharmaceuticals— Department of Health Services	2004-033	May 2005	Analyze the cost effectiveness of increasing the frequency of pricing updates, remove outdated pricing methods, and verify drug prices	No	February 2008		31
State Athletic Commission	2004-134	July 2005	1. Eliminate the break in service requirement and/or reduce the number of years a boxer must fight, and mail a pension statement to vested boxers  2. Raise ticket assessment, deposit checks timely, require promoters to remit pension fund contributions separate from show fees, and correct errors relating to boxers eligibility status	No	No date provided		33

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REPORT TITLE		REPORT NUMBER	REPORT DATE	RECOMMENDATION	FULLY IMPLEMENTED	ESTIMATED DATE OF COMPLETION	WILL NOT IMPLEMENT	PAGES
<b>HEALTH AND HUMAN SERVICES (Continued)</b>								
Department of Health Services	Participation in the School-Based Medi-Cal Administrative Activities Program Has Increased, but School Districts Are Still Losing Millions Each Year in Federal Reimbursements	2004-125	August 2005	1. Update current invoicing and accounting processes, require consortia to prepare and publish annual reports that include various performance measures, and develop criteria for unsatisfactory performance	No	July 2008		35
				2. Develop policies on appropriate level of fees charged to school districts and excess earnings allowed	No		The department disagrees with this recommendation	36
				3. Reduce the number of entities it oversees, establish clear regional accountability guidelines, and require competitive bidding in selecting vendors	No	December 2010		36
Emergency Preparedness—Department of Health Services	More Needs to Be Done to Improve California's Preparedness for Responding to Infectious Disease Emergencies	2004-133	August 2005	1. Update the Disaster Medical Response Plan and the Medical Mutual Aid Plan	No*	No date provided		37
				2. Ensure that contractor performing the current capacity assessment provides a written report that summarizes results	No*	No date provided		37
Department of Social Services	In Rebuilding Its Child Care Program Oversight, the Department Needs to Improve Its Monitoring Efforts and Enforcement Actions	2005-129	May 2006	1. Develop a plan to monitor visits against statutory requirements	No	No date provided		39
				2. Continue efforts to rebuild the oversight operations of the child care program, develop automated management information, and make nonconfidential information available to the public	No	No date provided		39
				3. Complete complaint investigations timely, revise policies to reduce inconclusive findings, and train investigators. Also evaluate the complaint specialist pilot project to determine how to modify existing processes	Yes			40
California Children and Families Commission	Its Poor Contracting Practices Resulted in Questionable and Inappropriate Payments to Contractors and Violations of State Law and Policies	2006-114	October 2006	4. Ensure that deficiencies identified are corrected, and that evidence of correction is included within the files	Yes			41
				5. Clarify direction to regional offices staff, reevaluate May 2004 memorandum, and review use of noncompliance conferences to ensure policy compliance	No	September 2007		41
				Seek appropriate legal counsel when entering or amending contracts	Yes			43

\* On December 27, 2007, the bureau received a copy of the plans.

CORRECTIONS AND REHABILITATION								
Department of Corrections	It Needs to Better Ensure Against Conflicts of Interest and to Improve Its Inmate Population Projections	2005-105	September 2005	1. Before signing a no-bid contract, wait until all proper authorities have reviewed and approved the no bid contract	No	No date provided		46
				2. Require contractor staff to complete statements of economic interests	No	No date provided		46
				3. Ensure it employs statistically valid forecasting methods and consider using expert advice	No	June 2008		46
				4. Update variable inmate projections with actual information	No	Fall 2008		47
				5. Enhance communication with local government agencies to identify changes affecting population	No	June 2008		47
				6. Fully document projection methodology and model	No	No date provided		47
Department of Corrections and Rehabilitation	The Intermediate Sanction Programs Lacked Performance Benchmarks and Were Plagued With Implementation Problems	2005-111	November 2005	1. Decide on appropriate benchmarks to monitor performance and identify and use reliable data collected to evaluate program effectiveness	No	September 2007		49
				2. Analyze the affect programs have had on parolee behavior to make programs more effective	Yes			51
RESOURCES								
Department of Parks and Recreation	It Needs to Improve Its Monitoring of Local Grants and Better Justify Its Administrative Charges	2004-138	April 2005	1. Perform quarterly comparisons of administrative actual costs to the costs recorded	Yes			53
				1. Monitor how long spending on lifeguard districts' equipment and facilities can be curtailed	Yes			55
				2. Clarify to lifeguard districts the intended purposes of any proposed changes in spending	Yes			56

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REPORT TITLE	REPORT NUMBER	REPORT DATE	RECOMMENDATION	FULLY IMPLEMENTED	ESTIMATED DATE OF COMPLETION	WILL NOT IMPLEMENT	PAGES
<b>RESOURCES (Continued)</b>							
Department of Parks and Recreation	2004-126	August 2005	1. Develop a vision that addresses the needs of the Off-Highway Recreation Vehicle (OHV) program	Yes			57
			2. Complete and implement a strategic plan for the OHV program	No	Early 2008 <sup>†</sup>		58
			3. Prepare and submit required biennial reports when due	No	No date provided <sup>†</sup>		58
			4. Evaluate current spending restrictions in the law to determine if they allow the allocation of funds necessary to provide a balanced OHV program	No	No date provided		58
			5. Develop a process to evaluate land acquisition projects	No	Early 2008		58
			6. Discontinue charging the director's office cost to the OHV program	Yes			59
Department of Fish and Game	2004-122R	June 2005	1. Update the strategic plan and update operational plans annually with specific goals	Yes			61
			2. Assure that revenue streams are sufficient to fund programs	Yes			61
			3. Avoid borrowing from dedicated accounts	Yes			62
State Water Resources Control Board	2005-113	March 2006	1a. Review all water rights files and update their information system	Yes			63
			1b. Work with equalization to include more detail on invoices	No	The State Water Board will complete implementation when it bills annual fees in accordance with a revised fee schedule		65
			2. Revise emergency regulations to assess each fee payer a single minimum annual fee	No		The State Water Board does not intend to fully implement this recommendation	65
			3. Revise emergency regulations to assess annual fees consistently	No	No date provided		66
			4. Assure that tracking systems are complete and accurate	Yes			67
			5. Establish more realistic goals in regard to the various stages of processing an application	No	No date provided		67

<sup>†</sup> Chapter 541, Statutes of 2007, requires the strategic plan by January 2009 and requires the first report by January 2011.

STATE AND CONSUMER SERVICES						
REPORT TITLE	REPORT NUMBER	REPORT DATE	RECOMMENDATION	FULLY IMPLEMENTED	ESTIMATED DATE OF COMPLETION	PAGES
Pharmaceuticals— Department of General Services	2004-033	May 2005	1. Seek more opportunities for departments to receive rebates	Yes		69
			2. Follow through on the department's plan to solicit bids to contract directly with a group-purchasing organization	Yes		70
			3. Facilitate the development of guidelines relating to departments' adherence to the statewide formulary	No	November 2007	71
			4. Ensure notification of the volume, type, and price of prescription drugs purchased outside of the bulk-purchasing program	No	No date provided	72
Department of General Services	2004-113	July 2005	1. Compare actual cost of operating motor pool to the amount the State would pay commercial rental companies	Yes		75
			2. Obtain costs by vehicle type	Yes		76
			3. Examine individual garages to ensure that it is cost effective to continue to operate them	No	No date provided	77
			4. Track the time of garage employees by task to determine the cost of repair services	Yes		78
LABOR AND WORKFORCE DEVELOPMENT						
San Francisco- Oakland Bay Bridge Worker Safety— Department of Industrial Relations	2005-119	February 2006	Develop a mechanism to obtain employer annual injury reports and design procedures to detect the underreporting of workplace injuries	No		81
				The department stated that there are no practical means to implement this recommendation		
Department of Industrial Relations	2005-108	September 2006	1. Request amendments to auditing requirements	No	No date provided	83
			2. Develop a process to coordinate exchange of information	No	Information not provided	84
			3. Seek statutory changes that reflect that employers are funding general expenses	No		84
			4. Establish a process to regularly reconcile information	No	Information not provided	84
					The department does not believe that further statutory changes are necessary	

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GENERAL GOVERNMENT								
Military Department	It Has Had Problems With Inadequate Personnel Management and Improper Organizational Structure and Has Not Met Recruiting and Facility Maintenance Requirements	2005-136	June 2006	1. Complete the tasks assigned by the adjutant general and follow through with the panel recommendations	Yes		85	
				2. Review hiring policy and practices and make the necessary policy changes	No	February 2008		86
				3. Develop procedures for federal full time military personnel to support part time Guard forces	No		The Military Department does not intend to fully implement this recommendation	86
				4. Establish a process to protect active duty personnel who wish to file a complaint	No	No date provided		86
				5. Identify and pursue the steps necessary to meet the force strength goals set by the National Guard Bureau	Yes			87
LEGISLATIVE, JUDICIAL, AND EXECUTIVE								
State Bar of California	It Should Continue Strengthening Its Monitoring of Disciplinary Case Processing and Assess the Financial Benefits of Its New Collection Enforcement Authority	2005-030	April 2005	1. Prioritize cost recovery efforts	Yes		89	
				2. Continue updating forecast for key revenues and expenses	Yes			90
Judicial Council of California	Its Governing Committee on Education Has Recently Proposed Minimum Education Requirements for Judicial Officers	2005-131	August 2006	1. Continue its efforts in designing curricula to develop judicial education programs.	Yes		91	
Governor's Office of Emergency Services and Homeland Security	Emergency Preparedness: California's Administration of Federal Grants for Homeland Security and Bioterrorism Preparedness is Hampered by Inefficiencies and Ambiguity	2005-118	September 2006	1. Ensure that future exercises sufficiently test the response of California's Medical and Health System	No	January 2008	93	
				2. Collaborate to reduce time of reimbursements to local entities	Yes			95

## IMPLEMENTATION OF SB 1452

The bill requires agencies audited by our office to provide the bureau with updates on their status in implementing audit recommendations at intervals prescribed by the bureau. It has been the long-standing practice of the bureau, consistent with generally accepted government auditing standards, to request that all audited state agencies provide a written update on their status in implementing audit recommendations at 60 days, six months, and one year from the public release date of the report. As we moved forward in implementing SB 1452, we retained these prescribed time frames as the intervals at which agencies must report back to us on their status in implementing audit recommendations.

As a courtesy, in May 2007 the bureau notified all state agencies about their responsibilities under SB 1452 as well as the bureau's responsibilities and plans for implementing these requirements. In August 2007 we provided written notice to those state agencies that had recommendations that were not fully implemented one year or more associated with audits that were published on or after January 1, 2005. We made this determination using the one-year follow-up response to our reports. We requested that each of those affected agencies notify us as to whether the agency has since fully implemented the recommendation, plans to begin implementation within 90 days and the estimated date of completion, or does not intend to implement the recommendation and the reasons for making that determination.

On a rolling basis after July 1, 2007, other agencies whose audit recommendations are more than one year old and have not been fully implemented have been or will be notified that they have outstanding audit recommendations and are subject to the same process as previously described.

## INAUGURAL REPORT

In this report the table beginning on page 3 summarizes the recommendations made to state agencies from audit reports the bureau issued from January 2005 through November 2006 that were not fully implemented at one year from the date the report was published. Following the table, the report provides a high-level summary of the scope of each respective audit along with those recommendations we determined to be outstanding at one year after the public release of the audit report. Each recommendation listed is followed by the agency's verbatim response as to its current status in fully implementing the recommendation.

The reports are organized by area of government to closely match the Governor's Budget. Because an audit may involve more than one issue or because it may cross jurisdictions of more than one area, an audit report summary could be included in more than one area of government. For example, if we had audited a computer system at a university, the audit report summary would be listed under two areas of government—Higher Education and General Government.

When referring to the current status of the long-outstanding audit recommendations in this report, they are based on the assertions of the audited agencies which we have not verified.

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## K THROUGH 12 EDUCATION

### **DEPARTMENT OF EDUCATION (REPORT NUMBER 2004-120, JUNE 2005)**

**School Districts' Inconsistent Identification and Redesignation of English Learners Cause Funding Variances and Make Comparisons of Performance Outcomes Difficult**

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the administration and monitoring of state and federal English learner program (English Learner) funds at the Department of Education (department) and a sample of school districts. Specifically, the audit committee asked us to examine the processes the department and a sample of school districts use to determine the eligibility of students for the English learner programs, including an evaluation of the criteria used to determine eligibility for these programs and a determination of whether school districts redesignate students once they become fluent in English. In addition, the audit committee asked us to review and evaluate the department's processes for allocating program funds, monitoring local recipients' management and expenditure of program funds, and measuring the effectiveness of the English learner programs. Lastly, the audit committee asked us to, for selected school districts, test a sample of expenditures to determine whether they were used for allowable purposes. We focused our audit on the three main English learner programs whose funds are distributed by the department—federal Title III-Limited English Proficient and Immigrant Students (Title III), state Economic Impact (Impact Aid), and the state English Language Acquisition Program (ELAP).

In June 2005 the bureau issued the above referenced report containing six recommendations. Based on the department's one-year response, we determined that it had not fully implemented five of those recommendations. However, according to the department, it implemented some of the outstanding recommendations subsequent to the one-year date. Below are the recommendations that we determined were not fully implemented one year from the date the report was issued followed by the department's most recent response.

#### **Recommendation #1:**

We recommended that the department, in consultation with stakeholders, establish required initial designation and redesignation criteria related to statewide tests that would provide greater consistency in the English learner population across the State. The department should pursue legislative action, as necessary, to achieve this goal. Further, school districts should ensure that their redesignation criteria include each of the four criteria required by state law for redesignating English learners to fluent status.

## Department's Response:

### *Initial Designation or Identification of English Learners*

California law (Education Code Section 52164.1) requires the determination of the primary language of each pupil enrolled in the school district. Education Code Section 52164.1 states that the primary language of new pupils shall be determined as they enroll. Once determined, the primary language need not be redetermined unless the parent or guardian claims there is an error. Home language determinations are required only once, unless the results are disputed by a parent or guardian.

The Home Language Survey, or other measure that collects the same data, needs to be completed by the parent/guardian. If the survey indicates a language other than English, the student must take the California English Language Development Test (CELDT) for an initial assessment of the student's English-language proficiency. Based on the test results, the student may be initially identified as Initially Fluent English Proficient (IFEP) or as an English learner.

### *Redesignation or Reclassification of English Learners*

In accordance with California law as specified in Education Code Section 313(d), the California Department of Education (CDE) shall develop reclassification procedures that utilize multiple criteria in determining whether to reclassify a student as proficient in English, including, but not limited to, all of the following:

1. Assessment of language proficiency using an objective assessment instrument, including, but not limited to, the English language development test pursuant to Section 60810.
2. Teacher evaluation, including, but not limited to, a review of the pupil's curriculum mastery.
3. Parental opinion and consultation.
4. Comparison of the pupil's performance in basic skills against an empirically established range of performance in basic skills based upon the performance of English proficient pupils of the same age, that demonstrates whether the pupil is sufficiently proficient in English to participate effectively in a curriculum designed for pupils of the same age whose native language is English.

In September 2002, the State Board of Education (SBE) approved specific guidelines to be used by local educational agencies (LEA) in making reclassification decisions. The criteria approved by the SBE are consistent with the multiple criteria established in Education Code Section 313 (d). In September 2006, the SBE approved updated guidelines that separated Listening and Speaking in accordance with Title III requirements to report these domain scores separately. The SBE's guidelines are as follows:

1. *Assessment of English-language proficiency:*
  - a. Utilize CELDT as the primary criterion. Consider for reclassification those students whose overall proficiency level is Early Advanced or higher, and whose scores on each of the domains (i.e., listening, speaking, reading, and writing) are Intermediate or higher.
  - b. Those students whose overall proficiency level is in the upper end of Intermediate may also be considered for reclassification if additional measures determine the likelihood that a student is proficient in English.
  - c. Use most recent available test data.

2. *Comparison of performance in basic skills:*

a. Definitions:

- i. "Performance in basic skills" means the score and/or performance level resulting from a recent administration of the English-Language Arts (ELA) section of the California Standards Test (CST).
- ii. "Range of performance in basic skills" means a range of scores the ELA CST corresponding to a performance level or a range within a performance level.
- iii. "Pupils of the same age" refers to pupils who are enrolled in the same grade as the student who is being considered for reclassification.

b. Basic skills criteria:

- i. A pupil's score on the ELA CST in the range from the beginning of Basic level up to the midpoint of the Basic level suggests that the pupil may be sufficiently prepared to participate effectively in the curriculum and should be considered for reclassification. Districts may select a cut score in this range.
- ii. Pupils with scores above the cut point selected by the district should be considered for reclassification.
- iii. For pupils scoring below the cut point, districts should attempt to determine whether factors other than English-language proficiency are responsible for low performance on the ELA CST, and whether it is reasonable to reclassify the student.
- iv. For students in grade twelve, the eleventh grade ELA CST results should be used, if available.
- v. For pupils in grade one, districts should base a decision to reclassify on CELDT results, teacher evaluation, parent consultation, and other locally available assessment results. Kindergarten students who have been identified as English learners probably should not be reclassified.
- vi. Districts must monitor pupil performance for two years after reclassification in accordance with existing California regulations and the federal No Child Left Behind (NCLB) legislation.

3. *Teacher evaluation:*

- a. Use student academic performance;
- b. Note that incurred deficits in motivation and academic success unrelated to English language proficiency do not preclude a student from reclassification.

4. *Parent opinion and consultation:*

- a. Provide notice to parents and guardians of their right and encourage them to participate in the reclassification process;
- b. Provide an opportunity for a face-to-face meeting with parent or guardian.

The progress of English learner students in California is an ongoing concern for the CDE, the SBE, educators, and others in California. Central to the discussion is the rate at which students are reclassified from English learners (ELs) to Redesignated or Reclassified Fluent English Proficient (RFEP). Based on recent changes to the CELDT, the SBE has not made any substantive adjustments to the reclassification guidelines it approved in September 2002. In September 2006, the SBE made a technical adjustment to address the Title III requirement of separate scores for listening and speaking. The CDE does not intend to pursue legislative action.

**Recommendation #2:**

We recommended that the department require school districts to document redesignation decisions, including decisions against redesignating students who are candidates for fluent status. Further, we recommended that school districts monitor their designation and redesignation processes more closely to ensure that schools actually complete the process and that school district databases accurately reflect all redesignations.

**Department's Response:**

This BSA recommendation has been implemented with the following actions:

Local Educational Agencies (LEAs) who receive categorical funding are monitored using a four-year cycle. When a LEA is selected for an on-site review, the Categorical Program Monitoring (CPM) instrument is used by the reviewer to monitor the district's legal compliance on seven interrelated dimensions.

LEAs who are not scheduled to be reviewed are encouraged to utilize an Ongoing Program Self Evaluation Tool (OPSET) for each program for which they receive categorical funding. The OPSET allows districts to conduct their own self-evaluation of their compliance on the same seven dimensions.

In the English Learner (EL) CPM instrument and the related OPSET, the reclassification of English learners is addressed by EL-6, under Dimension IV, "Standards, Assessment and Accountability." EL reviewers begin by examining each district's Board-established policies and procedures for reclassification to insure that the policies are consistent with state law. EL reviewers examine district data and randomly-selected student records (cum files and/or databases) to confirm that former English learners who have been reclassified have met all required Education Code criteria and that students who meet the criteria for reclassification are indeed being reclassified. Consistent with law, the EL reviewer insures that each LEA has documented and maintained in the pupil's permanent record all information related to reclassification, including the student's language and academic performance assessments, participants in the reclassification process, and any decisions related to the pupil's readiness to be reclassified. In addition, the reviewer confirms that the LEA is providing follow-up of the academic performance of all reclassified students for at least two years. Districts found out of compliance on any of the dimensions, including IV-EL 6, are monitored by the English Learner Accountability unit until the noncompliant item(s) has been corrected.

**Recommendation #3:**

We recommended that the department consider changing the annual objective that measures students' annual progress in learning English to offer less incentive for school districts to maintain students as English learners.

**Department's Response:**

Recommendation has been fully implemented. The 2006–07 California English Language Development Test (CELDT), Form E, was based on new performance level cut scores. The new CELDT scale raised the level at which students must perform in order to reach the Early Advanced and Advanced levels. As expected, the number of students scoring in the Early Advanced and Advanced levels has decreased from 47% on the 2005–06 CELDT to 32% on the 2006–07 CELDT. This change in the performance level cut scores makes the CELDT a more accurate indicator of a student's level of English language development. It is expected that once students achieve the English proficient level on the CELDT that they will be more likely to meet the academic criteria for reclassification.

**Recommendation #4:**

We recommended that the department perform the steps necessary to ensure the school districts we reviewed have taken appropriate action to resolve their unallowable expenditures of supplemental English learner program funds. In addition, we recommended the department revise the documentation policy it provides to school districts to better ensure that expenditures are directed clearly at activities that serve the English learner programs' target populations. Lastly, to ensure that expenditure files clearly demonstrate that supplemental English learner program funds are directed at activities that serve the law's target populations, we recommended that school districts implement documentation policies.

**Department's Response:**

This BSA recommendation has been implemented with the following actions:

The California Department of Education (CDE) coordinates meetings with Categorical Directors, whom represent various districts, nine times a year and with California Co-op Directors, which are comprised of directors representing a county consortium, bi-annually. These meetings provide information to the districts about Categorical Programs. Updates and information is provided on Economic Aid Funding (EIA). During these meetings, guidance is provided about the Purpose, Eligibility, Funding Principles and Allowable Expenditures for EIA (see attached handout). In the English Learner (EL) Instrument, Cross Program Instrument (CPI) and Ongoing Program Self Evaluation Tool (OPSET) for Categorical Program Monitoring (CPM): An Ongoing Monitoring Process, funding is included as one of the dimensions. In the EL instrument, OPSET (EL 5), and CPI (CP 10) EIA and Title III funds are reviewed to ensure that the funds supplement, not supplant, general funds or other categorical program funding. Documents, interviews and classroom observations constitute evidence for compliance. These include: the Single School Plan for Student Achievement (SSPA); LEA fiscal records for EIA funds; LEA fiscal records for Title III; time-accounting records of multifunded staff; and any other documents that demonstrate how funds are expended. In the CPI, a review of the LEA disbursement of categorical funds in accordance with the approved Consolidated Application is reviewed. In addition to the disbursement of the funds, the apportionments to school sites for direct services is verified that no less than 85 percent is being used by the LEA (III-CP 9).

Districts found out of compliance with EL items are monitored by the English Learner Accountability unit until the noncompliant item(s) has been corrected.

The CDE provides extensive guidance to LEAs in the appropriate use of Title III funding and makes every effort to ensure that all expenditures are directed at activities that serve English learners. The administrator of the Language Policy and Leadership Office and ten staff consultants regularly provide technical assistance on the appropriate use of Title III funds. Ongoing technical assistance is provided via e-mail, phone, quarterly Bilingual Coordinators' Network meetings, the Annual Title III Accountability Institute, and presented at various conferences (i.e., National Two-Way, Two-Way, NABE, CABE, Title I conference, Categorical Programs Directors, etc.). Additionally, the CDE provides an extensive Frequently Asked Questions Web site (<http://www.cde.ca.gov/sp/el/t3/title3faq.asp>) which thoroughly details the appropriate use of Title III funds.

Further, in order to receive funding, all subgrantees must certify compliance to the California Department of Education General Assurances required for grants supported by state and federal funds (<http://www.cde.ca.gov/fg/fo/fm/genassurrev.asp>) which include clauses regarding appropriate expenditures and subsequent documentation.

**Recommendation #5:**

We recommended that the department review the evaluators' recommendations, subsequent to the submission of the final report in October 2005, and take necessary actions to implement those recommendations it identifies as having merit to ensure that the State benefits from recommendations in reports on the effects of the implementation of Proposition 227 and ELAP.

**Department's Response:**

This BSA recommendation has been implemented with the following actions:

The CDE reviewed the evaluator's recommendations after submission of the Proposition 227 final report in January 2006 and has fully implemented only those recommendations that have merit as identified below:

1. *The state should identify school sites and districts that are successfully educating English learners at all grade levels, and create opportunities for their educational peers to learn from them.*
  - The CDE has launched the English Language Learner Acquisition and Development Pilot Project, to be conducted in the 2007–08, 2008–09, and 2009–10 school years, which will provide \$20 million in funding to identify existing best practices regarding topics, including, but not limited to, curriculum, instruction, and staff development for teaching English language learners and promoting English language and academic English acquisition and development. The intent of the pilot project is to identify practices that demonstrate success for English language learners in achieving English proficiency, regardless of instructional setting.
  - ✓ September 28, 2006: Governor's authorization of project via Assembly Bill 2117
  - ✓ June 11, 2007: project application available to LEAs
  - ✓ July 1, 2007–June 30, 2010: project grant period
  - ✓ Documentation: <http://www.cde.ca.gov/fg/fo/profile.asp?id=948>
2. *The State should focus monitoring efforts to ensure that language status does not impede full, comprehensible access to core curriculum.*

Every effort is made at the CDE to monitor the access of English learners to the core curriculum. Through the Williams Act, the state and county offices of education are monitoring to ensure that all students including English learners have access to core curriculum instructional materials.

English learners are explicitly mentioned in the law and must have state-adopted textbooks in the four core subject areas, including the English language development component of an adopted program. English learners must be provided standards-aligned instructional materials. For grades K–8 these are state-adopted instructional materials in mathematics, science, reading/language arts, and history-social science that are consistent with the content and cycles of the curriculum frameworks and include universal access features that address the needs of English learners. For grades 9–12 local governing boards adopt standards-aligned materials for all students that include universal access features.

The CDE has produced a list of 2,230 subject to monitoring specifically under the Williams Act.

Additionally, in order to facilitate easy public access to all Williams Act related information, including the complaints process, the CDE has established a comprehensive Williams Act Web site within the CDE Web site: <http://www.cde.ca.gov/eo/ce/wc/index.asp>

- ✓ August 25, 2005: Joint correspondence to the field from the State Superintendent of Public Instruction and the Executive Director for the Commission on Teacher Credentialing
  - ✓ May 25, 2007: CDE published list of 2,230 schools subject to monitoring specifically for Williams Case issues
  - ✓ Documentation: <http://www.cde.ce.gov/eo/ce/wc/index.asp>
3. *While maintaining redesignation as a locally determined milestone, the state should specify clear performance standards for key statewide measures of English learner student progress and achievement.*

In January 2007, the SBE requested information on districts with the largest number of reclassified students. The CDE undertook the task of reviewing recent studies, including research conducted by CDE staff, addressing the question of reclassification of English learners. The studies reviewed included studies conducted by CDE, its contractors, the Legislative Analysts Office, and other organizations researching the issue. In August 2007, the CDE in conjunction with the California Comprehensive Assessment Center (CACC) at WestEd convened a meeting of California-based researchers who focus on English learners to discuss:

- recent resetting of performance cut-scores;
- the development of a common scale across grade-span test forms;
- the separation of listening and speaking sub-scores; and
- potential implications of these changes for EL classification and reclassification, Title III accountability, and research and policy analysis using CELDT.

In July 2007, the results based on the new performance cut-scores were presented to the State Education Board. At this time, no change in the reclassification guides is anticipated.

Based on this very close examination of the impact of changes to the CELDT on reclassification rates, the CDE will provide the SBE with information on:

- Impact of various factors on reclassification rates (e.g., demographics of English learners, instructional programs);
  - Variability across schools and districts in reclassification rates;
  - Variability across districts in reclassification policies in terms of the threshold necessary on the CST ELA (e.g., some require Proficient, which is higher than the guidelines approved by the SBE);
  - Correlations of English learner performance on the CELDT to their performance on the CST English Language Arts (ELA) and the CAHSEE ELA.
4. *The state shall foster data use to guide English learner policy and instruction.*

The CDE, in conjunction with California Comprehensive Center at WestEd, continues to offer technical assistance seminars to those Title III districts that have not met Title III AMAOs for two consecutive years. Beginning in the fall of 2007, a three-day forum will be mandatory for those LEAs that have not met Title III AMAOs for four consecutive years. The focus of these sessions is to analyze local data on English learner performance using tools such as the LEA-level English Learner Subgroup Self Assessment (ELSSA) to gain a better understanding of the performance of their English learners and how the instructional program can be improved to ensure academic success for English learners. LEAs consistently provide very positive feedback regarding use of the ELSSA in analyzing their programs and implementing subsequent change, and based on the success of this tool, the CDE is currently developing a similar school-level self assessment tool.

Additionally, the CELDT contractor provides assistance to LEAs with the interpretation and use of summary test results for program evaluation and accountability by conducting a minimum of ten post-test full-day training workshops annually throughout the state.

- ✓ October 16–17, 2007; October 23–24, 2007; January 15, 2008; January 17, 2008: Mandatory forums for administrators of Title III LEAs failing AMAOs for four consecutive years
- ✓ Documentation: <http://www.cde.ca.gov/sp/el/t3/ltrnotifama007.asp>
- ✓ Additional documentation of extensive data use in policy and instruction: <http://www.cde.ca.gov/sp/el/t3/acct.asp>

5. *The state and districts should support the professional development necessary to promote English learners' English language development and academic achievement, ensure appropriate deployment of skilled teachers to schools where they are most needed, and foster development of English Language Development (ELD) curriculum and instructional plans aligned to the state's ELD standards.*

The English Language Learner Professional Development Program, authorized by SB 472 (Chapter 524, Statutes of 2006), provides funding to LEAs in support of English language learner teachers. In July 2007, the State Board of Education adopted the regulations necessary in order to fully implement this professional development program. The program provides 40 hours of professional development in reading language arts and mathematics and is intended to be follow-up training to the initial 40 hours of professional development provided by SB 472. The program includes effective strategies that support the teaching of English learners while providing access to standards-aligned instructional materials in mathematics and reading. Training providers and the curriculum must be approved by the State Board of Education.

In order to ensure appropriate deployment of skilled teachers to schools where they are needed most, priority in funding is given to LEAs in which English learners are twenty percent or more of total enrollment, one or more schools have been identified as program improvement under the No Child Left Behind Act, or one or more schools have not met their English learner subgroup targets pursuant to EC Section 52052.

- ✓ September 28, 2006: Governor's authorization of project via Senate Bill 472
- ✓ July 11–12, 2007: the SBE adopted regulations required for implementation
- ✓ Documentation: <http://www.cde.ca.gov/pd/ca/ma/mardo6.asp>

6. *The state and school districts should acknowledge the added learning expectations and demands placed on English learners by allocating additional resources that truly supplement equitable base funding.*

Assembly Bill (AB) 1802 (Chapter 79, Statutes of 2006) appropriates \$30 million on a one-time basis for local educational agencies (LEAs) to purchase supplemental instructional materials for English learners (ELs) in kindergarten through twelfth grade. The purpose of the materials is to "accelerate pupils as rapidly as possible towards grade level proficiency." The funds are required to be used to purchase supplemental materials that are designed to help ELs become proficient in reading, writing, and speaking English. These materials may only be used in addition to the standards-aligned programs adopted by the State Board of Education (SBE) pursuant to California Education Code Section 60605.

- ✓ July 19, 2006: Governor's authorization of project via Assembly Bill 1802
- ✓ July 11–12, 2007: the SBE approved the release of funds
- ✓ Documentation: <http://www.cde.ca.gov/ci/cr/cf/englearnrs.asp>

**DEPARTMENT OF EDUCATION (REPORT NUMBER 2005-104, FEBRUARY 2006)****Its Flawed Administration of the California Indian Education Center Program Prevents It From Effectively Evaluating, Funding, and Monitoring the Program**

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the Department of Education's (department) administration of the California Indian Education Center program (program), how it determines funding for the California Indian Education Centers (centers), and how it evaluates them. Specifically, the audit committee asked us to determine the department's roles and responsibilities related to the centers and to review and evaluate the department's existing policies, procedures, and practices for administering the program and monitoring the centers. The audit committee was also interested in any written procedures the department has developed to guide program administration. In addition, it asked us to review the department's funding structure for the program and how it appropriates funds to administer the program.

Further, the audit committee requested that we assess the reasonableness of the department's use of program funds; determine whether it has directed sufficient resources to the program in general and sufficient management attention to completing the program evaluation report that was due to the Legislature on January 1, 2006; and review the department's document retention policies and practices. Finally, the audit committee asked us to review and evaluate the department's process for allocating and disbursing funds to the centers.

In February 2006 the bureau issued the above referenced report containing two recommendations. Based on the department's one-year response, we have determined that it had not fully implemented either of the recommendations. However, according to the department, it implemented both of these recommendations subsequent to the one-year date. Below are the recommendations that we determined were not fully implemented one year from the date the report was issued followed by the department's most recent response.

**Recommendation #1:**

We recommended that the department develop operating policies and procedures specific to the program and train staff in their application. The policies and procedures should include the following:

- A description of the data that centers must annually report to measure program performance and a standardized format for reporting to allow the department to effectively aggregate and consolidate the data for reports to the Legislature and other interested parties. Further, the department should outline the consequences for failing to submit the data.
- An equitable process to select centers to receive grant awards and determine their respective funding amounts.
- A set time frame that it adheres to for disbursing payments to the centers once their applications are received and approved. The time frame for the first payment can be expressed as a set number of weeks after enactment of the state budget for centers with approved applications.
- A centralized filing system that contains all documents pertinent to the grant program, including documentation of the technical assistance provided to the centers.

- A monitoring process and plan to ensure that reported fiscal and program information is accurate and complete, including a process for corrective action and departmental follow-up for noncompliance.
- A set schedule indicating how long program records are to be kept.

### Department's Response:

These recommendations have been fully implemented as follows:

- A description of the data that centers must annually report to measure program performance and a standardized format for reporting to allow the department to effectively aggregate and consolidate the data for reports to the Legislature and other interested parties. Further, the department should outline the consequences for failing to submit the data.

This recommendation has been fully implemented. Reauthorizing legislation (SB 1710) became effective January 2007. In Education Code (EC) sections 33370 (e) (1) and 62000.14 (c) these are a list of requirements. Further, the department has completed the rule making process for the American Indian Education Center (AIEC) Program, which has put into place regulations that govern the program. In the new regulations, California Code of Regulations (CCR) section 11996.7 (a) lists the required data that must be reported. In CCR section 11996.7 (d) lists the consequences for failure to submit the data. The End of Year Reporting forms will be presented to the grantees in February 2008 at the Program and Fiscal Training.

- An equitable process to select centers to receive grant awards and determine their respective funding amounts.

This recommendation has been fully implemented on September 30, 2007. Reauthorizing legislation (SB 1710) became effective January 2007. The department released a competitive application in July 2007. This application can be found at <http://www.cde.ca.gov/fg/fo/profile.asp?id=1122>

- A set time frame that it adheres to for disbursing payments to the centers once their applications are received and approved. The time frame for the first payment can be expressed as a set number of weeks after enactment of the state budget for centers with approved applications.

This recommendation has been fully implemented. Reauthorizing legislation (SB 1710) become effective January 2007. California Education Code (EC) Section 33383 (h) the payment disbursement timeframe.

- A centralized filing system that contains all documents pertinent to the grant program, including documentation of the technical assistance provided to the centers.

The CDE established central files for all documents pertaining to the grant program in March 2006. These files include documentation of the technical assistance provided to each center.

- A monitoring process and plan to ensure that reported fiscal and program information is accurate and complete, including a process for corrective action and departmental follow-up for noncompliance.

This recommendation has been fully implemented. Reauthorizing legislation (SB 1710) became effective January 1, 2007. In EC Sections 33370 (f) (3) lists the program monitoring requirements. Further the department has completed the Rule Making process for the American Indian Education

Center Program, which has put into place regulations that govern the program. In the new regulations, California Code of Regulations (CCR) section 11996.8 established the monitoring process. This process includes the consequences for non-compliance.

- A set schedule indicating how long program records are to be kept.

This recommendation has been fully implemented on April 28, 2006. The records retention schedule was approved by the CDE on April 28, 2006.

### **Recommendation #2:**

To ensure that centers use program funds effectively, we recommended that the department ensure that they periodically conduct needs assessments as required by the guidelines adopted by the State Board of Education.

### **Department's Response:**

This recommendation has been fully implemented. Reauthorizing legislation (SB 1710) became effective January 1, 2007. Within the new language was the requirement for a "Comprehensive Needs Assessment," (EC Section 33383[c]). The department has completed the Rule Making process for the American Indian Education Center Program, which has put into place regulations that govern the program. CCR section 11996.3 (a) (7) lists the requirement for a "Comprehensive Needs Assessment". The department also released the Request for Application for the 2007–12 grant funding cycle. This RFA requires a description of the Comprehensive Needs Assessment conducted by the grantee.

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## HIGHER EDUCATION

### **CALIFORNIA STUDENT AID COMMISSION (REPORT NUMBER 2005-120, APRIL 2006)**

Changes in the Federal Family Education Loan Program, Questionable Decisions, and Inadequate Oversight Raise Doubts About the Financial Stability of the Student Loan Program

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review California Student Aid Commission's (Student Aid) governance and oversight of its auxiliary organization, known as EDFUND, including EDFUND's financial management and business practices. The audit committee was interested in ensuring the proper use of state assets in maximizing support for financial aid purposes.

In April 2006 the bureau issued the above referenced report containing eight recommendations. Based on Student Aid's one-year response to our report, we determined that it had not fully implemented six of those recommendations. However, according to Student Aid, it implemented some of these recommendations subsequent to the one-year date. Below are the recommendations that we determined were not fully implemented one year from the date the report was issued followed by the commission's most recent responses.

In September 2007 the bureau issued a follow-up report titled *California Student Aid Follow-Up: Although Changes to the Commission's Business Model Have Produced Positive Results, Proposed Federal Changes Could Affect Federal Family Education Loan Program Revenues* (Report No. 2007-505). In this report the bureau performed additional audit work pertaining to the recommendations it issued in 2006 that the departments had not addressed. To view the entire text of the follow-up report go to <http://www.bsa.ca.gov/reports>.

#### **Recommendation #1:**

Recent proposed federal changes to the Federal Family Education Loan (FFEL) Program will again have a significant financial impact on Student Aid and EDFUND. Specifically, if one or more of these proposed changes are approved, FFEL Program revenues could decline by several million dollars each year. Therefore, Student Aid and EDFUND need to continue to monitor the status of these proposed changes and develop contingency plans in the event one or more of them are approved.

#### **Commission's Response:**

This recommendation has been fully implemented and is ongoing<sup>4</sup>. BSA's recommendation at the time of its report stemmed from potential effects of the Federal Higher Education Reconciliation Act of 2005 on the Federal Family Education Loan Program (FFEL Program). Recent federal legislation has also been introduced that will further impact the industry. Specifically, various FFEL Program funding models have been proposed by Congress and the president but will not be finalized any sooner than Fall 2007. While the specific outcomes of these legislative proposals

<sup>4</sup> Since we reviewed this response, the President signed H.R. 2669 into law on September 7, 2007, which reduces the guaranty agency collection retention rate on borrower payments from 23 percent to 16 percent beginning October 1, 2007. H.R. 2669 also contains provisions that will reduce the account maintenance fee paid to FFEL Program guarantors from 0.10 percent to 0.06 percent of the original principal amount of outstanding loans issued by the guarantee agency. These changes are likely to significantly impact the revenues earned by FFEL Program guarantors throughout the student loan industry.

are unknown, industry consensus is that FFEL Program funding reductions are probable and will impact all guarantors. The Commission, EDFUND Board, and their respective staffs are closely monitoring the events in Washington. Analyses have been prepared by EDFUND staff and continue to be shared with the Commission, Commission staff, and EDFUND Board on the estimated impacts to the FFEL Program administered by EDFUND on behalf of the Commission. The 2007–08 loan program business plan and budget proposal have been developed based on defined assumptions and best estimates of outcomes of the proposed federal legislation. Should any of the primary assumptions change significantly when federal and state legislation is passed, the 2007–08 loan program business plan and budget will require revisions and re-submission to the Board and Commission for subsequent review and approval. The proposed business plan and budget were reviewed and approved by the EDFUND Finance and Budget Committee on August 2, 2007 and the EDFUND Board of Directors on August 10, 2007. The business plan and budget will be presented for final review and approval to the Commission on September 6–7, 2007.

### Recommendation #2:

Student Aid should ensure that critical tasks, including the renegotiation of its Voluntary Flexible Agreement with the Department of Education and the development of a diversification plan, are completed. Student Aid should also ensure that the roles and responsibilities it delineates for itself and EDFUND do not inappropriately cede its statutory responsibilities to EDFUND.

### Commission's Response:

- **The VFA has not been renegotiated**<sup>5</sup>. The Commission's original Voluntary Flexible Agreement (VFA) remains in place and EDFUND was successful in collecting \$28 million for the federal fiscal year ended September 30, 2005, which was in question at the time of the BSA's audit. Of the 35 guaranty agencies participating in the FFEL Program, only five, which includes the Commission, have VFAs with the United States Department of Education (the Department). The original VFAs of the five guaranty agencies all remain in effect as the Department has not renegotiated any new agreements. Negotiations on proposed new VFAs with guaranty agencies are on hold at the Department, most likely because of the President's executive budget proposal to eliminate VFAs. It is unclear how long the Department will continue VFA funding under the current VFA model, particularly given the federal legislative proposals to reduce FFEL Program costs.
- **The Commission and EDFUND continue to look for business diversification opportunities.** At the time the Commission received legislative approval for business diversification, the Operating Fund had sufficient cash balances to diversify. Since then, the State has redirected approximately \$300 million in Operating Funds to pay for non-Loan Program general fund obligations. The Commissioners and Board members agreed during their July 2006 joint workshop that insufficient cash reserves preclude any major initiatives to diversify in the near term. It was agreed that the Commission and EDFUND will continue to be alert to potential opportunities to partner with other entities for diversification efforts.

<sup>5</sup> Recent changes to state law may impact the oversight role previously performed by the commission and may impact this recommendation. Senate Bill 89 (SB 89), an urgency measure enacted as Chapter 182, Statutes of 2007, and signed by the governor on August 24, 2007, took effect immediately, and may affect the ownership of EDFUND, and impact the commission's oversight role. SB 89 prohibits the commission from authorizing EDFUND to perform any new or additional services unless they are deemed necessary or convenient by the Director of Finance (director) for the operation of the loan program or for maximizing the value of the state student loan guarantee program. Similarly, the director must approve any expenditure by EDFUND. Moreover, SB 89 provides that all actions, approvals, and directions of the commission affecting the state student loan guarantee program are effective only upon the approval of the director. Thus, the director now has significant authority over the commission and EDFUND.

- **Roles and Responsibilities Policies will be complete by September 6–7, 2007.** The Commission's Ad Hoc Committee on Roles and Responsibilities, with the support of two consultants (The Results Group and Aurora Consulting) is developing policies which delineate the roles and responsibilities between the Commission, EDFUND and their staffs. Final edits to the policies are currently being reviewed by the Commission Ad Hoc Committee and the Committee plans to present the final document to the Commission for approval at their September 6–7, 2007 meeting.

### **Recommendation #3:**

We recommended that Student Aid ensure EDFUND complies fully with federal regulations and its policy governing salary setting for its executives, including modifying its policy to address board members who have a conflict of interest and ensuring that its consultants compile comparable compensation data solely from similar financial-related organizations. Student Aid should also ensure that EDFUND determines bonuses for its president in accordance with Student Aid's policy. Further, Student Aid should modify its policy statement and guidelines memorandum titled *EDFUND Incentive Compensation Plans* to ensure that EDFUND includes all FFEL Program revenues and expenses in its calculation of the program's operating surplus or deficit and that EDFUND's executive management team does not receive a bonus if the FFEL Program or Operating Fund realizes a deficit. Finally, Student Aid should ensure that it and EDFUND's board establish guidelines to use when approving the total bonus pool amount for EDFUND's executive management team.

### **Commission's Response:**

This recommendation has been fully implemented. The Commission's policy statement and guidelines memorandum titled *EDFUND Incentive Compensation Plans* effective August 12, 2002 has been revised. The revised policy takes effect on October 1, 2007. The Commission reviewed and approved this new policy statement and guidelines memorandum at its June 22, 2007 meeting.

EDFUND engaged the compensation consulting firm of Watson Wyatt to assist the EDFUND Board in establishing an Executive Compensation Policy. The policy was approved by the EDFUND Board at its April 9, 2007 meeting and then slightly amended by the Board at its August 10, 2007 meeting to align the policy with a requirement that was included in the Commission's policy statement and guidelines memorandum titled *EDFUND Incentive Compensation* that takes effect October 1, 2007. The Executive Compensation Policy became effective immediately.

The Commission and EDFUND Board addressed BSA's concerns described in the recommendation cited above in the two policies.

### **Recommendation #4:**

We recommended that Student Aid direct its executive director and EDFUND's president to resolve outstanding issues related to the methodology used to measure EDFUND's performance, which affects the bonuses for its nonexecutive employees.

### **Commission's Response:**

This recommendation has been fully implemented. BSA stated in its April 2006 report that the Executive Director and President agreed that the following four issues for the 2005–06 performance goals must be addressed but had not yet been resolved:

1. Whether and how to recognize goals not achieved
2. Whether and how to recognize a percentage of accomplishment above the assigned weights
3. Whether to set a standard for acceptable variance to a goal
4. How midyear budget changes may affect a goal.

BSA was informed in December 2006 that Commission staff had completed its review of EDFUND's 2005–06 performance goals, metrics and resulting accomplishments and that agreement had been reached except for one aspect involving items 1 and 3 which are interrelated. This final matter was on the methodology that should be used to calculate two metrics, specifically turnover rate and recovery rate. The Executive Director and President did not agree on the methodology. Therefore, on December 10, 2006, the Commission met to assess EDFUND's overall performance and to evaluate the calculation methodology as it related to the 2005–06 organizational metrics. The Commission made the final determination at this meeting and agreed upon the assessment of EDFUND's performance for 2005–06. The Commission determined that EDFUND's companywide accomplishments computed to a weighted average of 98.2 percent of completion.

For item 2, Commission and EDFUND staff had previously agreed that EDFUND would receive no more than 100% credit for a single goal even if the goal had been exceeded.

For item 4, Commission and EDFUND staff agreed that goals affected by annual mid-year budget adjustments will be indicated as part of the Board and Commission's mid-year budget adjustment process and adjusted when the budget augmentations or adjustments are approved by the Board and Commission.

#### **Recommendation #5:**

We recommended that Student Aid rescind its delegation of the approval authority of EDFUND's detailed operating budget to the EDFUND board and follow through on issues raised by its staff regarding EDFUND's operations. Student Aid should also require staff to independently verify the accuracy of the reports submitted by EDFUND. Finally, it should complete key tasks outlined in the June 2005 mandated performance review of EDFUND.

#### **Commission's Response:**

Verification of reports submitted by EDFUND is not fully implemented<sup>6</sup>. The new Operating Agreement between the Commission and EDFUND that took effect on July 1, 2007 provides for increased Commission oversight of EDFUND, including an Annual Oversight Plan. The reports submitted by EDFUND are listed in Article 8 of the agreement. The Commission's Ad Hoc Committee on Roles and Responsibilities, with the support of two consultants (The Results Group and Aurora Consulting) is developing the processes and extent to which Commission staff

<sup>6</sup> Recent changes to State law may impact the oversight role previously performed by the commission, and may impact this recommendation. Senate Bill 89 (SB 89), an urgency measure enacted as Chapter 182, Statutes of 2007, and signed by the governor on August 24, 2007, took effect immediately, and may affect the ownership of EDFUND, and impact the commission's oversight role. SB 89 prohibits the commission from authorizing EDFUND to perform any new or additional services unless they are deemed necessary or convenient by the Director of Finance (director) for the operation of the loan program or for maximizing the value of the state student loan guarantee program. Similarly, the director must approve any expenditure by EDFUND. Moreover, SB 89 provides that all actions, approvals, and directions of the commission affecting the state student loan guarantee program are effective only upon the approval of the director. Thus, the director now has significant authority over the commission and EDFUND.

conducts their oversight activities including, but not limited to, independent verification of the accuracy of EDFUND reporting to the Commission. The Commission plans to formally adopt an Annual Oversight Plan at its September 6–7, 2007 meeting.

The remaining recommendations have been fully implemented:

- On June 22, 2006 the Commission rescinded the Commission's delegation of the approval authority of EDFUND's detailed operating budget to the EDFUND Board.
- BSA's recommendation also related to the Commission's approval of EDFUND's 2005 and 2006 business plans and budget despite unaddressed concerns raised by Commission staff. To address the recommendation to follow through on issues raised by staff, EDFUND fully analyzed CSAC staff's concerns. The issues were then discussed in detail by the Board with CSAC staff responsible for EDFUND oversight and EDFUND staff at the Board's May 2006 workshop. The Commission and the EDFUND Board reviewed and discussed EDFUND's 2006–07 Loan Program Business Plan and Budget with the staffs of both organizations. (Note: The Business Plan includes the EDFUND budget and organizational performance goal metrics.) Clarity and resolution on two components in the methodology for computing performance goal results required further discussion among the staffs. One component was in regards to an achievement cap for federal fiscal year 2006–07. Both staffs subsequently agreed that EDFUND would not receive a score above 100% for exceeding a performance goal. The other component involved differing interpretations for the methodology in applying a 75% achievement requirement. The Commission met on April 20, 2007 and made a final determination that prior year goals would not be a part of the current year results computation when applying the 75% to the achievement of current year goals. Other than the items described above, no other issues were raised by Commission staff on the information presented in the 2006–07 Loan Program Business Plan and Budget. The new Operating Agreement addresses the requirements for presenting the proposed business plan, budget and goals to the Commission in Section 4.6 and the Commission's approval processes in Section 5.3.
- BSA indicated that the following six tasks cited in the June 2005 performance review had not yet been addressed at the time BSA issued its April 2006 report:
  1. Maximize the efficiency and effectiveness of its collection recoveries on student loans that default
  2. Renegotiate its voluntary flexible agreement with the U.S. Department of Education
  3. Continue to explore business diversification options
  4. Re-examine the basic assumptions of the current business model
  5. Reassess marketing strategies
  6. Undertake a thorough organizational risk assessment in relation to the existing portfolio and future growth strategies

The second and third items are addressed in the response to recommendation 2 in this document. The following information is provided in regard to the four remaining items:

***Maximize the efficiency and effectiveness of its collection recoveries on student loans that default***—Over the last two years EDFUND has refocused its strategy from loan consolidation to counseling borrowers toward loan rehabilitation and direct payments in line with the Higher

Education Reconciliation Act of 2005 (HERA). This shift in collections focus has produced dramatic changes in EDFUND's results. For 2005–06, the total of non-consolidation recoveries was up 94 percent over the prior year and accounted for 44 percent of total collection recoveries. EDFUND projects for 2006–07 the total non-consolidation recoveries will increase 80 percent over 2005–06 and will account for about 80 percent of total collection recoveries. EDFUND will have exceeded HERA requirements two years ahead of the deadline.

***Re-examine the basic assumptions of the current business model***—The underlying assumptions in EDFUND's business model are reviewed and enhanced, as deemed necessary, each year and the assumptions are stated in the annual Loan Program Business Plan.

Additionally, as part of EDFUND's routine financial management and forecasting activities, the Finance and Administration Division in conjunction with the EDFUND Executive Management Team continuously review all applicable assumptions and fiscal metrics to ensure that the organization is going about its mission in the most prudent and effective way possible. EDFUND tracks a number of key metrics, assumptions, and indicators for each of the three product lines: Loan Origination and Processing, Default Prevention and Aversion, and Default Management and Collections. As a result of the nature of the business, assumptions in one product line will tend to significantly impact the results of the other lines. For instance, any changes to marketing and loan volume assumptions will inevitably affect the loans that go into delinquent status, which will impact claims and collections assumptions.

Through the maintenance of a complex financial model, EDFUND is able to adjust financial assumptions and test the results on each of the three product lines, as well as the overall bottom line. Using this tool and related analysis, the organization is able to ensure that the proper balance is established with each financial forecast. This process is repeated on a quarterly basis, and is also completed whenever proposed changes to the business model or revenue structure are being discussed or otherwise communicated. This proactive approach ensures that EDFUND is able to adjust loan program activities to mitigate the impact of these changes.

The business environment in which EDFUND operates is not static and there are many competing demands on the use of the financial resources generated from administering the Loan Program which require the ongoing assessment of business assumptions. On March 29, 2007, the Commission reviewed long range financial projections developed by EDFUND staff and Loan Program Guiding Principles for the 2007–08 Budget Discussions proposed by Commission and EDFUND staff. The projections and guiding principles were assessed by Commission staff and EDFUND staff in advance of the Commission's review. The guiding principles were adopted by the Commission. Additionally, the Loan Program 2007–08 Business Plan and budget were reviewed and approved by the EDFUND Finance and Budget Committee and the EDFUND Board on August 2, 2007 and August 10, 2007, respectively, for recommendation to the Commission scheduled for September 6–7, 2007. EDFUND management has provided written responses to Commission staff's initial request for additional clarification on the plan and budget. Commission staff has asked for clarifying information and will present their analysis and recommendations during the Commission's September 2007 meeting.

***Reassess marketing strategies***—Included in the EDFUND Loan Program Business Plan each year is an updated long term Marketing Strategy including short term Marketing Goals for the upcoming year.

The Marketing Strategy and Goals take into account the Business Plan Environmental Scan. Among other things, the Environmental Scan captures the FFEL Program regulatory and political environment, competitive market environment, and current lender environment.

EDFUND's strategy of Relationship Marketing drives the long term Marketing Strategy. It is important to have a consistent approach in support of the long term strategy in order to build on the success of one year to the next. The Relationship Marketing approach focuses on four sub-strategies: volume preservation, volume growth, investment, and partnerships.

These sub-strategies are reviewed each year to determine if they are still the right strategies to achieve the objectives of the organization. Although each year brings subtle changes to the strategic direction, resulting from changing market conditions and competitive activities, the conclusion from these yearly reviews is that they do, in fact, continue to be the right approach to retaining and growing loan volume and market share.

Current year plan objectives are then summarized in the plan. Taking into account previous year's volume, the conditions outlined in the environmental scan, market intelligence gathered by EDFUND staff, and volume forecasts provided by staff, specific objectives are stated. The short term, or current year, objectives include: volume goal, market share goal, and customer satisfaction level. Accompanying the objectives is a description of actions to be taken to achieve them. These actions include not only those of the Client Services staff but company wide recognizing that support is needed from all facets of the organization.

In addition to the Strategic Marketing Plan, individual Regional Marketing Plans are developed and updated as needed. These plans are not a part of the EDFUND Business plan; instead they act as a road map or guide for the activity of the staff in each region. The regional marketing plans drill down utilizing detail about individual states and/or regional territories. In this process, EDFUND takes advantage of information such as an analysis of the loan volume in each state (FFEL Program/Direct Loan, percentage processed through various guarantors, volume spread among school types). This data is then combined with market intelligence and successful relationship building to better understand the opportunities and challenges in each state and to identify the target schools for the regional marketing plans.

Depending on the maturity of the territory, each regional marketing plan will produce its own unique blend of the four marketing sub-strategies suitable for its situation. Selling strategies specific to the territory are then outlined in the documents along with obstacles, challenges, and dependencies. Unique strategies are developed in response to circumstances in one or more regions.

At the end of the year, an analysis is made recapping the results and providing input into the next iteration of the strategic marketing plan. This combination of consistent long-term strategic direction and adaptable shorter-term tactical focus ensures that EDFUND's marketing and sales activities are well balanced and attuned to real market conditions. EDFUND is able to capitalize on its successes and focus its investments where they will produce quality business results.

***Undertake a thorough organizational risk assessment in relation to the existing portfolio and future growth strategies***—On an annual basis, EDFUND develops its business and marketing plans which include loan volume growth goals and strategies. These strategies include maintaining market share and aggressively seeking new loan volume through our Client Relations team and working collaboratively with our lender partners. In 2006–07, lender partnerships include a default fee sharing strategy to remain competitive. On a quarterly basis, EDFUND reviews and confirms all financial assumptions and projections. This includes a detailed analysis of the results of operations and key business performance indicators, trends and changes that may impact the industry and EDFUND's organizational objectives. Included in this review is an analysis of year to date loan volume and its impact on the volume forecast for the various school segments and calculating the fiscal impact over a five year period. It is here that decisions are made to ensure

that EDFUND is managing the organization towards the best possible outcome in relation to our mission and goal to maximize the bottom line. We continue to refine the default risk assessment of each school segment and adjust the appropriate metrics and financial forecasts accordingly.

As with any projections, there is the possibility that unforeseen developments (such as the federal changes to the federal loan program or market conditions changing) will require EDFUND to modify forecasts. When this occurs, EDFUND works with the respective business teams to adjust business strategies. For example, the Client Relations and Loan Operations team adjusted marketing plans, developed new strategies, and worked to strengthen partnerships with lenders to protect the existing portfolio and market share in order to position EDFUND to spur new growth. In January 2007, the Loan Operations team adjusted its strategies for contacting delinquent borrowers, including the use of third party servicers.

**Recommendation #6:**

We recommended that Student Aid ensure that EDFUND complies with the Bagley-Keene Act record-keeping requirements by maintaining a confidential minutes book of the business discussed during its closed sessions. In addition, Student Aid and EDFUND should establish policies and procedures to help ensure that closed sessions are conducted within the board's authority as required by state law. These policies and procedures should provide the board and staff with clear guidelines in defining trade secrets and business proprietary information that can be discussed during closed sessions so that no further violations of state law occur.

**Commission's Response:**

This recommendation has been fully implemented. A meeting policy was drafted by general counsels of the Office of the Attorney General and EDFUND for presentation to the Commission and EDFUND Board. The policy was adopted by the EDFUND Board and by the Commission on April 9, 2007 and April 20, 2007, respectively. EDFUND is complying with the Bagley-Keene Act record-keeping requirements.

## HEALTH AND HUMAN SERVICES

### PHARMACEUTICALS (REPORT NUMBER 2004-033, MAY 2005)

#### State Departments That Purchase Prescription Drugs Can Further Refine Their Cost Savings Strategies

Chapter 938, Statutes of 2004, required the Bureau of State Audits (bureau) to report to the Legislature on the State's procurement and reimbursement practices as they relate to the purchase of drugs for or by state departments, including, but not limited to, the departments of Mental Health, Corrections and Rehabilitation, the Youth Authority (Youth Authority), Developmental Services, Health Services (Health Services), and the California Public Employees' Retirement System (CalPERS). Specifically, the statutes required the bureau to review a representative sample of the State's procurement and reimbursement of drugs to determine whether it is receiving the best value of the drugs it purchases. The statutes also required the bureau to compare, to the extent possible, the State's cost to those of other appropriate entities such as the federal government, Canadian government, and private payers. Finally, the bureau was required to determine whether the State's procurement and reimbursement practices result in savings from strategies such as negotiated discounts, rebates, and contracts with multistate purchasing organizations, and whether the State's strategies result in the lowest possible costs. The bureau examined the purchasing strategies of the three primary departments that contract for prescription drugs—the Department of General Services (General Services), Health Services, and CalPERS.

In May 2005 the bureau issued the above referenced report containing seven recommendations. Based on Health Services' and General Services' one-year responses to our report, we determined that one of the recommendations we made to Health Services and four of the recommendations we made to General Services were not fully implemented. However, according to Health Services and General Services, some of the outstanding recommendations were implemented subsequent to the one-year date. Below is the recommendation to Health Services that we determined was not fully implemented one year from the date the report was issued followed by Health Services' most recent response. For those relating to General Services, see page 69.

In June 2007 the bureau issued a follow-up report titled *Pharmaceuticals Follow-Up: State Departments That Purchase Prescription Drugs Have Not Yet Fully Implemented Recommendations to Further Refine Their Cost Savings Strategies* (Report No. 2007-501). In this report the bureau performed additional audit work pertaining to the recommendations the bureau issued in 2005 that the departments had not addressed. To view the entire text of the follow-up report go to <http://www.bsa.ca.gov/reports>.

#### Recommendation to Health Services:

To ensure that it reimburses pharmacies the appropriate amounts for prescription drug claims, we recommended that Health Services analyze the cost-effectiveness of increasing the frequency of its pricing updates. If this analysis shows that it would be cost-effective to conduct more frequent updates, Health Services should seek budgetary authority to do so. Health Services should also identify prescription drug claims paid using the direct pricing method, determine the appropriate price for these claims, and make the necessary corrections. In addition, we recommended that Health Services ensure that the fiscal intermediary's Integrated Testing Unit removes

future outdated pricing methods promptly. Finally, Health Services should ensure that its fiscal intermediary's Integrated Testing Unit verifies that, in the future, drug prices in the pricing file are calculated correctly before authorizing their use for processing claims.

**Health Services' Response:**

The Department agrees with this finding and on January 1, 2006, implemented weekly update processes for the CA-MMIS formulary file.

There are two erroneous payment corrections (EPC) in process related to this audit. The first addresses claims paid between the time legislation was enacted for the weekly update process and the time the system changes were implemented. The second EPC addresses the audit finding that claims were mispaid due to inaccuracies in the implementation of drug formulary pricing methodology. Both of these EPCs are currently awaiting changes to the CA-MMIS formulary file before the EPCs can be processed. Upon completion of these changes, the EPCs will be processed and should be fully implemented by mid- February 2008.

**STATE ATHLETIC COMMISSION (REPORT NUMBER 2004-134, JULY 2005)****The Current Boxers' Pension Plan Benefits Only a Few and Is Poorly Administered**

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the State Athletic Commission's (commission) pension plan operations. Specifically, the audit committee was interested in the condition of the current plan, the best course of action to ensure its long-term viability, how much is being spent on administrative expenses, and whether the statutory requirements for pension contributions and benefit distributions are being met.

In July 2005 the bureau issued the above referenced report containing two recommendations. Based on the commission's one-year response, we determined that it had not fully implemented either of the recommendations. Below are those recommendations followed by the commission's most recent response.

**Recommendation #1:**

If the Legislature decides to continue the boxers' pension plan, we recommended that the commission could consider eliminating the break in service requirement and/or reducing from four to three the number of calendar years that a boxer must fight; it believes the current vesting criteria is excluding professional boxers for which the pension plan was intended. Further, the commission should mail an annual pension statement to all vested boxers to increase the likelihood that vested boxers are locatable for benefit distribution after they turn age 55.

**Commission's Response:**

Effective January 1, 2007, the commission was reconstituted with seven new members. All seven members were not appointed until May 23, 2007. Over the course of the four months, a Pension Committee has been established and is currently reviewing all aspects of the Professional Boxer's Pension Plan. Additionally, on July 1, 2007, Raymond James Financial Services won the bid for contract to become the new Investment Services Provider for the Plan. Equally important, Pillsbury Winthrop Shaw Pittman won the bid for contract to become the new legal entity that provides legal advice to the commission for oversight of the Plan. At this time, a bid for contract is being prepared that will add a Benefits Administration Specialist that will provide accounting services to the Commission for the Plan. In short, every aspect of the Professional Boxer's Pension Plan has completely changed within the past four months and a fair assessment of the problems and action needed to correct the problems has not been completed at this time.

**Recommendation #2:**

To maximize pension fund assets, we recommended that the commission raise the ticket assessment to meet targeted pension contributions as required by law and promptly remit pension contributions from the Department of Consumer Affairs' (Consumer Affairs) bank account to the boxers' pension fund. To ensure receipts are deposited in a timely manner, we recommended that the commission implement the corrective action proposed by the acting executive officer to Consumer Affairs related to ensuring timely deposit of checks. Additionally, the commission should require promoters to remit pension fund contributions on checks separate from other boxing show fees so that deposits of checks and subsequent remittances to the boxers' pension fund are not delayed. To ensure boxers' information concerning eligibility status and pension account balances are accurate, the commission should retain all official documents from each boxing contest. Further, the commission should immediately work with the pension plan

administrator to correct errors related to boxers' eligibility status and account balances. Lastly, the commission should periodically review a sample of newly vested and pending boxers, and verify their eligibility status and pension account balances.

**Commission's Response:**

Effective January 1, 2007, the commission was reconstituted with seven new members. All seven members were not appointed until May 23, 2007. Over the course of the four months, a Pension Committee has been established and is currently reviewing all aspects of the Professional Boxer's Pension Plan. Additionally, on July 1, 2007, Raymond James Financial Services won the bid for contract to become the new Investment Services Provider for the Plan. Equally important, Pillsbury Winthrop Shaw Pittman won the bid for contract to become the new legal entity that provides legal advice to the commission for oversight of the Plan. At this time, a bid for contract is being prepared that will add a Benefits Administration Specialist that will provide accounting services to the Commission for the Plan. In short, every aspect of the Professional Boxer's Pension Plan has completely changed within the past four months and a fair assessment of the problems and action needed to correct the problems has not been completed at this time.

## **DEPARTMENT OF HEALTH SERVICES (REPORT NUMBER 2004-125, AUGUST 2005)**

### **Participation in the School-Based Medi-Cal Administrative Activities Program Has Increased, but School Districts Are Still Losing Millions Each Year in Federal Reimbursements**

The Joint Legislative Audit Committee (audit committee) asked the Bureau of State Audits (bureau) to review the Department of Health Services' (Health Services)<sup>7</sup> administration of the Medi-Cal Administrative Activities program (MAA). Specifically, we were asked to assess the guidelines provided by Health Services to local educational consortia (consortia) and local governmental agencies that administer MAA at the local level. Additionally, the audit committee asked us to evaluate the process by which Health Services selects consortia and local governmental agencies to contract with, how it established the payment rates under the terms of the contracts, and how it monitors and evaluates performance of these entities.

We were also asked to evaluate the effectiveness of a sample of consortia and local governmental agencies in administering MAA and in ensuring maximum participation by school districts. Furthermore, we were requested to conduct a survey of school districts regarding their participation in the program.

In August 2005 the bureau issued the above referenced report containing seven recommendations. Based on Health Services' one-year response, we determined that it had not fully implemented three of those recommendations. However, according to Health Services, it implemented some of these recommendations subsequent to the one-year date. Below are the recommendations that we determined were not fully implemented one year from the date the report was issued followed by Health Services' most recent response.

#### **Recommendation #1:**

Health Services should update its current invoicing and accounting processes so it can more easily collect data on the participation and reimbursement of school districts. Additionally, Health Services should require consortia, and local governmental agencies should they continue to be part of MAA, to prepare annual reports that include participation statistics, outreach efforts and results, and other performance measures Health Services determines to be useful. Health Services should then annually compile the content of these reports into a single, integrated report that is publicly available. Finally, Health Services should develop written criteria for consortia, and local governmental agencies should they continue to be part of MAA, and take appropriate action when performance is unsatisfactory.

#### **Health Services' Response:**

All aspects of the recommendation have been implemented with the exception that the Department of Health Care Services (DHCS), formerly the Department of Health Services, has renewed six Local Educational Consortium (LEC) contracts that include language to address the recommendation. As the remaining five LEC contracts are renewed, DHCS will revise the contracts to include the same language. The recommendation will be fully implemented by July 1, 2008.

<sup>7</sup> The Department of Health Services is now the Department of Health Care Services.

**Recommendation #2:**

Health Services should develop policies on the appropriate level of fees charged by consortia to school districts and the amount of excess earnings and reserves consortia should be allowed to accumulate. Health Services should do the same for local governmental agencies if such entities continue to be part of the program structure.

**Health Services' Response:**

The Department continues to disagree with this recommendation. This recommendation has not been implemented because DHCS does not want to limit local flexibility to administer their programs.

**Recommendation #3:**

Health Services should reduce the number of entities it must oversee and establish clear regional accountability by eliminating the use of local governmental agencies from MAA. Because current state law allows school districts to use either a consortium or a local governmental agency, Health Services will need to seek a change in the law. Additionally, we recommended that Health Services require school districts that choose to use the services of a private vendor, rather than developing the expertise internally, to use a vendor selected by the consortium through a competitive process. Depending on the varying circumstances within each region, a consortium may choose to use a single vendor or to offer school districts the choice from a limited number of vendors, all of which have been competitively selected. Health Services should seek a statutory change if it believes one is needed to implement this recommendation.

**Health Services' Response:**

This recommendation has been partially implemented. DHCS has not sought a change in current State law because DHCS does not want to limit local flexibility to administer their programs. Medi-Cal Administrative Activities (MAA) automation is still under development. DHCS intends to continue implementing this recommendation and is expected to be fully implemented by December 31, 2010. However, DHCS is exploring a phased implementation process that could result in partial automation prior to that date.

## **EMERGENCY PREPAREDNESS (REPORT NUMBER 2004-133, AUGUST 2005)**

### **More Needs to Be Done to Improve California's Preparedness for Responding to Infectious Disease Emergencies**

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) conduct an audit of the State's preparedness to respond to an infectious disease emergency requiring a coordinated response between federal agencies, the Department of Health Services (Health Services), local health agencies, and local infectious disease laboratories. Specifically, the audit committee requested that we (1) evaluate whether Health Services' policies and procedures include clear lines of authority, responsibility, and communication between levels of government for activities such as testing, authorizing vaccinations, and quarantine measures; (2) determine whether Health Services has developed an emergency plan; (3) determine whether California's infectious disease laboratories are integrated appropriately into statewide preparedness planning for infectious disease emergencies; (4) determine if the management practices and resources, including equipment and personnel, at the state health laboratories are sufficient to respond to a public health emergency; and (5) review Health Services' standards for providing oversight to local infectious disease laboratories, and determine whether its oversight practices achieved their intended results.

The audit committee further requested that we evaluate whether a sample of local infectious disease laboratories are operated and managed effectively and efficiently and have the necessary resources to respond to an emergency, including sufficient equipment and personnel with the appropriate level of experience and training. We were also asked to review the local laboratories' testing procedures for infectious diseases and determine if they meet applicable standards.

In August 2005 the bureau issued the above referenced report containing five recommendations. Based on Health Services' and Medical Services' one-year responses, we determined that one of the recommendations directed to Health Services and one directed to Medical Services were not fully implemented. Below are the recommendations that we determined were not fully implemented one year from the date the report was issued followed by Health Services' and Medical Services' most recent responses.

#### **Recommendation #1 to Medical Services:**

We recommended that Medical Services update the Disaster Medical Response Plan and the Medical Mutual Aid Plan as soon as resources and priorities allow.

#### **Medical Services' Response:**

The plans require review by multiple agencies prior to completion. The Plans are currently in draft form and are proceeding through the approval process and will be forwarded to your office once approved.<sup>8</sup>

#### **Recommendation #2 to Health Services:**

We recommended that Health Services should ensure that the contractor performing the current capacity assessment provides a written report that summarizes the results of its data applicable findings and recommendations.

<sup>8</sup> On December 27, 2007, the bureau received a copy of the plans.

**Health Services' Response:**

The term of the contract referred to in the recommendation was extended to May 31, 2007. The contract does not require a written report summarizing the results of the data gathered and that report has been delivered to EPO. The report is going through a review process and will be released upon completion to the review.

**DEPARTMENT OF SOCIAL SERVICES (REPORT NUMBER 2005-129, MAY 2006)****In Rebuilding Its Child Care Program Oversight, the Department Needs to Improve Its Monitoring Efforts and Enforcement Actions**

The Joint Legislative Audit Committee (audit committee) requested the Bureau of State Audits (bureau) to review the Department of Social Services' (department) oversight of licensed child care facilities. Specifically, the audit committee requested that we assess the department's progress in meeting facility inspection requirements and determine whether the department's authority and resources were adequate to fully enforce the required health and safety standards in child care facilities. Additionally, we were asked to review the department's process for investigating and resolving complaints regarding facilities. Further, the audit committee asked us to examine the department's policies and procedures for categorizing health and safety risks identified at child care facilities and to review the reasonableness of the department's processes and practices for informing parents of problems it had identified. Finally, the audit committee requested that we review the disciplinary process the department uses when it identifies deficiencies in facilities.

In May 2006 the bureau issued the above referenced report containing eight recommendations. Based on the department's one-year response, we determined that it had not fully implemented five of those recommendations. However, according to the department, it implemented some of these recommendations subsequent to the one-year date. Below are the recommendations that we determined were not fully implemented one year from the date the report was issued followed by the department's most recent response.

**Recommendation #1:**

We recommended that the department develop a plan to measure its random and required visits against its statutory requirement to visit each facility at least once every five years, assess its progress in meeting this and other statutory requirements, and ensure that the data it uses to assess its progress in meeting the various requirements are sufficiently reliable.

**Department's Response:**

In SFY '06-'07 Community Care Licensing (CCL) had a statutory requirement to visit a 20% random sample of facilities in addition to other required visits. We have met that requirement. Quarterly statistical reports are now operational in order to continue management oversight and compliance. In addition, the California Department of Social Services (CDSS) is addressing the data issue through the comprehensive technology solutions set forth in the CDSS Information Technology Strategic Plan (ITSP) (Copy provided with the 6-month response of November 8, 2006). Steady progress is being made on moving the plan forward and leveraging the existing infrastructure. The CDSS remains committed to full implementation of the plan. Implementation is dependent upon funding.

**Recommendation #2:**

We recommended that the department continue its efforts to rebuild the oversight operations of its child care program and assess the sufficiency of its current monitoring efforts and statutory requirements to ensure the health and safety of children in child care facilities. In addition, the department should develop sufficient automated management information to facilitate the effective oversight of its child care program regional offices. Further, the department should continue its efforts to make all nonconfidential information about its monitoring visits more readily available to the public.

**Department's Response:**

Please see response to item 1 of this document. The ITSP addresses development of the necessary tools and management information to better assess its oversight activities. As an initial phase of the ITSP, the SFY '06-'07 budget includes funds to automate the control book which assist the field analysts and managers in managing required visits, setting triggers, tracking follow-up visits needed, etc. It will take about 30 months to design, test, and implement this important tool. The plan also addresses making non-confidential information available to the public on the Community Care Licensing Division (CCLD) website. Implementation is dependent upon funding.

**Recommendation #3:**

We recommended that the department complete complaint investigations within the established 90-day period, revise its policies to identify specific actions its child care program staff could take to reduce the number of inconclusive complaint findings, and continue its plans to train all of its analysts in evaluating evidence and reaching conclusions on complaint allegations. In addition, we recommended that the department evaluate its pilot project for supervisory approval after the plan of correction has been completed and implement a consistent process statewide for ensuring that licensees take appropriate corrective action. Further, the department should review the complaint specialist pilot project in its regional offices and use the results of its review to determine how it should modify its existing processes.

**Department's Response:**

The several recommendations are addressed separately as follows:

- a. 90 day completion for complaints. Available data regarding completion timeframes for complaints has been reviewed. Currently, each month complaints pending over ninety days are identified, reviewed and a plan made for completion and closure. The number of such open complaints is being systematically reduced. This identification and review process will continue as a standard procedure. This recommendation has been successfully addressed and is now operational in the Division.
- b. Inconclusive findings for complaint investigations. Available data has been reviewed and findings fall into historical ranges. Additional data specific to individual Regional Offices has been requested. This will require reprogramming of the Field Automation System, but once information is available, the track record of each office can be assessed and more focused reviews can occur. Also, all staff in the Child Care Program has been trained in all facets of complaint investigations, including determining accurate findings. This recommendation has been successfully addressed and is now operational in the Division.
- c. Pilot regarding supervisory approval of complaints. The pilot project for supervisory approval after the plan of correction was completed and evaluated. It was determined that approval should occur prior to the plan of correction. Procedures to clarify this decision have been incorporated into the Evaluator Manual (EM) and a directive memo was issued July 31, 2007. This recommendation has been successfully completed and is now operational.
- d. Implement a consistent process for ensuring licensees take appropriate corrective action. Extensive revisions to the EM have been implemented in the areas of developing effective Plans of Correction and clearing citations/deficiencies. The Licensing Program Analyst (LPA) Academy has been enhanced in these areas and refresher training for seasoned staff will be provided whenever possible. This recommendation has been successfully completed and operational.

- e. Evaluate the Complaint Specialist Pilot and determine how to modify existing processes. The two year Complaint Specialist Pilot has been completed and pilot requirements regarding timeliness and quality of complaint processing were successfully met. The pilot is considered operationally successful. The CCLD has incorporated the practices tested and refined during the pilot as a permanent way of investigating serious complaints. Incorporation of the work processes of the Complaint Specialist LPAs into the EM and the Investigations Manual is underway. This is considered an ongoing task. A request for a pay differential for Complaint Specialist LPAs has been prepared and will soon be submitted to Department of Personnel Administration. The differential is intended to address recruitment and retention issues that were identified during the pilot. This recommendation has been successfully completed.

**Recommendation #4:**

We recommended the department ensure that deficiencies identified during its monitoring visits are corrected within its established 30-day time frame, that evidence of corrective action is included in its facility files, and that required plans of correction submitted by facilities are written so that it can verify and measure the actions taken.

**Department's Response:**

The Evaluator Manual (EM) has been enhanced and staff has been trained in developing effective Plans of Correction and methods of clearing/recording deficiencies. A procedural memo to highlight these enhancements was issued July 31, 2007. There has been an increase in supervisory involvement to ensure consistency. This recommendation has been successfully completed.

**Recommendation #5:**

We recommended that the department clarify its direction to regional office staff to help ensure that they are using noncompliance conferences promptly and in appropriate instances. Additionally, the department should reevaluate its May 2004 memorandum and, to the extent it reflects the department's current intent, incorporate the guidance into its evaluator manual. Further, the department should periodically review regional offices' use of noncompliance conferences to ensure that they are consistently following established policies.

**Department's Response:**

Management meetings have been held division-wide to glean current practices. Based upon this information, clarifying directives to staff regarding the use of noncompliance conferences will be provided. It is the intention to incorporate all directives regarding noncompliance conferences into the Evaluator Manual by September 2007.

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## **CALIFORNIA CHILDREN AND FAMILIES COMMISSION (REPORT NUMBER 2006-114, OCTOBER 2006)**

### **Its Poor Contracting Practices Resulted in Questionable and Inappropriate Payments to Contractors and Violations of State Law and Policies**

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the California Children and Families Commission's (state commission) spending practices, planning efforts, and contracting procedures.

In October 2006 the bureau issued the above referenced report containing 13 recommendations. Based on the state commission's one-year response, we determined that it had not fully implemented one of those recommendations. Below is the recommendation that we determined was not fully implemented one year from the date the report was issued followed by the state commission's most recent response.

#### **Recommendation #1:**

To ensure that the state commission staff may lawfully enter into or amend contracts on behalf of the commissioners, we recommended that the state commission seek appropriate legal counsel.

#### **State Commission's Response:**

This letter is a direct response to your correspondence dated November 27, 2007, advising the First 5 California Children and Families Commission (First 5 California) that you believe one recommendation contained in your audit report dated October 31, 2006, has not been fully implemented. We provide this response in addition to our prior responses dated January 2, 2007, April 30, 2007, and October 31, 2007.

While our January 2, 2007, response addressed this recommendation stating, "The Commission is in the process of hiring Chief Counsel, who will be asked to review the Bureau of State Audit's (BSA) recommendations regarding delegation of contracting authority, "we recognize that perhaps our ensuing responses failed to outline the subsequent actions of First 5 California.

In particular, following the audit conducted by the BSA, First 5 California worked diligently to establish and fill the position of Chief Counsel within the organization. Our Chief Counsel, Kimberly L. Gauthier, joined us on February 13, 2007. One of Ms. Gauthier's many tasks has been to research and advise the commission on the contracting authority issue discussed in the BSA report. Ms. Gauthier reviewed this issue beginning in May 2007 and continuing through July 2007, when she rendered her legal opinion to the commission and its staff. First 5 California is proceeding consistent with her legal advice. The BSA's recommendation, of course, was to seek appropriate legal counsel. As of July 2007, the commission had fully complied with this recommendation and we regret that we did not make that clear in our prior responses.

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## CORRECTIONS AND REHABILITATION

### DEPARTMENT OF CORRECTIONS<sup>9</sup> (REPORT NUMBER 2005-105, SEPTEMBER 2005)

#### It Needs to Better Ensure Against Conflicts of Interest and to Improve Its Inmate Population Projections

The California Department of Corrections' (department) fiscal year 2003–04 budget did not include funds to continue the contracts for three private community correctional facilities (CCF). However, in 2004 the department experienced a large unexpected increase in inmate population because parole reform programs were not carried out and because new inmate admissions from counties increased. Since prior population projections had generally projected a stable population through 2009, the department did not expect this large increase. To respond to this situation, the department put thousands of added beds into use, some located in “overcrowding” areas—temporary beds placed in areas that are more difficult to secure, such as gymnasiums and dayrooms. In summer 2004 the Youth and Adult Correctional Agency and the department decided to reactivate two of the closed CCFs, McFarland and Mesa Verde, using one-year, no-bid contracts, while initiating a competitive bidding process for a longer-term solution.

The department's Population Projections Unit (projections unit) generates population projections for time frames that span six fiscal years, monitors and reports on the quality of the projections, and explains inconsistencies between actual and projected populations. The annual population projections correspond with the State's budget cycle and drive the department's annual budget request. The department prepares its budget request using the fall population projection and submits this request to the Department of Finance (Finance) for use in preparing the Governor's Budget. It revises its budget request based on the spring population projection and submits the revision to Finance for inclusion in the May revision of the Governor's Budget. The department also uses these projections to assess the ability of its facilities to house the inmate population over a six-year timeline.

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) evaluate the process the department used to negotiate and enter into two no-bid contracts for private prison facilities to determine whether its policies and procedures are consistent with and adhere to current laws and regulations, particularly in relation to conflict-of-interest rules. In addition, the audit committee asked us to analyze information the department used in its decision to enter into the two no-bid contracts to determine whether such information was accurate and reliable, to analyze the reasonableness and consistency of its method of tracking and projecting inmate population, and to assess the validity of any cost savings it identified.

In September 2005 the bureau issued the above referenced report containing nine recommendations. Based on the department's one year-response, we determined that it had not fully implemented six of those recommendations. However, according to the department, it implemented some of these recommendations subsequent to the one-year date. Below are the recommendations that we determined were not fully implemented one year from the date the report was issued followed by the department's most recent response.

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<sup>9</sup> The California Department of Corrections is now the California Department of Corrections and Rehabilitation.

In March 2007 the bureau issued a follow-up report titled *California Department of Corrections and Rehabilitation: Inmate Population Projections Remain Questionable* (Report No. 2007-503). In this report the bureau performed additional audit work pertaining to the recommendations the bureau issued in 2005 that the department had not addressed. To view the entire text of the follow-up report go to <http://www.bsa.ca.gov/reports>.

**Recommendation #1:**

We recommended that, to strengthen controls over its processing of no-bid contracts, the department wait until all proper authorities have approved the no-bid contract justification request before sending a contract to a contractor for signature or signing the contract itself.

**Department's Response:**

The California Department of Corrections and Rehabilitation (CDCR) feels that its original response to this recommendation (please see response below) was fully implemented and does not require further action.

CDCR's general practice is to wait until all proper authorities have approved the contract justification request before signing the contract or sending it to a contractor for signature. However, when timing is critical, obtaining the contractor's signature in advance helps to expedite the process but does not, in any way execute the contract. The department's instructions to the contractor clearly state that the Contract is of no force and effect until they receive a fully approved original signature copy of the Contract for their files. A contract is not valid or executable until approved by the Department of General Services' Office of Legal Services (OLS).

**Recommendation #2:**

We recommended that the department require contractor staff to complete statements of economic interests.

**Department's Response:**

The California Department of Corrections and Rehabilitation (CDCR) feels that its original response to this recommendation (please see response below) was fully implemented and does not require further action.

The Office of Legal Affairs has reviewed the department's contract requirements as they relate to conflict of interest and find that the department is in compliance with both statutory law and the directive given by the Office of the Attorney General in a memo on this issue.

**Recommendation #3:**

We recommended that, if the department intends to continue using the projections for long-term decision making, such as facility planning, it ensure that it employs statistically valid forecasting methods and consider seeking the advice of experts in selecting and establishing the forecasting methods that will suit its needs.

**Department's Response:**

Full implementation is expected by June 2008.

Contracts are now in place and consultants have begun the review of the projections processes.

**Recommendation #4:**

We recommended that, to increase the accuracy and reliability of its inmate projection, the department update its variable projections with actual information, whenever feasible to do so.

**Department's Response:**

Staff is currently working with a retired annuitant to establish the database necessary for including the Inmate Classification Scoring System (ICSS) in the simulation model. Work is anticipated to be completed for use in the Fall 2008 projections.

**Recommendation #5:**

We recommended that the department continue its recent efforts to enhance its communications with local government agencies to better identify changes that may materially affect prison populations.

**Department's Response:**

Full implementation is expected by June 2008.

We have not been successful in its efforts to work with the California District Attorney's Association, so within the next 90 days the department will develop a plan to visit several of the larger county law enforcement/judicial agencies to establish better communications with individuals who will be able to help us identify changes that may affect prison populations. This plan should be fully implemented by June 2008.

**Recommendation #6:**

We recommended that the department fully document its projection methodology and model.

**Department's Response:**

The documentation of the existing model is fundamentally complete; the minor refinements needed (in the documentation, not the model) really do not have an impact on the functionality of the documentation. We could say that it is already implemented. However, we are in the process of revising the model, which will require some significant changes to the documentation. In essence, this documentation is a living document and will probably always be in a state of flux. We chose not to put a date of full implementation on this recommendation for that reason.

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**CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION  
(REPORT NUMBER 2005-111, NOVEMBER 2005)****The Intermediate Sanction Programs Lacked Performance Benchmarks and Were Plagued With Implementation Problems**

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review how the California Department of Corrections and Rehabilitation (department) handles parole violators under its New Parole Model policy. Specifically, the audit committee requested that we assess the steps used and the extent to which the department has implemented and monitored its new parole policy, focusing on the intermediate sanction programs, including electronic monitoring, substance abuse treatment control units, and community detention houses. In addition, the audit committee asked us to determine whether the department has established performance measures to measure the efficacy of its parole policy in lowering the recidivism rate.

On April 11, 2005, shortly after the audit committee approved the audit, the department secretary terminated the department's use of the intermediate sanction programs as an alternative to parole revocation and return to prison. The programs we were asked to audit had been operating for 14 months or less when they were canceled, so the data available for our analysis were limited.

In November 2005 the bureau issued the above referenced report containing three recommendations. Based on the department's one-year response, we determined that it had not fully implemented two of those recommendations. However, according to the department, it implemented both of these recommendations subsequent to the one-year date. Below are the recommendations that we determined were not fully implemented one year from the date the report was issued followed by the department's most recent response.

**Recommendation #1:**

We recommended when planning future intermediate sanction programs, that the parole division decide on appropriate benchmarks for monitoring performance, identify the data it will need to measure performance against those benchmarks, and ensure that reliable data collection mechanisms are in place before a program is implemented. After implementing a new intermediate sanction program, the parole division should analyze the data it has collected and, if relevant, use the data in existing databases to monitor and evaluate the program's effectiveness on an ongoing basis.

**Department's Response:**

Full implementation is expected by 9-30-07.

The California Department of Corrections and Rehabilitation (CDCR) developed the California Program Assessment Process (CPAP) in collaboration with the Office of Research, and the University of California Irvine, Center for Evidence-based Corrections in early 2006. CPAP is a tool for determining whether offender change programs are likely to succeed in delivering the CDCR's promise to reduce recidivism through evidence-based crime prevention and recidivism reduction strategies. The CPAP gives the CDCR an objective and consistent method for evaluating the design and implementation of programs using the best available evidence regarding what design elements make correctional programs effective in reducing recidivism. CPAP uses an instrument to evaluate proposed and existing CDCR programs. This tool was used by the Expert

Panel on Adult Offender and Recidivism Reduction Programming to evaluate eleven CDCR programs including five Division of Adult Parole Operations (DAPO) programs. DAPO uses the CPAP to evaluate recommendations for new program concepts.

Three new programs have been developed since 2005. Two of these programs have begun implementation—the Day Reporting Center (DRC) and the Community Based Coalition (CBC)—and one program, the Female Residential Multi-Service Centers (FRMSC) is currently pending responses on a Request for Proposal (RFP).

- The DRC contracts have very specific program measures to monitor performance, and specific data requirements on program participation. The data collection forms have been developed and are currently being reviewed by the San Diego State University, Research Foundation (they will be doing a formal evaluation of this and three other programs). DAPO is currently establishing benchmarks for this program.
- The data collection forms for the CBC were developed and a database designed, with assistance from the Office of Research Staff. Performance measures and benchmarks are currently being established.
- The FRMSC has performance measures established. Benchmarks are currently being established by the Female Offender Programs and Services section of the Division of Adult Institutions.

Two additional redesigned programs mentioned in the CDCR'S response to the BSA Report are the In-Custody Drug Treatment Program (ICDTP), formerly the Substance Abuse Treatment Control Unit (SATCU) and the Electronic In-Home Detention Program (EID), which comport with evidence-based research to reduce recidivism. Both programs have performance measures and benchmarks established, which are reported monthly in the monthly statistical report of information by institution/division (COMPSTAT report).

DAPO currently has two in-house project analysts, paid for by contract dollars that assist in development of data collection requirements, and collect and analyze data on our programs. They work with new contractors to develop databases for data collection and are setting up a data warehouse for DAPO. They are currently able to produce a variety of data reports on DAPO programs, which are used to monitor and evaluate program effectiveness on an ongoing basis. The database for Parole Service Center (PSC) is being redesigned to better capture the necessary data. DAPO plans to expand the staff to establish our own research/evaluation unit for parole programs.

In the past DAPO has worked collaboratively with the Office of Research to develop reliable data collection mechanisms for new programs. Contractors are required to maintain computerized databases compatible with the CDCR software that collects demographic, program participation and program exit data for all parolee participants. Contractors are required to ensure the quality of the data provided and ensure the data file is submitted monthly to DAPO. When existing contracts are up for renewal (public entity) or sent out for bid we have improved benchmarks and added data collection requirements when appropriate.

DAPO has program data available on our intranet site "DAPO Dashboard" that shows monthly performance for programs.

We also have new software that maps Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) assessments by need and program placement to parole sites. This will allow us to develop or move programs to locations where they are needed the most. Prior to the development of this software we were using anecdotal information to link the needs to the programs.

Full implementation is expected by 9-30-07. This includes completed benchmarks for the three new programs and development of a process for developing these in the planning stage for all new DAPO parolee programs.

### **Recommendation #2:**

We recommended the parole division consider analyzing the effect programs have had on parolee behavior and use the knowledge it gains from the analyses to make future intermediate sanction programs more effective. The analysis includes the benefits of adding features to make these programs more effective.

### **Department's Response:**

Recommendation is fully implemented:

The Division of Adult Parole Operations (DAPO) currently has a contract with the San Diego State University Research Foundation (SDSURF) to evaluate four programs, which ends 12-31-08:

- Day Reporting Centers/Community Cased Coalitions
- In-Custody Drug Treatment Program
- Parolee Service Centers
- Restitution Centers

As mentioned in the response to Recommendation 1, DAPO currently has two in-house project analysts paid for by contract dollars that assist in development of data collection requirements, collect and analyze data on our programs. They work with new contractors to develop databases for data collection and are setting up a data warehouse for DAPO. DAPO has a database that creates a consolidated data file for each program. They are currently able to produce a variety of data reports on DAPO programs, which are used to monitor and evaluate program effectiveness on an ongoing basis. DAPO has used data to make changes in programs to make them more effective. Utilizing this data, DAPO will collaborate with the Office of Research to have a report done for 2006 on DAPO parolee programs.

Both the 2003, *An Evaluation of the California Preventing Parolee Crime Program* and the 2006 CDCR Response to the BSA Audit showed the longer parolees stayed in programs/or-completed programs the less likely they were to return to custody. DAPO is focusing on incentives and disincentives to encourage parolee retention in/completion of programs.

The Parole Service Center (PSC) program has made several modifications to program contracts as a result of the recommendations of the BSA and as a result of a DAPO workgroup that cited and produced several noteworthy recommendations. The PSC Program Data Collection Form (PDCF) allows staff to collect critical data required for, both, program monitoring and future evaluation purposes. The PDCF is a comprehensive form that collects static, dynamic and

subjective information on each parolee who enters the program. This form has been approved by the San Diego State University (SDSU) evaluation team, led by Dr. Sheldon Zhang and is the key data source for the future evaluation of the PSC Program. Second, the PSC now uses the Register of Program Participation (RPP) form and is mandated for use by each PSC contractor. This form captures benchmark data, such as program referrals, enrollments, occupancy and house of program instruction each parolee receives on a monthly basis. This form complies with a previous BSA finding which suggested that contractor accountability was difficult to assess. Additional program modifications now include the use of Sign In/Sign Out sheets for all programming performed at or off grounds of a PSC. The program also implemented a 52-week, certified Batterer's Program for those parolees required to complete this program as a condition of parole.

The In Custody Drug Treatment Program (ICDTP) is a redesign of the Substance Abuse Treatment Control Units (SATCU) designed to allow for the use of evidence-based research to reduce recidivism. The components include Phase I, which provides a 60-day in-custody, educationally based drug treatment education phase (increased from previous 30 day program). Phase II is a 30-day residential aftercare treatment program component provided by community based organizations, and transitions into Phase III which is a 60-day community based nonresidential treatment phase. One of the issues raised in the BSA audit related to the SATCU program was low utilization level. Monthly meetings are held to review statistics, including bed capacity levels. In addition, DAPO staffs assigned to the ICDTP program maintain daily capacity records. Reports are sent out weekly and monthly so that participation can be constantly monitored.

An informal evaluation is being conducted by SDSU researchers on DAPO's employment programs to identify which program components are more effective so future contracts better address the employment needs of parolees and is expected to be completed by December of 2008. One employment program that consistently failed to meet the benchmarks is being redesigned to be more effective.

The 2007 Expert Panel on Adult Offender and Recidivism Reduction Programming Report to the California Legislature assessed five DAPO programs using the California Program Assessment Process (CPAP). Based on this evaluation, DAPO is reviewing the programs to make improvements.

## RESOURCES

### **DEPARTMENT OF PARKS AND RECREATION (REPORT NUMBER 2004-138, APRIL 2005)**

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

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the 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 bonds and other funds for administrative expenses.

In April 2005 the bureau issued the above referenced report containing four recommendations. Based on Parks' one-year response, we determined that it had not fully implemented one of those recommendations. Below is the recommendation that we determined was not fully implemented one year from the date the report was issued followed by Parks' most recent response.

#### **Recommendation #1:**

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' Response:**

In its April 2005 report, the Bureau of State Audits (bureau) raised concerns with the fund-split methodology used for attributing Office of Grants and Local Services (OGALS) staff costs. The bureau recommended OGALS conduct quarterly assessments of staff workload by fund source for comparison to the funding split percentages applied to staff expenditures. Specifically, the report recommended, "Parks should perform quarterly comparisons of its actual costs to the costs it records, and adjust its methodology and recorded costs as necessary". (California State Auditor Report 2004-138, page 6).

California State Parks has implemented this recommendation and is fully implementing a reasonable charge to administrative costs by appropriate funding sources.

In consultation with Parks' Budget Section, Accounting Services Section, and Audits Office and the Resources Agency, Department of Finance and Budget staff and Department of Finance Office of Audits and Evaluation staff, OGALS staff undertook development of an accurate methodology for calculating its current workload contribution by fund.

An initial timesheet driven approach, tested over multiple intervals, was found unworkable given the large portion of staff time associated with multiple funding sources. In addition, the timesheet approach was not able to address the fund split for management and support staff work.

A second approach, which has been utilized for over 13 months, calculates workload by fund for each individual OGALS project officer based on a weighted calculation for his/her open projects (by fund) which is then verified on a monthly basis by that individual. Based on the verifications by each individual, this weighted calculation approach has proven reasonably accurate in determining current workload by fund by project officer.

This individual approach, however, did not provide a mechanism for recognizing workload associated with program development (such as evaluation of project applications), did not provide a mechanism for determining workload by fund for management and support staff, and did not allow for projection of workload into the future (such projection is key to ensuring the proper mix of funding is available for expenditure).

To address these shortcomings, the approach was modified into a third methodology to expand the workload calculation to address office-wide workload tracking. This approach was able to capitalize on key metrics that were consistently borne out under the individual assessment approach: on average, over the course of a year, a single project officer can reasonably administer 120 projects or reasonably address 80 competitive applications. This approach allowed for extrapolation of fund splits for the workload associated with management and support staff and provided a mechanism for projecting workload by fund in the future. Parks believes that this third approach provides the greatest degree of accuracy possible.

In June 2007, by utilizing this third approach, supported by the individual project officer monthly verifications, Parks was able to determine the actual workload split for the OGALS office by fund for the 2006–07 fiscal year (projecting for the month of June). The resulting percentages were then compared to the fund split percentages applied to staff expenditures over the preceding 11 months. We found the percentages of workload by fund did not match the fund split percentages that had been applied to OGALS staff costs over the fiscal year. So in accordance with the bureau recommendation, Parks revised its fund split methodology for the balance of the year and recorded costs adjustments for the first 11 months in accordance with the validated methodology. Parks intend to continue to use the third approach, the office wide workload tracking, to project funding needs and to periodically re-assess its fund-split percentages.

**DEPARTMENT OF PARKS AND RECREATION (REPORT NUMBER 2004-124, AUGUST 2005)**  
**Lifeguard Staffing Appears Adequate to Protect the Public, but Districts Report Equipment and Facility Needs**

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 drowning incidents and either the number of lifeguards or the resources available to lifeguards stationed at state swimming beaches.

In August 2005 the bureau issued the above referenced report containing four recommendations. Based on Parks' one-year response, we determined that it had not fully implemented two of those recommendations. However, according to Parks, it implemented both of these recommendations subsequent to the one-year date. Below are the recommendations that we determined were not fully implemented one year from the date the report was issued followed by Parks' most recent response.

**Recommendation #1:**

To avoid potentially negative impact on its ability to protect the public, we recommended that Parks monitor how long it can continue to curtail spending on lifeguard districts' equipment and facilities.

**Parks' Response:**

State Parks has implemented the Bureau's recommendations as follows:

**Implementation Status:** *Monitoring Spending Curtailment on Lifeguard Equipment and Facilities*

- *Timetable for Implementation: Currently implemented*
- *Staff Responsible for Implementation: District Superintendents and Staff*

State Parks appreciate the vital role that equipment and facilities have in the delivery and effectiveness of our aquatic safety programs. We recognize that reductions in spending have impacts on public safety as well as other Parks' core programs. We continue to monitor spending and district needs by working closely with district staff, analyzing our aquatic safety statistics through the annual Aquatic Safety Report prepared by the Aquatic Specialist, and utilizing the Computerized Asset Management Program to monitor facilities.

**Recommendation #2:**

If Parks decides to allocate additional funding to its aquatic safety programs in the future, either for equipment expenses or for additional lifeguards, we recommended that 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' Response:**

Implementation Status: *Funding Allocations for aquatic safety equipment and additional lifeguards for intended purpose and expanding coverage into unguarded waters.*

- *Timetable for Implementation: Currently implemented*
- *Staff Responsible for Implementation: Theodore Jackson, Jr., Deputy Director for Park Operations and Alex Peabody, Aquatic Specialist*

Over the past several fiscal years, reductions in State Park budget have challenged our ability to serve the people of California in the manner and level we would prefer. As with all aspects of state government, California State Parks must adhere to its budget requirements while balancing resources across all core programs. During fiscal year 2006–07 the state budget augmented the seasonal funding for our lifeguard programs. By working closely with the districts we were able to identify the programs with the highest needs to determine where funding augmentations would have the greatest benefit for public safety.

Funding augmentation was directed only to existing locales already providing lifeguard coverage and not to previously unguarded locations.

Utilizing the Computerized Asset Management Program we have been able to identify lifeguard tower facilities that are critical to the lifeguard program infrastructure. Funding for this project has been supported by the \$250 million dollar allocation to California State Parks by Governor Arnold Schwarzenegger and the California Legislature for the repair of critical infrastructure in the state parks. Replacement of these facilities has recently been approved through the Department of General Services and is currently being implemented. Programs should be seeing replacement lifeguards towers this winter with final completion of this project projected to be September 2009. This timeline may be affected by currently pending actions by the Legislature to reduce the \$250 million to \$ 75 million. The following projects have also been implemented during the past calendar year:

- Replacement of 11 lifeguard telecommunication PBX switchboards (implemented in June 2007. Estimated completion date is November 2007)
- Purchase of 12 Personal Watercraft (PWC) to identified lifeguard programs (Purchase approved in April 2007 and all craft have been dispersed to the programs at this time)

The department is committed to the aquatic safety of all park visitors and will continue to implement the recommendations identified by the bureau while striving to reduce the number of drowning fatalities in state parks through its aquatic safety programs statewide.

## **OFF-HIGHWAY MOTOR VEHICLE RECREATION PROGRAM (REPORT NUMBER 2004-126, AUGUST 2005)**

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

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.

In August 2005 the bureau issued the above referenced report containing nine recommendations. Based on the commission's one-year response, we determined that six of those recommendations were not fully implemented. However, according to the commission, it implemented some of these recommendations subsequent to the one-year date. Below are the recommendations that we determined were not fully implemented one year from the date the report was issued followed by the commission's most recent response.

#### **Recommendation #1:**

To ensure that the OHV program is adequately balanced between OHV recreation opportunities 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.

#### **Commission's Response:**

At the March 2006 the Off-Highway Vehicle (OHV) Commission meeting a professional facilitator helped the commission identify a variety of common areas of interest relative to establishing a shared vision. A subcommittee of the Commission was subsequently established to assist staff to refine and formulate that shared vision. On or about September/October 2006 a series of public conference calls were conducted to obtain further public input concerning the vision statement and to solicit general comments on the strategic planning process. At the March 2007 Commission Meeting, an update on the Strategic Plan was presented that included a proposed draft vision statement. It is anticipated that the Commission Subcommittee and staff will request approval of the shared vision at the upcoming September 2007 Commission Meeting.

**Recommendation #2:**

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.

**Division's Response:**

A comprehensive Off-Highway Motor Vehicle Recreation (OHMVR) Program Strategic Plan is being developed that will focus on the OHMVR Division's leadership role relative to the overall OHMVR Program as provided through all available resources and agencies. Rather than isolate the state vehicular recreation areas (SVRA) in a Strategic Plan, the Division felt it would more be effective and efficient to conduct all aspects of the strategic planning process on a statewide basis encompassing state, federal, and local sites.

**Recommendation #3:**

To improve accountability, we recommended that the commission prepare and submit the required biennial program reports when they are due.

**Commission's Response:**

Pending legislation regarding the OHMVR program (SB 742) would change the requirements of the biennial report. Work on this report will resume once the legislation has been enacted and there is clear direction on how to proceed.

**Recommendation #4:**

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.

**Commission's Response:**

Pending Legislation (SB 742), if enacted, will provide additional clarity regarding expenditure of funds from the OHV Trust Fund.

**Recommendation #5:**

We recommended the division 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.

**Division's Response:**

As previously reported, the OHMVR Division is in full agreement that a strategic process relative to land acquisition is necessary and should be a part of the overall Program Strategic Plan. Staff has been developing a land acquisition process that will be both a stand-alone process document as well as being an integral part of the Strategic Plan. The land acquisition process is being developed

as a replica of the department land Acquisition Planning Process with a specific attention to the uniqueness of the OHMVR Program. An acquisition-planning matrix has been developed that includes elements which must be taken into account when considering an acquisition. Plans for a statewide inventory of available properties using the matrix are in draft form and a internal administrative process for acquisition has been drafted.

**Recommendation #6:**

We 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.

**Department's Response:**

As mentioned in the July 28, 2005 memo from the department to the bureau, the department has corrected its cost allocation process and has discontinued charging any portion of the department Director's time to the OHMVR Fund.

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## **DEPARTMENT OF FISH AND GAME (REPORT NUMBER 2004-122R, JUNE 2005)**

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

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 years 2001–02 through 2003–04. The audit examined Fish and Game's setting, collecting, and spending of an 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 for indirect costs, and their assessment of the sufficiency of funding levels. Finally, we determined trends in the funding of the hatcheries.

In June 2006 the bureau issued the above referenced report containing five recommendations. Based on Fish and Game's one-year response, we determined that it had not fully implemented three of those recommendations. However, according to Fish and Game, it implemented some of these recommendations subsequent to the one-year date. Below are the recommendations that we determined were not fully implemented one year from the date the report was issued followed by Fish and Game's most recent response.

#### **Recommendation #1:**

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 the programs.

#### **Fish and Game's Response:**

**Fully Implemented**—In 2006, the Executive Staff and Leadership Team (Executive Office, Division Deputies, Branch Managers and Regional Managers) conducted an extensive review and communiqué on the adequacy of the Department's 1995 Strategic Plan (Plan). At that time it was determined that the existing Plan still met the comprehensive strategic goals of the Department's mandates. Funding of these goals and mandates is aligned with the Plan, but limited annually to Fish and Game's final support budget.

In addition, in February 2007, the Department's Executive staff and Leadership Team established seven new strategic initiatives that correlate with the values and goals of the existing Strategic Plan. Each of the seven initiative has an Executive Team sponsor and an offsite conference occurred over three days in February 2007, where the entire Executive Management and Leadership Team (all managers and supervisors) worked together and fully developed each initiative with tasks to be completed both short term and long term. A web page has been established on the Department's Intranet for all staff to view each of the initiatives, to have a voice to log their ideas, etc., and updates provided to track the progress made on each.

#### **Recommendation #2:**

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 Fish and Game's general fund be augmented to sustain dedicated and non-dedicated program operations.

### **Fish and Game's Response:**

**Fully Implemented**—The Department continues to index the fees allowable under the Fish and Game Code to ensure positive revenues from license and permit sales. In addition, the 2006–07 Budget Act contained a number of augmentations to sustain the Fish and Game Preservation Fund (FGPF) Non-dedicated and Dedicated program operations and to improve the health of the department's overall budget condition. The augmentations were allocated to provide relief from revenue shortfalls due to decreased license sales, a trend occurring at a national-level; to reduce the long-running deficit in both the Non-dedicated and Dedicated accounts; and to address the deficit created from unfunded mandates.

Of the 2006–07 augmentations, the most significant impact to the FGPF included:

- \$19.9 million, one-time General Fund augmentation to assist the Department in reducing the long-running deficit in the Fish and Game Preservation Fund (FGPF) Non-dedicated (\$10.5 million) and Dedicated Lake and Streambed Alteration (\$7.6 million) accounts, and to repay an old 1988 loan (\$1.8 million) from the FGPF Non-dedicated account made to the Native Species Conservation and Enhancement Account.
- \$40 million, permanent General Fund augmentation to address the shortfall in the FGPF Non-dedicated revenues; this required a fund shift and permanent reduction in the FGPF Non-dedicated account.
- For 2007–08 and beyond, the Department will continue to monitor the Dedicated and Non-dedicated programs to ensure that deficit spending does not occur. Consideration will also be given to increasing fees and/or reducing expenditures.

### **Recommendation #3:**

We recommended that Fish and Game avoid borrowing from its dedicated accounts to fund expenditures of other accounts. If this is temporarily unavoidable, Fish and Game should track those accounts that were the source of the borrowed resource 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 Response:**

**Fully Implemented**—Borrowing from dedicated accounts have ceased due to the receipt of General Fund augmentation funds which paid back the over expended Dedicated accounts. During the development of both the 2006–07 and the 2007–08 budgets, the Department Fish worked with the Department of Finance and later with the Legislative Analyst's Office to ensure appropriate expenditure plans for each of the accounts within the Fish and Game Preservation fund (FGPF). The legislature and Governor approved a \$19.9 million one-time and \$4.0 million permanent General Fund augmentation to align the Non-dedicated and Dedicated accounts in the FGPF. This funding was necessary to ensure the appropriate reserves in each of the FGPF Non-dedicated and Dedicated accounts including the repayment of identified over expended dedicated accounts, and to offset the decline in license sales. The Department also implemented improved processes in the accounting and tracking of funds so they are expended and reported appropriately.

**STATE WATER RESOURCES CONTROL BOARD (REPORT NUMBER 2005-113, MARCH 2006)**

Its Division of Water Rights Uses Erroneous Data to Calculate Some Annual Fees and Lacks Effective Management Techniques to Ensure That It Processes Water Rights Promptly

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) conduct an audit of the operations of the Division of Water Rights (division) within the State Water Resources Control Board (water board). Specifically, the audit committee requested that we (1) examine the division's policies and procedures for carrying out its roles and responsibilities, including those for complying with the California Environmental Quality Act and other relevant laws; (2) evaluate the timeliness and effectiveness of the division's processing of applications for new water rights permits (petitions); (3) determine how the division allocates its resources to fulfill its responsibilities and determine if the division uses those resources to address matters other than the processing of applications and permits—including enforcement, complaint resolution, and board-initiated amendments—of the terms of permits and licenses; (4) identify the extent of any demands placed on the division's resources by other agencies, including the Department of Fish and Game, and by other interested parties that have not filed applications and petitions; (5) determine how the division established its new fee structure and assess its reasonableness and fairness, including the validity of the data the division used when it established its fees; and (6) determine what procedures and mechanisms the division has in place to review the fee structure and modify the fees when necessary.

In March 2006 the bureau issued the above referenced report containing six recommendations. Based on the water board's one-year response, we determined that it had not fully implemented five of those recommendations. However, according to the water board, it implemented some of these recommendations subsequent to the one-year date. Below are the recommendations that we determined were not fully implemented one year from the date the report was issued followed by the water board's most recent response.

In August 2007 the bureau issued a follow-up report titled *State Water Board Follow-Up: The Division of Water Rights Has Reviewed and Updated Much of the Data It Uses to Calculate Its Annual Fees but Has More to Do to Institute Management Techniques That Could Aid in Processing Water Rights Promptly* (Report No. 2007-504). In this report the bureau performed additional audit work pertaining to the recommendations it issued in 2006 that the water board had not addressed. To view the entire text of the follow-up report go to <http://www.bsa.ca.gov/reports>.

**Recommendation #1a:**

We recommended that the division review all the water rights files for those that pay annual fees and update Water Rights Information Management System (WRIMS) to reflect all the necessary details specified on a permit or license, such as the maximum authorized diversion and storage and the applicable seasons and rates of diversion to ensure that its WRIMS contains all the necessary information needed to calculate annual fees accurately for the next billing cycle. We recommended this be completed before the division's conversion to any new database system, so that the data is accurate and complete.

### Water Board's Response:

The State Water Board implemented the first part of recommendation 1 in July 2007.

In April 2006, the State Water Board developed a plan to update its Water Rights Information Management System) WRIMS data associated with annual fee calculations. The plan contained seven priority groups of water right records, with a goal of correcting all necessary data associated with annual fee calculations before the State Water Board implemented its final data migration to the new database system in September 2007. Following is a description of the priority groups and the target date for review and correction of the WRIMS data:

#### High Priority:

**Priority 1:** *Eighteen permits and licenses identified in the BSA report as incorrectly entered into the WRIMS database.*

**Priority 2:** *Water rights having multiple seasons of diversion, with diversion rates expressed in cubic feet per second and an unpopulated maximum annual use data field in WRIMS.*

**Priority 3:** *Water rights held by United States Bureau of Reclamation, California Department of Water Resources and California Department of Fish and Game.*

**Priority 4:** *All other large water rights having no maximum annual use amount.*

**Priority 5:** *All remaining large water rights.*

#### Lower Priority:

**Priority 6:** *Water rights with diversion rates in gallons per day.*

**Priority 7:** *Water rights that authorize storage only.*

### Summary of Review and Corrections of WRIMS Data

Priority Group	Number of Records	Target Date of Completion	Status	Staff Time to Complete Task (hrs)	Staff Time to Complete Task (In Pys)
1	18	May 15, 2006	Complete	36	0.02
2	150	June 30, 2006	Complete	300	0.17
3	157	June 30, 2006	Complete	550	0.31
4	2395	August 31, 2007	Complete	4790	2.70
5	1916	August 31, 2007	Complete	3832	2.16
6	2775			5550	3.13
7	5160			10,320	5.81
Total	12,571			25,378	

The State Water Board redirected staff and used its contract resources to augment staff resources in order to complete the work within priority groups 1 through 5 by August 2007. The State Water Board completed this task in July 2007, ahead of schedule. The State Water Board belied that the marginal returns of completing the work associated with records in the remaining priority groups 6 and 7 did not warrant redirecting staff to complete those reviews. In addition, the State Water Board corrected data in multiple fields for the records it reviewed, not just the fields associated with fee calculations.

In its August 2007 Follow-up Report 2007-504 (Follow-up Report), the BSA found that the State Water Board had accurately counted the active water right records associated with annual fee payers, had populated the data fields correctly in a sample of records that the State Water Board had reviewed, and was using control procedures to ensure that its review and update of the active records of annual fee payers in its priority 1 through 5 were accurate and complete.

**Recommendation #1b:**

To ensure that fee payers have sufficient information to review the accuracy of their bills, we recommended that the division work with Equalization to include more detail on its invoices, such as listing all the water rights identification numbers or application numbers for which the fee payer is subject to fees, along with the corresponding maximum amount of authorized diversion and the cost per acre-foot. Alternatively, the division could provide this information as a supplement, using its own resources, by sending out a mailer at about the same time that Equalization sends the invoice to fee payers, or by providing the information on its Web site.

**Water Board's Response:**

The State Water Board intends to continue implementing the second part of recommendation 1 and intends to fully implement the recommendation when it bills annual fees in accordance with a revised water right fee schedule.

The State Water Board continues to discuss with the BOE methods to include more detail on its water right fee invoices. In addition, the State Water Board developed a new Electronic Water Rights Information Management System (eWRIMS), implemented in October 2007. One of the data fields in eWRIMS is the face value of each water right, from which the annual fee is calculated. Any person may access this database from the State Water Board's website using a web browser and see the face value for any particular water right permit or license. This feature will greatly assist fee payers in determining how their fee was determined.

**Recommendation #2:**

To more precisely distribute the fees in proportion to the annual fee payers' authorized diversion, we recommended that the division consider revising its emergency regulations to assess each fee payer a single minimum annual fee plus an amount per acre-foot for the total amount of authorized diversion exceeding 10 acre-feet, or other specified threshold.

**Water Board's Response:**

This recommendation would benefit fee payers with multiple small water rights, so that they are not assessed a minimum annual fee for each water right they hold, but would only be assessed one minimum fee. The current minimum annual fee is \$100 per water right held. The State Water

Board believes this as an appropriate minimum fee that should be assessed on each water right to cover the State Water Board's costs to maintain each water right and to assess annual fees. Further, the courts have upheld the minimum fee assessment per water right.

Prior to adopting a new fee schedule, the State Water Board confers with its Water Right Fee Stakeholder Advisory Group (Fee Stakeholder Group) and considers any comments on the fee schedule in a noticed public meeting. The new fee schedule becomes effective upon approval by the Office of Administrative Law and filing with the Secretary of State. State Water Board staff met with its Fee Stakeholder Group on April 11, 2006, to explain and discuss this recommendation in the audit, and on September 5, 2006 and February 7, 2007, to discuss pertinent water right fee issues. To date there has been no support for the recommended change from members of the Fee Stakeholder Group, who represent both large and small fee payers. Representatives of large water users specifically expressed concern that implementing the recommendation would inadequately increase their fees.

The State Water Board does not intend to fully implement this recommendation at this time because it believes that the minimum annual fee is appropriate for each water right, even in situations where more than one water right is held by the same person. There is a base cost associated with the State Water Board maintaining each water right regardless of how much water is diverted under the right. The State Water Board previously estimated this cost at just over \$100 per year per water right, not counting the cost of assessing the billing and responding to billing inquiries. This cost covers not only maintaining the records associated with each water right, but also covers the cost of implementing the water right system in the event that there is insufficient water to satisfy all demands plus proposed demands. In addition, this recommendation is not supported by the fee stakeholder group and litigation regarding the water right fees is pending before the California Supreme Court. If the Supreme Court overturns the decision of the trial appellate courts on this issue, the State Water Board will revisit the matter. The State Water Board will also continue to meet with the Fee Stakeholder Group as it reviews future changes to its fee regulations.

### **Recommendation #3:**

We recommended that the division revise its emergency regulations to assess annual fees consistently to all fee payers with diversion limitations, including those with combined limitations, so fee payers are not assessed based on more water than their permits and licenses authorize them to divert.

### **Water Board's Response:**

The State Water Board has no practical means to implement this recommendation at this time. It would need to review over 12,000 hard copy water right files to determine which water rights have combined diversion limitations. However, the State Water Board has developed a new Electronic Water Rights Information Management System (eWRIMS), implemented in October 2007. In anticipation of supporting this recommendation in the future, the State Water Board has designed eWRIMS to identify related water right in order that billing based on combined limitations can be accomplished. The State Water Board would need to populate the new data fields in eWRIMS to support that billing procedure. The State Water Board would also have to write an algorithm to identify how each of the related water rights should be treated when calculating a fee. Although the calculation is relatively simple when a combined fee is computed individually by hand, there are no consistent business rules that determine how related permits are treated when a combined diversion limitation is imposed, making the development of an algorithm extremely complex.

Further, the State Water Board does “cap” fees based on the limitations in individual water rights. Those who wish to take advantage of such a cap have the option of requesting that the State Water Board impose the cap in each of the affected water rights individually. This is an easier and more appropriate solution to the concern raised by the State Auditor. Therefore, the State Water Board does not intend to fully implement this recommendation at this time.

In addition, the State Water Board staff met its Fee Stakeholder Group on April 11, 2006 to explain and discuss this recommendation in the audit, and on September 5, 2006 and February 7, 2007, to pertinent water right fee issues. To date there has been no support for the recommended change from members of the Fee Stakeholder Group, who represent both large and small fee payer.

The Appellate Court did not express concern over the State Water Board assessing fees based on the face value on individual water right permits and licenses or over the way in which the State Water Board addressed diversion limitations. However, if the Supreme Court overturns the lower court ruling on this matter, the State Water Board will revisit the issue.

#### **Recommendation #4:**

We recommended that the division ensure that its tracking systems for pending applications and petitions are complete and accurate by reviewing its pending workload and updating the systems to reflect current information before it upgrades to a new system. The division also should strengthen its procedures to ensure that staff maintain the accuracy of the data in the systems.

#### **Water Board’s Response:**

The State Water Board has implemented this recommendation with the deployment of eWRIMS in October 2007.

State Water Board staff completed its update procedures of the pending applications and petitions databases in September 2007. As reported by the BSA in its Follow-Up Report, State Water Board Staff was able to identify areas that need correction or further update, as it migrated its data from the tracking data systems into eWRIMS in September 2007. The Division has developed a Quality Assurance/Quality Control Plan to ensure that data is correctly entered in the eWRIMS system. The State Water Board will review and revise this document as needed to ensure the accuracy of the data is appropriate for its use.

#### **Recommendation #5:**

We recommended that the division consider establishing more realistic goals that are measurable in days between the various stages of processing an application and implement procedures to ensure that staff adhere to these goals. In addition, the division should develop procedures for improving the timeliness of management review and issuance of documents.

#### **Water Board’s Response:**

The State Water Board continues to implement this recommendation and has completed some of its implementation efforts.

There are a number of efforts underway to address this recommendation. The State Water Board’s Division of Information Technology, in its feasibility study for the eWRIMS project, has identified as a part of implementing that project a review and revision of the Division’s current business

practices. On September 1, 2006, the Division hired a Staff Services Analyst to assist in that effort. That person is working with all of the Division's programs, but particularly the application processing program to identify needed improvements, update the procedures manual, revise route slips, and revise template, as appropriate and needful. This staff person also attended eWRIMS subject matter expert meetings to provide input into the design of the computer system. The State Water Board has designed eWRIMS to contain a route slip feature that will track various water right program processes, and in particular will track application processing. This will allow the Division to compare application processing against established goals.

This Staff Service Analyst is one of two positions the Division reclassified from existing vacant technical positions to an administrative position and a clerical position. The individuals in those positions are able to assist the Division managers in other tasks, thereby reducing the workload of the managers in other areas. As discussed above, the Division hired a Staff Services Analyst on September 1, 2006 as one of these positions. The Division hired a clerical Office Assistant in November 2006. As reported by the BSA in its Follow-Up Report, this position was vacated, and the Division has advertised the position to fill it again. The Division intends to fill this position in October 2007.

Simultaneously, the Division Chief directed all of the Division's program managers to work with staff to identify where the "log jam" occurs in the processing, the reasons, and what steps need to be taken to resolve the problems. The program managers previously developed a series of flow charts that describe the process associated with each program. The program managers were tasked with setting a reasonable goal measurable in days to complete each step in each process. The Division identified time goals for 21 of its 34 identified phases of processing. Based upon this goal setting, the program managers established workplans for their respective program areas and provided these workplans to the Division Chief in October 2006. One result of this analysis is a change by which the Division interacts with its water right applicants and petitioners, by making them more accountable for providing information necessary for project approval. The Division now rejects or cancels their requests if the information is not provided in a timely manner. In addition, the new eWRIMS system will include functionality to allow the Division management to set target dates for individual projects based on the established time goals and to track progress of each step.

The State Water Board is in the process of updating its strategic plan. The State Water Board has included organizational improvements as a goal in its draft strategic plan update, including improvements to the water right process. In coordination with the Board's overarching strategic plan, the Division Chief has convened a broader stakeholder group to assist the State Water Board in identifying potential improvements to the water right process. This group held its first meeting in September 2007, and will meet regularly to identify potential legislative, regulatory, and other changes, such as use of general permits, that could be implemented to reduce the amount of time it takes to issue a water right permit.

Lastly, the Division Chief commenced a review of current delegations to determine if certain acts that are currently performed by the Division Chief or upper Division management should instead be delegated to lower level staff. Such downward delegation will reduce the workload of Division management, eliminate unnecessary levels of review, and should improve review times. On September 18, 2007, the State Water Board adopted Resolution 2007-0057, approving the revised Delegation of Authority for this purpose. Based upon Resolution 2007-0057, the Division Chief issued a redelegation document on October 4, 2007 that further redelegates Division activities to appropriate lower level staff.

## STATE AND CONSUMER SERVICES

### **PHARMACEUTICALS (REPORT NUMBER 2004-033, MAY 2005)**

#### **State Departments That Purchase Prescription Drugs Can Further Refine Their Cost Savings Strategies**

Chapter 938, Statutes of 2004, required the Bureau of State Audits (bureau) to report to the Legislature on the State's procurement and reimbursement practices as they relate to the purchase of drugs for or by state departments, including, but not limited to, the departments of Mental Health, Corrections and Rehabilitation, the Youth Authority (Youth Authority), Developmental Services, Health Services (Health Services) and the California Public Employees Retirement System (CalPERS). Specifically, the statutes required the bureau to review a representative sample of the State's procurement and reimbursement of drugs to determine whether it is receiving the best value of the drugs it purchases. The statutes also required the bureau to compare, to the extent possible, the State's cost to those of other appropriate entities such as the federal government, Canadian government, and private payers. Finally, the bureau was required to determine whether the State's procurement and reimbursement practices result in savings from strategies such as negotiated discounts, rebates, and contracts with multistate purchasing organizations, and whether the State's strategies result in the lowest possible costs. The bureau examined the purchasing strategies of the three primary departments that contract for prescription drugs—the Department of General Services (General Services), Health Services, and CalPERS.

In May 2005 the bureau issued the above referenced report containing seven recommendations. Based on Health Services' CalPERS, and General Services' one-year responses, we determined that one of the recommendations made to Health Services and four of the recommendations made to General Services were not fully implemented. However, according to Health Services and General Services, some of these recommendations were implemented subsequent to the one-year date. Below are the recommendations to General Services that we determined were not fully implemented one year from the date the report was issued followed by General Services' most recent response. For the recommendation directed to Health Services and their response, see page 31.

In June 2007 the bureau issued a follow-up report titled *Pharmaceuticals Follow-Up: State Departments That Purchase Prescription Drugs Have Not Yet Fully Implemented Recommendations to Further Refine Their Cost Savings Strategies* (Report No. 2007-501). In this report the bureau performed additional audit work pertaining to the recommendations the bureau issued in 2005 that the departments had not addressed. To view the entire text of the follow-up report go to <http://www.bsa.ca.gov/reports>.

#### **Recommendation #1 to General Services:**

To ensure that state departments purchasing drugs through General Services' contracts are obtaining the lowest possible drug prices, we recommended that General Services seek more opportunities for departments to receive rebates by securing more rebate contracts with manufacturers.

**General Services' Response:**

This recommendation has been fully implemented. Specifically, if they result in the State obtaining the best and lowest price, rebates have been and will continue to be pursued within contracts entered into based on direct negotiations with manufacturers of prescription drugs. In fact, as discussed on page 34 of the BSA's May 26, 2005 audit report, one of the major drug contracts that was active at the time of the audit included provisions for the receipt of rebates.

Since the statutory authority for negotiating drug contracts became effective on January 1, 2003, the Department of General Services (DGS) Procurement Division (PD) has negotiated three contracts, two within the Atypical Antipsychotic category of drugs (subsequently renegotiated and extended during the 2006 calendar year) and one for drugs used to treat hepatitis. The three contracts were all in effect at the time of the bureau's audit. Subsequently, there have been no new contracts even though attempts have been made to negotiate contracts with manufacturers of two other classes of drugs (Gastrointestinal and Anticonvulsants) that are widely used by the State. The PD's efforts in contracting for the additional two classes of drugs were not successful in delivering cost saving contracts to the State.

The following summarizes the DGS' policies and practices for the direct negotiation of drug contracts:

- The focus of negotiations is on achieving the best and lowest price overall to the State.
- The DGS attempts to negotiate prices that either match or are as close as possible to the estimated Medicaid Best Price. Per Federal regulations, the manufacturers cannot offer the State prices below the Medicaid Best Price.
- If they result in the State obtaining the best and lowest price, rebates have been and will continue to be pursued.
- To obtain the best and lowest price, the DGS' primary strategy continues to be to negotiate price discounts upfront with the manufacturer rather than negotiating the receipt of rebates.
- The DGS believes that State agencies benefit most by the obtaining of the best upfront discount prices, which do not require them to wait for manufacturers to remit rebates before making funds available for other drug purchases. Further, this approach is preferable to obtaining rebates due to the reduction in administrative costs incurred from the necessity of tracking and accounting for the rebate amounts due from manufacturers.

As part of this strategy, when the previously discussed contract that had a rebate provision at the time of the bureau's audit was renegotiated and extended in summer 2006, the DGS' was successful in negotiating for an upfront price discount to be provided instead of the contractor rebating the discount.

**Recommendation #2 to General Services:**

We recommended that General Services follow through on its plan to solicit bids to contract directly with a group-purchasing organization to determine if additional savings can be realized. However, in doing so it should thoroughly analyze its ability to secure broader coverage of the drugs state departments purchase by joining the Minnesota Multistate Contracting Alliance for Pharmacy. The analysis should include the availability of current noncontract drugs from each organization being considered and the savings that could result from spending less administrative time trying to secure additional contracts directly with drug manufacturers.

**General Services' Response:**

The DGS is actively implementing this recommendation. Specifically, in early January 2007, the PD issued a request for information (RFI) to thirteen large and medium size group purchasing organizations (GPO), including the Minnesota Multistate Contracting Alliance for Pharmacy (MMCAP). Subsequently, by the February 9, 2007 deadline, the PD received seven responses to the RFI. Currently, the PD is evaluating the responses to the RFI and plan to have the results by September 28, 2007. If the evaluation's results support that additional savings and/or service benefits can be realized by the State, a request for proposals (RFP) will be promptly prepared and disseminated for a new method of accessing a GPO. The PD is evaluating three alternatives:

- Maintaining the current GPO relationship with the State of Massachusetts.
- Using the information obtained from the RFI to develop a RFP to establish a new GPO relationship.
- Joining the MMCAP

As stated in the bureau's May 2005 report, the DGS committed that, as resources became available, it intended to evaluate contracting directly with a GPO if savings could be realized beyond the savings generated through its current alliance with the State of Massachusetts. As noted above, the formal evaluation process has begun and is actively proceeding toward resolution.

The RFI process was delayed until early 2007 due to other high priority workload of the PD's pharmaceutical staff which included: (1) awarding a new prime vendor contract; (2) awarding a pharmacy benefits manager contract for the Department of Corrections and Rehabilitation; (3) conducting the solicitation for the two-year pharmaceutical bulk purchasing contract that expired October 31, 2006 (and working on a subsequent protest to the award); (4) working with large manufacturers of pharmaceutical products to encourage them to bid on upcoming contracts or directly negotiate with the State on contracts; (5) performing renegotiations of contracts for high-dollar value therapeutic classes of drugs; and, (6) developing and implementing a common drug formulary.

**Note:** This issue was included in a recent follow-up review conducted by the bureau (Report No. 2007-501, dated June 12, 2007). In its report, the bureau expressed concerns that the DGS has been slow to fully analyze the benefits to joining various GPO's or other alliances. The DGS internal audit unit will follow-up to ensure that the GPO evaluation process is completed in a timely manner.

**Recommendation #3 to General Services:**

We recommended that General Services facilitate the Common Drug Formulary Committee and Pharmacy Advisory Board's development of guidelines, policies, and procedures relating to the departments' adherence to the statewide formulary and ensure that departments formalize their plans for compliance.

**General Services' Response:**

The DGS plans to fully implement this recommendation within 90 days. Specifically, the PD's pharmaceutical staff has recently drafted proposed guidelines, policies and procedures governing the administration and enforcement of the Common Drug Formulary (CDF). The proposed protocol includes provisions for: (1) the Common Drug Formulary Committee (Committee) representative's communication responsibilities for adherence within their individual department; (2) departmental reporting of non-formulary use; and, (3) actions to be taken when noncompliance

is observed with the Committee's guidelines, policies and procedures. At the September 2007 Committee monthly meeting, the PD plans to present the written protocol with formal adoption by the Committee foreseen at either the October or November 2007 monthly meeting.

As a relatively new organization with limited resources, to date, the Committee's efforts have been focused on areas that will provide the most immediate benefit to the State such as the:

- Development and issuance of a CDF for State departments. An effective drug formulary creates competition among manufacturers of similar drugs resulting in reduced prices.
- Development of implementation plans by the three departments (Corrections and Rehabilitation<sup>10</sup>, Developmental Services and Mental Health) that are members of the Committee.
- Implementation of the CDF plans by the three departments.
- Development and implementation of a Data Centralization and Reporting Project that includes provisions for the identification and tracking of non-formulary drug purchases in specified therapeutic categories.

**Note:** This issue was included in a recent follow-up review conducted by the bureau (Report No. 2007-501, dated June 12, 2007). In its report, the BSA expressed concerns that the Committee had still not developed the administration and enforcement policies and procedures. The DGS internal audit unit will follow-up to ensure that the draft CDF adherence protocols referred to above are finalized and adopted by the Committee.

#### **Recommendation #4 to General Services:**

In order to make more informed decisions concerning the operation of its prescription drugs bulk-purchasing program and to be able to expand the program to include those prescription drugs that best serve the needs of state departments, we recommended that General Services ask those departments that are otherwise required to participate in the bulk-purchasing program to notify General Services of the volume, type, and price of prescription drugs they purchase outside of the bulk-purchasing program.

#### **General Services' Response:**

This recommendation was fully implemented as of the first quarter of the 2005/06 fiscal year. Specifically, since that time, the DGS has required the three departments (Corrections and Rehabilitation, Developmental Services, and Mental Health) that participate in the bulk-purchasing program to provide the PD with detailed information on prescription drugs purchased outside of the program. The requirement for the three departments to provide quarterly reporting on prescription drugs purchased outside of the bulk-purchasing program was incorporated into DGS Purchasing Authority Manual in October 2005. Subsequently, the three departments have met their reporting responsibilities.

<sup>10</sup> In February 2006, the California Department of Corrections and Rehabilitation (CDCR) healthcare system was placed under federal receivership, pursuant to federal court order in the case of Plata vs. Schwarzenegger, (U.S. District Court, Northern District of California, Case No. C01-1351-T.E.H.). CDCR's pharmacy operations are a focus area of the Receiver. It is not yet fully known what impacts the receivership may have on the program efforts described in this status report.

The information submitted by the departments has been and continues to be provided to the PD's pharmaceutical staff for their use in making programmatic decisions. However, it should be noted that until late 2006 sufficient historical data had not been gathered to allow analyses to be performed to identify opportunities for cost savings. Subsequently, the PD has analyzed the data and determined that at least one product, asthma inhalers, should be pursued for placement under the bulk-purchasing program. The PD is actively working with a manufacturer of a new inhaler to negotiate for the product's use by the State.

**Note:** This issue was included in a recent follow-up review conducted by the bureau (Report No. 2007-501, dated June 12, 2007). In its report, the bureau had concerns that the PD had not developed a more formal process to analyze and use the information included in the quarterly reports. Of specific concern was a lack of report instructions being disseminated to the three departments and the lack of a PD database to assist in the analysis of reported information. The DGS internal audit unit will follow-up to ensure that the bureau concerns are fully addressed.

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## DEPARTMENT OF GENERAL SERVICES (REPORT NUMBER 2004-113, JULY 2005)

### Opportunities Exist Within the Office of Fleet Administration to Reduce Costs

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) conduct an audit of state-owned vehicles with a focus on the cost-effectiveness of the garages that the Office of Fleet Administration (Fleet) within the Department of General Services (General Services) operates. Specifically, the audit committee asked the bureau to determine whether General Services has a process in place to measure the cost-effectiveness of its garages and fleet of rental vehicles and, to the extent possible, determine whether it is cost-effective for the State to own, maintain, and rent its vehicles and own and operate its garages. Additionally, the audit committee asked the bureau to evaluate the potential for cost savings resulting from no longer having Fleet own and maintain vehicles and the potential savings from the consolidation and/or disposition of state-operated garages. Finally, the audit committee asked the bureau to review and evaluate General Services' policies and procedures for ensuring the accountability of state vehicle purchases, including the controls in place to monitor vehicle purchases and determine whether other state agencies purchase motor vehicles in accordance with applicable requirements and in the best interest of the State.

In July 2005 the bureau issued the above referenced report containing nine recommendations. Based on General Services' one-year response, we determined that it had not fully implemented four of those recommendations. However, according to General Services, it implemented some of these recommendations subsequent to the one-year date. Below are the recommendations that we determined were not fully implemented one year from the date the report was issued followed by General Services' most recent response.

In May 2007 the bureau issued a follow-up report titled *Department of General Services: The Office of Fleet Administration Could Do More to Better Analyze the Cost Effectiveness of Its Garages and Rental Vehicles* (Report No. 2007-502). In this report the bureau performed additional audit work pertaining to the recommendations the bureau issued in 2005 that the department had not addressed. To view the entire text of the follow-up report go to <http://www.bsa.ca.gov/reports>.

#### Recommendation #1:

We recommended that in addition to rate comparisons, Fleet should compare the actual cost of operating its motor pool to the amount that the State would pay commercial rental companies. In doing so, Fleet should use the actual motor pool rental activity, such as the number of days or months that it rents vehicles by each vehicle type, and apply it to rates that commercial rental companies actually charge state agencies. To understand how much state agencies typically pay when using the services of contracted commercial rental companies, Fleet should require, through its contracts, that the companies report information on vehicle rentals that would enable Fleet to determine the average daily or monthly rate actually charged for each vehicle type.

#### General Services' Response:

This recommendation was fully implemented as of December 2006. During the month of December 2006, a consultant retained by the Department of General Services (DGS) completed a study of the cost effectiveness of the Office of Fleet Administration's (since renamed the Office of Fleet and Asset Management) service activities. As part of that review, the consultant compared Fleet's short-term rental costs for motor pool vehicles to those available from the State's primary commercial rental car vendor. In brief, the consultant concluded that the State saves 17 percent when using Fleet's vehicles, rather than the State's primary rental car vendor to provide short-term vehicles.

Subsequent to the Bureau of State Audits' (BSA) audit report of July 2005, Fleet also completed a number of significant actions to ensure that relevant financial and vehicle usage data is available to allow the timely comparison of the actual cost of operating its motor pool to the amounts charged by commercial car rental companies to State agencies. This was a complex undertaking that involved the development of new budget, fiscal and information technology management systems. Of particular note, Fleet took the following actions to assist in the management of its fleet operations:

- Developed a new system that provides for employee time charges to be captured in a manner that provides more useful information on tasks performed in both inspection and garage operations. The new system was fully implemented in January 2006.
- During the 2005 and 2006 calendar years, Fleet worked with DGS' information technology staff and a contracted consultant, retained in late June 2005, to obtain additional management data from its automated internal fleet management information system. These efforts were very successful in developing new management reports that provide timely and relevant cost-effectiveness information.
- Entered into new commercial car rental contracts that began on January 1, 2006. The new contracts provide for the timely reporting of information on actual charges incurred for the daily rental of vehicles. The contractors are complying with this reporting requirement.
- In summer 2005, reorganized garage operations and assigned new management to oversee those operations. Since that time, management has actively gathered data and information that allows the cost effectiveness of the individual garages to be more accurately evaluated.

**Note:** This issue was included in a recent follow-up review conducted by the BSA (Report No. 2007-502, dated May 24, 2007). In its report, the BSA included a discussion of the consultant's cost effectiveness review. In brief, the BSA indicated that the analysis performed by the consultant was an improvement over prior analyses of cost effectiveness. However, the consultant reported certain limitations in its 17 percent savings calculation that were cause for concern to the BSA. The issues raised by the BSA will be followed-up on by DGS' internal audit staff to ensure that they are adequately considered and addressed prior to any future cost effectiveness reviews.

## **Recommendation #2:**

We recommended that to ensure that the composition of its motor pool is cost-effective, Fleet should continue its efforts to obtain costs by vehicle type. It should consider this information in its rate-setting process as well as in its comparisons to the costs of alternatives to the motor pool.

## **General Services' Response:**

This recommendation was fully implemented as of December 2006. As discussed in response to the previous recommendation, during the month of December 2006, a consultant retained by the DGS completed a study on the cost effectiveness of the Fleet's service activities. As part of that review, the consultant used data that Fleet had available on costs by vehicle type. This information was contained on management reports that were available for use by July 2006. The management reports provide data that allows Fleet to identify and track the following costs for each vehicle type in its motor pool: original purchase cost; up fitting or modifications; maintenance and repairs (e.g., parts and labor); fuel (by type and quantity); and, number of day's out-of-service.

As recommended by the BSA, this information is being used during the development of vehicle rates and, as previously discussed, in studies involving the comparison of the costs of alternatives to the motor pool.

**Recommendation #3:**

To ensure that it does not operate garages in areas where alternative methods of transportation, such as vehicles from commercial rental companies, would be less expensive to the State, we recommended that Fleet examine individual garages to determine whether it is cost-effective to continue operating them. Fleet should consider all relevant factors, such as the frequency with which it rents vehicles on a short-term basis, the ability for other garages to take long-term rentals, and the cost-effectiveness of its repair and maintenance services.

**General Services' Response:**

This recommendation was fully implemented during the 2006/2007 fiscal year. Specifically, during that period, Fleet finished developing additional detailed information on individual garage service usage and operating costs. The Fleet's management is actively using the additional data and information to evaluate the cost effectiveness of the individual garages. Further, actions were taken to improve the management of its garage operations. The specific actions taken by Fleet are discussed in response to Recommendations Nos. 1 and 2 and include the following:

- Developed a new system that provides for employee time charges to be captured in a manner that provides more useful information on tasks performed in both inspection and garage operations. The new system was fully implemented in January 2006. As historical information became available during the 2006/07 fiscal year, it was actively used to monitor the cost-effectiveness of the garages.
- During the 2005 and 2006 calendar years, Fleet worked with DGS' information technology staff and a contracted consultant to obtain additional management data from its automated internal fleet management information system. These efforts were very successful in developing new management reports that provide timely and relevant cost-effectiveness information.
- Developed management reports that provide data, which allows Fleet to identify and track the costs for each vehicle type in its motor pool.
- In summer 2005, reorganized garage operations and assigned new management to oversee those operations. Since that time, management has actively gathered data and information that allows the cost effectiveness of the individual garages to be more accurately evaluated.

It should be noted that, in the past, the DGS has not hesitated to close garages when justified to maximize efficiencies and eliminate redundancies. In fact, in recent years, two of seven garages have been closed by the DGS: Van Nuys in June 2004 and San Francisco in June 2005.

**Note:** This issue was included in a recent follow-up review conducted by the BSA (Report No. 2007-502, dated May 24, 2007). In its report, the BSA stated that it found that Fleet began capturing costs by garage in January 2006. However, despite capturing relevant financial data, the BSA did not see how Fleet uses the data to evaluate the cost effectiveness of the individual garages. This viewpoint was primarily derived from Fleet management staff not being able to adequately explain the financial position of the individual garages based on information included on monthly

income and expense reports. The DGS' internal audit staff will follow-up to ensure that Fleet's management developed the necessary expertise to monitor the financial position of the garages through a review of the income and expense reports.

**Recommendation #4:**

We recommended that Fleet should continue with its plan to track the time of its garage employees by task to determine the cost of its repair and maintenance services and that Fleet should compare its costs to the amount that commercial repair shops would charge for the services.

**General Services' Response:**

The first recommended action pertaining to the tracking of tasks within garage operations was fully implemented as of January 2006. Specifically, in October 2005, a new system for tracking tasks was installed for use within Fleet. Upon the training of garage and other Fleet asset management personnel, the new system became fully operational in January 2006. The resulting information is being actively used to more efficiently and effectively manages garage operations, including Fleet's in-house repair and maintenance program.

The second recommended action pertaining to the comparison of costs of Fleet's in-house repair and maintenance program with those of commercial repair shops was fully implemented as of December 2006. As discussed in response to previous recommendations, during that month a consultant retained by the DGS completed a study on the cost effectiveness of the Fleet's service activities. As part of that review, the consultant compared the costs of Fleet's in-house repair and maintenance program with those of commercial repair shops. In brief, the consultant concluded that Fleet's five maintenance shops are underutilized, largely superfluous and not competitive. Consequently, the consultant believes that Fleet should plan for the eventual closing of most of its maintenance shops.

In response to the consultant's review and its own evaluation of the in-house repair and maintenance program, recently, Fleet has taken a number of actions including:

- eliminating the function at the San Diego garage;
- eliminating the mechanic supervisor leaving two mechanic positions at the Los Angeles garage;
- eliminating one mechanic position at the Sacramento garage;
- testing for a mechanics supervisor position for the Sacramento garage, which is the largest Fleet maintenance shop with six employees, to improve oversight of the program; and,
- working with DGS' human resources staff to revise employee classifications and assignments to meet business needs.

It should be noted that Fleet's in-house repair and maintenance program is a relatively small program, only 12 mechanics spread over four garages, due to most work already being contracted to commercial vendors. Further, the ultimate closure of the maintenance shops is a complex issue involving a number of issues including compliance with employee protection provisions of the State's civil service laws (Government Code Section 19130).

**Note:** This issue was included in a recent follow-up review conducted by the BSA (Report No. 2007-502, dated May 24, 2007). In its report, the BSA noted that it had reviewed documents that indicated that Fleet has incorporated more detail in tracking the time of its garage employees by task. Further, the BSA included a discussion of the conclusions presented in the consultant's report related to the in-house repair and maintenance program. During its follow-up review, based on issues contained in the consultant's report, the BSA continued to have concerns with the tools used to analyze the cost effectiveness of the in-house repair and maintenance program. The concerns raised by the BSA with this program will be continually tracked and monitored by the DGS' internal audit unit until resolution.

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## LABOR AND WORKFORCE DEVELOPMENT

### **SAN FRANCISCO-OAKLAND BAY BRIDGE WORKER SAFETY (REPORT NUMBER 2005-119, FEBRUARY 2006)**

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

The Joint Legislative Audit Committee (audit committee) asked the Bureau of State Audits (bureau) 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.

In February 2006 the bureau issued the above referenced report containing three recommendations. Based on the department's one-year response, we determined that it had not fully implemented one of those recommendations. Below is the recommendation that we determined was not fully implemented one year from the date the report was issued followed by the department's most recent response.

#### **Recommendation #1:**

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.

#### **Department's Response:**

There currently exists in regulation (8CCR section 342) a requirement that employers report to the Division of Occupational Safety and Health "any serious injury or illness, or death, of an employee occurring in a place of employment or in connection with any employment." Labor Code section 6313 requires the Occupational Safety Health Administration (Cal/OSHA) to investigate these reports unless it determines that an investigation is unnecessary, in which case Cal/OSHA must

summarize the facts indicating that the accident need not be investigated and the means by which the facts were determined. The same statute gives Cal/OSHA the discretion to investigate industrial accidents of lesser severity as it determines to be necessary.

As I understand the recommendation, its reference to “annual injury report” is not directed toward injury reports required by law to be made to Cal/OSHA for mandatory investigation, but to the records of employee injuries and illness known as “300 logs”. These injuries and illness records are required by the Federal Occupational Safety and Health Administration (OSHA) to be kept onsite by employers throughout the nation, and must include all injuries resulting in lost or restricted work time or medical treatment beyond first aid. Their primary purpose is to serve as a data base that is annually sampled under the direction of the Federal Bureau of Labor Statistics (BLS) to determine occupational injury and illness rates nationwide. These records can also serve as a useful tool to inspector when conducting a workplace investigation, as the types of injuries recorded may indicate the presence of specific hazards.

If Cal/OSHA were to develop a mechanism to obtain employers’ annual injury reports and design procedures to detect the underreporting of workplace injuries, the result would be a substantial redirection of resources away from the more direct measures Cal/OSHA currently employs to discover and correct serious workplace hazards. Cal/OSHA estimates that over a million employers in the State are required to keep 300 logs and the only practical means of obtaining and managing the information contained in them would be to use an electronic information management system. Cal/OSHA is currently tied to “IMIS” the information management system administered by OSHA, and IMIS does not have this capability. Consequently, there does not appear to be any practical or realistic means at this time to implement the bureau’s recommendation to gather the 300 logs.

However, as I have mentioned in the previous correspondence, 300 log information throughout the United States is collected by sampling logs from different industry classifications and extrapolating from these data to generate nationwide injury and illness statistics. This is done under the management of Federal OSHA and BLS. Cal/OSHA has made a commitment to be an ongoing participant in the Federal OSHA Data Initiative (ODI), which is the tool OSHA and the other state plan States use nationwide to review the accuracy of 300 logs. Under this program Cal/OSHA conducts inspections at the instruction of OSHA of a sample of worksites to review the accuracy of 300 logs kept at the sites inspected. This inspection program is similar to what would result if the BSA recommendation were to be fully implemented, but scaled back to a level of activity that fits within existing Federal and State parameters for funding the Cal/OSHA Program.

Cal/OSHA continues to believe, with unanimous support from the stakeholders who attend its bi-monthly public meetings, that the most effective uses of its resources for inspection activity is to target high-hazard workplaces for inspection so that hazards can be directly observed and abated through enforcement or consultative measures as provided by statute. Cal/OSHA believes that use of the Workers’ Compensation Information System (WCIS), the electronic information management currently operated by the Division of Workers’ Compensation (DWC), has significant potential to provide information similar to that contained in 300 logs, which can serve as a means of identifying employers with unusually high injury and illness rates so that they can be inspected. Cal/OSHA has begun a pilot project with DWC to utilize WCIS for this purpose. There have also been ongoing efforts to steer the development of the WCIS system so that it will provide more effective data for Cal/OSHA purposes that it currently does.

## **DEPARTMENT OF INDUSTRIAL RELATIONS (REPORT NUMBER 2005-108, SEPTEMBER 2006)**

### **Its Division of Apprenticeship Standards Inadequately Oversees Apprenticeship Programs**

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the apprenticeship programs (programs) regulated by the Division of Apprenticeship Council (division). Specifically, the audit committee asked us to review and evaluate the laws and regulations significant to the programs and to identify the roles and responsibilities of the various agencies involved in them. It also asked us to determine the type of data collected by the division for oversight purposes and the extent to which it uses the data to measure the success of the programs and to evaluate the division's performance/accountability measures. In addition, the audit committee asked us to examine data for the last five fiscal years regarding the programs' application, acceptance, enrollment, dropout, and graduation rates, including the rates for female and minority students, and the programs' graduation timetables. Further, the audit committee asked us to review the extent and adequacy of the division's efforts related to recruitment into state-approved programs, and to identify any potential barriers to student acceptance into the programs. The audit committee wanted to know whether the division's management and monitoring practices have complied with relevant statutory requirements and whether the division has taken action against programs that do not meet regulatory or statutory requirements. Finally, the audit committee asked us to review the program's funding structure to determine whether employer contributions to programs reasonably relate to the costs of providing training.

In September 2006 the bureau issued the above referenced report containing five recommendations. Based on the Department of Industrial Relations' (department) one-year response, we determined that it had not fully implemented four of those recommendations. However, according to the department, it implemented some of these recommendations subsequent to the one-year date. Below are the recommendations that we determined were not fully implemented one year from the date the report was issued followed by the department's most recent response.

#### **Recommendation #1:**

The division should request that the Legislature amend auditing requirements to allow it to select programs for audit using a risk-based approach.

#### **Department's Response:**

Division of Apprenticeship Standards (DAS) ACTIONS

DAS along with the Labor and Workforce Development Agency is currently working with stakeholders to successfully draft language that will allow the Division to select programs for audits using a risk based approach.

Specifically, AB 734 is currently awaiting consideration by the State Senate.

DAS will continue to work on this effort and is proceeding with audits as currently required by statute and regulations.

**Recommendation #2:**

We recommended that the division should develop a process for coordinating the exchange of information on available minority and female apprentices.

**Division's Response:**

This has been completed as of October 1, 2007.

**Recommendation #3:**

If the department believes that amounts collected from employers for deposit into the training fund should be used to fund division expenses at the same priority level as grants to apprenticeship programs, we recommended that the department should seek statutory changes that clearly reflect that employers are also funding general expenses.

**Department's Response:**

DAS ACTIONS

1) AB 3000 (Sept 02) and related Legislative Digest establish legal authority. DAS does not believe that additional statutory changes are necessary. This was discussed in detail in the 60-day report.

**Recommendation #4:**

We recommended that the division establish a process for regularly reconciling information on the current status of apprentices with information maintained by committees and use data to set performance goals and to pinpoint program successes and failures.

**Division's Response:**

DAS ACTIONS

This was completed in December 2006.

## GENERAL GOVERNMENT

### **MILITARY DEPARTMENT (REPORT NUMBER 2005-136, JUNE 2006)**

**It Has Had Problems With Inadequate Personnel Management and Improper Organizational Structure and Has Not Met Recruiting and Facility Maintenance Requirements**

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the Military Department's (department) resource management and recruitment and retention practices. Specifically, the audit committee asked that we review the department's operations and practices regarding strategic planning, the use of state and federal funds and personnel, the current condition of its armories, its management of state military personnel, recruitment and retention practices, and reporting of military personnel's attendance at training to maintain their military skills.

In June 2006 the bureau issued the above referenced report containing 12 recommendations. Based on the department's one-year response, we determined that it had not fully implemented five of those recommendations. However, according to the department, it implemented some of these recommendations subsequent to the one-year date. Below are the recommendations that we determined were not fully implemented one year from the date the report was issued followed by the department's most recent response.

#### **Recommendation #1:**

To reform its use of state active duty personnel and comply with its senior leadership's wishes for how they should be used, we recommended the department ensure that the panel completes the tasks assigned to it by the adjutant general and follows through with the panel's recommendations.

#### **Department's Response:**

The Department has reviewed the tasks assigned and criteria established by the Adjutant General. The Department has fully implemented the results of the reform panel to transition State Active Duty positions to State Civil Service. This recommendation was accomplished on February 1st, 2007. The remaining flagged positions will continue to be implemented over a three to five year cycle and all transitions will be completed as soon as positions are vacated through attrition. The Department remains committed to the recommendations of the panel and will continue the transition for each of the flagged positions as they become vacant.

**Recommendation #2:**

We recommended the department review its hiring policy and practices for state active duty members, as directed by the adjutant general, and make the necessary changes in its policy and regulations to provide adequate guidance to its commanders and directors.

**Department's Response:**

The Department implemented the recommendation of the reform panel to revise its hiring practices and State Active Duty regulations. The regulations have yet to be published and are still under review by the Department. The Department expects to complete its review of the new regulations and publish them within the next 60 days (not later than December 15, 2007). The Department has directed the state personnel director to provide you with the final product within the timeframe established.

**Recommendation #3:**

We recommended the department develop and implement procedures to ensure that it complies with authorizations for federal full-time military personnel to support its part-time Guard forces. Those procedures should include designating the responsibility for issuing orders for full-time personnel to a single entity.

**Department's Response:**

The Department does not concur with the BSA audit findings and recommendations. The recommendations of the auditor go against the established customs and traditions of the military in relation to command, and the duties and authorities of Commanders. As a result, we will not implement the auditor's recommendations. Military and Veterans Code Section 163 grants the Adjutant General authority to perform his duties as prescribed by this code and those regulations and customs established by the United States Army and Air Force. Army Regulation 600-20 prescribes the policies and responsibilities of command. These regulations outline the inherent authority of Commanders to assign or allocate resources to accomplish their federal and state missions.

**Recommendation #4:**

To ensure that its state active duty personnel can report any alleged violations of statutes, regulations, or rules without fear of retaliation, we recommended the department establish a process independent of the chain of command to protect those state active duty personnel who wish to file complaints alleging retaliation by a superior.

**Department's Response:**

We concur with the State Auditor's recommendation that an independent Inspector General be established. As recommended in the State Auditor's Report, in order to ensure that State Active Duty personnel can report any alleged violations of statutes, regulations or rules, without fear or retaliation, the Adjutant General, effective January 25, 2007 established a Military Department Office of the Inspector General. The Military Department Inspector General is independent of the chain of command. The department Inspector General has established a toll-free hotline and webpage (<http://www.clagard.ca.gov/stateig>) for complaints of reprisal, retaliation, fraud, waste and abuse.

**Recommendation #5:**

We recommended that the department identify and pursue the steps necessary to meet the force strength goals set by the National Guard Bureau, including but not limited to identifying the most effective manner to use the additional recruiting resources provided by the National Guard Bureau and continuing to pursue, through the State's legislative process, incentives it believes will encourage citizens to join the Guard.

**Department's Response:**

The Department does not concur with this recommendation. The corrective actions taken have yielded a marked improvement in California National Guard strength. For fiscal year 2007, National Guard Bureau assigned an end-strength of 15,940 officers and enlisted Soldiers. As of August 31, 2007 the California Army National Guard assigned strength stood at 16,142 officers and enlisted Soldiers. This represents a 101.3 percent assigned end-strength for the department. The turbulence associated with transformation into new mission areas continues to offer challenges. The California Air National Guard has shown significant improvement in recruitment and retention. As of August 31, 2007 the California Air National Guard's recruiting production of 470 new accessions demonstrated a 28 percent improvement over the 378 accessions during fiscal year 2006. The California Air National Guard annual recruiting and retention, remains a challenge for the department.

To sustain and continue to grow our force, we will continue our efforts to bring California National Guard state benefits through the legislative process on par with those of other states. These legislative initiatives include tuition assistance, health care, vehicle license exemptions, life insurance, state income tax credits, state park passes and hunting and fishing licenses.

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## LEGISLATIVE, JUDICIAL, AND EXECUTIVE

### STATE BAR OF CALIFORNIA (REPORT NUMBER 2005-030, APRIL 2005)

It Should Continue Strengthening Its Monitoring of Disciplinary Case Processing and Assess the Financial Benefits of Its New Collection Enforcement Authority

As required by Chapter 342, Statutes of 1999, the Bureau of State Audits (bureau) conducted a performance audit of the State Bar of California's (State Bar) operations covering January 1, 2004, through December 31, 2004. In planning this audit, we followed up on three principal areas identified during our 2003 audit: the State Bar's processing of disciplinary cases, cost recovery as part of processing disciplinary cases, and the use of mandatory and discretionary funds to support State Bar functions.

In April 2005 the bureau issued the above referenced report containing four recommendations. Based on the State Bar's one-year response, we determined that it had not fully implemented two of these recommendations. However, according to the State Bar, it implemented both of these recommendations subsequent to the one-year date. Below are the recommendations that we determined were not fully implemented one year from the date the report was issued followed by the State Bar's most recent response.

#### Recommendation #1:

We recommended that the State Bar prioritize its cost recovery efforts to focus on attorneys who owe substantial amounts related to disciplinary costs and payments from the Client Security Fund.

#### State Bar's Response:

The State Bar has implemented this recommendation and continues to strengthen and monitor the disciplinary case processing and assess the financial benefits of the new collection enforcement efforts. In April 2007, the Supreme Court approved California Rule of Court 9.23, which authorizes the Bar to enforce as a money judgment court ordered disciplinary costs and Client Security Fund ("CSF") reimbursements. Following adoption of these rules, procedures for filing of these money judgments were finalized with the Superior Courts for San Francisco and Los Angeles. A policy for pursuing these debtors was approved by the Board of Governors in July and requests for entry of judgment are being filed weekly. Five have been granted to date.

Disciplinary Costs. As reported in the 30-day, 6 month and one year status report, the State Bar has prioritized its efforts on those who owe the most money to the Bar as a result of court ordered discipline costs and court ordered Client Security Fund ("CSF") restitution ("Top 100" for discipline costs and "Top 100" for CSF.) Demand letters were not sent to those who were deceased or on an existing court approved payment plan. A significant number of letters were returned for invalid addresses. The Bar applied for and received authorization from the Department of Motor Vehicles (DMV) to obtain access to current address information. Demand Letters were sent to those whose address information from the DMV revealed a more current address. To date, the Bar has received \$73,767 in reimbursement, an increase of \$48,367. The Bar is in the process of filing judgments against those who have not responded to the demand letter, are not on a payment plan and are not deceased.

Client Security Fund. The new collection authority applies only to those CSF payments where the CSF pays a claim and the disciplinary proceeding against the attorney causing the loss result in a final court order requiring that the disciplined attorney make restitution to the CSF. Historically, Supreme Court orders imposing disbarment or accepting resignations with charges pending have not included a requirement that the attorneys reimburse the CSF. The only enforcement mechanism provided by statute for members who were disbarred or resigned with charges pending was to require CSF reimbursement as a condition of reinstatement. After a complete review of the files of the Top 100 CSF debtors and a reconciliation of the amount owed, it was revealed that CSF reimbursement was ordered in only one matter.

To address this circumstance, the Board of Governors adopted a rule of procedure, effective January 1, 2007, that requires the State Bar Court to include in any recommendation or order that the attorney reimburse the Client Security Fund to the extent the misconduct found in the proceeding results in the payment of funds from the CSF. Moreover, unless otherwise ordered by the Supreme Court or unless other relief is granted under the rules, this reimbursement must be paid within 30 days following the effective date of the final disciplinary order or within 30 days following the CSF payment whichever is later.

In order to file the judgments with complete and correct information and to assess the financial benefits of the new collection enforcement authority, the State Bar is currently testing an in-house developed database, which organizes data for various offices regarding disciplinary costs and CSF payments, merging pertinent data, such as case numbers, alternate addresses, restitution orders, amounts owed. This database will also automatically calculate interest. In addition, the Bar is developing a component of the database that will ultimately track the judgments and the costs of collection.

#### **Recommendation #2:**

We recommended that the State Bar continue to update its forecasts for key revenues and expenses as new information becomes available. For example, the State Bar should closely monitor the results of its enhanced collection enforcement authority and the benefits it may have on recovery of disciplinary costs and Client Security Fund payments.

#### **State Bar's Response:**

The State Bar has implemented this recommendation. Forecasts for the State Bar's major funds are prepared throughout the year. These forecasts are updated as new information becomes available and are used to guide the State Bar's annual budget process and to provide justification for the membership fees the State Bar collects from its members.

The State Bar also continually monitors its revenues and expenses. On a quarterly basis, actual revenues and expenses are compared to budgetary expectations and any significant variances are analyzed. This monitoring process includes any monies collected through cost recovery efforts for both discipline costs and Client Security Fund payments.

**JUDICIAL COUNCIL OF CALIFORNIA (REPORT NUMBER 2005-131, AUGUST 2006)****Its Governing Committee on Education Has Recently Proposed Minimum Education Requirements for Judicial Officers**

The Joint Legislative Audit Committee (audit committee) requested the Bureau of State Audits (bureau) to review and assess how funds appropriated to the Judicial Council of California (Judicial Council) are used for training judicial officers and to determine the processes and practices used in developing the budget for training judicial officers. We were asked to determine the amount appropriated and spent for training judicial officers over the last three years and to review the purposes and appropriateness of those costs. Finally, the audit committee asked us to review and assess management controls to ensure that funds appropriated for training are used for allowable activities and to select a sample of costs to determine whether they were valid.

In August 2006 the bureau issued the above referenced report containing two recommendations. Based on the Judicial Council's one-year response, we determined that it had not fully implemented one of those recommendations. Below is the recommendation that we determined was not fully implemented one year from the date the report was issued followed by Judicial Council's most recent response.

**Recommendation #1:**

We recommended that the Education Division continue its efforts in designing curricula to use in developing its judicial education programs. Further, we recommended that, after implementing the curriculum-based planning approach, the Education Division should formally assess whether it has been successful.

**Judicial Council's Response:**

We have fully implemented the recommendation in the audit report as illustrated by the following:

- Each education committee has developed the curriculum for its target audience. To institutionalize the curriculum-based planning approach, the education committees will continue to update the curriculum as necessary and appropriate;
- Each education committee has identified the essential content from its curriculum work so that resources can be immediately applied to those areas;
- Each education committee has developed delivery plans for its curriculum. In order to make effective use of all possible delivery options for the curriculum content, the committees will continue to develop delivery plans on an ongoing basis;
- Each education committee has implemented an evaluation process that includes an initial review of each new course developed through the curriculum and an annual review of all course offerings to ensure that the goals of curriculum-based planning are met; and
- The Governing Committee of the Center for Judicial Education and Research (CJER) has implemented an annual meeting with the chairs and vice-chairs of all education committees to ensure that the curriculum-based planning approach is followed and that any issues are addressed in a timely manner. The most recent was held on May 8, 2007, and the next is scheduled for May 2008.

The nature of a curriculum-based planning approach is that it is ongoing. New curricula will be developed, existing curricula will be updated, new courses will be developed and delivered, and progress will be periodically evaluated. Our approach is now fully developed, with a solid foundation, and it has been an acknowledged success.

**EMERGENCY PREPAREDNESS (REPORT NUMBER 2005-118, SEPTEMBER 2006)****California's Administration of Federal Grants for Homeland Security and Bioterrorism Preparedness Is Hampered by Inefficiencies and Ambiguity**

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) conduct an audit of the State's administration of federal grants for homeland security and bioterrorism preparedness. We were asked to determine whether state entities are administering these grants in an efficient and effective manner. Specifically, the audit committee requested that we identify the state entities responsible for homeland security and bioterrorism preparedness, their roles, and how they coordinate and communicate with each other. It also asked that we review and assess how state entities plan and train for responding to a terrorist attack and the scale or criteria the State uses to determine the seriousness of a potential terrorist attack. Additionally, the audit committee asked that we determine how state entities ensure compliance with their policies and procedures, including a review of the State's procedures for monitoring funds distributed to local entities. The audit committee further requested that we examine the State's homeland security and bioterrorism preparedness funding, expenditure, and encumbrance activities, including policies for prioritizing expenditures, how state entities have spent federal homeland security and bioterrorism preparedness funds, expenditure rates, and criteria for determining the amount of funding local entities receive from the State. Finally, the audit committee asked that we identify impediments to the efficient and effective investment of federal homeland security and bioterrorism preparedness funds. We performed most of the audit work at three state entities: the California Department of Health Services (Health Services), the Governor's Office of Emergency Services (Emergency Services), and the Governor's Office of Homeland Security (State Homeland Security).

In September 2006 the bureau issued the above referenced report containing five recommendations. Based on Health Services', Emergency Services', and State Homeland Security's one-year responses, we have determined that two of these the entities had not fully implemented two of those recommendations. Below are the recommendations that we determined were not fully implemented one year from the date the report was issued followed by the two entities' most recent responses.

**Recommendation #1:**

To better prepare the State for responding to terrorism events and other emergencies, state entities, including State Homeland Security and Emergency Services, should ensure that future exercises are as realistic as possible and sufficiently test the response capabilities of California's medical and health systems.

**Emergency Services' Response:**

Using the California Specialized Training Institute's Comprehensive Exercise and Evaluation Program as a base, we have completed development of the statewide exercise strategy. The Strategy includes all currently scheduled exercise programs such as Golden Guardian, NOVEX, Statewide Medical/Health, San Onofre and Diablo Canyon Radiological Emergency Preparedness, etc. The Strategy includes identified exercise needs that were developed as a result of the Training Needs Assessment. As training needs are met via a coordinated training plan, that training will be tested in an exercise. Also included in the strategy are exercises to support the continued readiness capability of the state by testing the Regional Emergency Operations Centers and the State Operations Center. As new issues arise, via Gap Analysis, or other means, the concepts of operation will be developed to meet these needs and test them in an exercise environment.

All exercises, excepting those with specific scheduling and evaluation requirements, will use the National Homeland Security Exercise and Evaluation Program (HSEEP) concepts. These concepts require that each Agency or Jurisdiction identify their Target Capabilities and the associated Universal Task List items. As needs are identified during this process, the Agency or Jurisdiction involved develops mechanisms to address those needs, and to test the mechanisms to support them using HSEEP concepts.

OES has completed development of the Statewide Exercise Strategy. Regional conferences with State agencies and local government, to announce implementation strategy, were rescheduled from November and December to January, 2008, because of the fires in Southern California.

The Multiyear Exercise Plan (MEP) is the roadmap for emergency management in California to accomplish the priorities described in the California Emergency Plan and the state's Homeland Security Strategy. California has developed this coordinated Exercise Program that combines enhanced planning, new equipment purchases, innovative training, and realistic and focused exercises to strengthen California's emergency prevention and response capabilities. Exercises play a crucial role in this strategy, providing California with the means for attaining, practicing, validating, and improving our capabilities.

OES considers the implementation of this recommendation to be completed.

**Homeland Security's Response:**

This recommendation has been fully implemented. However, the implementation is part of an ongoing process where the Governor's Office of Homeland Security (OHS) ensures that each Golden Guardian exercise is as robust and contains as real a scenario as possible. In addition to Golden Guardian the California Health and Human Services Agency and the Emergency Medical Services Authority each have their own exercises that focus on health related preparedness.

Over the last few years Golden Guardian has tested using the strategic national stockpile for epidemiological response and a mass evacuation-receiving center in 2006. In the 2007 Golden Guardian, 170 casualties were evacuated to 23 local area hospitals in Orange County and San Jose tested their point of distribution capabilities for a mass prophylaxis situation. In addition the fourth Annual Governor's Golden Guardian All Hazard Preparedness Exercise for 2007 will test capabilities of first responders, emergency managers, private sector partners and local, state and federal agencies. The Golden Guardian Exercise Series in past years has included over 25 separate, but linked exercises and nearly 35 official planning conferences. The 2007 Exercise will be held in Anaheim/Santa Ana and surrounding cities in Orange County, San Jose, and surrounding cities in Santa Clara County, and Stockton and surrounding communities in San Joaquin County. Considering the world-wide risk of terrorism associated with large public gathering venues and mass transit systems, this year's exercise includes these two high risk targets by focusing on specific stadiums and rail systems in each area. As in past years' exercises, the Golden Guardian 2007 Exercise Series planners are using significant findings from past exercises and current threat information to conduct a year-long building block approach that creates a set of solution based exercises and training activities.

Continuing our tradition of realistic scenarios, in 2008 the Golden Guardian Exercise series will be focused around a massive response to catastrophic earthquakes within California, with the largest centered in Los Angeles County. Other regional participants will include the City of San Francisco and surrounding communities, as well as the City of South Lake Tahoe, which will be an important contributor to a cross-border exercise with the State of Nevada during the course of events in this exercise series. The 2008 exercise planning cycle has already begun and will continue through the November 2008 exercise. The 2008 exercise is expected to engage a wide variety of participants within

and from outside the State. These participants will include local, regional and State first responder and emergency management organizations, as well as a very large response from our federal counterpart at the United States Department of Homeland Security (including the Federal Emergency Management Agency), and the Department of Defense's Support to Civilian Authorities capabilities.

**Recommendation #2:**

To reduce the amount of time necessary to reimburse local entities for their homeland security expenditures, State Homeland Security and Emergency Services should collaborate to identify steps they can take.

**Emergency Services' Response:**

OES and OHS have worked cooperatively to reduce the processing time for all reimbursement claims to the 30-day timeframe specified in the Prompt Payment Act. Both offices have pursued the development of improvements to streamline the review, approval and payment process. Currently, OES average claims processing time is well within 30 days from receipt of the claim for reimbursement. OES' conformity with guidelines of the Prompt Payment Act has been achieved.

**Homeland Security's Response:**

To reduce the amount of time necessary to reimburse local entities, OES and OHS began meeting over two years ago to improve this process. As noted in your report, significant improvements in processing times have been achieved, including an additional 30% reduction in reimbursement processing from 73 days to 50 days, during the earlier part of last year. Furthermore, on July 21, 2006, OHS and OES began meeting monthly to coordinate the activities of the OHS payments unit and OES accounting and budget units. At these meetings, staff from both agencies discuss issues affecting the timeliness of expenditures, grant reimbursements and ways to streamline and coordinate our respective processes to ensure that our fiscal management systems reconcile to each other in an effective and timely way.

As part of this collaborative process, OHS and OES have established the following timelines as the expected processing and approval time of local government's requests for reimbursement: 10 to 15 days at OHS and 10 to 15 working days at OES, leaving the same amount of time for the Controller's Office to issue payments to the local governments. If these timeframes are followed, then the process will allow all homeland security reimbursements to be made in a 45-day total timeline to local entities. Of course, some grant reimbursement requests may require additional work at either agency, but these 10–15 day periods are our established goals. To help achieve OHS' 15-day or less goal, we worked diligently to fill our last payment processing positions and we are now completely staffed in our Grants Payment Unit.

Currently, OHS has reduced the average amount of time for payment approval and transmittal to OES to 10 days or less. In fact, the vast majority of reimbursement requests are processed through OHS in 96 hours or less. It should also be noted that longer processing times usually result from issues raised in the reimbursement documents that must first be resolved with the local agency seeking reimbursement. While timely reimbursement is a priority, we must also ensure at the front-end that we are in compliance with applicable grant requirements and regulations as part of our equally important monitoring and audit responsibilities. Accordingly, at the time of this status report to you, homeland security requests for reimbursement are currently approved and leave OHS within 11-calendar days, on average, from when the request was first received by our Office.

cc: Members of the Legislature  
Office of the Lieutenant Governor  
Milton Marks Commission on California State  
Government Organization and Economy  
Department of Finance  
Attorney General  
State Controller  
State Treasurer  
Legislative Analyst  
Senate Office of Research  
California Research Bureau  
Capitol Press