

# CALIFORNIA STATE AUDITOR

Bureau of State Audits

## Recommendations Not Fully Implemented After One Year

The Omnibus Audit Accountability Act of 2006



January 2010 Report 2009-041

# SPECIAL REPORT

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For questions regarding the contents of this report, please contact Margarita Fernández, Chief of Public Affairs, at 916.445.0255.

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# CALIFORNIA STATE AUDITOR

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January 14, 2010

2009-041

Dear Governor and Legislative Leaders:

Consistent with the Omnibus Audit Accountability Act of 2006 (California Government Code, sections 8548.7 and 8548.9), the Bureau of State Audits (bureau) presents its special report to the Joint Legislative Audit Committee, Joint Legislative Budget Committee, and Department of Finance. This report lists 131 recommendations, made to 29 state agencies in audit reports issued from January 2005 through October 2008, that had been outstanding for at least one year and not fully implemented. Ninety of the 131 recommendations remain not fully implemented. In addition to identifying which recommendations have and have not been fully implemented, this report contains written responses from each state agency explaining the status of each recommendation. For recommendations that have not been fully implemented, this report also provides agency responses regarding when these recommendations will be fully implemented.

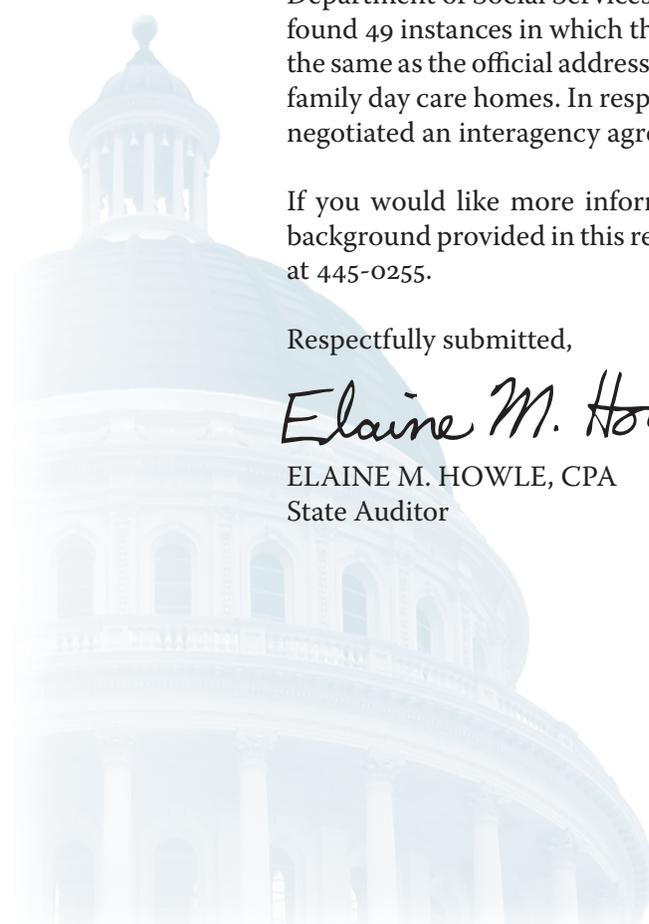
Our audit efforts bring the greatest returns when agencies act upon our findings and recommendations. For example, in April 2008 the bureau reported that its comparison of Department of Social Services' (Social Services) and Department of Justice's (Justice) databases found 49 instances in which the registered addresses in Justice's database for sex offenders were the same as the official addresses of facilities licensed by Social Services to serve children, such as family day care homes. In response to the bureau's recommendation, Social Services and Justice negotiated an interagency agreement that allows data sharing and investigations to take place.

If you would like more information or assistance regarding any of the recommendations or background provided in this report, please contact Margarita Fernández, Chief of Public Affairs, at 445-0255.

Respectfully submitted,



ELAINE M. HOWLE, CPA  
State Auditor



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## INTRODUCTION

As required by the Omnibus Audit Accountability Act of 2006 (Accountability Act), the Bureau of State Audits (bureau) presents its report on the status of recommendations that are more than one year old and have not been fully implemented by state agencies.

### RESULTS IN BRIEF

From January 2005 through October 2008, the bureau issued 69 reports for audits requested through the Joint Legislative Audit Committee or through legislation.<sup>1</sup> The bureau made numerous recommendations to the audited state agencies in those reports.<sup>2</sup> While the state agencies implemented many of the recommendations, the bureau identified 131 recommendations made to 29 state agencies that had been outstanding at least one year and not fully implemented. Of the 131 recommendations, 48 appeared in last year's report. Based on recent responses obtained from state agencies, the bureau determined that 90 of the 131 recommendations remain not fully implemented.

The bureau's audits bring the greatest returns when auditees act upon findings and recommendations. For example, in April 2008 the bureau reported that its comparison of the Department of Social Services' (Social Services) and the Department of Justice's (Justice) databases found 49 instances in which the registered addresses in Justice's database for sex offenders were the same as the official addresses of facilities licensed by Social Services to serve children, such as family day care homes. To help prevent reoccurrences of this nature, the bureau recommended that Justice provide Social Services with data that would enable Social Services to identify and investigate address matches between their databases. Implementing the bureau's recommendation, Justice and Social Services negotiated an interagency agreement that allows data sharing and investigations to take place. Social Services' subsequent investigation of instances identified in the bureau's report resulted in Social Services finding sex offenders living at facilities licensed to serve children.

State agencies' failure to fully implement the bureau's recommendations can inhibit needed improvements. For example, in a report issued in September 2005, the bureau made several recommendations to the Department of Corrections (Corrections)<sup>3</sup> to improve inmate projections. While Corrections has implemented some of the report's recommendations, it still has not fully implemented a number of recommendations aimed at achieving accurate and reliable inmate projections. Accurate inmate projections are important because Corrections uses them in part for long-term planning, such as determining when additional facilities should be built.

<sup>1</sup> Excludes the statewide single audit (financial and federal compliance audits), which is mandated as a condition of California receiving federal funding. 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. As of January 1, 2010, the bureau is also required to report on the status of recommendations made in investigative reports. The bureau did not make any such recommendations during this review period.

<sup>3</sup> The Department of Corrections is now the Department of Corrections and Rehabilitation.

Tables beginning on page 3, summarize and provide information on recommendations issued between January 2005 and October 2008. Table 1 shows recommendations that were not fully implemented as of the agencies' latest responses to the bureau. As indicated on this table, the bureau did not always agree with agency assertions that recommendations were fully implemented. Two columns on the table provide the bureau's reason for disagreement. Table 2, beginning on page 12, summarizes recommendations that have been fully implemented since last year's report or the agencies' one-year responses.

**Table 1**  
**Recommendations More Than One Year Old That Are Still Not Fully Implemented**

AUDITEE	REPORT TITLE, NUMBER, AND ISSUE DATE	RECOMMENDATION	NUMBER OF YEARS IN ANNUAL REPORT OF NOT FULLY IMPLEMENTED RECOMMENDATIONS	ESTIMATED DATE OF COMPLETION	BUREAU'S ASSESSMENT		
					AUDITEE DID NOT SUBSTANTIATE ITS CLAIM OF FULL IMPLEMENTATION	AUDITEE DID NOT ADDRESS ALL ASPECTS OF THE RECOMMENDATION	PAGE NUMBER
<b>K THRU 12 EDUCATION</b>							
Department of Education	School Districts' Inconsistent Identification and Redesignation of English Learners Cause Funding Variances and Make Comparisons of Performance Outcomes Difficult 2004-120 (June 2005)	Review the evaluator's 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.	3	November 2011			17
	Home-to-School Transportation Program: The Funding Formula Should Be Modified to Be More Equitable 2006-109 (March 2007)*	1. a. Determine the actual costs of school districts that do not receive Home-to-School program funds and the funding sources they use to pay for transportation services.	2	December 31, 2009			19
<b>HIGHER EDUCATION</b>							
California Student Aid Commission	Changes in the Federal Family Education Loan Program, Questionable Decisions, and Inadequate Oversight Raise Doubts About the Financial Stability of the Student Loan Program 2005-120 (April 2006)	1. a. Ensure that critical tasks, including the renegotiation of its Voluntary Flexible Agreement and the development of a diversification plan are completed.	3	Unknown			21
		b. Ensure that the roles and responsibilities it delineates for itself and EDFUND do not inappropriately cede its statutory responsibilities to EDFUND.	3	Unknown			21
		2. Require staff to independently verify the accuracy of the reports submitted by EDFUND.	3	Unknown			24
		1. Create a centralized information structure to catalog university compensation, and use the data to monitor the campuses' implementation of systemwide policies and to measure the impact of systemwide policies on university finances.	1	Will not implement			35
California State University	It Needs to Strengthen Its Oversight and Establish Stricter Policies for Compensating Current and Former Employees 2007-102.1 (November 2007)	2. Consider total compensation received by comparable institutions, rather than just cash compensation, when deciding on future salary increases for executives, faculty, and other employees.	1	2011-12			36
		3. Monitor the chancellor's administration of the executive transition program to ensure that it is conducted in a prudent manner and that intended cost savings are achieved for the university. The board should also require the chancellor to include in the transition agreements clear expectations and reporting procedures.	1	†		●	36
		4. Work through the regulatory process to develop stronger regulations governing paid leaves of absence for management personnel. The university should also maintain appropriate documentation supporting any leaves of absence it grants.	1	†		●	37

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AUDITEE	REPORT TITLE, NUMBER, AND ISSUE DATE	RECOMMENDATION	NUMBER OF YEARS IN ANNUAL REPORT OF NOT FULLY IMPLEMENTED RECOMMENDATIONS	ESTIMATED DATE OF COMPLETION	BUREAU'S ASSESSMENT			PAGE NUMBER
					AUDITEE DID NOT SUBSTANTIATE ITS CLAIM OF FULL IMPLEMENTATION	AUDITEE DID NOT ADDRESS ALL ASPECTS OF THE RECOMMENDATION		
California State University (continued)		5. Strengthen its policy governing the reimbursement of relocation expenses. Additionally, the board should require the chancellor to disclose the amounts of relocation reimbursements to be offered to incoming executives.	1	†			●	38
		6. Continue to work with California Faculty Association representatives during the collective bargaining process to strengthen its dual-employment policy by imposing disclosure and approval requirements for faculty; and impose similar requirements for other employees.	1	2010–2011				
California State University	It is Inconsistent in Considering Diversity When Hiring Professors, Management Personnel, Presidents, and System Executives 2007-102.2 (December 2007)*	1. Issue systemwide guidance that directs campuses to broaden position descriptions and more fully consider how new positions will affect employment opportunities for women and minorities.	1	June 2010				39
		2. Issue systemwide guidance that directs campuses to have search committees review affirmative action plans, and addresses the purpose of placement goals and the affirmative action plans.	1	June 2010				40
		3. Issue systemwide guidance that encourages campuses to broaden the perspective of search committees, increases the reach of the search for professors, and ensures that minorities and women have equal opportunity to serve on search committees.	1	June 2010				41
		4. Issue systemwide guidance that instructs campuses to compare the proportions of women and minorities in the applicant pool and in the labor pool to help assess the success of outreach efforts.	1	June 2010				41
		5. Issue systemwide guidance that devises and implements a uniform method for campuses to use when calculating availability data.	1	June 2010				42
		6. Issue systemwide guidance that requires search committee members to receive training regarding the hiring process, federal regulations, Proposition 209, and other relevant state and federal laws.	1	June 2010				42
		7. Issue systemwide guidance that directs campuses to develop hiring policies that establish consistency among searches and ensures that searches are conducted in a fair and equitable manner.	1	June 2010				42
		8. Issue systemwide guidance that encourages campuses to identify alternatives to broaden the perspective of search committees and to ensure that women and minorities have equal opportunity to serve on search committees.	1	June 2010				43
		9. Issue systemwide guidance that instructs campuses to compare the proportions of women and minorities in the total applicant pool with the proportions in the labor pool to help assess their outreach efforts.	1	June 2010				43
	10. Issue systemwide guidance that advises campuses to compare and report the gender and ethnicity of their current workforce, and directs campuses to have search committees review affirmative action plans.	1	June 2010				44	
	11. Develop policies regarding the diversity of the trustees committee and the advisory committee and consider alternatives on the manner in which to increase committee diversity.	1	Will not implement				44	

AUDITEE	REPORT TITLE, NUMBER, AND ISSUE DATE	RECOMMENDATION	NUMBER OF YEARS IN ANNUAL REPORT OF NOT FULLY IMPLEMENTED RECOMMENDATIONS	ESTIMATED DATE OF COMPLETION	BUREAU'S ASSESSMENT			PAGE NUMBER	
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California Community Colleges	Affordability of College Textbooks: Textbook Prices Have Risen Significantly in the Last Four Years, but Some Strategies May Help to Control These Costs for Students 2007-116 (August 2008)*	1. Reevaluate bookstores' pricing policies to ensure that markups are not higher than necessary.	1	Unknown				47	
		2. Direct bookstores to publicly disclose on an annual basis any amounts they use for purposes that do not relate to bookstore operations.	1	Unknown					48
<b>HEALTH AND HUMAN SERVICES</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. a. Update its current invoicing and accounting processes so it can more easily collect data on the participation and reimbursement of school districts.	3	March 2012				57	
		b. Require consortia and local governmental agencies to prepare annual reports that include performance measures Health Services determines to be useful.	3	March 2012					57
		c. Annually compile the content of these reports into a single, integrated report that is publicly available.	3	March 2012					57
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)	2. 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.	3	Will not implement				58	
		3. Reduce the number of entities it must oversee and establish clear regional accountability by eliminating the use of local governmental agencies from the Medi-Cal Administrative Activities program.	3	Will not implement					59
		1. Develop a plan to measure its random and required visits against its statutory requirement, assess its progress in meeting statutory requirements, and ensure that the data it uses to assess its progress are sufficiently reliable.	3	January 2011					61
Department of Health Services	It Has Not Yet Fully Implemented Legislation Intended to Improve the Quality of Care in Skilled Nursing Facilities 2006-035 (February 2007)	2. a. 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.	3	January 2011				62	
		b. Develop sufficient automated management information to facilitate the effective oversight of its child care program regional offices.	3	January 2011				62	
		c. Continue its efforts to make all nonconfidential information about its monitoring visits more readily available to the public.	3	Unknown					62
Department of Health Services		1. Include information on any savings to the General Fund in the reports its licensing division is required to prepare.	2	Unknown				63	
		2. Begin recouping duplicate payments.	2	2010					64

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AUDITEE	REPORT TITLE, NUMBER, AND ISSUE DATE	RECOMMENDATION	NUMBER OF YEARS IN ANNUAL REPORT OF NOT FULLY IMPLEMENTED RECOMMENDATIONS	ESTIMATED DATE OF COMPLETION	BUREAU'S ASSESSMENT			PAGE NUMBER
					AUDITEE DID NOT SUBSTANTIATE ITS CLAIM OF FULL IMPLEMENTATION	AUDITEE DID NOT ADDRESS ALL ASPECTS OF THE RECOMMENDATION	AUDITEE DID NOT ADDRESS ALL ASPECTS OF THE RECOMMENDATION	
Department of Health Services	Its Licensing and Certification Division is Struggling to Meet State and Federal Oversight Requirements for Skilled Nursing Facilities 2006-106 (April 2007)	1. Periodically evaluate the timeliness with which district offices initiate and complete complaint investigations. Based on this information, Health Services should identify strategies to address workload imbalances occurring among district offices.	2	†	●	●	67	
		2. To ensure that district offices consistently investigate complaints and include all relevant documentation in the complaint files, Health Services should clarify its policies and procedures, provide training as necessary and periodically monitor district office performance to ensure compliance.	2	†	●	●	68	
		3. To reduce the predictability of its federal recertification surveys, Health Services should institute a practice of conducting surveys throughout the entire survey cycle, ensuring that each facility has a greater probability of being selected at any given time.	2	†	●		69	
		4. Document its rationale for determining the amounts charged when charging general support items to the citation account.	2	†	●		69	
		5. Consider working with the Department of Personnel Administration to adjust the salaries of its staff to make them more competitive with those of other state agencies seeking similarly qualified candidates.	2	†	●		69	
Department of Social Services	Safely Surrendered Baby Law: Stronger Guidance From the State and Better Information for the Public Could Enhance Its Impact 2007-124 (April 2008)	1. Work with the Department of Public Health and county agencies to gain access to the most accurate and complete statistics on abandoned babies.	1	Before June 2010			71	
		2. Consider using a portion of existing funds to support future efforts related to the safe-surrender law and consider renewing its partnership with First 5 California, which Social Services can legally use for such efforts.	1	Before June 2010			72	
		3. Clarify the definition of safe surrender, and then disseminate and monitor its use among county and state agencies.	1	Before June 2010			73	
		4. Clarify the circumstances under which safe-surrender sites and counties must protect the identifying information on the individual who surrenders an infant.	1	Before June 2010			73	
		5. Require counties to correct records in the Child Welfare Services/Case Management System (CWS/CMS) that Social Services staff believe are erroneous because counties have misclassified babies as either surrendered or abandoned.	1	January 2010			73	
		6. To provide surrendered babies and their health care providers as much information on their medical histories as possible, Social Services should consider ways to improve the availability of medical information.	1	Before June 2010			74	
		7. To continue promoting awareness of the safe-surrender law in the most cost-effective manner, Social Services should work with the counties to leverage models and tools currently in use in California.	1	Unknown			74	

AUDITEE	REPORT TITLE, NUMBER, AND ISSUE DATE	RECOMMENDATION	NUMBER OF YEARS IN ANNUAL REPORT OF NOT FULLY IMPLEMENTED RECOMMENDATIONS	ESTIMATED DATE OF COMPLETION	BUREAU'S ASSESSMENT			PAGE NUMBER
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Department of Public Health	Low-Level Radioactive Waste: The State Has Limited Information That Hampers Its Ability to Assess the Need for a Disposal Facility and Must Improve Its Oversight to Better Protect the Public 2007-114 (June 2008)*	1. Begin complying with the Executive Order D-62-02 and develop dose-based decommissioning standards formally or ask the governor to rescind this 2002 executive order.	1	Will not implement				77
		2. a. Develop and maintain adequate documentation related to data storage, retrieval, and maintenance.	1	2011				78
		3. Evaluate the branch's current fee structure using analyses that consider fiscal and workload factors.	1	†	●			81
		4. Develop a staffing plan for the branch based on current, reliable data. The plan should reevaluate the branch's assumptions about workload factors, assess backlogged work, and assess all currently required work and the human resources necessary to accomplish it.	1	†	●	●		82
		5. a. Establish and communicate a timeline describing when the report required by Section 115000.1 of the Health and Safety Code will be available. The department should also discuss with appropriate members of the Legislature the specific information required by state law that it cannot provide.	1	January 2010				82
		b. Develop an updated low-level waste disposal plan.	1	Will not implement				82
Department of Health Care Services	Although Notified of Changes in Billing Requirements, Providers of Durable Medical Equipment Frequently Overcharged Medi-Cal 2007-122 (June 2008)	1. Develop an administratively feasible means of monitoring and enforcing current Medi-Cal billing and reimbursement procedures for medical equipment.	1	†	●			85
		2. Design and implement a cost-effective approach that adequately addresses the risk of overpayment and ensures that all providers are potentially subject to an audit.	1	†	●			86
Department of Public Health	Laboratory Field Services' Lack of Clinical Laboratory Oversight Places the Public at Risk 2007-040 (September 2008)	1. Perform its mandated oversight responsibilities, including inspecting licensed laboratories every two years, sanctioning laboratories, and handling complaints.	1	June 2012				87
		2. Adopt and implement proficiency-testing policies and procedures regarding the review and notification of proficiency-testing results, timelines for responding to laboratories, monitoring of out-of-state laboratories, and verification of laboratories' enrollment and receipt of proficiency-testing scores.	1	June 2012				88
		3. Update its regulations, including requirements such as time frames on the laboratory community.	1	June 2015				89
		4. Continue its efforts to license California laboratories and take steps to license out-of-state laboratories that use specimens originating in California, as the law requires.	1	June 2012				90

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AUDITEE	REPORT TITLE, NUMBER, AND ISSUE DATE	RECOMMENDATION	NUMBER OF YEARS IN ANNUAL REPORT OF NOT FULLY IMPLEMENTED RECOMMENDATIONS	ESTIMATED DATE OF COMPLETION	BUREAU'S ASSESSMENT			PAGE NUMBER		
					AUDITEE DID NOT SUBSTANTIATE ITS CLAIM OF FULL IMPLEMENTATION	AUDITEE DID NOT ADDRESS ALL ASPECTS OF THE RECOMMENDATION				
Department of Public Health <i>(continued)</i>		5. Identify necessary controls and incorporate them into its complaints policies. Develop and implement corresponding procedures for each control, and establish procedures to ensure that it promptly forwards complaints.	1	June 2013				91		
		6. Maximize opportunities to impose sanctions, justify and document money penalties, ensure the collection of penalties, ensure corrective action is taken, and ensure that it notifies appropriate agencies.	1	June 2011				91		
		7. Ensure that Laboratory Services has sufficient resources to meet its oversight responsibilities.	1	June 2011				92		
		8. Work with appropriate parties to ensure that its data systems support its needs. Develop and implement appropriate controls if Laboratory Services continues to use its internally developed databases.	1	June 2013				92		
		9. Leverage existing processes and procedures, including developing a process to share state concerns identified during federal inspections.	1	June 2013				93		
		<b>CORRECTIONS AND REHABILITATION</b>								
		Department of Corrections	It Needs to Better Ensure Against Conflicts of Interest and to Improve Its Inmate Population Projections 2005-105 (September 2005)*	1. The department should require contractor staff to complete statements of economic interests.	3	†	●			96
				2. If the department intends to continue using the projections for long-term decision making, it should ensure that it employs statistically valid forecasting methods and consider seeking the advice of experts in selecting and establishing the forecasting methods.	3	†	●	●		96
				3. To increase the accuracy and reliability of its inmate projection, the department should update its variable projections with actual information.	3	Unknown				97
4. The department should continue its recent efforts to enhance its communications with local government agencies to better identify changes that may materially affect prison populations.	3			Unknown				97		
5. The department should fully document its projection methodology and model.	3			†		●		98		
Department of Corrections and Rehabilitation	The Intermediate Sanction Programs Lacked Performance Benchmarks and Were Plagued With Implementation Problems 2005-111 (November 2005)	1. a. Decide on appropriate benchmarks for monitoring performance, identify the data needed to measure performance against those benchmarks, and ensure that reliable data collection mechanisms are in place.	3	†		●		99		
		b. 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.	3	†		●		99		
Department of Corrections and Rehabilitation	It Does Not Always Follow Its Policies When Discharging Parolees 2008-104 (August 2008)	Finalize and implement the draft regulations and policy memorandum that will detail the policy and procedures governing its parole discharge process.	1	†		●		103		

AUDITEE	REPORT TITLE, NUMBER, AND ISSUE DATE	RECOMMENDATION	NUMBER OF YEARS IN ANNUAL REPORT OF NOT FULLY IMPLEMENTED RECOMMENDATIONS	ESTIMATED DATE OF COMPLETION	BUREAU'S ASSESSMENT			PAGE NUMBER
					AUDITEE DID NOT SUBSTANTIATE ITS CLAIM OF FULL IMPLEMENTATION	AUDITEE DID NOT ADDRESS ALL ASPECTS OF THE RECOMMENDATION	AUDITEE DID NOT ADDRESS ALL ASPECTS OF THE RECOMMENDATION	
<b>BUSINESS, TRANSPORTATION AND HOUSING</b>								
California Highway Patrol	It Followed State Contracting Requirements Inconsistently. Exhibited Weaknesses in Its Conflict-of-Interest Guidelines, and Used a State Resource Imprudently 2007-111 (January 2008)	Include as designated employees for filing the Form 700, all personnel who help to develop, process, and approve procurements.	1	March 2010				109
<b>RESOURCES AND ENVIRONMENTAL PROTECTION</b>								
Department of Parks and Recreation	Off-Highway Motor Vehicle Recreation Program: The Lack of a Shared Vision and Questionable Use of Program Funds Limit Its Effectiveness 2004-126 (August 2005)	<ol style="list-style-type: none"> <li>1. Complete a strategic plan for the state vehicular recreation areas portion of the Off-Highway Motor Vehicle Recreation Program by performing a thorough assessment of external and internal factors; collecting the necessary data; completing the required reports; and developing action, spending, and performance monitoring plans.</li> <li>2. Prepare and submit the required biennial program reports when they are due.</li> <li>3. Develop and implement a process of evaluating land acquisition projects.</li> </ol>	3	Unknown				111
State Water Resources Control Board	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 2005-113 (March 2006)*	<ol style="list-style-type: none"> <li>1. Consider revising its emergency regulations to assess each fee payer a single minimum annual fee plus an amount per acre-foot.</li> <li>2. Revise its emergency regulations to assess annual fees consistently to all fee payers with diversion limitations.</li> </ol>	3	Will not implement				115
Department of Water Resources	Its Administration of Grants Under the Flood Protection Corridor Program Needs Improvement 2007-108 (November 2007)*	<ol style="list-style-type: none"> <li>1. Adhere to the regulations of the flood protection program requiring a hydrologic study as part of the grant application.</li> <li>2. Develop a rationale for determining whether scope changes are significant enough to warrant another review of a project's merits or whether an unfunded project might be a better alternative.</li> <li>3. Develop policies and procedures to consistently evaluate whether proposed structural and recreational enhancements conform to the goals of the flood protection program and are the most effective use of funds.</li> <li>4. Develop policies and procedures to ensure that it regularly updates its project budget-tracking sheets to adjust for contract amendments and changes in budgeted tasks and to accurately track funds disbursed to grantees.</li> </ol>	1	February 15, 2010				121
			1	†	●			122
			1	†	●			122
			1	†	●		●	123
Department of Fish and Game	Office of Spill Prevention and Response: It Has Met Many of Its Oversight and Response Duties, but Interaction With Local Government, the Media, and Volunteers Needs Improvement 2008-102 (August 2008)*	<ol style="list-style-type: none"> <li>1. Determine whether the postspill reviews are an effective means for identifying areas for plan improvement, and then take steps to either ensure the reviews are submitted or eliminate them from its regulations.</li> <li>2. Collaborate with area committees in California to identify potential command centers.</li> </ol>	1	July 2010				127
			1	July 2010				128

continued on next page ...

AUDITEE	REPORT TITLE, NUMBER, AND ISSUE DATE	RECOMMENDATION	NUMBER OF YEARS IN ANNUAL REPORT OF NOT FULLY IMPLEMENTED RECOMMENDATIONS	ESTIMATED DATE OF COMPLETION	BUREAU'S ASSESSMENT		PAGE NUMBER
					AUDITEE DID NOT SUBSTANTIATE ITS CLAIM OF FULL IMPLEMENTATION	AUDITEE DID NOT ADDRESS ALL ASPECTS OF THE RECOMMENDATION	
Department of Fish and Game <i>(continued)</i>		<p>3. Continue plans to develop qualification standards for liaison officers and to train more staff for that role, and ensure that staff in its operations center provide all necessary support to liaison officers in the field.</p> <p>4. Develop protocols to ensure that key information, such as the role of volunteers, is disseminated to the public early in a spill response, and have public relations staff participate in spill drills.</p> <p>5. Take steps to ensure that spill prevention wardens' time is charged appropriately.</p>	1	December 2011			128
		Work with the Fish Stamp advisory committee to develop a spending plan that focuses on identifying and funding viable projects, and on monitoring revenues.	1	Fall 2010			129
			1	†		●	131
Department of Fish and Game	Its Limited Success in Identifying Viable Projects and Its Weak Controls Reduce the Benefit of Revenues From Sales of the Bay-Delta Sport Fishing Enhancement Stamp 2008-115 (October 2008)		1	January 31, 2010			135
<b>STATE AND CONSUMER SERVICES</b>							
State Athletic Commission	The Current Boxers' Pension Plan Benefits Only a Few and Is Poorly Administered 2004-134 (July 2005)*	<p>1. a. Consider eliminating the break-in-service requirement and/or reducing from four to three the number of calendar years that a boxer must fight.</p> <p>2. a. Raise the ticket assessment to meet targeted pension contributions as required by law and promptly remit pension contributions to the boxers' pension fund.</p> <p>b. 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.</p>	3	July 2010			137
		Consider refunding physicians' license fees or consider temporarily reducing them to ensure that its fund balance does not continue to significantly exceed the level established in law.	3	July 2010			138
Medical Board of California	It Needs to Consider Cutting Its Fees or Issue a Refund to Reduce the Fund Balance of Its Contingent Fund 2007-038 (October 2007)	1. Consider developing methodologies to monitor nonprofit hospitals. These methodologies should include a review of the financial data and other information on the Form 199 annually submitted by tax-exempt hospitals.	2	June 2010			141
Franchise Tax Board	Nonprofit Hospitals: Inconsistent Data Obscure the Economic Value of Their Benefit to Communities, and the Franchise Tax Board Could More Closely Monitor Their Tax-Exempt Status 2007-107 (December 2007)	2. Consider developing methodologies to monitor nonprofit hospitals. These methodologies should include activities that ensure that the annual Form 199 contains all the information required to determine eligibility for an income tax exemption in accordance with state law.	1	May 2010			144
State Board of Chiropractic Examiners	Board Members Violated State Laws and Procedural Requirements, and Its Enforcement, Licensing, and Continuing Education Programs Need Improvement 2007-117 (March 2008)*	1. Establish procedures that direct board management to monitor the status of open complaints regularly.	1	February 1, 2010			147

AUDITEE	REPORT TITLE, NUMBER, AND ISSUE DATE	RECOMMENDATION	NUMBER OF YEARS IN ANNUAL REPORT OF NOT FULLY IMPLEMENTED RECOMMENDATIONS	ESTIMATED DATE OF COMPLETION	BUREAU'S ASSESSMENT		
					AUDITEE DID NOT SUBSTANTIATE ITS CLAIM OF FULL IMPLEMENTATION	AUDITEE DID NOT ADDRESS ALL ASPECTS OF THE RECOMMENDATION	PAGE NUMBER
<b>LABOR AND WORKFORCE DEVELOPMENT</b>							
Department of Industrial Relations	San Francisco-Oakland Bay Bridge Worker Safety: Better State Oversight Is Needed to Ensure That Injuries Are Reported Properly and That Safety Issues Are Addressed 2005-119 (February 2006)	Develop a mechanism to obtain employer's annual injury reports and design procedures to detect the underreporting of workplace injuries.	3	January 2010			149
<b>GENERAL GOVERNMENT</b>							
Department of Veterans Affairs	Veterans Home of California at Yountville: It Needs Stronger Planning and Oversight in Key Operational Areas, and Some Processes for Resolving Complaints Need Improvement 2007-121 (April 2008)	<p>1. Consider adopting a formal policy for distributing overtime more evenly among nurses, establishing a cap on how much overtime nursing staff may work, and monitoring overtime usage for compliance with these policies.</p> <p>2. Develop and update a plan that identifies areas of noncompliance with federal ADA regulations and includes the appropriate steps for achieving full compliance. In addition, the Veterans Home should develop grievance procedures and identify a specific employee as its ADA coordinator.</p>	1	January 30, 2010			157
			1	January 30, 2010			158
<b>LEGISLATIVE, JUDICIAL, AND EXECUTIVE</b>							
State Bar of California	With Strategic Planning Not Yet Completed, It Projects General Fund Deficits and Needs Continued Improvements in Program Administration 2007-030 (April 2007) *	<p>1. a. Continue its efforts to reduce its backlog of disciplinary cases to reach its goal of having no more than 200 such cases.</p> <p>b. Ensure that staff use checklists of significant tasks when processing case files and fully implement its 2005 policy directive for random audits of case files by supervising trial counsel.</p>	2	†		●	161
			2	†	●	●	161

\* Other recommendations pertaining to this audit, which have been fully implemented, can be found in Table 2.  
† Contrary to the Bureau of State Audits' determination, the auditee believes it has fully implemented the recommendation. However, for the reasons shown under "Bureau's Assessment," we disagree.

**Table 2**  
**Recommendations More Than One Year Old That Were Fully Implemented Since Last Year's Report or the Auditee's One-Year Response**

AUDITEE	REPORT TITLE, NUMBER, AND ISSUE DATE	RECOMMENDATION	NUMBER OF YEARS IN ANNUAL REPORT OF NOT FULLY IMPLEMENTED RECOMMENDATIONS	PAGE NUMBER
<b>K THRU 12 EDUCATION</b>				
Department of Education	Home-to-School Transportation Program: The Funding Formula Should Be Modified to Be More Equitable 2006-109 (March 2007)*	1. b. Identify all school districts that provide transportation services to their students but are not eligible to receive Home-to-School program funds for regular education transportation, special education transportation, or both.	2	19
<b>HIGHER EDUCATION</b>				
California Institute for Regenerative Medicine	It Has a Strategic Plan, but It Needs to Finish Developing Grant-Related Policies and Continue Strengthening Management Controls to Ensure Policy Compliance and Cost Containment 2006-108 (February 2007)	1. Fulfill its plans to develop a process to track management information reported annually by grantees. 2. Identify the appropriate standard for providing uninsured Californians access to therapies; convey clearly to grantees its expectations for providing access in its intellectual property policies; and identify practical benchmarks to use as a standard for discount prices for therapies. 3. Complete the implementation of a grants monitoring process, including audits, and the development of related procedures.	2 2 2	27 30 31
California State University	It is Inconsistent in Considering Diversity When Hiring Professors, Management Personnel, Presidents, and System Executives 2007-102.2 (December 2007)*	12. Require broad-based advertising, including publications primarily with women or minority audiences, for all presidential and system executive positions.	1	45
California Community Colleges	Affordability of College Textbooks: Textbook Prices Have Risen Significantly in the Last Four Years, but Some Strategies May Help to Control These Costs for Students 2007-116 (August 2008)*	3. UC, CSU, and community colleges should collaborate to develop acceptable standards and policies related to content, currency, and quality of open educational resources.	1	48
California State University	Affordability of College Textbooks: Textbook Prices Have Risen Significantly in the Last Four Years, but Some Strategies May Help to Control These Costs for Students 2007-116 (August 2008)	1. Issue guidance on the textbook adoption process, directing campuses to advise campus bookstores to evaluate the feasibility of implementing cost-saving strategies. 2. Issue guidance on the textbook adoption process, directing campuses to evaluate the feasibility of implementing book rental programs or student book exchange programs. 3. UC, CSU, and community colleges should collaborate to develop acceptable standards and policies related to content, currency, and quality of open educational resources.	1 1 1	49 50 50
University of California	Affordability of College Textbooks: Textbook Prices Have Risen Significantly in the Last Four Years, but Some Strategies May Help to Control These Costs for Students 2007-116 (August 2008)	4. Continue efforts to develop, implement, and promote awareness of the Digital Marketplace. UC, CSU, and community colleges should collaborate to develop acceptable standards and policies related to content, currency, and quality of open educational resources.	1 1	51 53
<b>HEALTH AND HUMAN SERVICES</b>				
Department of Health Services	Pharmaceuticals: State Departments That Purchase Prescription Drugs Can Further Refine Their Cost Savings Strategies 2004-033 (May 2005)	Identify prescription drug claims paid using the direct pricing method, determine the appropriate price for these claims, and make the necessary corrections.	3	56
Department of Health Services	It Has Not Yet Fully Implemented Legislation Intended to Improve the Quality of Care in Skilled Nursing Facilities 2006-035 (February 2007)*	3. Conduct all the audits of facilities called for in the Skilled Nursing Facility Quality Assurance Fee and Medi-Cal Long-Term Care Reimbursement Act to reduce the risk of using flawed data to calculate reimbursement rates.	2	64

AUDITEE	REPORT TITLE, NUMBER, AND ISSUE DATE	RECOMMENDATION	NUMBER OF YEARS IN ANNUAL REPORT OF NOT FULLY IMPLEMENTED RECOMMENDATIONS	PAGE NUMBER
Department of Public Health	Low-Level Radioactive Waste: The State Has Limited Information That Hampers Its Ability to Assess the Need for a Disposal Facility and Must Improve Its Oversight to Better Protect the Public 2007-114 (June 2008)*	<p>2. b. Improve the accuracy of the branch's data for inspection timeliness and priority level. Improve its internal controls over data entry so that it can maintain accurate data on an ongoing basis.</p> <p>6. Establish a new strategic plan that contains all essential elements, including performance metrics and goals that the branch believes would be relevant to ensuring its success.</p>	1 1	78 83
<b>CORRECTIONS AND REHABILITATION</b>				
Department of Corrections	It Needs to Better Ensure Against Conflicts of Interest and to Improve Its Inmate Population Projections 2005-105 (September 2005)*	6. To strengthen controls over its processing of no-bid contracts, the department should 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.	3	98
<b>BUSINESS, TRANSPORTATION AND HOUSING</b>				
Department of Corporations	It Needs Stronger Oversight of Its Operations and More Efficient Processing of License Applications and Complaints 2005-123 (January 2007)	<p>1. Consider assessing the need for new automated data systems or determining whether its current systems are capable of collecting the necessary information.</p> <p>2. Assess whether it needs additional staff to process applications.</p> <p>3. Maintain accurate and complete data to ensure that the information systems can be used more effectively as management tools.</p>	2 2 2	105 106 106
Department of Transportation	Grade Separation Program: An Unchanged Budget and Project Allocation Levels Established More Than 30 Years Ago May Discourage Local Agencies From Taking Advantage of the Program 2007-106 (September 2007)	Revise current regulations to conform to recent amendments to statute.	2	107
<b>RESOURCES AND ENVIRONMENTAL PROTECTION</b>				
State Water Resources Control Board	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 2005-113 (March 2006)*	3. Consider establishing more realistic goals for the various stages of processing an application and develop procedures for improving the timeliness of management review and issuance of documents.	3	118
Department of Water Resources	Its Administration of Grants Under the Flood Protection Corridor Program Needs Improvement 2007-108 (November 2007)*	<p>5. When awarding direct-expenditure grants, select projects in a manner that allows it to justify its project rankings.</p> <p>6. For proposed land acquisitions, adhere to the regulations requiring grant applicants to submit evidence of willing sellers.</p> <p>7. Develop policies and procedures to ensure that it receives sufficiently detailed and complete progress reports from grantees.</p> <p>8. Develop policies and procedures to ensure that it communicates to staff its expectations for conducting and documenting site visits.</p> <p>9. Develop policies and procedures to ensure that it establishes expectations for how often staff should communicate with grantees and develops a process to record communications consistently.</p> <p>10. Develop policies and procedures to ensure that it withholds a percentage of payments to a grantee when appropriate and releases the funds only after it is satisfied that the project is reasonably complete.</p>	1 1 1 1 1	123 124 124 124 125
Department of Fish and Game	Office of Spill Prevention and Response: It Has Met Many of Its Oversight and Response Duties, but Interaction With Local Government, the Media, and Volunteers Needs Improvement 2008-102 (August 2008)*	<p>6. Regularly update the California Oil Spill Contingency Plan and include references to sections of the regional plan and area plans that cover required elements.</p> <p>7. Collaborate with the Coast Guard to establish spill calculation protocols, establish procedures to ensure that staff promptly report spill calculations to the state coordinator, and include spill calculations as part of its drills.</p> <p>8. The spill office and other Fish and Game units should discuss their respective authorities and better define the role of each in the management of spill prevention staff.</p>	1 1 1	132 132 133

continued on next page . . .

AUDITEE	REPORT TITLE, NUMBER, AND ISSUE DATE	RECOMMENDATION	NUMBER OF YEARS IN ANNUAL REPORT OF NOT FULLY IMPLEMENTED RECOMMENDATIONS	PAGE NUMBER
<b>STATE AND CONSUMER SERVICES</b>				
State Athletic Commission	The Current Boxers' Pension Plan Benefits Only a Few and Is Poorly Administered 2004-134 (July 2005)*	1. b. 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. 2. c. Work with the pension plan administrator to correct errors related to boxers' eligibility status and account balances. d. Periodically review a sample of newly vested and pending boxers, and verify their eligibility status and pension account balances.	3 3 3	137 138 138
Department of General Services	California Highway Patrol: It Followed State Contracting Requirements Inconsistently, Exhibited Weaknesses in Its Conflict-of-Interest Guidelines, and Used a State Resource Improvidently 2007-111 (January 2008)	Study the results from its review of procedures related to sole-brand purchases, and assess the necessity of incorporating specific information on sole-brand purchases into its existing procurement reporting process.	1	146
State Board of Chiropractic Examiners	Board Members Violated State Laws and Procedural Requirements, and Its Enforcement, Licensing, and Continuing Education Programs Need Improvement 2007-117 (March 2008)*	2. Strengthen its procedures to provide guidance for staff on how to process and resolve complaints and to ensure appropriate management oversight. 3. Establish a tracking system for applications and petitions. 4. Comply with requirements for notifying a provider of board approval and for notifying a provider of application deficiencies.	1 1 1	148 148 148
<b>LABOR AND WORKFORCE DEVELOPMENT</b>				
Department of Industrial Relations	Its Division of Apprenticeship Standards Inadequately Oversees Apprenticeship Programs 2005-108 (September 2006)	1. Develop a process for coordinating the exchange of information on available minority and female apprentices. 2. 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.	3 3	153 154
<b>GENERAL GOVERNMENT</b>				
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)	Establish a process to protect active duty personnel who wish to file a complaint alleging retaliation by a supervisor.	3	†
<b>LEGISLATIVE, JUDICIAL, AND EXECUTIVE</b>				
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)	Ensure that future exercises are as realistic as possible and sufficiently test the response capabilities of California's medical and health systems.	3	160
State Bar of California	With Strategic Planning Not Yet Completed, It Projects General Fund Deficits and Needs Continued Improvements in Program Administration 2007-030 (April 2007) *	1. c. Develop a plan to perform the fiscal on-site monitoring visits that were not performed while staying current with its ongoing monitoring requirements. 2. Take the steps necessary to ensure its information technology systems can capture the required performance measurement data to support the projects needed to accomplish strategic planning objectives, or devise alternative means of capturing this data. 3. Complete its database and input all available information on the Client Security Fund and disciplinary debtors.	2 2 2	161 164 165

\* Other recommendations pertaining to this audit, which have not been fully implemented, can be found in Table 1.  
† Prior to requesting updates from auditees this year, the Bureau of State Audits (bureau) determined that the recommendation had been fully implemented. The bureau, therefore, has not included background information or an agency response in the body of this report.

## **IMPLEMENTATION OF CHAPTER 452, STATUTES OF 2006 (SB 1452)**

The Accountability Act requires state agencies audited by the bureau to provide updates on their implementation of audit recommendations. The bureau's long-standing practice, which is consistent with generally accepted government auditing standards, is to request audited state agencies to provide written updates on their implementing audit recommendations 60 days, six months, and one year after the audit report's public release date. As the bureau implemented the Accountability Act, it retained these prescribed time frames as the intervals at which agencies must report back on their implementation of audit recommendations.

As a courtesy, in May 2007 the bureau notified all state agencies of their responsibilities under the Accountability Act and the bureau's plans for implementing these requirements. In September 2007 the bureau provided written notice to relevant state agencies regarding recommendations issued since January 1, 2005, that were more than a year old and not fully implemented. The bureau made this determination using the agencies' one-year responses. The bureau requested that each of the affected agencies notify the bureau as to whether the agency had fully implemented the recommendation, planned to begin or continue implementation within 90 days and the estimated date of completion, or did not intend to implement the recommendation and the reasons for making that decision. Following this process, on January 16, 2008, the bureau published its first report.

## **THIRD ANNUAL REPORT**

In fall 2009 the bureau provided written notice to state agencies regarding recommendations that were more than a year old and not fully implemented related to audits issued from January 2005 through October 2008. Table 1, which appears on pages 3 through 11, summarizes and provides information on recommendations that the bureau determined have not been fully implemented. Table 2, which immediately follows Table 1, summarizes information on recommendations that have been fully implemented since last year's report or since the agencies' one-year response.

On pages 17 through 165, the report provides high-level summaries of the scope of each respective audit and lists the recommendations that the bureau determined were not fully implemented as of last year's report or as of the agency's one-year response. Immediately following each recommendation is the bureau's assessment, based on the agency's response, supporting documentation and inquiries, of whether the agency has fully implemented the recommendation. Finally, the bureau includes each agency's verbatim response as to the current status of outstanding recommendations. This section of the report is organized by area of government to closely match the Governor's Budget. Because an audit may involve more than one area of government, audit details may be included in multiple locations within this report. For example, the bureau's audit report regarding procurements at the California Highway Patrol (CHP) involved both CHP and the Department of General Services. Therefore, this report can be found in the section on Business, Transportation and Housing and the section on State and Consumer Services.

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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).

The following table summarizes the auditee's progress in implementing the six recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the auditee had not fully implemented five of those recommendations. Based on the auditee's most recent response, one recommendation still remains outstanding.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF 2008-041 RESPONSE	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
6	5	1	1

Below is the recommendation that we determined was not fully implemented, followed by the auditee's most recent response.

### Recommendation #1:

The department should 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.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

To perform the evaluation study required by AB 2117, Education secured Public Works Inc. The evaluation study will be a non-comparative, descriptive study of successful practices, and should illuminate the trends that demonstrate success for English learners in achieving academic English proficiency and mastery of the state's academic content standards. Public Works Inc., was selected through a Request for Proposals process in February 2009. The evaluation study will ultimately result in a final report presented to the Governor and Legislature in November 2011.

Estimated date of completion: November 2011

## HOME-TO-SCHOOL TRANSPORTATION PROGRAM

(Report Number 2006-109, March 2007)

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

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

The following table summarizes the auditee's progress in implementing the recommendation the bureau made in the above referenced report. As shown in the table, as of its one-year and its most recent response, the auditee had not fully implemented the recommendation.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF 2008-041 RESPONSE	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
1	1	1	1

Below is the recommendation that we determined was not fully implemented, followed by the auditee's most recent response.

#### Recommendation #1:

To determine the fiscal impact on school districts that do not receive the Home-to-School program funds, the department should:

- a. Determine the actual costs of providing transportation services to students for school districts that are not eligible to receive state funds for the Home-to-School program, and determine the funding sources they use to pay for the transportation services.
- b. Identify all school districts that provide transportation services to their students but are not eligible to receive Home-to-School program funds for regular education transportation, special education transportation, or both.

Bureau's assessment of status: **Not fully implemented for recommendation (a) and fully implemented for recommendation (b)**

**Auditee's Response to Recommendation (a):**

Education will review the standardized account code structure (SACS) data for the list of local educational agencies (LEAs) that do not receive transportation funds to determine the source of funds (by individual or groups of resource codes) for expenditures coded as Function 3600, Pupil Transportation.

Estimated date of completion: December 31, 2009

**Auditee's Response to Recommendation (b):**

Education just recently conducted a comparison of the local educational agencies (LEAs) that report expenditures via the standardized account code structure (SACs) as well as the county-district-school (CDS) file of all LEAs to identify the LEAs that receive transportation funding. This comparison allows Education to identify the LEAs that report pupil transportation expenditures but are not eligible to receive Home-to-school Program funding.

## 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.

The following table summarizes the auditee's progress in implementing the eight recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the auditee had not fully implemented six of those recommendations. Based on the auditee's most recent response, two recommendations remain outstanding.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF 2008-041 RESPONSE	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
8	6	2	2

In September 2007 the bureau issued a follow-up report titled *California Student Aid Commission 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 status of recommendations it issued in 2006.

Below are the recommendations that we determined were not fully implemented, followed by the auditee's most recent response for each.

#### Recommendation #1:

- a. 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.
- b. Student Aid should ensure that the roles and responsibilities it delineates for itself and EDFUND do not inappropriately cede its statutory responsibilities to EDFUND.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response to Recommendation (a):**

With respect to the Voluntary Flexible Agreement (VFA), this Recommendation has been implemented and the status of any possible future VFA with the U.S. Department of Education (USDE) is uncertain because USED has suspended VFA negotiations as a result of President Obama's proposal to eliminate the Federal Family Education Loan (FFEL) Program as of July 1, 2010. At the time the Bureau of State Audits issued Report Number 2005-120 in April 2006, the VFA that went into effect in 2001 had not been renegotiated. As has been noted previously, the USDE did not renegotiate VFAs with any of the guaranty agencies as a result of the College Cost Reduction and Access Act of 2007 (P.L. 110-84) which significantly reduced standard payments from the USDE to guaranty agencies. After reviewing the impact of these changes on the VFA, the USDE determined the VFA was no longer cost-neutral as required under 5428A of the Higher Education Act of 1965, as amended (HEA) and terminated the agreements effective January 1, 2008. The Commission did receive revenue under the VFA through the date of termination.

In March 2008, the Commission/EdFund submitted a new proposal for a VFA. This proposal was found to be cost-neutral and in July 2008, the Department of Education provided to the Commission a draft of the terms for the new VFA. Certain provisions of the draft were unacceptable, as presented to the Commission, and the Chair of the Commission asked the Commission's General Counsel to work with legal staff from USDE to develop mutually agreeable language. Before the language of the VFA could be finalized, certain other issues arose which prompted the USDE to delay the execution of the final VFA. It is unlikely the USDE will be moving forward to complete the negotiation of a new VFA with the FFELP guaranty agencies until the future of the FFEL Program is resolved. President Obama has proposed eliminating the FFEL Program and utilizing the savings from that program to, among other things, increase direct spending for the Federal Pell Grant Program. The legislation that would enact these changes, H.R. 3221, the Student Aid and Fiscal Responsibility Act of 2009, is currently pending.

With respect to the development of a business diversification plan, this Recommendation has not been implemented and will not be implemented within the next 90 days. As noted in the previous three responses to the status of the audit findings, the funds in the Student Loan Operating Fund (SLOF) are insufficient to support any significant proposals for diversification. With the proposed elimination of the FFEL Program, future income to the SLOF may be reduced significantly, and any diversification activity that was considered at the time of the issuance of the April 2006 report, would need to be revisited under new federal student aid system. The future role, if any, that FFEL Program guaranty agencies may play in the future remains undetermined.

In addition, in August 2007, Senate Bill 89 (Chapter 182, Statutes of 2007) ("SB 89"), was enacted to sell the State's student loan guaranty program assets. SB 89 granted the Department of Finance authority to approve Commission actions and to take necessary action to preserve the value of state student loan guaranty assets until the consummation of their sale or any other transaction, to maximize the value of the FFEL Program to the State. SB 89 not only authorized the Department of Finance, in consultation with the State Treasurer, to sell state student loan guaranty program assets, or to enter into an alternative arrangement, but also granted additional authority to the Department. Specifically, SB 89 provided:

The Director of Finance is authorized to take all actions that he or she deems to be necessary or convenient to accomplish any of the following:

(1) To preserve the state student loan guarantee program assets, pending consummation of their sale or the consummation of any other transaction, to maximize the value of the state student loan guarantee program to the state. (See Education Code §69521.5(a)(1).)

Further:

SB 89 effectively made Department of Finance (DOF) responsible for the State's loan program. Until the consummation of the sale or other transaction to maximize the value of the state student loan guarantee program to the state, all actions, approvals, and directions of the State Aid Commission affecting the state student loan guarantee program shall be effective only upon the approval of the Director of Finance. (See Education Code §69521.5(c)(3).)

In addition to economic factors limiting business diversification, authority for such activity rests with the Director of Finance.

Estimated date of completion: Unknown

**Auditee's Response to Recommendation (b):**

While major advances have been made in implementing this recommendation; it has not been fully implemented. The Commission has developed Governance and Monitoring Policies and has continued to amend those policies as circumstances dictate. The Operating Agreement has also been amended as indicated in the April 23, 2007, response to the status of the audit findings.

Certain other action taken by the Commission to strengthen its statutory obligation to provide oversight to EdFund have been impacted by Senate Bill 89 (SB 89), which gave the Director of Finance the authority to sell the loan program assets. The Director of Finance has utilized his authority under SB 89 to overturn the following actions taken by the Commission at its September 4-5, 2008 meeting:

- The Commission acted to amend its own policy on EdFund Executive Compensation to protect the expenditure of state funds on severance, retention or other increased compensation packages for EdFund executives.
- The Commission acted to lessen the impact on the Student Loan Operating Fund of the Lease for EdFund's "Building B". EdFund originally leased two buildings with the intent that CSAC would occupy a portion of Building B. CSAC was later informed by the Department of Finance that it would not be occupying Building B, but would instead need to find alternate office space. No new tenant for Building B has been identified and the building remains vacant, with the attendant cost being charged to the Student Loan Operating Fund.

- The Commission acted to remove the EdFund Board of Directors and replace those individuals with the entire membership of the Commission. This action was taken so as to streamline governance efforts and resolve the communications breakdown between the Commission, the EdFund Board of Directors and the actions of the EdFund Executive Management Team. The need for this action was evidenced by several items on the September 2008 agenda that demonstrated EdFund had undertaken activity of significant importance to the loan program, and which obligated state funds, without informing either its Board or the Commission.

Additionally, the Director of Finance overturned the following actions taken by the Commission at its September 3, 2009 meeting:

- Due to the economic crisis and consistent with the Governor's direction and veto to reduce the expenditure of State funds, and more importantly to protect the safety net of financial aid to students, the California Student Aid Commission approved a three-month reduced budget for EdFund for the period of October 1, 2009 through December 31, 2009. It reduced the EdFund expenses without reducing revenue consistent with the Governor's direction. As a result, the state would have realized an annualized savings of \$10 million that could be allocated to prevent disruption in the administration of Cal Grants and other financial aid programs to students. The \$10 million annualized reduction in EdFund expenses included but was not limited to:
  - Savings equal to 3-day furloughs per employee consistent with State practice.
  - The elimination of incentive compensation as identified in the Commission action of July 1, 2009.
  - Reduction in non-critical expenditures in the areas of procurement and undefined contingency expenditures.

The Director of Finance insists that the Commission consult with the EdFund Board and receive concurrence with the Board and submit written notification signed by the Commission and the Board that agreement was reached on amendments to the Operating Agreement, changes to EdFund compensation policy, any potential furloughs of EdFund employees, and any reduction of EdFund expenses. This is directly contrary to the BSA recommendation that the Commission strengthen its statutory obligation to provide oversight to EdFund.

Under the current statutory scheme, the Commission will not be able to implement this recommendation within 90 days.

Estimated date of completion: Unknown

### **Recommendation #2:**

Student Aid should also require staff to independently verify the accuracy of the reports submitted by EDFUND.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

The recommendation has not been fully implemented, and cannot be implemented within 90 days because the California Student Aid Commission's division Federal Policy and Programs Division responsible for EdFund oversight no longer has the resources to independently verify the accuracy of the reports submitted by EdFund. As part of the 09/10 Budget, the Governor reduced the FPPD budget from \$1,000,000 to \$500,000 indicating, "I am reducing \$500,000 from the Federal Policy and Program Division (FPPD) to align funding with the FPPD's responsibilities and to preserve resources. The current funding level exceeds what is necessary to support the staff of the FPPD. Furthermore, any savings that can be achieved in the Student Loan Operating Fund will result in the program being more valuable and thus result in additional General Fund revenue upon the sale, or other transaction, involving EdFund that is authorized by Chapter 182 of the Statutes of 2007." The current funding does not allow resources to fund approved staffing levels to perform the duties independently verifying the accuracy of the reports submitted by EdFund. Chapter 182, Statutes of 2007 (SB 89) enacted in August 2007 effectively made Department of Finance (DOF) responsible for the State's loan program. All of the actions, approvals, and directions of the Commission affecting the state student loan guarantee program shall be effective only upon the approval of the Director of Finance.

Estimated date of completion: Unknown



## CALIFORNIA INSTITUTE FOR REGENERATIVE MEDICINE

(Report Number 2006-108, February 2007)

It Has a Strategic Plan, but It Needs to Finish Developing Grant-Related Policies and Continue Strengthening Management Controls to Ensure Policy Compliance and Cost Containment

In 2004 voters approved the California Stem Cell Research and Cures Act (act), which authorized the issuance of \$3 billion in bonds over 10 years to fund a stem cell research program and dedicated research facilities in California. The act established the California Institute for Regenerative Medicine (institute) as a state agency with the purpose of funding stem cell research activities. The goal of the research is to realize therapies, protocols, and medical procedures that, as soon as possible, will lead to curing or substantially mitigating diseases and injuries. To oversee the institute's operations, the act established the Independent Citizens Oversight Committee (committee).

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the implementation of the act and the performance of the institute and the committee to the extent that the program is operating. The audit committee asked us to review and evaluate the strategic plan and related policies developed by the institute and the committee. In addition, the audit committee asked us to review and evaluate certain institute policies and procedures and related management controls to determine whether they are necessary and designed to carry out the intent of the act as well as other applicable laws and regulations, and to review the internal oversight structure of the institute and the committee.

The following table summarizes the auditee's progress in implementing the 12 recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the auditee had not fully implemented four of those recommendations. Based on the auditee's most recent response, it has fully implemented all recommendations within the report.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF 2008-041 RESPONSE	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
12	4	3	0

Below are the recommendations that we determined were fully implemented, followed by the auditee's most recent response.

### Recommendation #1:

The institute should fulfill its plans to develop a process to track management information reported annually by grantees, thereby providing accountability and enabling it to assess annual progress in meeting its strategic goals and initiatives.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

Introductory note: Recommendations 1 and 3 both refer to how CIRM manages grants that have been awarded, and information reported by grantees. For clarity, and with reference to the findings with which each recommendation was made, CIRM's response to Recommendation No. 1 will address the collection, tracking and use of substantive information from and about grantees; the response for Recommendation No. 3 refers to monitoring grantee compliance, including verification and audits of the information reported by grantees, and a grants management database system.

Progress reporting: Implementation completed Spring 2007

Grantees submit annual reports detailing scientific progress on the funded research project. Grantees also have reporting requirements triggered by certain events. For example, when a CIRM grantee publishes a scientific article reporting results of CIRM-funded research, the grantee must report that to CIRM within 60 days. CIRM uses these reports to compile and report information about CIRM-funded scientific progress. (Annual reporting requirements are set out in the grants administration policies. Event-based reporting requirements are set out there and in the intellectual property regulations.)

Each scientific progress report is reviewed by the assigned CIRM science officer. Grantees are required to provide data and figures to support the report, and may be asked for supplemental information if the report is incomplete or inadequate.<sup>1</sup> Science officers review the reports for several reasons:

- 1 Science officers review progress reports to determine whether the grantee is pursuing the agreed-upon research plan, and making adequate progress. This review includes reference back to the original application and prior progress reports, and requires grantees to provide updated data and figures. Due to the nature of scientific research, it is not uncommon that preliminary results require changes to the original research plan. Grantees may deviate from the original research plan, but only after obtaining prior approval from CIRM, which will be granted when the change would further CIRM's mission and the purposes for which the grant was awarded. Changes in research personnel are handled the same way. If the progress report indicates that such changes have occurred without CIRM's prior approval, or that adequate process has not been made, CIRM will take further action, as described below.
- 2 By understanding the progress and preliminary results of CIRM-funded research, CIRM's science officers are able to maintain current, cutting-edge knowledge of developments in the field. This knowledge helps to inform all aspects of CIRM's scientific programs.
- 3 A report may also indicate that a grantee is confronting an obstacle that has been addressed by another researcher (another CIRM grantee, or otherwise). The science officer may be able to help move the research forward by facilitating communication between the researchers.

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<sup>1</sup> CIRM's progress reporting requirements are comparable to those of other major funding agencies, but CIRM reviews the reports far more closely than most other agencies. As a result, some new grantees submit cursory reports that would suffice at other agencies, resulting in requests from CIRM for supplemental submissions with greater detail. Once this issue became apparent, CIRM contacted grantees to explain CIRM's expectations.

If it appears that a grantee is not making adequate progress, and that it would not be productive for it to continue, CIRM will notify that grantee that termination is being considered. The researcher and the grantee institution are given an opportunity to respond. In some instances, further dialog has allowed a project to continue subject to specified conditions. In other instances, CIRM has terminated grants.

For further details about the review of progress reports, please see two attached documents: A transcript of a presentation to CIRM's governing board, the ICOC, regarding CIRM's experience to date with progress reports, and a copy of the accompanying slides.

#### Additional methods for tracking and using grantee information

CIRM has developed and implemented a method for capturing and coding scientific information about the scope, progress and outcomes of funded research projects. As CIRM initiates the funding for a new project, most of the information from the grantee's original application is imported into CIRM's grants management database, which tracks all of the administrative information (names, key personnel, percent effort, institution, funding amounts, budget, etc.). At the same time, the science officer assigned to the project will fill out a "Coding Form" which captures all of the relevant scientific and programmatic aspects. Examples of the latter include diseases addressed, types of cells used (embryonic, adult stem cell, iPS, etc. ), basic approaches used, biological mechanisms investigated, lineages of stem cell derivatives being studied, whether or not a grant is basic or applied research and its approximate maturity (stage on the development pipeline); the intended outcome of the project (e. g. , cell therapy, biologic or small molecule, or bottlenecks addressed).

The database can be searched by any of the coded items, be they administrative or scientific. For example, CIRM can search the database for all grants that are investigating cancer, and see a list of projects, titles, amounts awarded, principal investigators, etc.

Recent examples of questions addressed by use of this information:

- What percentage of CIRM grants are pursuing embryonic stem cells vs. adult stem cells? What is the breakdown by amount of funding?
- How much cancer research is CIRM funding?
- Which grants are using cancer stem cells?
- Pie chart of the disease breakdown of CIRM grants.
- Which grants are pursuing therapies for diseases that affect under-represented minorities (HIV, SCD, diabetes)?

CIRM has used this data to answer questions about how CIRM is meeting the goals of its scientific strategic plan. It was also critical to the recent update of that plan, which relied on portfolio coding (“What are we funding?”) and on CIRM’s publication/patent databases (“What have we achieved?”).

This information was also critical earlier this year, when the National Institutes of Health proposed new regulations about which cell lines would be eligible for study in federally funded research. The scientific community generally agreed that the proposed regulations would have unnecessarily impeded critical research. CIRM was able to quickly identify the relevant research projects and contact grantees for additional information, then prepare a chart identifying specific cell lines that could be affected, and the types of research for which each cell line was in use. Supplemented with data from other agencies, this chart was part of CIRM’s comments on the proposed regulations, and provided the NIH with specific, well-supported examples. The NIH adopted final regulations that were generally consistent with CIRM’s position.

#### Grantee meeting: Implementation Completed September 2008

As noted last year, CIRM held its first scientific conference for all CIRM grantees in September 2008, with over four hundred CIRM-funded scientists attending. The meeting featured lectures, posters, and interactive science activities. Leading U. S. and international scientists attended by invitation to stimulate discussions on chosen subjects of high priority. The next grantee conference is scheduled for March 2010.

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

The committee should ensure that it follows through with its plan to identify the appropriate standard for providing uninsured Californians access to therapies developed using institute funds and to convey clearly to grantees its expectations for providing access in its intellectual property policies. In addition, the committee should identify practical benchmarks to use as a standard for discount prices for therapies and apply the standard to its policies for grants to nonprofit and for-profit organizations.

Bureau’s assessment of status: **Fully implemented**

#### **Auditee’s Response:**

##### Intellectual Property and Related Regulations

By the time of last year’s update, CIRM had adopted its “Intellectual Property Requirements for Non-Profit Organizations” (17 Cal. Code Reg. §§ 100300 et seq. ) and “Intellectual Property and Revenue Sharing Requirements for For-Profit Organizations” (17 Cal. Code Reg. §§ 100400 et seq.), and embarked on the process of combining them into a single, updated set of comprehensive regulations. CIRM’s governing board, the Independent Citizens Oversight Committee (ICOC) has adopted the new regulations, “Intellectual Property and Revenue Sharing Requirements for Non-Profit and For-Profit Grantees” (17 Cal. Code Reg. §§ 100600 et seq.). The regulations include requirements for discount pricing and access (§ 100607).

**Recommendation #3:**

To monitor the performance of grantees effectively, the institute should complete the implementation of a grants monitoring process, including audits, and the development of related procedures.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

Introductory note: Recommendations 1 and 3 both refer to how CIRM manages grants that have been awarded, and information reported by grantees. For clarity, and with reference to the findings with which each recommendation was made, CIRM's response to Recommendation No. 1 will address the collection, tracking and use of substantive information from and about grantees; the response for Recommendation No. 3 refers to monitoring grantee compliance, including verification and audits of the information reported by grantees, and a grants management database system.

Grants management system: Implementation completed September 2009

From the outset, CIRM has tracked the financial and scientific information reported by grantees. Initially, staff relied on spreadsheets and other standard office software to track the information. These methods allowed staff to collect and analyze the information, but it was cumbersome, and intended as a temporary system.

Initially, CIRM sought development of a customized system that would handle all stages of the grantmaking process – application, expert review, issuance, funding, oversight and close-out. CIRM awarded a contract to Grantium, Inc. , and began working with Grantium on implementation.

With further experience, and based on systems analysis that occurred in the Grantium implementation process, CIRM staff concluded that a simpler approach would be more effective and less expensive, and could be implemented more quickly. CIRM already has custom-designed software, developed in-house, to handle the application and review process. That custom software continues to meet CIRM's needs for all stages of the grant process up to and including the ICOC's final funding decisions.

For post-award management, CIRM opted for an existing grants management product, MicroEdge GIFTS, that is widely used among grantmaking agencies. This software was much less expensive than it would have cost to continue development of a complete customized system. Because GIFTS is in widespread use, most of the grants management staff had prior experience with it, which expedited training. It has been installed and configured for CIRM's processes, and existing data has been transferred. CIRM's grants management staff now use GIFTS to manage post-award activities and reporting. As discussed in CIRM's response regarding Recommendation No. 1, this system allows tracking of substantive scientific information across all CIRM grants. Other examples of functionality:

- Centralized tracking of all documents, information and events associated with each grant
- Generates accurate up-to-date cash flow projections
- Coordinates the workflow of science officers and grants management staff, by tracking all pending tasks by grant or staff member.

- Enhanced data validation functions
- For applications approved by the ICOC, import of relevant application data
- Generates grant agreement, official payment requests, notices to grantees, and other grant-specific documents

#### Verification of Compliance

CIRM relies on multiple levels of oversight to verify that grantees comply with legal requirements and the terms of each grant:

1. **Pre-Funding Administrative Review:** Before initial funding of an award, CIRM staff verify that all requirements have been met.
2. **Annual reporting:** Financial and scientific reports allow CIRM to verify continued compliance and to monitor progress. Reports are actively reviewed, and further funding may be withheld until complete reports have been reviewed and approved.
3. **Event-based reporting:** Publications, invention disclosures and other significant events that occur during the course of the CIRM-funded research.
4. **Institutional oversight:** As is standard with this type of research funding, the grantee institutions have the primary responsibility for ensuring that researchers comply with all requirements. Institutions are required to maintain and follow oversight policies, and to investigate and report on misconduct.
5. **On-site audits of grantee institutions:** CIRM staff visit grantee institutions to review policies and practices, and to test compliance by examining supporting documents for selected grants.
6. **Independent audits:** Under recent amendments to CIRM's grant administration regulations, CIRM can require a grantee to commission an independent audit.
7. **Referral:** If serious misconduct occurs, CIRM may refer the matter to the Attorney General or other officials for investigation.

#### Prefunding Administrative Review

As reported in CIRM's prior responses, CIRM verifies eligibility before an award is issued, through its Prefunding Administrative Review (PFAR) process. Attached is a document setting out the PFAR process for non-profit grantees; a similar process is used for for-profit grantees.

#### Annual financial reporting

All grantees are required to report annually on their use of CIRM funds. Every financial report is scrutinized by the grants management staff to determine whether the reported use of funds complies with the CIRM-approved budget. Future funding can be withheld until CIRM has

received and approved the annual financial and scientific reports. If reporting is incomplete or ambiguous, CIRM staff will request additional information or detailed supporting documentation. If the grantee has used funds for costs outside the approved budget, CIRM recovers those funds from the grantee, or reduces the next year's payment accordingly.

It is not uncommon for grantees to report that they have not spent all funds budgeted for the prior year; scientific research and the associated costs do not always follow a precise schedule. From a budgetary standpoint, CIRM will allow a grantee to carry over up to 25% of the annual budget, adding that amount to the budgeted amount for the following year. Any amount over 25% must be returned (or deducted from the following year's payment) unless CIRM approves the carryover for good cause.

Similarly, at the end of the grant period, grantees may petition for authorization to extend the grant for up to one year to complete the work with remaining funds. The "no-cost extensions" are generally granted when scientifically justified.

#### Annual scientific reporting

As discussed in CIRM's response regarding Recommendation No. 1, CIRM science officers review annual reports of scientific progress. In addition, CIRM staff confirm continued compliance with medical and ethical standards regulations, verifying current approvals from oversight committees for human subject research, animal research, and research using human embryonic stem cells.

Because the annual report includes a comprehensive summary of the year's activity, these reports sometimes reveal items that should have been reported earlier in the year, such as scientific publications or invention disclosures. Recognizing that grantees may not be familiar with all of CIRM's event-based reporting requirements, CIRM has explored ways to improve prompt compliance. For example, recognizing that scientists may not remember to notify CIRM when CIRM-funded research leads to an invention, CIRM is working with institutional technology transfer officers to incorporate CIRM reporting into their procedures.

Annual scientific progress reports include a summary that is intended for the general public. CIRM will soon begin posting the public progress summaries on its website, alongside the other information already posted for every CIRM-funded project.

#### Event-Based Reporting

Grantees are required to notify CIRM of certain events that may occur during (or after) the lifetime of a grant. For example, grantees are required to notify CIRM when they publish the results of CIRM-funded research, and provide an abstract written for the general public. CIRM summarizes selected publications on its research blog, and plans to post a searchable list on its website.

Without reports from grantees, CIRM would be unaware of many of these events, and thus unaware that a report is due. CIRM is working with grantee institutions to improve compliance, and developing alternative methods for obtaining this information. For example, CIRM science staff use keyword searches of the scientific literature to locate publications that should have been reported to CIRM.

### Institutional oversight of researchers

Most CIRM grantees are accustomed to managing research funded by the National Institutes of Health and other federal agencies. In order to avoid confusion and simplify compliance, CIRM incorporates federal standards whenever possible. These standards rely on research institutions to ensure that their researchers comply with requirements, and to investigate and report on failure of compliance. This approach represents a balance between the need for accountability with institutional independence and academic freedom. CIRM has taken a similar approach. For example, CIRM does not specify a uniform policy for handling research misconduct. Instead, grantee institutions are required to maintain and follow acceptable policies regarding research misconduct, conflicts of interest, and protection of human and animal subjects.

### Onsite Compliance Audits

CIRM's compliance audit program has been operating since June 2008. When a grantee institution is selected for audit, CIRM staff conduct an internal review of CIRM's files for that institution's grants, followed by a full onsite evaluation for selected grants. CIRM staff have conducted onsite audits at eight grantee institutions that account for approximately 60% of all CIRM grants. These reviews have generally found grantee institutions to be in compliance, though individual oversights were noted and corrected. In some instances, CIRM has requested improvements to institutional procedures.

### Independent Audits

Under recent amendments to CIRM's grant administration regulations, CIRM can require a grantee to commission an independent audit. Proposition 71 places tight limits on the size of CIRM's staff and the funds available for operating expenses, so it would not be feasible for CIRM to routinely perform detailed financial audits of its grantees. With this supplemental authority, CIRM can now require an independent, professional audit if the grantee cannot adequately account for its use of CIRM funds.

## CALIFORNIA STATE UNIVERSITY

### (Report Number 2007-102.1, November 2007)

#### It Needs to Strengthen Its Oversight and Establish Stricter Policies for Compensating Current and Former Employees

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the compensation practices of the California State University (university).<sup>4</sup> Specifically, the audit committee asked us to identify systemwide compensation by type and funding source, to the extent data are centrally maintained and reasonably consistent among campuses. The audit committee also asked us, subject to the same limitations, to categorize by type and funding source, the compensation of highly paid individuals receiving funds from state appropriations and student tuition and fees. In addition, for the most highly paid individuals, the audit committee asked us to identify any additional compensation or employment inducements not appearing in the university's centrally maintained records, such as those recorded in any employment agreements with the university. Further, the audit committee asked us to review any postemployment compensation packages and identify the terms and conditions of transitional special assignments for highly paid individuals, including top executives and campus presidents, who left the university in the last five years. Finally, the audit committee asked us to determine the extent to which the university's compensation programs and special assignments are disclosed to the board of trustees (board) and to the public, including the types of programs that exist, the size and cost of each, and the benefits that participants receive. To the extent that this information is available and is not publicly disclosed, the audit committee asked us to include these items in our report.

The following table summarizes the auditee's progress in implementing the six recommendations the bureau made in the above referenced report. As shown in the table, as of its latest responses, the auditee had not fully implemented any of the recommendations.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
6	6	6

Below are the recommendations that we determined were not fully implemented, followed by the auditee's most recent response.

#### Recommendation #1:

To provide effective oversight of its systemwide compensation policies, the university needs accurate, detailed, and timely compensation data. The university should create a centralized information structure to catalog university compensation by individual, payment type, and funding source. One possibility would be to upgrade and expand the Employee Salary Projection system to make it more complete and accurate. The chancellor's office should then use the data to monitor the campuses' implementation of systemwide policies, such as the prohibition against employees performing additional assignments that would cause them to work more than 125 percent of a full-time position. Additionally, the chancellor's office should use the data to measure the impact of systemwide policies on university finances.

<sup>4</sup> The audit committee also requested that we review the university's hiring practices and employment discrimination lawsuits. The results of our review of these areas were included in a separate report (2007-102.2), which we issued in December 2007.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

As explained in past responses, after management conferred with the CSU Board of Trustees in January 2008, the CSU opted not to create a new centralized data system that require more than 100 additional support staff. Instead, the CSU required campus presidents to seek approval of initial compensation offers to new vice presidents and approval of changes in compensation for existing vice presidents. Reports were made to the CSU Board of Trustees in November 2008 and in September 2009. In addition, the CSU created and delivered a training program to 939 CSU personnel (both campuses and Chancellor's Office) involved in keying salary and payroll data and related codes.

**Recommendation #2:**

The board should consider total compensation received by comparable institutions, rather than just cash compensation, when deciding on future salary increases for executives, faculty, and other employees. The university should work with interested parties, such as the commission and the legislative analyst, to develop a methodology for comparing itself to other institutions that considers total compensation. If the university believes it needs a statutory change to facilitate its efforts, it should seek it.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

CSU delayed contracting for an executive and faculty "total compensation" study due to 1) budgetary limitations making it problematic and illogical to spend funds for an independent compensation survey, 2) a study would be useless in this fiscal environment because the results could not be implemented, and 3) changing the methodology would have negative consequence on current collective bargaining.

The CSU anticipates being in a position to report the results of a compensation survey in 2011–2012.

Estimated date of completion: 2011–2012

**Recommendation #3:**

The board should continue to monitor the chancellor's administration of the executive transition program to ensure that it is conducted in a prudent manner and that intended cost savings are achieved for the university. In addition, the board should require the chancellor to include in the transition agreements clear expectations of specific duties to be performed, as well as procedures

for the former executives to report on their accomplishments and status of deliverables. Further, the board should require the chancellor to include information in his annual report on the status of accomplishments and deliverables associated with transition agreements.

Bureau's assessment of status: **Not fully implemented**<sup>†</sup>

**Auditee's Response:**

This recommendation was implemented through policy of the CSU Board of Trustees adopted effective January 2008. The initial annual report was made to the Board of Trustees at its meeting of November 2008. Mr. Don Kassing, president of San José State University, retired on June 30, 2008, and did not elect to participate in a transition program. A second annual report was provided to the Board of Trustees in September 2009. Dr. Gary Riechard, executive vice chancellor/chief academic officer, retired on June 30, 2009, and did not elect to participate in an executive transition program. Mr. Richard West, executive vice chancellor/chief financial officer, retired from his position in December 2008 and did not elect to participate in an executive transition program.

**Recommendation #4:**

The university should work through the regulatory process to develop stronger regulations governing paid leaves of absence for management personnel. The improved regulations should include specific eligibility criteria, time restrictions, and provisions designed to protect the university from financial loss if an employee fails to render service to the university following a leave. For example, the regulations should require all employees applying for a paid leave of absence to submit a bond that would indemnify the university if the employee fails to render service to the university following a leave of absence. The university should also maintain appropriate documentation supporting any leaves of absence it grants. Finally, the board should establish a policy on the extent to which it wants to be informed of such leaves of absence for management personnel.

Bureau's assessment of status: **Not fully implemented**<sup>†</sup>

**Auditee's Response:**

This recommendation was implemented through an amendment to Title 5 adopted by the CSU Board of Trustees in September 2008. The amendment defined terms for paid leaves of absence for management personnel.

<sup>†</sup> Contrary to the bureau's determination, the auditee believes it has fully implemented the recommendation. However, the auditee did not address all aspects of the recommendation.

**Recommendation #5:**

The university should strengthen its policy governing the reimbursement of relocation expenses. For example, the policy should include comprehensive monetary thresholds above which board approval is required. In addition, the policy should prohibit reimbursements for any tax liabilities resulting from relocation payments. Finally, the board should require the chancellor to disclose the amounts of relocation reimbursements to be offered to incoming executives.

Bureau's assessment of status: **Not fully implemented**<sup>†</sup>

**Auditee's Response:**

This recommendation was acted upon in January 2008 and first reported to the CSU Board of Trustees in July 2008. It has been followed with the appointment of the vice chancellor for administration and finance, vice chancellor for human resources, vice chancellor for university relations and advancement, and the executive vice chancellor/chief academic officer in September 2008, November 2008, and May 2009 respectively. Annual reports on executive relocation were made in November 2008 and September 2009.

**Recommendation #6:**

The university should continue to work with California Faculty Association representatives during the collective bargaining process to strengthen its dual-employment policy by imposing disclosure and approval requirements for faculty. It should also impose similar requirements for other employees, including management personnel. If the university believes it needs a statutory change to facilitate its efforts, it should seek it.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

This recommendation has not been adopted through the collective bargaining process with the faculty. The successor contract negotiations with the California Faculty Association are anticipated to begin in 2009-2010, and compliance with the BSA recommendation is dependent on the outcome of these negotiations over disclosure of dual-employment of faculty.

Estimated date of completion: 2010–2011

<sup>†</sup> Contrary to the bureau's determination, the auditee believes it has fully implemented the recommendation. However, the auditee did not address all aspects of the recommendation.

## CALIFORNIA STATE UNIVERSITY (Report Number 2007-102.2, December 2007)

### It Is Inconsistent in Considering Diversity When Hiring Professors, Management Personnel, Presidents, and System Executives

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the California State University's (university) practices for hiring to determine how it ensures that faculty and executives reflect the gender and ethnicity of the university they serve, the State, and the academic marketplace.<sup>5</sup> As part of our audit, we were asked to determine how the university develops hiring goals and how it monitors progress in meeting those goals. In addition, we were to gather and review the university's statistics on its hiring practices and results over the last five years and, to the extent possible, present the data collected by gender, ethnicity, position, and salary level.

The following table summarizes the auditee's progress in implementing the 14 recommendations the bureau made in the above referenced report. As shown in the table, as of its latest responses, the auditee had not fully implemented 11 of those recommendations.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
14	12	11

Below are the 11 recommendations that we determined were not fully implemented and the one that we determined was fully implemented, followed by the auditee's most recent response for each.

#### Recommendation #1:

To ensure that campuses employ hiring practices that are consistent with laws and regulations and among campuses, the university should issue systemwide guidance on the hiring process for professors. In developing this guidance, the university should direct campuses to have departments develop position descriptions as broadly as possible consistent with academic needs and to more fully consider during the position allocation phase of the hiring process how new positions being requested will affect employment opportunities for women and minorities overall and the resulting diversity of its professors.

Bureau's assessment of status: **Not fully implemented**

<sup>5</sup> The audit committee also requested that we review the university's compensation practices. The results of our review of those practices were the subject of a separate report (2007-102.1) issued November 6, 2007.

**Auditee's Response:**

Two systemwide committees composed of campus and system managers were formed and began meeting in spring 2008. The first was a task force to review the appropriate use of affirmative action plans and availability data as well as Proposition 209 issues for faculty searches, and develop a training program to disseminate this information to the campuses. This task force also addressed management searches. The second committee was composed of campus and system managers with responsibilities for faculty searches and is developing system guidelines for faculty searches consistent with the Collective Bargaining Agreement that was disseminated to the campuses in December 2008 within the workshop content described below.

The task force on faculty hiring guidelines has completed its work. There are two aspects to our response: the dissemination of guidelines for hiring and the implementation of training. The guidelines were reviewed by campus faculty affairs managers, EEO officers, and the Office of General Counsel, and was released to the campuses in December 2008 within the workshop content described below. The training plan had several components. We believe that campuses have primary responsibility for ensuring that search committee members and administrators with hiring authority are well-informed about campus policies and practices regarding recruitment. In addition, to address the need for systemwide training, a comprehensive web-based training covering the use of affirmative action plans, strategies for inclusive outreach in faculty and MPP recruitments, and guidelines for good practice in faculty and MPP hiring, was offered on December 4 and December 10, 2008, and recorded.

The final component of the corrective plan is development of a web training module that could be used by campuses in conjunction with their own training.

Because of staffing reductions and furloughs resulting from the State Budget approved by the Legislature and Governor, it has not yet been possible to produce the on-demand web training module, but the CSU remains committed to addressing ongoing training needs for search committees.

Estimated date of completion: June 2010

**Recommendation #2:**

To ensure that campuses employ hiring practices that are consistent with laws and regulations and among campuses, the university should issue systemwide guidance on the hiring process for professors. In developing this guidance, the university should direct campuses to have search committees review affirmative action plans so they are aware of the availability and placement goals for women and minorities when planning the search process. The guidance should address the purpose of placement goals and the affirmative action plan in general so that search committees have the appropriate context and do not misuse the information.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

The university provided the same response as it did under Recommendation #1.

Estimated date of completion: June 2010

**Recommendation #3:**

To ensure that campuses employ hiring practices that are consistent with laws and regulations and among campuses, the university should issue systemwide guidance on the hiring process for professors. In developing this guidance, the university should encourage campuses to develop alternatives to broaden the perspective of search committees and increase the reach of the search for professors. One way could be to advise departments that lack diversity on their own faculty to appoint women and minority faculty members from outside the department to search committees. Additionally, to ensure that it is meeting its responsibilities under federal regulations, the university should provide guidance to campuses on special efforts to ensure that minorities and women have equal opportunity to serve on search committees.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

The university provided the same response as it did under Recommendation #1.

Estimated date of completion: June 2010

**Recommendation #4:**

To ensure that campuses employ hiring practices that are consistent with laws and regulations and among campuses, the university should issue systemwide guidance on the hiring process for professors. In developing this guidance, the university should instruct campuses to compare the proportions of women and minorities in the total applicant pool to the proportions in the labor pool to help assess the success of outreach efforts in recruiting these groups. To help ensure that they have sufficient data from applicants to effectively compare these proportions, campuses could send reminders to applicants requesting them to submit information regarding their gender and ethnicity when response rates are low.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

The university provided the same response as it did under Recommendation #1.

Estimated date of completion: June 2010

**Recommendation #5:**

To ensure that campuses employ hiring practices that are consistent with laws and regulations and among campuses, the university should issue systemwide guidance on the hiring process for professors. In developing this guidance, the university should devise and implement a uniform method for campuses to use when calculating availability data to better enable the university to identify and compare availability and placement goals systemwide and among campuses. Additionally, direct campuses to compare and report the gender and ethnicity of their current workforce to the labor pool by individual department to ensure that placement goals are meaningful and useful to those involved in the hiring process.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

The university provided the same response as it did under Recommendation #1.

Estimated date of completion: June 2010

**Recommendation #6:**

To ensure that campuses employ hiring practices that are consistent with laws and regulations and among campuses, the university should issue systemwide guidance on the hiring process for professors. In developing this guidance, the university should instruct campuses to require search committee members to receive training offered at the campus level regarding the hiring process, federal regulations, Proposition 209, and other relevant state and federal laws.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

The university provided the same response as it did under Recommendation #1.

Estimated date of completion: June 2010

**Recommendation #7:**

To ensure that campuses employ consistent search processes and develop appropriate policies, the university should issue systemwide guidance on the hiring process for management personnel. In developing this guidance, the university should direct campuses to develop hiring policies for management personnel that address key steps to establish consistency among searches and to ensure that searches are conducted in a fair and equitable manner.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

The university provided the same response as it did under Recommendation #1.

Estimated date of completion: June 2010

**Recommendation #8:**

To ensure that campuses employ consistent search processes and develop appropriate policies, the university should issue systemwide guidance on the hiring process for management personnel. In developing this guidance, the university should encourage campuses to identify alternatives to broaden the perspective of search committees and increase the reach of the search for management personnel positions. For instance, campuses could appoint women and minorities to search committees lacking diversity. Additionally, to ensure that it is meeting its responsibilities under federal regulations, the university should provide guidance to campuses on special efforts to ensure that women and minorities have equal opportunity to serve on search committees.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

The university provided the same response as it did under Recommendation #1.

Estimated date of completion: June 2010

**Recommendation #9:**

To ensure that campuses employ consistent search processes and develop appropriate policies, the university should issue systemwide guidance on the hiring process for management personnel. In developing this guidance, the university should instruct campuses to compare the proportions of women and minorities in the total applicant pool with the proportions in the labor pool to help assess the success of their outreach efforts in recruiting female and minority applicants. To help ensure that they have sufficient data from applicants to effectively compare these proportions, campuses could send reminders to applicants requesting them to submit information regarding their gender and ethnicity.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

The university provided the same response as it did under Recommendation #1.

Estimated date of completion: June 2010

**Recommendation #10:**

To ensure that campuses employ consistent search processes and develop appropriate policies, the university should issue systemwide guidance on the hiring process for management personnel. In developing this guidance, the university should advise campuses to compare and report the gender and ethnicity of their current workforce to the labor pool by separating management personnel positions into groups based on the function of their positions to ensure that placement goals are meaningful and useful to those involved in the hiring process. Direct campuses to have search committees review affirmative action plans so they are aware of the availability and placement goals for women and minorities when planning the search process. The guidance should address the purpose of placement goals and the affirmative action plan in general so that the search committees have the appropriate context and do not misuse the information.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

The university provided the same response as it did under Recommendation #1.

Estimated date of completion: June 2010

**Recommendation #11:**

To broaden the perspective of the committees and increase the reach of the search for presidential positions, the university should develop policies regarding the diversity of the trustees committee and the advisory committee and consider alternatives on the manner in which to increase committee diversity.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

Because the governor appoints members of the Board of Trustees, the CSU administration will likely never be in a position to "fully" implement the recommendation through an internal policy change. In addition, the terms of at least two members expire each year and thus the racial, ethnic, and gender make-up is constantly changing and not within the control of the CSU administration. If the Board adopted such a policy, it could possibly be declared illegal with regard to Proposition 209 and it certainly would restrict the number of trustees eligible to serve on presidential search committees. This Board, historically, operates in a pluralistic consensus model. However, when appointing a presidential selection committee, the Board chair is attuned to the importance of diverse perspectives and makes a concerted effort to see that various ethnic, racial, gender, and professional backgrounds are represented on the group. The Advisory Committee members, for the most part, are elected/selected by campus constituency groups specified in the search policy. The chancellor and chair of the trustees selection committee have the ability to name up to two additional persons to the committee to achieve further diversity; this provision has been exercised over the past dozen plus years.

**Recommendation #12:**

To ensure that it is conducting inclusive and consistent advertising to obtain as diverse an applicant pool as possible, the university should require broad-based advertising, including publications primarily with women or minority audiences, for all presidential and system executive positions.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

Use of broad advertising sources for executive position recruitments was implemented in January 2008. The search for president of San José State University, initiated in January 2008, included advertising in *Diverse Issues in Higher Education*, *Hispanic Outlook*, and *Women in Higher Education* as well as the *Chronicle of Higher Education*, *Inside Higher Education*, and *Science*.



## CALIFORNIA COMMUNITY COLLEGES

(Report Number 2007-116, August 2008)

Affordability of College Textbooks: Textbook Prices Have Risen Significantly in the Last Four Years, but Some Strategies May Help to Control These Costs for Students

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the affordability of college textbooks in California's public universities and colleges. As part of our audit, we were to evaluate the textbook industry and its participants—including faculty, students, and others involved with the three public postsecondary educational systems in the State—to determine how the participants' respective roles affect textbook prices. In addition, the audit committee asked that we survey a sample of publishers to ascertain as much as possible about the methods that publishers use to set prices and market textbooks, including any incentives offered and the publishers' decisions about textbook packaging and the need for revisions. Further, we were asked to determine and evaluate how the three postsecondary educational systems identify, evaluate, select, and approve textbooks for courses on their campuses. The audit committee also asked us to identify and evaluate the success of the processes and practices that the University of California (UC), California State University (CSU), and the California Community Colleges (community colleges) use to keep the costs of textbooks affordable.

The following table summarizes community colleges' progress in implementing the 10 recommendations the bureau made to them in the above referenced report. As shown in the table, as of their latest responses, community colleges had not fully implemented two recommendations.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
10	3	2

Below are the two recommendations that have not been fully implemented and the one recommendation that has been fully implemented, followed by community colleges' most recent response.

### Recommendation #1:

Reevaluate bookstores' pricing policies to ensure that markups are not higher than necessary to support bookstore operations. If the campuses determine that bookstore profits are needed to fund other campus activities, the campuses should seek input from students as necessary to determine whether such purposes are warranted and supported by the student body, particularly when higher textbook prices result.

Bureau's assessment of status: **Not fully implemented**

#### Auditee's Response:

Initial conversations with the Executive Board of the California Community College Association of Chief Business Officers (ACBO) were held on the topic of increasing transparency in textbook markup policy. However the discussions have been placed on hold while College Chief Business Officers and other college leadership groups deal with the unprecedented cuts sustained by college budgets. The Chancellor's Office will resume discussions with ACBO in January 2010.

Estimated date of completion: Unknown

**Recommendation #2:**

Direct bookstores to publicly disclose on an annual basis any amounts they use for purposes that do not relate to bookstore operations, such as contributions they make to campus organizations and activities.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

The Chancellor's Office and the Board of Governors do not have the authority to *direct* colleges to provide this information, but the College Finance and Facilities Planning Division of the Chancellor's Office has initiated a conversation with the Association of College Business Officers (ACBO) on how this recommendation can be implemented voluntarily at local campuses. The discussions have been placed on hold, however, while College Chief Business Officers and other college leadership groups deal with the unprecedented cuts sustained by college budgets. The Chancellor's Office will resume discussions with ACBO in January 2010.

Estimated date of completion: Unknown

**Recommendation #3:**

To ensure that courses taught by faculty whose main instructional materials are open educational resources meet the articulation requirements for students who transfer to the UC and CSU systems, faculty and the system offices at the UC, CSU, and community colleges should collaborate to develop acceptable standards and policies related to content, currency, and quality of these alternative instructional materials.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

The Guiding Notes for General Education Course Reviewers is a guide to the Online Services for Curriculum Articulation Review (OSCAR), a software program within the ASSIST database used by the California State University, the University of California and the California Community Colleges to facilitate the articulation process. In May of 2009, CCC Faculty successfully secured an agreement from CSU Office of the Chancellor to update the Guiding Notes with language stating that the use of open textbooks and online textbooks are an acceptable substitute for traditional textbooks. Since UC does not publish a similar guide, but accepts determinations made by CSU, the Guiding Notes serve as the de facto authoritative reference on this topic for all three segments.

**CALIFORNIA STATE UNIVERSITY**  
**(Report Number 2007-116, August 2008)**

**Affordability of College Textbooks: Textbook Prices Have Risen Significantly in the Last Four Years, but Some Strategies May Help to Control These Costs for Students**

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the affordability of college textbooks in California’s public universities and colleges. As part of our audit, we were to evaluate the textbook industry and its participants—including faculty, students, and others involved with the three public postsecondary educational systems in the State—to determine how the participants’ respective roles affect textbook prices. In addition, the audit committee asked that we survey a sample of publishers to ascertain as much as possible about the methods that publishers use to set prices and market textbooks, including any incentives offered and the publishers’ decisions about textbook packaging and the need for revisions. Further, we were asked to determine and evaluate how the three postsecondary educational systems identify, evaluate, select, and approve textbooks for courses on their campuses. The audit committee also asked us to identify and evaluate the success of the processes and practices that the University of California (UC), California State University (CSU), and the California Community Colleges (community colleges) use to keep the costs of textbooks affordable.

The following table summarizes CSU’s progress in implementing the 11 recommendations the bureau made to it in the above referenced report. As shown in the table, as of its latest response, CSU has fully implemented all recommendations.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
11	4	0

Below are the recommendations that we determined were fully implemented, followed by CSU’s most recent response.

**Recommendation #1:**

To ensure that faculty are aware of factors affecting textbook costs, UC, CSU, and the community colleges should issue guidance on the textbook adoption process. In developing this guidance, they should direct campuses to advise campus bookstores to evaluate the feasibility of implementing cost-saving strategies, such as low-price guarantees and guaranteed buyback on certain titles, to the extent they have not already done so.

Bureau’s assessment of status: **Fully implemented**

**Auditee's Response:**

Ten campuses have low price guarantees in place, advertised prominently on the bookstore webpage; one campus is planning to implement low price guarantees. Nine campuses have buyback programs for certain texts, also advertised prominently on the bookstore webpage. Four campuses are planning to implement buyback programs. Additionally campuses partner with the university library to provide reference titles for students to use. Some have piloted an "old edition" program with faculty involvement, giving students up to a 70% savings from the new price.

Given the opportunity presented by this request, CSU reaffirmed with campuses that notice has been provided to faculty about the need for early textbook choice adoption and the importance of considering price when ordering textbooks. A few of the campus faculty governing bodies have passed policy statements on this subject.

**Recommendation #2:**

To ensure that faculty are aware of factors affecting textbook costs, UC, CSU, and the community colleges should issue guidance on the textbook adoption process. In developing this guidance, they should direct campuses to evaluate the feasibility of implementing book rental programs or student book exchange programs to the extent they have not already done so.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

Nine campuses have book rental programs in place, advertised prominently on the bookstore webpage; six campuses have plans in place to introduce a rental program. Three campuses have book exchange programs; with an additional two planning to implement exchange programs. Some bookstores extend the cost savings programs to include computer hardware and software.

**Recommendation #3:**

To ensure that courses taught by faculty whose main instructional materials are open educational resources meet the articulation requirements for students who transfer to the UC and CSU systems, faculty and the system offices at the UC, CSU, and community colleges should collaborate to develop acceptable standards and policies related to content, currency, and quality of these alternative instructional materials.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

The CSU has a long history of active and extensive collaboration with the California Community Colleges and the University of California in developing resources, guidelines, and tools to facilitate the transfer of general education courses across institutions.

Faculty and staff from CSU and the California Community Colleges serve on the CSU Chancellor's General Education Advisory Committee, now in its 18th year, to continuously develop the "Guiding Notes for General Education Course Reviewers." These Guiding Notes are available on-line, are widely read by community college faculty and staff in their proposals for courses that would be acceptable for transfer to the CSU.

The following text will be adopted within the Guiding Notes document in January 2010.

"Proposed courses should include a textbook. Reviewers use the representative text as a way to confirm their understanding of course content. It's understood that the instructor in a given section may choose a different text, but the proposed one is still given close attention. It's expected that the structure of the text will be consistent with the course outline.

"Texts don't need to be published in hard copy. The UC and CSU welcome the use of on-line texts and other Open Educational Resources, so long as the resource is a stable, bona fide textbook, and not just a collection of links to lecture notes or other web pages."

This strategy for "open educational resource" (OER) material emerged in fall 2008 at a meeting of the southern group of the California Intersegmental Articulation Council (CIAC). Community college articulation officers and UC representatives were in attendance. This approach was further explained in spring 2009 at presentations with community colleges. There has been agreement within the higher education community (faculty and articulation officers) that a policy statement that welcomes OER material, rather than trying to define it will result in greater use of such OER.

**Recommendation #4:**

CSU should continue its efforts to develop, implement, and promote awareness of the Digital Marketplace. While doing this, CSU should monitor any resistance from students and faculty to ensure that the digital education content aligns with their needs and preferences.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

- a. The Digital Marketplace is designed to provide a one-stop shop for students and faculty to find, organize and acquire academic content that's more affordable, more accessible, and higher quality choices in meeting their teaching and learning needs. There are 3 basic elements of the Digital Marketplace:
  - i. Discovery and production of free and fee-based academic content;
  - ii. Selection and organization of content for courses; and
  - iii. Choice and acquisition/purchase of content by students

- b. The design strategy for the Digital Marketplace (DM) is to leverage the capacities of the publishing and technology industries, higher education, and professional organizations to deliver scalable and sustainable services in a timely manner.
  - i The business model of the DM will provide more cost-effective services
  - ii The technology model of the DM is to integrate existing web-based services to deliver reliable and cost-effective services
- c. We have developed a two minute video to explain the Digital Marketplace.
- d. We have developed a website that provides more information about the project.
- e. We are working with CSU Dominguez Hills and Fresno on the use of open course materials and designing a campaign strategy that will be cost-effective and scalable throughout the CSU. CSU Dominguez Hills (Sept 23, 2009, Oct 9, 2009, December 2, 2009); CSU Fresno (October 18, 2009).
- f. We have recently completed a successful pilot project that tested the technology, copyright clearance, and contract principles enabling CSU faculty and students to acquire individual journal articles from Elsevier at a lower cost (at least 16% less expensive) and at a faster rate (10 minutes vs. 7 days). CSU Chico, Fullerton, Channel Islands, and Stanislaus participated.
- g. We will be starting a pilot project with industry leaders in securing the distribution and acquisition of digital content of publishers (e.g. Vital Source, Pearson, Wiley, etc) this spring. CSU San Bernardino will be participating.
- h. We will be starting a pilot project on a new “lease model” for publishers e-textbooks that can result textbooks costing 25% of current prices. CSU San Bernardino, Dominguez Hills, Fullerton, and Long Beach are developing plans to participate this spring.
- i. Staff responsible for the Digital Marketplace presented to the statewide student organization (CSSA) on Oct. 17, 2009. The CSSA gave a positive response to the “Affordable Learning Solutions” strategy, and have adopted a policy agenda that advocates the use of technology in teach and learning. We will continue to work with the CSSA to ensure alignment with student needs and preferences.
- j. We have been working with faculty and academic administrators on the use of digital academic content The Affordable Learning Solutions project has been reviewed with both the campus provosts (October 22, 2009, Nov 12, 2009) and the Council of Library Directors, who work with faculty extensively on the use of digital content(September 3, 2009). The MERLOT International Conference which provided 3 days of professional development for CSU faculty in the use of digital academic technology and open educational resources was held in August 2009 in San Jose CA.

**UNIVERSITY OF CALIFORNIA**

**(Report Number 2007-116, August 2008)**

**Affordability of College Textbooks: Textbook Prices Have Risen Significantly in the Last Four Years, but Some Strategies May Help to Control These Costs for Students**

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the affordability of college textbooks in California’s public universities and colleges. As part of our audit, we were to evaluate the textbook industry and its participants—including faculty, students, and others involved with the three public postsecondary educational systems in the State—to determine how the participants’ respective roles affect textbook prices. In addition, the audit committee asked that we survey a sample of publishers to ascertain as much as possible about the methods that publishers use to set prices and market textbooks, including any incentives offered and the publishers’ decisions about textbook packaging and the need for revisions. Further, we were asked to determine and evaluate how the three postsecondary educational systems identify, evaluate, select, and approve textbooks for courses on their campuses. The audit committee also asked us to identify and evaluate the success of the processes and practices that the University of California (UC), California State University (CSU), and the California Community Colleges (community colleges) use to keep the costs of textbooks affordable.

The following table summarizes UC’s progress in implementing the 10 recommendations the bureau made to it in the above referenced report. As shown in the table, as of its latest responses, UC has fully implemented all recommendations.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
10	1	0

Below is the recommendation that we determined was fully implemented, followed by UC’s most recent response.

**Recommendation #1:**

To ensure that courses taught by faculty whose main instructional materials are open educational resources meet the articulation requirements for students who transfer to the UC and CSU systems, faculty and the system offices at the UC, CSU, and community colleges should collaborate to develop acceptable standards and policies related to content, currency, and quality of these alternative instructional materials.

Bureau’s assessment of status: **Fully implemented**

**Auditee's Response:**

The University has already, in effect, implemented a process by which it reviews course materials for purposes of course articulation. Courses taken by community college transfer students are governed by articulation agreements and the content of those courses, including the textbooks used, are evaluated regardless of whether they are conventional or open-source textbooks.

When doing articulation of California Community College courses, however, the University of California reviews first and foremost, the course being proposed for articulation in terms of match to UC's lower-division courses in content—course instructional materials are not the primary driver. When looking at textbooks, UC's primary goal is to ensure that the curriculum presented in the materials is in alignment with the course content and UC curriculum requirements. UC also verifies that the text is dated within 6 years, in accordance with Title V.

Additionally, as a further measure to help instructors who are teaching courses online or in subject areas where there is not an appropriate textbook, the University does have a place on its OSCAR course review screen where information can be entered to describe what is being offered in place of a text and how it meets the aforementioned requirements. Occasionally, an outdated textbook is justified by the CCC faculty as the best match for the intended curriculum. Course reviewers take those comments into consideration and, if appropriate, do accept the course without a recent textbook. The University has discussed the possibility of making this flexibility an official rule in systemwide articulation with the CSU Chancellor's Office.

As indicated in earlier responses to the Bureau of State Audits, which is attached for your reference, I am very concerned about the affordability of a UC education and the University is working in a number of ways to address this issue. The UC campuses have taken numerous steps to keep the cost of textbooks affordable, and with respect to open educational resources, the University continues its involvement with the CSU and CCC segments to develop and promote open educational resources.

## 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, Developmental Services, Health Services (Health Services)<sup>6</sup>, 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 for 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, Health Services, and CalPERS.

The following table summarizes the Department of Health Care Services’ (Health Care Services) progress in implementing the recommendation the bureau made in the above referenced report. As shown in the table, as of its one-year response, Health Care Services had not fully implemented the recommendation. Based on Health Care Services’ most recent response, the bureau determined that Health Care Services has fully implemented the recommendation.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF 2008-041 RESPONSE	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
1	1	1	0

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 status of recommendations the bureau issued in 2005.

Following is the recommendation that we determined was fully implemented, followed by Health Care Services’ most recent response.

<sup>6</sup> Effective July 1, 2007, the Department of Health Services was reorganized and became two departments—the Department of Health Care Services and the Department of Public Health.

**Recommendation #1:**

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.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

The Department of Health Care Services has determined that some drugs had not been updated from the direct price listing due to the drug being end-dated either because of termination by the Centers for Medicare and Medicaid Services or the drug no longer being available in the market place. All identified drugs have been updated with the last available market price and an Erroneous Payment Correction (EPC) (P0002342) was implemented March 18, 2009, to make the necessary corrections.

## 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.

The following table summarizes the auditee's progress in implementing the seven recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the auditee had not fully implemented three of those recommendations. Based on the auditee's most recent response, all three recommendations still remain outstanding.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF 2008-041 RESPONSE	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
7	3	3	3

Below are the recommendations that we determined were not fully implemented, followed by the auditee's most recent response for each.

#### Recommendation #1:

- a. 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.
- b. 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.
- c. Health Services should then annually compile the content of these reports into a single, integrated report that is publicly available.

Bureau's assessment of status: **Not fully implemented**

<sup>7</sup> On July 1, 2007, the Department of Health Services was reorganized and became two departments—the Department of Health Care Services and the Department of Public Health.

**Auditee's Response to Recommendation (a):**

This recommendation has been partially implemented by developing an in-house Medi-Cal Administrative Activities (MAA) database that will be enhanced to collect some of this data. Additional steps to fully implement this recommendation are underway through the development of the MAA automation project. Health Care Services (DHCS) intends to continue implementing this recommendation and MAA automation is expected to be fully implemented by March 2012, based on information regarding workload issues and priorities from the DHCS Information Technology Services Division (ITSD).

Estimated date of completion: March 2012

**Auditee's Response to Recommendation (b):**

This recommendation has been partially implemented and Health Care Services (DHCS) will work toward making this recommendation part of the Medi-Cal Administrative Activities (MAA) automation project which is expected to be implemented by March 2012, based on information regarding workload issues and priorities of the DHCS Information Technology Services Division. Currently, DHCS requires Local Educational Consortia (LECs) and local governmental agencies (LGAs) to maintain in their audit files examples of efforts, reports, and time surveys that include information to support time spent and efforts regarding participation statistics, outreach efforts, and other performance measures. These audit files are reviewed during site visits and audits. According to reports from the LECs, statewide total enrollment in MAA has grown from 31.86 percent in 1999 to 74.59 percent in 2005. This percentage reflects the total number of Medi-Cal students enrolled in LEAs. DHCS also requires consortia and LGAs to conduct local site visits to each school district once every three years and report MAA measurement findings to DHCS.

Estimated date of completion: March 2012

**Auditee's Response to Recommendation (c):**

Health Care Services (DHCS) has not implemented this recommendation at this time. DHCS plans to implement this recommendation when the Medi-Cal Administrative Activities (MAA) automation project is in place and these statistics can be accurately compiled. DHCS expects MAA automation to be fully implemented by March 2012, based on information regarding workload issues and priorities of the DHCS Information Technology Services Division.

Estimated date of completion: March 2012

**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 and it should do the same for local governmental agencies if such entities continue to be part of the program structure.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

Health Care Services (DHCS) continues to disagree with this recommendation. The recommendation to develop policies on the appropriate level of fees charged by consortia to school districts and the amount of excess earnings and reserves the consortia should be allowed to accumulate limits the 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, Health Services should 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.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

Health Care Services (DHCS) continues to disagree with this recommendation. The recommendation that DHCS eliminate the use of local governmental agencies from claiming School Based Medi-Cal Administrative Activities (MAA), or that DHCS require school districts to use a billing vendor selected by the consortium, limits the local flexibility to administer their programs, which is the basis on which DHCS declines to implement.



## 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.

The following table summarizes the auditee's progress in implementing eight recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the auditee had not fully implemented five of those recommendations. Furthermore, based on the auditee's most recent response, two recommendations remain outstanding.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF 2008-041 RESPONSE	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
8	5	2	2

Below are the recommendations that we determined were not fully implemented, followed by the auditee's most recent response for each.

#### Recommendation #1:

The department should 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.

Bureau's assessment of status: **Not fully implemented**

#### Auditee's Response:

The Department now has data to measure compliance with its annual and five year visit requirements. The Feasibility Study for the first phase of the CCLD Information Technology Plan was approved and is known as the Licensing Reform Automation Project (LRAP). The project's start was delayed over a year due to the State's fiscal crisis. LRAP commenced January of 2009 with a planned two year completion date. One component of the project is the development of new automated management information which will facilitate the ability to assess CCLD's progress in meeting all of its statutory requirements.

In addition, a Licensing Program Manager's Academy has been developed and includes three (3) phases. All three phases were completed by October 1, 2009. Each phase included a component on using Field Automation System (FAS) tools otherwise known as "Tech Tools."

The FAS manual is updated as necessary to ensure instructions to the field are clear and accurate.

Estimated date of completion: January 2011

**Recommendation #2:**

- a. The department should 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.
- b. The department should develop sufficient automated management information to facilitate the effective oversight of its child care program regional offices.
- c. The department should continue its efforts to make all nonconfidential information about its monitoring visits more readily available to the public.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response to Recommendation (a):**

The Feasibility Study for the first phase of the CCLD Information Technology Plan was approved and is known as the Licensing Reform Automation Project (LRAP). The project's start was delayed over a year due to the State's fiscal crisis. LRAP commenced January of 2009 with a planned two year completion date. One product of the project will be automated management information.

Estimated date of completion: January 2011

**Auditee's Response to Recommendation (b):**

The Feasibility Study for the first phase of the CCLD Information Technology Plan was approved and is known as the Licensing Reform Automation Project (LRAP). The project's start was delayed over a year due to the State's fiscal crisis. LRAP commenced January of 2009 with a planned two year completion date. One component of LRAP is the development of new automated management information to facilitate effective oversight of the regional offices.

Estimated date of completion: January 2011

**Auditee's Response to Recommendation (c):**

The Feasibility Study for the first phase of the CCLD Information Technology Plan was approved and is known as the Licensing Reform Automation Project (LRAP). The project's start was delayed over a year due to the State's fiscal crisis. LRAP finally commenced January of 2009 with a planned two year completion date. One component of LRAP is the development of standardized language for all licensing citations. The standardized language is being developed in a way that the public is able to fully and easily understand all citations made. This foundation is necessary before reports or summary of the reports can be made available on the web. The computer programs are being rewritten to accept the common citation language and ensure its standardized use.

Estimated date of completion: Unknown

## DEPARTMENT OF HEALTH SERVICES

(Report Number 2006-035, February 2007)

### It Has Not Yet Fully Implemented Legislation Intended to Improve the Quality of Care in Skilled Nursing Facilities

The Skilled Nursing Facility Quality Assurance Fee and Medi-Cal Long-Term Care Reimbursement Act (Reimbursement Act), Chapter 875, Statutes of 2004, directed the Bureau of State Audits (bureau) to review the Department of Health Services' (Health Services)<sup>8</sup> new facility-specific reimbursement rate system. Until the passage of the Reimbursement Act, facilities received reimbursements for Medi-Cal services based on a flat rate. The Reimbursement Act required Health Services to implement a modified reimbursement rate methodology that reimburses each facility based on its costs. In passing the Reimbursement Act, the Legislature intended the cost-based reimbursement rate to expand individual's access to long-term care, improve the quality of care, and promote decent wages for facility workers. The Reimbursement Act also imposed a Quality Assurance Fee (fee) on each facility to provide a revenue stream that would enhance federal financial participation in the Medi-Cal program, increase reimbursements to facilities, and support quality improvement efforts in facilities.

The Reimbursement Act required us to evaluate the progress Health Services has made in implementing the new system for facilities. It also directs us to determine if the new system appropriately reimburses facilities within specified cost categories and to identify the fiscal impact of the new system on the State's General Fund.

The following table summarizes the auditee's progress in implementing the six recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the auditee had not fully implemented five of those recommendations. Furthermore, based on the auditee's most recent response, two recommendations remain outstanding.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF 2008-041 RESPONSE	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
6	5	3	2

Below are the two recommendations that have not been fully implemented and the one recommendation that has been fully implemented, followed by the auditee's most recent response for each.

#### Recommendation #1:

Health Services should include information on any savings to the General Fund in the reports its licensing division is required to prepare.

Bureau's assessment of status: **Not fully implemented**

<sup>8</sup> On July 1, 2007, the Department of Health Services was reorganized and became two departments—the Department of Health Care Services and the Department of Public Health.

**Auditee's Response:**

We are unable to make public details on the requested information at this time, as this is directly related to a critical element of the Department's defense in pending litigation.

Estimated date of completion: Unknown

**Recommendation #2:**

Health Services should begin recouping duplicate payments.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

DHCS continues to recover the duplicate payments for which the initial recoupment began September 14, 2007, under an Erroneous Payment Corrections (EPC) process. Out of \$5,339,225 identified as duplicate overpayments, DHCS has recouped \$5,314,945 and continues to pursue the recovery of \$17,011 from 10 remaining overpaid providers out of 901 providers originally identified as receiving duplicate overpayments. Full recovery will be achieved when the remaining overpaid providers reimburse the DHCS Third Party Liability Division by payment or with an offset against any future adjudicated claims. The uncollectible amount of \$7,269 is due to the discharge of accountability allowed the department for liabilities under \$250 and for debts owed by providers who are out of business. All required steps to discharge these debts have been performed.

A third recovery continues during fiscal year 2009–2010 and may continue into year 2010–2011 for approximately 70 remaining providers out of 246 originally identified as potentially being overpaid. An audit is required to determine whether a provider was overpaid when duplicate overlapping claims were detected between two different providers. The DHCS Audits and Investigations Division has collected \$57,921 from 36 providers after reviewing overlapping claims during the 2008–2009 fiscal year. 140 providers reviewed were determined to have been correctly reimbursed and warrant no recovery action.

Estimated date of completion: 2010

**Recommendation #3:**

Health Services should conduct all the audits of facilities called for in the Reimbursement Act to reduce the risk of using flawed data to calculate reimbursement rates.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

The attached worksheet lists the facilities audited by the Department during the last three production years and also indicates whether the audit performed was a field or desk audit. Reports for production year 2007 can be downloaded at [www.dhcs.ca.gov/dataandstats](http://www.dhcs.ca.gov/dataandstats). Prior production year audit reports can be provided upon request.

The Department has substantially complied with the audit requirements in the Reimbursement Act- Beginning in the 2007/2008 production year, the Department has made every effort to audit 100 percent of the Medi-Cal level B facilities on an annual basis, including a field audit once every three years- Facilities that undergo a change of ownership (CHOW) are not audited until the new owners file a qualifying cost report. The State Plan requires that when a CHOW occurs and the new owner does not file a cost report within six months, the facility receives the rate of the prior owner.



## DEPARTMENT OF HEALTH SERVICES

### (Report Number 2006-106, April 2007)

#### Its Licensing and Certification Division Is Struggling to Meet State and Federal Oversight Requirements for Skilled Nursing Facilities

The Joint Legislative Audit Committee requested the Bureau of State Audits (bureau) to conduct an audit assessing the Department of Health Services' (Health Services)<sup>9</sup> oversight of skilled nursing facilities.

The following table summarizes the auditee's progress in implementing the nine recommendations the bureau made in the above referenced report. As shown in the table, as of its most recent response, the auditee had not fully implemented five of those recommendations.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF 2008-041 RESPONSE	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
9	5	5	5

Below are the recommendations that we determined were not fully implemented, followed by the auditee's most recent response for each.

#### Recommendation #1:

To proactively manage its complaint workload, Health Services should periodically evaluate the timeliness with which district offices initiate and complete complaint investigations. Based on this information, Health Services should identify strategies, such as temporarily lending its staff to address workload imbalances occurring among district offices.

Bureau's assessment of status: **Not fully implemented**<sup>‡</sup>

#### Auditee's Response:

We have followed the requirement to initiate immediate jeopardy complaints within 24 hours and all others within 10 working days. Since fiscal year 2007–08, L&C has monitored its complaint investigation performance and reports to the Court. L&C has been in compliance with state statutes since April 27, 2007. Since that time, L&C has received 15,186 long term care complaints and only 58 have been initiated late. This performance translates into a compliance rate of 99.62 percent on-time initiation. L&C has achieved this success by instituting weekly monitoring reports of complaints nearing their 10-day initiation due date.

<sup>9</sup> On July 1, 2007, the Department of Health Services was reorganized and became two departments—the Department of Health Care Services and the Department of Public Health. The Department of Public Health is now responsible for monitoring skilled nursing facilities.

<sup>‡</sup> Contrary to the bureau's determination, the auditee believes it has fully implemented the recommendation. However, the auditee did not substantiate its claim of full implementation and did not address all aspects of the recommendation.

**Recommendation #2:**

To ensure that district offices consistently investigate complaints and include all relevant documentation in the complaint files, Health Services should clarify its policies and procedures, provide training as necessary, and periodically monitor district office performance to ensure compliance. At a minimum, Health Services should:

- a. Clarify its 45 working-day policy for closing complaints by establishing target time frames for facility evaluators, supervisors, and support staff to complete key stages in the complaint process.
- b. Attempt to obtain mailing addresses from all complainants that do not wish to remain anonymous.

Bureau's assessment of status: **Not fully implemented**<sup>‡</sup>

**Auditee's Response:**

Licensing and Certification (L&C) clarified its Complaint Policy and Procedures from 2005–2006. It implemented the Complaint Pilot project beginning on January 20, 2006 and continuing through February 28, 2006, to evaluate the use of the new complaint process. Four District Offices participated in the pilot project which included in servicing district administrators on the new complaint P&P who in turn in-serviced their staff to the new procedure. At the conclusion of the pilot project and after District Offices began using the new complaint process, pilot program outcomes were reviewed by the Deputy Director, Assistant Deputy Director, Branch Chiefs, and the pilot team to determine if the new procedure would implemented statewide.

Following Deputy Director approval, L&C implemented statewide training at the DA/DM/Supervisor training meeting. The effectiveness of the complaint process was evaluated through four QA Complaint Audits conducted June 2007, September 2007, February 2008, and September 2008. After each audit, results were sent to the District Offices for review and in-servicing with their staff at their monthly meeting, and the overall QA results were discussed at the DA/DM meeting.

Trainings were continually developed based on the QA audits and included in the:

- New Surveyor Academies
- Supervisor Academies
- Advanced Academies

We have followed the requirement to initiate complaint investigations within 10 working days, and the complaint policy and procedures requires the completion of complaints within 45 days. Since fiscal year 2007–08, we have monitored our performance and include this in our state performance measures.

Since fiscal year 2007–08, L&C has made substantial improvements in its effort to obtain mailing addresses from all complainants.

<sup>‡</sup> Contrary to the bureau's determination, the auditee believes it has fully implemented the recommendation. However, the auditee did not substantiate its claim of full implementation and did not address all aspects of the recommendation.

**Recommendation #3:**

To reduce the predictability of its federal recertification surveys, Health Services should institute a practice of conducting surveys throughout the entire survey cycle, ensuring that each facility has a greater probability of being selected at any given time.

Bureau's assessment of status: **Not fully implemented\***

**Auditee's Response:**

Each Skilled Nursing Facility recertification survey is scheduled between the mandated time period of 9 and 15 months. The District Office randomly schedules surveys within this time period. L&C also schedules off-hour surveys as part of its process to eliminate the predictability of recertification surveys.

**Recommendation #4:**

When Health Services charges general support items to the citation account, it should be able to document its rationale for determining the amounts charged.

Bureau's assessment of status: **Not fully implemented\***

**Auditee's Response:**

All charges made to the citation account since FY 2007–08 have been fully documented. Each charge was directly associated with temporary manager appointments. Since this time, there have been no charges for general support items made to the citation accounts.

**Recommendation #5:**

To fill its authorized positions and manage its federal and state workloads, Health Services should consider working with the Department of Personnel Administration to adjust the salaries of its staff to make them more competitive with those of other state agencies seeking similarly qualified candidates. In addition, Health Services may want to consider hiring qualified candidates who are not registered nurses.

Bureau's assessment of status: **Not fully implemented\***

**Auditee's Response:**

In 2006, Licensing and Certification (L&C) submitted a budget change proposal (BCP) that included the use of licensed vocational nurses (LVN) to serve as health surveyors. The Legislature did not approve the use of non-RNs and augmented the BCP to require RN surveyors. Since this State Auditor report was issued, L&C has had phenomenal success in recruiting for its RN surveyor positions. Our current vacancy rate for RN surveyors is 4.03 percent.

\* Contrary to the bureau's determination, the auditee believes it has fully implemented the recommendation. However, the auditee did not substantiate its claim of full implementation.

Since our last response to the State Auditor, Cooperative Personnel Services has completed its Classification and Pay study, and developed a proposed Specification Revision package for L&C. This proposed specification revision has been approved by CDPH's Personnel Branch and has been formally submitted to the Department of Personnel Administration. CDPH is in active discussion with DPA regarding reclassification of L&C's positions.

## SAFELY SURRENDERED BABY LAW

(Report Number 2007-124, April 2008)

Stronger Guidance From the State and Better Information for the Public Could Enhance Its Impact

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the Department of Social Services' (Social Services) administration of the Safely Surrendered Baby Law (safe-surrender law). The Legislature, responding to a growing number of reports about the deaths of abandoned babies in California, enacted the safe-surrender law, which became effective in January 2001. The law provides a lifesaving alternative to distressed individuals who are unwilling or unable to care for a newborn by allowing a parent or other person having lawful custody of a baby 72 hours old or younger to surrender the baby confidentially and legally to staff at a hospital or other designated safe-surrender site. The audit committee asked us to identify funding sources and review expenditures for the safe-surrender program since 2001 and determine how much has been used for public awareness, printing and distribution of materials, and for personnel. We were also asked to determine how Social Services sets its annual goals, examines its process for determining which outreach and public awareness strategies are the most effective, and identifies its plans for future and enhanced outreach to increase the public awareness of the law. In addition, the audit committee asked us to gather information regarding safely surrendered and abandoned babies and determine whether the public outreach efforts appear to be appropriately targeted in light of this information.

The following table summarizes Social Services' progress in implementing seven recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, Social Services had not fully implemented any recommendations. Based on Social Services' most recent response, all seven recommendations are still not fully implemented.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
7	7	7

Below are the recommendations that we determined were not fully implemented followed by Social Services' most recent response for each.

### Recommendation #1:

To ensure that it is aware of and can appropriately react to changes in the number of abandoned babies, Social Services should work with the Department of Public Health and county agencies to gain access to the most accurate and complete statistics on abandoned babies.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

Interdepartmental discussions continue regarding data sharing between the Department of Public Health (DPH) and CDSS, not only for abandoned baby information, but for other data that would be of benefit to CDSS. The sharing of databases is resource and time intensive, compromised by differing data collection methodologies, and subject to confidentiality limitations. Workgroup efforts have been impacted by the reduction of staff and other resources, including furloughs.

Estimated date of completion: Before June 2010

**Recommendation #2:**

To support future efforts related to the safe-surrender law, including continuing outreach and improving the quality of the State's statistics, Social Services should consider using a portion of existing funds, such as those available in its trust fund, and should consider renewing its partnership with First 5 California, which Social Services can legally use for such efforts.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

We are partially implementing the recommendation. In terms of continuing outreach and improving the quality of the state's data, CDSS is using some of our existing resources to fund a single statewide hotline number providing callers with information about where a safe surrender site in their area is located. Once this project is in place, we hope to collect data on the number of callers, the areas in which they reside, etc. We will also update our outreach materials to display the toll free number.

Two CDSS bureaus, the Office of Child Abuse Prevention (OCAP) and the Child Welfare Policy and Program Development Bureau (CWPPDB) have teamed to provide counties with a comprehensive All County Information Notice (ACIN) that includes information about the new statewide "211" hotline, as well as disseminating the newly developed SSB definition, data entry information for CWS agencies, clarification regarding a surrendering individual's confidentiality and other pertinent information related to the SSB law. We hope to release the letter by early next year. Once the toll free line is in place, the ACIN is released and our existing materials are updated with the toll free number, we will evaluate and may once again pursue seeking additional funds from entities such as First Five.

Estimated date of completion: Before June 2010

**Recommendations #3:**

Clarify the definition of safe surrender, and then disseminate and monitor its use among county and state agencies. The clarified definition should address situations in which babies are born and surrendered in a hospital as well as those in which the individual surrendering the baby indicates that adoption is his or her ultimate goal. If Social Services believes statutory change is needed to do so, it should seek the requisite authority from the Legislature.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

Two CDSS bureaus, the Office of Child Abuse Prevention (OCAP) and the Child Welfare Policy and Program Development Bureau (CWPPDB) have teamed to provide counties with a comprehensive All County Information Notice (ACIN) that includes information about the new statewide "211" hotline, as well as disseminating the newly developed SSB definition, data entry information for CWS agencies, clarification re: a surrendering individual's confidentiality and other pertinent information related to the SSB law.

Estimated date of completion: Before June 2010

**Recommendation #4:**

Clarify the circumstances under which safe-surrender sites and counties must protect the identifying information on the individual who surrenders an infant. At a minimum, Social Services should revoke its erroneous guidance on the waiver of the privilege of confidentiality by individuals who safely surrender babies.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

Two CDSS bureaus, the Office of Child Abuse Prevention (OCAP) and the Child Welfare Policy and Program Development Bureau (CWPPDB) have teamed to provide counties with a comprehensive All County Information Notice (ACIN) that includes clarification regarding county child welfare service agencies' responsibility for ensuring the confidentiality of a surrendering individual's identity. The new ACIN corrects erroneous information that was previously released in ACIN I-16-04.

Estimated date of completion: Before June 2010

**Recommendations #5:**

Require counties to correct records in the Child Welfare Services/Case Management System (CWS/CMS) that Social Services' staff believe are erroneous because counties have misclassified babies as either surrendered or abandoned. Because Social Services does not believe it presently has the authority to do so, Social Services should seek legislation to obtain this authority.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

Two CDSS bureaus, the Office of Child Abuse Prevention (OCAP) and the Child Welfare Policy and Program Development Bureau (CWPPDB) have teamed to provide counties with a comprehensive All County Information Notice (ACIN) that includes clarification regarding county child welfare service agencies' responsibility for ensuring the accurate reporting of a surrendered or abandoned baby's status. The ACIN provides county child welfare agencies with clarification regarding the correct entry of safely surrendered baby information in the child welfare services case management system (CWS/CMS). In addition, if during the CWPPDB's quarterly review of SSB data any personal identifying information regarding the surrendering individual is found in CWS/CMS, the analyst conducting the review contacts the county CWS agency and instructs them to either correct or remove the information from the system.

Estimated date of completion: January 2010

**Recommendation #6:**

To provide surrendered babies and their health care providers as much information on their medical histories as possible, Social Services should consider ways to improve the availability of medical information.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

As stated in previous responses to the BSA, surrendering parents/individuals are provided anonymity, and the law states the completion of the medical form is voluntary. Therefore, developing methods of obtaining medical information for surrendered infants continues to be a challenge. Although revisions to the medical questionnaire may provide a more comprehensive list of questions regarding a surrendered baby's medical history, it is not possible to require the surrendering individual to complete and/or return the document. This recommendation cannot possibly be fully implemented while ensuring the overall intent of the law—keeping babies safe from harm or death—is maintained.

Estimated date of completion: Before June 2010

**Recommendation #7:**

To continue promoting awareness of the safe-surrender law in the most cost-effective manner, Social Services should work with the counties to leverage models and tools currently in use in California, such as existing middle and high school curricula and translated materials.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

As indicated in the one year response, CDSS has no authority to approve and distribute middle school and high school curricula. However, as CDSS is made aware of such educational materials for use in middle school and high schools, the Department will provide contact information to those who request it. As CDSS determines a need for additional outreach materials, we will contact the counties to see what materials, models and tools they may be using.

Estimated date of completion: Unknown



## LOW-LEVEL RADIOACTIVE WASTE

(Report Number 2007-114, June 2008)

The State Has Limited Information That Hampers Its Ability to Assess the Need for a Disposal Facility and Must Improve Its Oversight to Better Protect the Public

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) conduct an audit assessing the management and oversight of low-level radioactive waste (low-level waste) by the California Department of Health Services (now the Department of Public Health (department)), the Radiologic Health Branch (branch), and the Southwestern Low-Level Radioactive Waste Commission (Southwestern Commission). Although we reviewed the Southwestern Commission’s policies and practices, we did not have recommendations for it and, as a result, we do not mention the Southwestern Commission further in this report write-up.

Public concern related to the disposal of low-level waste will likely increase in the near future because entities in California that generate this waste are losing access to one of the two disposal facilities they currently use. In June 2008 the disposal facility in Barnwell, South Carolina, is scheduled to cease accepting low-level waste from generators in many states, including California. Generators of low-level waste will need to consider alternative methods, including long-term or off-site storage, to deal with their most radioactive low-level waste. Unfortunately for decision makers in California, the implications of this pending closure and what it means for the State’s public policy are not clear-cut.

The following table summarizes the department’s progress in implementing the six recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the department had not fully implemented any of the recommendations. Based on the department’s most recent response, five recommendations remain outstanding.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
6	6	5

Below are the five recommendations that were not fully implemented and the one recommendation that was fully implemented, followed by the department’s most recent response.

### Recommendation #1:

To provide greater public transparency and accountability for its decommissioning practices, the department should begin complying with the Executive Order D-62-02 and develop dose-based decommissioning standards formally. If the department believes that doing so is not feasible, it should ask the governor to rescind this 2002 executive order.

Bureau’s assessment of status: **Not fully implemented**

#### Auditee’s Response:

The California Department of Public Health (CDPH) has determined that it will not seek rescission of Executive Order D-62-02. The implementation of the BSA recommendation to develop a dose-based decommissioning standard following the California Environmental Quality Act

process and the rescinding of Executive Order (EO) D-62-02 will not further enhance or improve current decommissioning standards upheld by the court in the Committee to Bridging the Gap lawsuit. The development of a new dose-based standard will likely result in protracted litigation and raise uncertainty as to the effectiveness of the standards currently in place to protect public health. It should be emphasized that following the Court's decision in Committee to Bridging the Gap, CDPH, through its Radiologic Health Branch (RHB), established and applied a decommissioning process standard that has consistently provided a more protective public health clean-up outcome measure than the U.S. Nuclear Regulatory Commission (NRC) decommissioning standard of 25 millirem (mrem)/year. None of the clean-up levels following the process required by RHB approach the 25 mrem/year NRC federal decommissioning standard. Examination of these records shows that California has been able to consistently achieve a decommissioning level of radioactive material under 10 mrem/year, and a large majority of the analysis is in the nondetectable range. The current process has been proven to be protective of public health and has remained free from legal challenges as to the public health protective outcome of the current standard.

Under the current fiscal climate, budgetary consideration for establishing a CEQA process-derived standard must also be taken into account. In June 2003, the Department explored the costs of promulgating a dose-based decommissioning standard. The Department explored this option through an interagency agreement with the Department of General Services (DGS) to develop a CEQA-compliant decommissioning standard. This feasibility assessment continued through September 2004. Through this collaboration, the Department concluded by February 2005, that it could not exercise good resource stewardship by continuing to contract services for this effort. This decision was formed by two primary factors:

- The costs that DGS estimated for developing and promulgating the dose-based standard was approximately \$5 million, with the likelihood of additional annual burdensome costs. Program funding has remained insufficient to fully support the regulatory development while maintaining RHB inspection and response operations; and
- The Department's assessment that public and environmental health and safety are more rigorously protected through the current decommissioning process.

In conclusion, CDPH's current decommissioning practices have been shown to be health protective and legally compliant, making pursuit of a CEQA-based decommissioning standard unwarranted.

**Recommendation #2:**

- a. To ensure that the branch uses sufficiently reliable data from its future data system to manage its inspection workload, the department should develop and maintain adequate documentation related to data storage, retrieval, and maintenance.
- b. To make certain that the branch uses sufficiently reliable data from its current systems to manage its inspection workload, the department should do the following:
  - Improve the accuracy of the branch's data for inspection timeliness and priority level. The branch can do so by comparing existing files to the information recorded in the data systems.

- Improve its internal controls over data entry so that it can maintain accurate data on an ongoing basis. Such controls might include developing a quality assurance process that periodically verifies the contents of licensee files to the data recorded electronically. Other controls might include formalizing data entry procedures to include managerial review or directing the information technology staff to perform periodic logic checks of the data.

Bureau's assessment of status: **Not fully implemented for (a), and fully implemented for (b)**

#### **Auditee's Response to Recommendation (a):**

CDPH initiated the Enterprise On-line Licensing (EOL) project to develop and implement an information management technology system. This system will replace existing legacy systems by 2011 and remedy the existing system limitations. The efficiency and coordination of multiple divisions within CDPH to develop the Feasibility Study Report (FSR), and obtain its approval from the Department of Finance and the Legislature, demonstrates CDPH's understanding of program data needs and adherence to BSA's recommendation to use sufficiently reliable data.

Until the EOL system is deployed, CDPH will make functional system modifications to address data reliability and quality concerns with the existing systems, including:

- issue management
- change and test management
- work-arounds
- access control
- business rules compliance assurance
- error reports
- peer and supervisor reviews
- tracking sheet capability development.

While providing improvement to the existing systems, this effort ensures good business and data management practices and compliance with the program's public health mandates. At the same time, CDPH maintains practices that ensure that the system is prepared for efficient data migration from the legacy system to the new EOL system. A Data Conversion and Migration Team comprised of CDPH Information Technology and Program staff has been formed to manage, coordinate, and facilitate the preparation of the data conversion, cleansing, and migration plan. The team is responsible for maintaining compliance with the conversion and migration plan, managing adherence to the plan, and identifying and communicating conversion and migration risks, issues, and concerns.

In preparation for the upcoming EOL conversion, RHB has continued to take specific quality control steps on the existing data in the HAL application to identify and subsequently correct any anomalies. This ongoing effort ensures that accurate data is converted successfully into the new system. Additionally, CDPH put into production in June 2009 the request to limit the HAL Facilities and Machine entry screens. This change ensures that accurate facilities and machine relationships are entered into the HAL system.

The CDPH will develop and maintain adequate documentation related to storage, retrieval, and maintenance for the EOL. High quality and reliable data is one of the CDPH foremost requirements for the EOL.

Estimated date of completion: 2011

**Auditee's Response to Recommendation (b), First Bullet Point:**

New procedures for quality control were initiated in 2008 and 2009. With this experience RHB improved the overall data reliability for all data management systems. This quality control system includes data entry associated with maintaining the accuracy of the inspection tables and the subsequent inspection reports. For the HAL data system, CDPH provides ongoing maintenance of the accuracy of facility and x-ray machine status and data entry for these processes. CDPH refined its quality control procedures for data entry and maintenance of facility inspection itineraries and inspection reports. The quality control changes to CAMIS and HAL provided needed improvements to the accuracy, timeliness, and priority level assignments that BSA is seeking.

To better identify current inspection needs, RHB initiated new measures to update existing paper and electronic-based reports. As an example, previously compliance history was in a paper report. Now the data is electronically captured and made available to all inspectors via a secured Internet site. In bi-weekly status meetings, RHB program and Information Technology managers define processes and procedures that better control and improve the timeliness, accuracy, and completeness of the data. This team approach facilitates the development and application of improved data validation methods, including periodic programming logic checks.

These procedures have greatly improved the accuracy of current data and will be maintained until a new data management is available in 2011.

**Auditee's Response to Recommendation (b), Second Bullet Point:**

The Department's Radiologic Health Branch (RHB) and Information Technology Services Division (ITSD) staff work together to implement changes to the inspection reports to ensure better accuracy. In addition, to improve data integrity during data entry of inspection-related information, RHB implemented specific programmatic and business controls. These modifications and processes changes were updated in the technical coding and business procedures documentation. This CDPH team continues additional application and/or business process changes as identified that would further increase the accuracy, integrity, and timeliness of inspection data entered, retrieved, and maintained in the HAL system.

For data quality control functions, the CAMIS database has core data field validation and a program change history capability. Improvements in the CAMIS database procedures for additional quality control measures have been initiated and are expected to be fully operational by January 2009. These measures include an auto-review of work products, as well as benchmark

by January 2009. These measures include an auto-review of work products, as well as benchmark levels for margin of error that will apply to data entry for the processes associated with facility and unit accreditation status. Improvements will also include advances in data entry accuracy that is necessary for maintaining the timeliness, accuracy, and completeness of the inspection tables and the subsequent inspection reports.

To verify data quality for the Radioactive Materials 2000 database, a 100 percent quality assurance review of all coding sheets used for RAM data entry was completed. Because the review found nominal errors, supervisors now must only review 50 percent of all coding sheets to maintain excellent quality control standards. This process verified that the electronic files match the hard copy record. The error rate is tracked and adjustments made as needed.

### **Recommendation #3:**

To ensure that the branch can sufficiently demonstrate that the fees it assesses are reasonable, the department should evaluate the branch's current fee structure using analyses that consider fiscal and workload factors. These analyses should establish a reasonable link between fees charged and the branch's actual costs for regulating those that pay specific fees. Further, the analyses should demonstrate how the branch calculated specific fees.

Bureau's assessment of status: **Not fully implemented\***

### **Auditee's Response:**

CDPH RHB completed its evaluation of workload and staffing data. To ensure a reasonable link between fees charged and the actual costs associated for administering the program, RHB initiated a thorough fiscal and workload analysis. Workload standards were developed that identified responsible classifications, tasks to be accomplished, time and allocated resources (e.g., on an average, one inspector can perform approximately 300 inspections annually). Based on this information, RHB developed cost and revenue information for the various program components and demonstrated that the fees assessed are appropriate and have a link to the actual costs associated with administering the programs.

A historical review of CDPH RHB revenues and expenditures commencing in Fiscal Year 2006–07 through 2008–09, continues to support the program assessment and the established fee schedule. In addition, CDPH RHB no longer has a substantial reserve balance, which indicates that the established fees are supporting the program costs required to regulate this community. As new program requirements are implemented, RHB will ensure that public transparency and accountability is achieved when submitting any future fee proposals.

\* Contrary to the bureau's determination, the auditee believes it has fully implemented the recommendation. However, the auditee did not substantiate its claim of full implementation.

**Recommendation #4:**

To make certain that it can identify and address existing work backlogs and comply with all of its federal and state obligations, the department should develop a staffing plan for the branch based on current, reliable data. The plan should involve a reevaluation of the branch's assumptions about workload factors, such as how many inspections an inspector can perform annually. The plan should also include the following components:

- An assessment of all backlogged work and the human resources necessary to eliminate that backlog within a reasonable amount of time.
- An assessment of all currently required work and the human resources necessary to accomplish it.

Bureau's assessment of status: **Not fully implemented**<sup>‡</sup>

**Auditee's Response:**

CDPH developed a plan that identified the existing inspection backlogs to ensure that we could measure and validate compliance with federal and state inspection frequency and quality requirements. As the implementation of the EOL system progresses, more timely, accurate, and complete data analysis can be refined. Notwithstanding development of EOL to a more modern system, CDPH is currently able to a limited degree characterize accurate production and staffing information that reflects monthly management program inspection data.

In September 2009, CDPH completed its data backlog correction plan and continues to resolve backlog associated with HAL in accordance to that correction plan. Both managers and staff conduct data quality checks using independent and computerized data edit checks. Management re-evaluates error rates and the need for new procedures or quality assurance checks to ensure an error rate of less than five percent. Using ITSD tools, work-arounds, and ongoing procedures, this error rate reduction is achievable.

CDPH is also assessing the additional staff requirements needed to convert the existing HAL program to the new EOL application to ensure adequate staffing is available to complete the required data conversion and migration tasks.

**Recommendation #5:**

- a. To inform the Legislature when it is likely to receive the information to evaluate the State's need for its own disposal facility, the department should establish and communicate a timeline describing when the report required by Section 115000.1 of the Health and Safety Code will be available. The department should also see that its executive management and the branch discuss with appropriate members of the Legislature as soon as possible the specific information required by state law that it cannot provide. Further, to the extent that the department cannot provide the information required by law, it should seek legislation to amend the law.
- b. Finally, when the branch has an understanding of the disposal needs for generators in California based on this data, it should develop an updated low-level waste disposal plan.

<sup>‡</sup> Contrary to the bureau's determination, the auditee believes it has fully implemented the recommendation. However, the auditee did not substantiate its claim of full implementation and did not address all aspects of the recommendation.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response to Recommendation (a):**

The draft of the two first annual reports required by Section 115000.1 of the Health and Safety (H&S) Code is in the review process. Pursuant to H&S Code Section 115000.1, the reports provide information on low-level radioactive waste (LLRW) generated in California and provide detailed information on waste quantities. One report is for public review and will be posted on the CDPH RHB website, while the other report contains specific information about the location of radioactive materials and is available to members of the Legislature on request. RHB intends for these reports to be generated annually.

Estimated date of completion: January 2010

**Auditee's Response to Recommendation (b):**

Pursuant to the Low-Level Radioactive Waste (LLRW) Policy of 1980 (U.S. Congress Public Law 96-573) and Section 115005 of the Health and Safety (H&S) Code, CDPH developed and submitted a LLRW disposal plan to the Legislature in 1984 (Attachment A). The planning activities required in H&S Code Section 115005 were related to the federal Low-Level Policy Act and the establishment of a LLRW disposal facility in California. As BSA points out, RHB is collecting detailed information on radioactive waste generated in California. The data collected will not provide sufficient information to update the LLRW disposal plan and RHB does not have the resources to carry out the activities required to update the plan.

**Recommendation #6:**

To better manage its performance in meeting key strategic objectives, the branch should establish a new strategic plan that contains all essential elements, including performance metrics and goals that the branch believes would be relevant to ensuring its success.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

CDPH RHB completed the Branch's Strategic Plan in mid-summer 2009. The revised plan includes performance goals and objectives. The plan recognizes the public health mission of RHB related to the safe use of ionizing radiation and its leadership role to industry, medicine, and research.



## DEPARTMENT OF HEALTH CARE SERVICES

(Report Number 2007-122, June 2008)

Although Notified of Changes in Billing Requirements, Providers of Durable Medical Equipment Frequently Overcharged Medi-Cal

The Joint Legislative Audit Committee requested the Bureau of State Audits (bureau) to conduct an audit of the Department of Health Care Services' (Health Care Services) Medi-Cal billing system with particular emphasis on the billing instructions and coding for durable medical equipment (medical equipment). Although Health Care Services adequately notified medical equipment providers of changes to the reimbursement rates and codes for medical equipment, we noted other findings.

The following table summarizes the auditee's progress in implementing the three recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the auditee had not fully implemented two of the recommendations. Based on the auditee's most recent response, two recommendations remain outstanding.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
3	2	2

Below are the recommendations that we determined were not fully implemented, followed by the auditee's most recent response.

### Recommendation #1:

To maintain control over the cost of reimbursements, Health Care Services should develop an administratively feasible means of monitoring and enforcing current Medi-Cal billing and reimbursement procedures for medical equipment. If unsuccessful, Health Care Services should consider developing reimbursement caps for medical equipment that are more easily administered.

Bureau's assessment of status: **Not fully implemented\***

### Auditee's Response:

Health Care Services uses a variety of post-payment audits to monitor and enforce its medical equipment billing and reimbursement procedures. Medi-Cal processes over \$300 million a week in payments and it would be a massive and costly undertaking to review every claim and the associated documentation to determine if the providers are following Medi-Cal's billing and reimbursement procedures. Besides using edits and audits within the claims processing system, the most reasonable way to validate whether providers are following the procedures is through a variety of post-payment audits where it can monitor and enforce its medical equipment billing and reimbursement procedures.

\* Contrary to the bureau's determination, the auditee believes it has fully implemented the recommendation. However, the auditee did not substantiate its claim of full implementation.

**Recommendation #2:**

If Health Care Services continues using audits to ensure that providers comply with Medi-Cal billing procedures for medical equipment, including the upper billing limit, it should design and implement a cost-effective approach that adequately addresses the risk of overpayment and ensures that all providers are potentially subject to an audit, thereby providing a deterrent for noncompliance.

Bureau's assessment of status: **Not fully implemented\***

**Auditee's Response:**

MRB looked at about 30 providers whose payments increased the highest in 2008, compared to 2007, and focused on about 30 procedure codes that were billed by these providers and that were deemed at-risk. A combined list of those providers and those procedure codes was established. A random sample of 112 claims was drawn from a universe of about 9,000 beneficiary claims, all billed by those 30 suspected providers for those 30 selected procedure codes. Findings show that 17 providers submitted claims in excess of the upper billing limit (UBL) and were reimbursed inappropriate amounts. In many cases, these 17 providers were reimbursed more than their actual cost plus the markup price for the items billed. The overpayment amounts totaled to \$21,766.

A full report detailing the findings of MRB's desk audit of the DME providers will be completed and made available in the next few weeks.

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\* Contrary to the bureau's determination, the auditee believes it has fully implemented the recommendation. However, the auditee did not substantiate its claim of full implementation.

**DEPARTMENT OF PUBLIC HEALTH**  
**(Report Number 2007-040, September 2008)**

**Laboratory Field Services' Lack of Clinical Laboratory Oversight Places the Public at Risk**

Chapter 74, Statutes of 2006, required the Bureau of State Audits (bureau) to review the clinical laboratory oversight programs of the Department of Health Services (now the Department of Public Health and referred to here as the department). Specifically, the law directed us to review the extent and effectiveness of the department's practices and procedures regarding detecting and determining when clinical laboratories are not in compliance with state law and regulations; investigating possible cases of noncompliance, including investigating consumer complaints; and imposing appropriate sanctions on clinical laboratories found noncompliant. The law also specified we review the frequency and extent of the department's use of its existing authority to assess and collect civil fines and refer violators for criminal prosecution and bar their participation from state and federally funded health programs, and its use of any other means available to enforce state law and regulations regarding clinical laboratories. Laboratory Field Services (Laboratory Services) within the department is responsible for licensing, registering, and overseeing clinical laboratories.

The following table summarizes the auditee's progress in implementing the 11 recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the auditee had not fully implemented nine of the recommendations. Furthermore, based on the auditee's most recent response, nine recommendations still remain outstanding.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
11	9	9

Below are the recommendations that the bureau determined were not fully implemented, followed by the auditee's most recent response.

**Recommendation #1:**

Laboratory Services should perform all its mandated oversight responsibilities for laboratories subject to its jurisdiction operating within and outside California, including, but not limited to the following:

- Inspecting licensed laboratories every two years.
- Sanctioning laboratories as appropriate.
- Reviewing and investigating complaints and ensuring necessary resolution.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

Laboratory Field Services (LFS) has leveraged existing staff by utilizing the state portion of federal CLIA surveys to inspect licensed laboratories every two years. As of 11/19/09, 823 biennial inspections of non accredited laboratories were performed during CLIA surveys. In addition, two hundred fifty one validation inspections of accredited laboratories were performed by state surveyors.

Important changes to laboratory law were made in 2009. SB 744, sponsored by the department and introduced by Senator Strickland, was signed into law on October 11, 2009 as urgency legislation. It authorized a sliding fee schedule for laboratory license fees based on the volume of testing performed by a laboratory and increased the registration fee for registered laboratories. The purpose of the bill was to improve funding and efficiency of the state program to allow better enforcement of clinical laboratory standards. It is expected that 5.7 million dollars in additional revenue will be generated in 2010–11 and ongoing. This additional revenue will be used to add additional staff to perform the necessary number of initial and biennial inspections of unaccredited laboratories. In addition, the legislation allowed the state to begin accepting applications for approval of accrediting organizations to perform surveys on behalf of the state as of January 2011. The organizations, if meeting qualifications, must be approved within six months. Once those organizations are approved, this will further leverage the ability of the state to perform biennial inspections.

LFS expects to begin advertising for Examiners in the spring of 2010 and start the hiring process for additional Examiner and program technician support staff in the summer and fall of 2010. Existing state wide shortages of licensed Clinical Laboratory Scientists, substantial salary differential with private industry and further reduction of approximately 15% in salary due to furloughs may hamper the ability of LFS to hire the required professional staff. LFS will work with the Department of Personnel Administration (DPA) on a recruitment and retention bonus for the professional Examiner staff in 2010. Also LFS will work with DPA to remove the entry level Examiner requirement for supervisory experience as similar classifications do not have that requirement. This will allow more young scientists to qualify for the Examiner series.

LFS has redirected staff to perform complaint investigations. Additional professional staff will be needed to perform those duties and LFS will continue workload analysis to ensure the work is completed in a timely manner. Sanctioning laboratories as appropriate will increase as additional professional staff is added and more inspections are performed.

Estimated date of completion: June 2012

**Recommendation #2:**

Laboratory Services should adopt and implement proficiency-testing policies and procedures for staff to do the following:

- Promptly review laboratories' proficiency-testing results and notify laboratories that fail.
- Follow specified timelines for responding to laboratories' attempts to correct proficiency-testing failures and for sanctioning laboratories that do not comply.
- Monitor the proficiency-testing results of out-of-state laboratories.

- Verify laboratories' enrollment in proficiency testing, and ensure that Laboratory Services receives proficiency-testing scores from all enrolled laboratories.

Bureau's assessment of status: **Not fully implemented**

#### **Auditee's Response:**

LFS continues to conduct prompt review of laboratory's proficiency test (PT) results and notifies laboratories that fail PT and follows specified timelines for responding to laboratories attempts to correct first PT failures. Subsequent PT failures will require enforcement action and additional staff will be needed for implementation. PT results for out-of state laboratories are currently monitored once a year during the annual renewal of the license. Laboratory enrollment in PT appropriate to the testing performed will be verified when conducting biennial inspections of which 1074 have been conducted since September 1, 2008. LFS has leveraged existing staff by utilizing the state portion of federal CLIA surveys to inspect licensed laboratories every two years and directing the state survey staff to perform validation inspections of accredited laboratories. This has increased PT review.

Important changes to laboratory law were made in 2009. SB 744 sponsored by the department and introduced by Senator Strickland was signed into law on October 11, 2009 as urgency legislation. It authorized a sliding fee schedule for laboratory license fees based on the volume of testing performed by a laboratory and increased the registration fee for registered laboratories. The purpose of the bill was to improve funding and efficiency of the state program to allow better enforcement of clinical laboratory standards. It is expected that 5.7 million dollars in additional revenue will be generated in 2010-11 and ongoing. This additional revenue will be used to add additional staff to perform the necessary number of initial and biennial inspections of unaccredited laboratories. In addition, the legislation allowed the state to begin accepting applications for approval of accrediting organizations to perform surveys on behalf of the state as of January 2011. The organizations, if meeting qualifications, must be approved within six months. Once those organizations are approved, this will further leverage the ability of the state to perform biennial inspections and monitor PT.

LFS expects to begin advertising for Examiners in the spring of 2010 and start the hiring process for additional Examiner and program technician support staff in the summer and fall of 2010. Existing state wide shortages of licensed Clinical Laboratory Scientists, substantial salary differential with private industry and further reduction of approximately 15% in salary due to furloughs may hamper the ability of LFS to hire the required professional staff. LFS will explore with DPA the possibility of changing the supervisory experience requirement for entry level Examiners. This will expand the number of young scientists eligible for the Examiner series.

Estimated date of completion: June 2012

#### **Recommendation #3:**

To update its regulations, Laboratory Services should review its clinical laboratory regulations and repeal or revise them as necessary. As part of its efforts to revise regulations, Laboratory Services should ensure that the regulations include requirements such as time frames it wants to impose on the laboratory community.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

LFS successfully submitted changes to the HIV regulations and was signed by the Secretary of State on October 15, 2009. In addition, LFS has completed a draft of significant regulation changes to the personnel certification and licensing requirements by utilizing the services of the retired chief of LFS as a retired annuitant. The regulation committee has been formed that will move approval of the personnel regulations through the process and has set a timetable based on high priority by the department. Additional regulation packages will be prepared once the personnel regulations are completed.

SB 744 that changed the fee schedule for laboratories was signed into law on October 11, 2009 as urgency legislation. It is expected that 5.7 million dollars in additional revenue will be generated in 2010–11 and ongoing. This additional revenue will be used to request additional legal staff to perform review of the regulations. The normal regulatory review process is three years from the start of the regulation draft.

Estimated date of completion: June 2015

**Recommendation #4:**

Laboratory Services should continue its efforts to license California laboratories that require licensure. Further, it should take steps to license out-of-state laboratories that perform testing on specimens originating in California but are not licensed, as the law requires.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

LFS continues its efforts to license California laboratories that require licensure. Since the BSA audit of September 2008, LFS has licensed 161 laboratories and registered 1,592.

The department sponsored SB 744 that changed the fee schedule for laboratories. It was signed into law on October 11, 2009 as urgency legislation. It is expected that 5.7 million dollars in additional revenue will be generated in 2010–11 and ongoing. This additional revenue will be used to add additional staff to identify and license California laboratories and out of state laboratory that performing testing on California patients.

LFS expects to begin advertising for Examiners in the spring of 2010 and start the hiring process for additional Examiner and program technician support staff in the summer and fall of 2010. However, existing state wide shortages of licensed Clinical Laboratory Scientists, substantial salary differential with private industry and further reduction of approximately 15% in salary due to furloughs may hamper the ability of LFS to hire the required professional Examiner staff. LFS will explore with DPA the possibility a recruitment and retention bonus for Examiners in 2010 and the possibility of changing the supervisory experience requirement for entry level Examiners. LFS expects this change to expand the number of young scientists eligible for the Examiner series.

Estimated date of completion: June 2012

**Recommendation #5:**

To strengthen its complaints process, Laboratory Services should identify necessary controls and incorporate them into its complaints policies. The necessary controls include, but are not limited to, receiving, logging, tracking, and prioritizing complaints, as well as ensuring that substantiated allegations are corrected. In addition, Laboratory Services should develop and implement corresponding procedures for each control. Further, Laboratory Services should establish procedures to ensure that it promptly forwards complaints for which it lacks jurisdiction to the entity having jurisdiction.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

LFS has redirected one Examiner staff to address complaints as the general fund position for complaints was eliminated as of July 1, 2009 pursuant to the Governor's Executive Order. Regardless, significant progress has been made in investigating complaints, resolving complaints and referring them to the proper jurisdiction for resolution.

SB 744 that changed the fee schedule for laboratories was signed into law on October 11, 2009 as urgency legislation. It is expected that 5.7 million dollars in additional revenue will be generated in 2010–11 and ongoing. This additional revenue will be used to add additional staff to investigate complaints. Examiner state salaries are substantially lower when compared to private industry. Further reduction of approximately 15% in salary due to furloughs may hamper the ability of LFS to hire the required professional staff to investigate complaints. LFS will work with DPA to achieve a Recruitment and Retention bonus for Examiner staff in 2011–2012 and to change the entry level qualifications so that more young scientists qualify for the Examiner position.

LFS is actively engaged in the Enterprise Online licensing (EOL) project which will replace our existing data base system. LFS has met with the consulting team and provided system maps for receiving, logging, tracking and prioritizing complaints. The EOL system is expected to be operational by 2013.

Estimated date of completion: June 2013

**Recommendation #6:**

To strengthen its sanctioning efforts, Laboratory Services should do the following:

- Maximize its opportunities to impose sanctions.
- Appropriately justify and document the amounts of the civil money penalties it imposes.
- Ensure that it always collects the penalties it imposes.
- Follow up to ensure that laboratories take corrective action.
- Ensure that when it sanctions a laboratory it notifies other appropriate agencies as necessary.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

LFS initiated enforcement action against four laboratories and four laboratory personnel in 2008. LFS continues to notify other appropriate agencies such as the Centers for Medicare and Medicaid Services, MediCal and Medicare of termination sanction actions yet has not been able to implement a monthly quality assurance program to review records to ensure all agencies are notified. LFS has a written procedure for justifying and documenting the amounts of civil money penalties.

SB 744 that changed the fee schedule for laboratories was signed into law on October 11, 2009 as urgency legislation. It is expected that 5.7 million dollars in additional revenue will be generated in 2010–11 and ongoing. This additional revenue will be used to add additional staff to maximize opportunities to impose sanctions and attorney staff for legal support.

Estimated date of completion: June 2011

**Recommendation #7:**

Public Health, in conjunction with Laboratory Services, should ensure that Laboratory Services has sufficient resources to meet all its oversight responsibilities.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

The Department sponsored SB 744 that changed the fee schedule for the clinical laboratory facility license and phlebotomist certification. The bill was signed into law on October 11, 2009 as urgency legislation. It is expected that 5.7 million dollars in additional revenue will be generated in 2010-11 and ongoing. This additional revenue will provide the resources necessary to meet our oversight responsibilities.

LFS will work with the department in 2010-2011 to determine the staff resources necessary for all programs. In order to hire the necessary staff, LFS will work with DPA to request a Recruitment and Retention bonus for Examiner staff in 2011-2012. Also, LFS will work with DPA to remove the requirement for supervisory experience as this may be an impediment for young scientists to qualify for the entry level Examiner series.

Estimated date of completion: June 2011

**Recommendation #8:**

Laboratory Services should work with its Information Technology Services Division and other appropriate parties to ensure that its data systems support its needs. If Laboratory Services continues to use its internally developed databases, it should ensure that it develops and implements appropriate system controls.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

LFS is seeking to hire a person with information technology database skills to improve its internal databases and will implement hiring interviews in the spring of 2010. This is an interim step to ensure our internal data bases support our needs. Long term, the Enterprise Online Licensing (EOL) project to replace our existing data base system has been initiated by the department. LFS has meet with the EOL consulting team in the fall of 2009 and provided system maps for all of its processes currently supported by internal databases or the state HAL database. The EOL system is expected to be operational by 2013.

Estimated date of completion: June 2013

**Recommendation #9:**

To demonstrate that it has used existing resources strategically and has maximized their utility to the extent possible, Laboratory Services should identify and explore opportunities to leverage existing processes and procedures. These opportunities should include, but not be limited to, exercising clinical laboratory oversight when it renews licenses and registrations, developing a process to share state concerns identified during federal inspections, and using accreditation organizations and contracts to divide its responsibilities for inspections every two years.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

LFS has implemented several mechanisms to leverage existing processes and procedures. LFS has utilized the state portion of CLIA surveys for review of some state issues when biennial inspections of unaccredited laboratories are performed. LFS has also initiated validation surveys of accredited laboratories by state surveyors. Through those means, 1074 laboratories were inspected since September of 2008.

LFS has implemented review of facility license renewal applications to verify the ownership, director qualifications and 10% of testing personnel qualifications.

LFS has leveraged its Information Technology capability by participating in the Enterprise Online licensing (EOL) project initiated by the department. The EOL project will replace our existing antiquated data base system and allow for better management reports to track program activities.

The department sponsored SB 744 allowed the state to begin accepting applications for approval of accrediting organizations to perform surveys on behalf of the state as of January 2011. The organizations must be approved within six months. Once those organizations are approved, this will further leverage the ability of the state to perform biennial inspections.

LFS has initiated quarterly meetings with the Center for Medicare and Medicaid Services to share state concerns identified during federal inspections.

Estimated date of completion: June 2013



## CORRECTIONS AND REHABILITATION

### DEPARTMENT OF CORRECTIONS

#### (Report Number 2005-105, September 2005)

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

The Department of Corrections<sup>10</sup> (department) fiscal year 2003–04 budget did not include funds to continue the contracts for three private community correctional facilities (CCFs). 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<sup>11</sup> 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.

<sup>10</sup> The Department of Corrections is now the Department of Corrections and Rehabilitation (CDCR).

<sup>11</sup> The Youth and Adult Correctional Agency is now within CDCR.

The following table summarizes the auditee's progress in implementing the nine recommendations the bureau made in the referenced report. As shown in the table, as of its one-year response, the auditee had not fully implemented six of those recommendations. Based on the auditee's most recent response, five recommendations still remain outstanding.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF 2008-041 RESPONSE	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
9	6	6	5

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 status of recommendations the bureau issued in 2005.

Below are the five recommendations that we determined were not fully implemented and the one recommendation that was fully implemented followed by the auditee's most recent response for each.

#### Recommendation #1:

The department should require contract staff to complete statements of economic interests.

Bureau's assessment of status: **Not fully implemented\***

#### Auditee's Response:

Consultant contractors and their respective staff are required to complete a Statement of Economic Interests (Form 700). The seventh item on the attached "Bid Submittal Checklist for Consultant Services" shows that the Form 700 is required as part of the contractor's completed bid package. It should be noted that the checklist clearly states, "Failure to submit these documents may be cause for rejection of your bid."

#### Recommendation #2:

If the department intends to continue using the projections for long-term decision making, such as facility planning, it should 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.

Bureau's assessment of status: **Not fully implemented‡**

\* Contrary to the bureau's determination, the auditee believes it has fully implemented the recommendation. However, the auditee did not substantiate its claim of full implementation.

‡ Contrary to the bureau's determination, the auditee believes it has fully implemented the recommendation. However, the auditee did not substantiate its claim of full implementation and did not address all aspects of the recommendation.

**Auditee's Response:**

Hired two experts to review the projections process and the simulation model. Their final reports were submitted to Bureau of State Audits in April 2009 and September 2009. We are pleased with the recommendations and we are in the process of determining just how to prioritize them for adoption in view of our scarce resources. This means that we may have to develop short- and long-term goals for their implementation.

**Recommendation #3:**

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

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

A qualified individual with modeling experience has been hired. The consultants have provided us with recommendations for changes in the projections process. We are still in the process of developing new sources of data to improve accuracy and reliability of the projections. However, there is a need for someone with expertise in the Inmate Classification Scoring System (ICSS) to assist in making the needed changes to the simulation model. It is anticipated that it could take up to two years to find the individual with ICSS expertise and implement all of the changes.

Estimated date of completion: Unknown

**Recommendation #4:**

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

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

The Assistant Secretary of the Office of Research had the first meeting with the Administrative Office of the Courts and the Chief Probation Officers of California last week. There will be on-going communication with these organizations which is anticipated to enhance CDCR's communication with local government agencies.

Estimated date of completion: Unknown

**Recommendation #5:**

The department should fully document its projection methodology and model.

Bureau's assessment of status: **Not fully implemented**<sup>†</sup>

**Auditee's Response:**

Documentation of the projection methodology and model was completed and sent to Bureau of State Audits.

**Recommendation #6:**

To strengthen controls over its processing of no-bid contracts, the department should 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.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

Although CDCR's Office of Business Services' are void of any written instructions, it is our practice to transmit "no-bid contracts" to contractors for signature only AFTER approval is received from the Department of General Services.

<sup>†</sup> Contrary to the bureau's determination, the auditee believes it has fully implemented the recommendation. However, the auditee did not address all aspects of the recommendation.

## 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 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.

The following table summarizes the auditee's progress in implementing the three recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the auditee had not fully implemented two of those recommendations. Based on the auditee's most recent response, one recommendation still remains outstanding.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF 2008-041 RESPONSE	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
3	2	1	1

Below is the recommendation that we determined was not fully implemented followed by the auditee's most recent response.

#### Recommendation #1:

- a. When planning future intermediate sanction programs, the parole division should 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.
- b. 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.

Bureau's assessment of status: **Not fully implemented**<sup>†</sup>

<sup>†</sup> Contrary to the bureau's determination, the auditee believes it has fully implemented the recommendation. However, the auditee did not address all aspects of the recommendation.

**Auditee's Response to Recommendation (a):**

On October 29 and December 15, 2008, the California Department of Corrections and Rehabilitation (CDCR), Division of Adult Parole Operations (DAPO) responded to the Bureau of State Audits (BSA) that Recommendations No. 1 and No. 2 were fully implemented by March 15, 2007. DAPO's position remains the same (all BSA recommendations were met).

DAPO's main benchmark is to realize a measurable reduction in the State's recidivism rate through the use of evidence-based programs. This, in turn, will better enhance public safety. Recidivism outcomes were empirically stated in the *December 2003 Evaluation of the Preventing Parolee Crime Program (PPCP)*, conducted by the California State University San Marcos Foundation (see attached report summary). For example, the report states that parolees "who completed treatment goals, in a RMSC facility, were re-incarcerated at the rate of 15.5 percent within the 12 months following release to parole, compared to 55.2 percent of those who stayed less than a month in a RMSC facility and 54.7 percent of the statewide non-PPCP parolee population". As noted in the aforementioned report, DAPO's community-based services have and continue to yield a reduction in the recidivism rate for program participants.

In order to achieve their benchmark and maximize program utilization, DAPO maintains all programs at or near full capacity. Program capacity is monitored through the use of mandatory weekly count reports (see attached template). These reports help DAPO ensure programs are maintained at full capacity and track/monitor the number of remedial/intermediate sanction placements. As future programs are implemented, the weekly report requirement will be included as part of the contractor's data submittal requirements. The weekly count report is reviewed on a continual basis and can be easily adjusted/revised to meet current data requirements/needs.

In addition, DAPO is utilizing the recommendations in the Expert Panel's *Report to the California State Legislature: A Roadmap for Effective Offender Programming in California* (see attached report summary). Use of these recommendations will help ensure parolees are placed in appropriate programs and receive individualized treatment plans that address their criminogenic needs. As new programs/contacts are developed, DAPO is including parolee assessment procedures (i.e., California Program Assessment Process and California Logic Model) to help ensure these programs meet evidence-based requirements. DAPO is also working with the CDCR, Office of Research to conduct fidelity reviews of DAPO programs to ensure recidivism reduction strategies are being effectively utilized. An additional program evaluation is also being conducted by the San Diego State University Research Foundation. Their report, which will yield recidivism outcomes and suggestions for future programs improvement, is due January 2010.

**Auditee's Response to Recommendation (b):**

On October 29 and December 15, 2008, the California Department of Corrections and Rehabilitation (CDCR), Division of Adult Parole Operations (DAPO) responded to the Bureau of State Audits (BSA) that Recommendations No. 1 and No. 2 were fully implemented by March 15, 2007. DAPO's position remains the same (all BSA recommendations were met).

In order to monitor trends that will improve California's recidivism rate and increase public safety, DAPO analyzes program data and reports on an ongoing basis. These data/reports include national evidence-based reports, internal and external evaluation reports, audit reports, etc. Specific examples include the *December 2003 Evaluation of the PPCP*; the *Expert Panel's Report to the California State Legislature: A Roadmap for Effective Offender Programming in California*; fidelity reviews prepared by the CDCR, Office of Research; and individual program quality reviews conducted by DAPO staff. Information/findings gleaned from these reports are implemented by DAPO in their current and future program endeavors.

All research evidence points to the importance of treatment programs as a recidivism reduction strategy. As such, programs are the "core" of what DAPO does to reduce recidivism and enhance public safety. The alternative is to return offenders to prison. Since the effectiveness of programs depends on their quality, quantity and content, DAPO will continue to (1) monitor and evaluate their programs on an ongoing basis and (2) utilize the most current and relevant evidence-based strategies to reduce recidivism.



## DEPARTMENT OF CORRECTIONS AND REHABILITATION

### (Report Number 2008-104, August 2008)

#### It Does Not Always Follow Its Policies When Discharging Parolees

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) examine the Department of Corrections and Rehabilitation's (Corrections) adult parole discharge practices. Specifically, the audit committee requested that we review Corrections' discharge policies and protocols and determine whether they comply with applicable laws and regulations. The audit committee also asked us to review Corrections' internal controls over its parole discharge process and determine whether they are sufficient to ensure compliance with Corrections' policies and state law and to identify inappropriate employee conduct. In addition, the audit committee requested that we ascertain whether a sample of parolees were discharged in accordance with staff recommendations and to determine, to the extent possible, the frequency with which parolees received discharges contrary to staff recommendations. Further, the audit committee asked us to assess whether Corrections discharged a sample of parolees in accordance with its policies, protocols, and applicable laws and regulations. The audit committee also requested that we determine whether Corrections took any corrective action as a result of an internal investigation of one of its regions. Finally, the audit committee asked us to review any proposed changes to laws, regulations, policies, and protocols to determine any potential changes in efficiency and effectiveness related to the discharge process and the extent to which those changes might affect the parole administrators' authority.

The following table summarizes the auditee's progress in implementing the five recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the auditee had fully implemented all but one of those recommendations. Based on the auditee's most recent response, it has not fully implemented the one remaining recommendation.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
5	1	1

Below is the recommendation that we determined was not fully implemented, followed by the auditee's most recent response.

#### Recommendation #1:

Corrections should finalize and implement the draft regulations and policy memorandum that will detail the policy and procedures governing its parole discharge process. In addition, the new policy should require district administrators to document their justifications for discharging parolees against the recommendations of both parole agents and unit supervisors. Finally, the new policy should require that discharge review reports be prepared for deported parolees.

Bureau's assessment of status: **Not fully implemented**<sup>†</sup>

<sup>†</sup> Contrary to the bureau's determination, the auditee believes it has fully implemented the recommendation. However, the auditee did not address all aspects of the recommendation.

**Auditee's Response:**

On March 2, 2009, Policy Memorandum No. 09--3 was signed and fully implemented by the Director of Division of Adult Parole Operations. The memorandum was distributed throughout the Department via hard copy as well as posted on the CDCR intranet site. Pages 8, 12, and 13 of the memorandum specifically address the BSA's recommendations. The provisions of the memorandum have been enacted by CDCR. The placement of the provisions from the memorandum into draft regulations has been completed, but implementation of the regulations have been temporarily delayed by the enactment of SB 3X 18. SB 3X 18 requires amendments to the regulations that are being incorporated, and should be completed and posted for a 15-Day re-notice and public comment period in January 2010. CDCR does not anticipate any additional delays.

## BUSINESS, TRANSPORTATION AND HOUSING

### DEPARTMENT OF CORPORATIONS

(Report Number 2005-123, January 2007)

It Needs Stronger Oversight of Its Operations and More Efficient Processing of License Applications and Complaints

The Joint Legislative Audit Committee (audit committee) asked the Bureau of State Audits (bureau) to review the operations of the Department of Corporations (Corporations) to ensure that it is effectively fulfilling its responsibilities. Generally speaking, we were asked to evaluate Corporations' progress toward meeting the goals and performance measures outlined in its strategic plan as well as its progress toward implementing any changes needed to fulfill its goals effectively. We were also asked to review Corporations' workload studies and fee analyses to determine the extent to which it has implemented any recommendations from these efforts. Furthermore, the audit committee requested that we evaluate Corporations' education and outreach efforts in achieving its goals.

We were also asked to evaluate Corporations' licensing policies and practices to determine if they are efficient, protect consumers, and prevent fraudulent applications from being processed. The audit committee requested that we review a sample of each type of license issued to determine whether the policies are applied consistently and to determine the length of time it takes to issue a license. It also asked that we assess Corporations' policies and practices related to the monitoring of licensees, including the number and frequency of licensee audits that are conducted and the effectiveness of the audits. Finally, we were asked to identify the number of complaints Corporations receives annually and to evaluate its policies and practices for handling complaints, including its process for monitoring the ongoing investigation of complaints, the types of enforcement actions taken, Corporations' ability to enforce actions taken as a result of complaints, and its criteria for deciding to reject a complaint or to turn it over to another enforcement agency.

The following table summarizes the auditee's progress in implementing the seven recommendations the bureau made in the above referenced report. As shown in the table, the auditee has fully implemented all seven recommendations.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF 2008-041 RESPONSE	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
7	3	3	0

Below are the three recommendations that we determined were fully implemented since last year's report.

#### Recommendation #1:

Corporations should consider assessing the need for new automated data systems or determining whether its current systems are capable of collecting the necessary information.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

The DOC assessed its current systems and determined that a new information technology system was needed to provide management with program information and increase efficiencies in its licensing and regulatory programs. DOC submitted a Feasibility Study Report (FSR) to obtain a new information technology system. Both the Department of Finance and the Office of the Chief Information Officer approved it in the fiscal year 2009/2010 budget process.

**Recommendation #2:**

To ensure that all applications are reviewed promptly and sufficiently, Corporations should assess whether it needs additional staff to process applications.

Bureau's assessment of status: **Fully implemented**

**Auditee's Recommendation:**

The Department has assessed the need for additional staff to process applications and determined that it will not seek additional staff at this time. The DOC will continue to monitor the processing of applications and will redirect staff when necessary. If the DOC determines in the future that additional staff is necessary, it will seek additional resources through the budgetary process.

**Recommendation #3:**

To improve the usefulness of its information systems, Corporations should maintain accurate and complete data to ensure that the information systems can be used more effectively as management tools.

Bureau's assessment of status: **Fully implemented**

**Auditee's Recommendation:**

In addition to obtaining a new information technology system that will provide accurate and complete data, the managers in the various program areas continue to review data fields in their respective information systems for blank fields and incorrect information. For example, managers also utilize return mail to update licensee information in their information systems.

**GRADE SEPARATION PROGRAM**  
**(Report Number 2007-106, September 2007)**

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

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

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

The following table summarizes the California Department of Transportation’s (Caltrans) progress in implementing the two recommendations the bureau made in the above referenced report. As shown in the table, Caltrans has fully implemented both recommendations.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF 2008-041 RESPONSE	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
2	1	1	0

Below is the recommendation that we determined was fully implemented since last year’s report, followed by Caltrans’ most recent response.

**Recommendation #1:**

Caltrans should revise current regulations to conform to recent amendments to statute.

Bureau’s assessment of status: **Fully implemented**

**Auditee’s Response:**

The revised regulations were approved by the Office of Administrative Law on May 14, 2009 and filed with the Secretary of State. The revised regulations became part of the California Code of Regulations by June 12, 2009.



**CALIFORNIA HIGHWAY PATROL**  
**(Report Number 2007-111, January 2008)**

It Followed State Contracting Requirements Inconsistently, Exhibited Weaknesses in Its Conflict-of-Interest Guidelines, and Used a State Resource Imprudently

The Joint Legislative Audit Committee (audit committee) directed the Bureau of State Audits (bureau) to review the California Highway Patrol's (CHP) purchasing and contracting practices and its use of state resources. Specifically, the audit committee asked us to:

- Review the CHP contracts awarded since January 1, 2004, for helicopters, motorcycles, guns and accessory equipment, patrol car electronics, and counseling services to determine whether the CHP had complied with laws related to purchasing and whether the contracts were cost-beneficial and in the best interest of the State.
- Ascertain whether the State could cancel any noncompetitive purchasing agreements that were not compliant with laws or in the best interest of the State and repurchase goods using competitive bidding.
- Examine relevant internal audits and personnel policy or financial reviews to determine whether the CHP responded to the issues raised and took recommended corrective actions.
- Evaluate the CHP's contracts for specified goods and services and determine whether conflicts of interest existed.
- Identify the CHP's policies and practices for using state equipment, including aircraft, and determine whether the CHP complied with these policies and laws and whether its employees reimbursed the State for any personal use of state property.

The following table summarizes the CHP's progress in implementing the eight recommendations the bureau made to it in the above referenced report. As shown in the table, as of its latest responses, CHP had not fully implemented one of those recommendations.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
8	1	1

Below is the recommendation that we determined was not fully implemented, followed by CHP's most recent response.

**Recommendation #1:**

Include as designated employees for filing the Form 700, all personnel who help to develop, process, and approve procurements.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

The CHP completed its revisions to its Code and, as required, submitted the revisions to the OAL on October 15, 2009, and to the FPPC on October 19, 2009; submission to OAL is required as the Code is a regulation (Title 13, California Code of Regulations, Section 1800 et seq.), and submission to FPPC is required as that body is statutorily mandated to review all state agency and Department conflict codes.

The recommendation indicated the CHP was to include as designated employees for filing the form 700 all personnel who help develop, process, and approve procurements. The Code includes a more focused, specific, and targeted set of disclosure obligations for designated positions. It does not assume a filing status and obligation simply because of a position's title, but instead focuses on what the position does, regardless of where in the administrative hierarchy it may be located. Moreover, the finished product has more targeted disclosure categories which could include a position being subject to multiple reporting categories instead of the previous "one-category-fits-all-approach."

Before the Department can fully implement the new Conflict of Interest Code, and by so doing "act on the recommendation," both the review and public comment process with OAL, and the review and approval process with FPPC, must be completed. The OAL public comment process concludes on November 30, 2009; should substantive comment be received it will be necessary for the Department to account for the comment in one manner or another. If no substantive comment is received, the Department will be able to proceed with implementation of the new Conflict of Interest Code upon securing the approval from the FPPC. The FPPC has been asked for, but has yet to respond with, an approximate date by which its review will be completed. However, the CHP is working towards implementing new Code by March 2010.

Estimated date of completion: March 2010

## RESOURCES AND ENVIRONMENTAL PROTECTION

### OFF-HIGHWAY MOTOR VEHICLE RECREATION PROGRAM

(Report Number 2004-126, August 2005)

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

The Joint Legislative Audit Committee requested that the Bureau of State Audits (bureau) 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 OHVs, 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.

The following table summarizes the auditee's progress in implementing the nine recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the auditee had not fully implemented six of those recommendations. Based on the auditee's most recent response, three recommendations still remain outstanding.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF 2008-041 RESPONSE	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
9	6	3	3

Below are the recommendations that we determined were not fully implemented and the auditee's most recent response for each.

#### Recommendation #1:

The division should 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.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

The OHMVR Division Strategic Plan has been submitted to the Governor's Office for approval. At this time, the final approval date is unknown.

Estimated date of completion: Unknown

**Recommendation #2:**

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

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

With the passage of Senate Bill 742, which became effective in January 2008, the requirement for the Commission to complete a biennial report was amended. The report is now required to be completed every three years. The next report is due January 1, 2011.

Acting as Staff to the Commission, the Division and Commission are currently working together on the report. The Commission has identified a subcommittee to work on the report with Division staff, and to date the report has been discussed at two Commission meetings this past July and September. Staff is also working with federal and local partners, and communities of interest to gather information for the report.

As required in the statute, the Commission will be taking comments from the public at two Commission meetings prior to the adoption of the plan. Based upon those comments, as well as those of the Commissioners, staff will make necessary changes to the report prior to the January 1, 2011 submission deadline.

Estimated date of completion: January 1, 2011

**Recommendation #3:**

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

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

As stated in previous audit progress reports, the Division's land acquisition strategy is an integral part of its pending Strategic Plan. This plan is currently being reviewed by the administration prior to its release. Once the Strategic Plan has been approved and released, the Division will formalize an Acquisition Plan which addresses the goals and objectives laid out in the Strategic Plan.

Estimated date of completion: June 2010



## 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.

The following table summarizes the auditee's progress in implementing the six recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the auditee had not fully implemented five of those recommendations. Based on the auditee's most recent response, two recommendations remain outstanding.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF 2008-041 RESPONSE	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
6	5	3	2

In August 2007 the bureau issued a follow-up report titled *State Water Resources Control 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 status of recommendations it issued in 2006.

Below are the two recommendations that the bureau determined were not fully implemented and one fully implemented recommendation, followed by the auditee's most recent response for each.

### Recommendation #1:

To more precisely distribute the fees in proportion to the annual fee payers' authorized diversion, the division should 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 not exceeding 10 acre-feet, or other specified threshold.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

The State Water Board does not intend to implement this recommendation. This recommendation responds to concerns raised by fee payers who hold multiple water rights that authorize the diversion of small amounts of water. These fee payers assert that they should not be required to pay the minimum fee on each water right, but rather should be entitled to sum the total amount of water that their combined permits allow, and pay a fee based on the combined amount of water they are authorized to divert. The State Water Board does not believe this recommendation will more equitably distribute fees to its water right fee payers. In initially setting its fee schedule, the State Water Board estimated the amount of money the State expends in each water right that the State Water Board administers. The minimum fee assessed per water right approximates this amount. If the State Water Board were to implement the recommendation, it could use a similar methodology to distribute fixed operating costs over each entity (rather than each water right). The minimum fee would increase because the costs would be distributed based on the number of fee payers as opposed to the number of water rights, and there are fewer fee payers than there are water rights. As a result of this change, fee payers who have only one water right would bear some of the administrative costs imposed on the agency by fee payers who have multiple water rights, despite the fact that there is an increased burden of administering multiple water rights held by the same fee payer. Alternatively, if the State Water Board did not increase the minimum fee, water right holders who divert amounts of water that result in fees higher than the minimum fee would have to pay even higher fees to make up for lost revenue that would result from implementing the recommendation. The increased administrative burden associated with a water right holder having multiple rights results from the doctrine of prior appropriation, which is codified in the Water Code as section 1270. This statute confers upon a water right permit holder a water right priority date based on the date that the application for the permit was filed. Although water rights can be changed, dates of diversion cannot be expanded, nor can the authorized diversion amount be increased. Those who seek to divert more water than they originally planned to divert must seek a new water right. In times of water shortage, which vary from year to year based on hydrology during that year, water diversions are curtailed by water right priority date, and a fee payer with multiple rights would be subject to curtailment of each right based on the priority date of that right, even if the multiple water rights were issued for the same project. In addition, conditions other than diversion amount and period (aka the "face value" of the right) which are specific to each right limit the use of water diverted under each individual right even if a fee payer holds multiple rights for the same project. Because the doctrine of prior appropriation is well established in both case law and statute, the State Water Board must administer water rights by water right, rather than by entity. Because water rights are administered by right, not by entity, it is more equitable to calculate the minimum fee based on the number of water rights administered rather than on the number of water right holders regulated, and to collect higher fees from those with multiple rights, even if the amount of water authorized for diversion under each right is small.

This determination of the State Water Board is supported by its water right fee stakeholders. The State Water Board adopts a new fee schedule each year after conferring with its Water Right Fee Stakeholder Advisory Group (Fee Stakeholder Group) and after considering any comments on the fee schedule submitted 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. 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 inequitably increase their fees.

This determination of the State Water Board is also supported by the State of California Third District Court of Appeal (Appellate Court). On January 17, 2007, the Appellate Court ruled on the litigation filed against the State Water Board's water right fees by the California Farm Bureau Federation, Northern California Water Association, and Central Valley Project Water Association. The Appellate Court found the fee statute to be constitutional, but found fault with the State Water Board's emergency fee regulations. The Court, however, stated that it did not find the \$100 minimum fee per water right to be unreasonable.

The State Water Board will continue to meet with the Fee Stakeholder Group each year as it reviews its fee regulations. If in future the Fee Stakeholder Group supports the recommended change, the State Water Board will consider implementing such a change in its revised regulations.

**Recommendation #2:**

The division should 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.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

The State Water Board does not intend to implement this recommendation. The State Water Board does not believe this recommendation will more equitably distribute fees to its water right fee payers. This recommendation responds to concerns raised by water diverters who hold multiple water rights, where one or more of the water rights contains a term that "caps" the amount of water that may be diverted under that permit in combination with the other permits. By law, each water right is separately administered. As a result, the combined limitation, or cap, will not apply unless the water right containing the combined limitation term is triggered by use under that specific permit. Where multiple water rights are held, the limiting term generally appears in the most junior water rights. Water rights can be forfeited after five years of non-use. Because water holders of multiple rights preferentially use their older rights first to avoid forfeiture of these less restrictive rights, the cap often does not apply. Water users do not operate under multiple water rights where some have caps in the same manner that they would operate if they held only one water right with the priority of the lowest right and the most stringent conditions imposed on the rights collectively. The current implementation of water right diversion limitations allows water right diverters flexibility in using their water rights, and it is appropriate that diverters are assessed fees associated with each of their water rights.

Additionally, in order to implement this recommendation, the State Water Board's database, which is used to calculate fees, must contain information on the relationship between various water rights. Although the State Water Board designed its new database, eWRIMS, to contain fields in which these relationships can be noted, those fields are not populated, and the State Water Board does not have the capacity at this time to populate them and to comply with its other water rights mandates. Further, the algorithm needed to calculate the fees based on these complex relationships has not been written or tested. As a result, the State Water Board also does not have the data systems necessary to implement this recommendation.

This determination of the State Water Board is supported by its water right fee stakeholders. State Water Board staff continues to meet with its fee Stakeholder Group on an annual basis. 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.

On January 17, 2007, the State of California Third District Court of Appeal ordered the State Water Board to revise its water right fee regulations. The Court did not express concern over the State Water Board assessing fees based on face value of individual water right permits and licenses or over the way in which the State Water Board addressed diversion limitations. However, if in future the Fee Stakeholder Group supports this recommended change, the State Water Board will consider implementing such a change in its revised regulation. Resources to do this work would need to be provided or redirected from other programs.

**Recommendation #3:**

The division should 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.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

The State Water Board has established reasonable goals measurable in days between the various stages of processing a water right application. These goals were provided in previous status reports to the Bureau of State Audits. To implement these goals, the State Water Board has designed its water rights information database, eWRIMS, to include an electronic route slip feature that tracks various water right program processes, and in particular tracks application processing. State Water Board staff supervisors create an electronic route slip for each water right process task. The supervisors set the target start and end dates in the database in accordance with the goals for each major step in the water right process. As each task is completed, staff and supervisors are required to input into the electronic route slip the actual dates they received and completed their process step. Any State Water Board process staff or supervisor can conduct a route slip search within eWRIMS to determine whether or not a process step has been completed and when each subsequent step is due to be completed. Searches can be conducted by various categories, including individual staff person, route slip or water right application (see attachment: eWRIMS Screen: Water Right Routing Slip Search). This search capability provides to State Water Board management a tool by which to review timely processing, thereby ensuring management's ability to hold staff to their process goals, and also to improve upon the timeliness of management review and issuance of documents.

The State Water Board previously reported on other activities it has taken to implement this recommendation. These included convening an application processing stakeholder group, revising staff delegation authorities, reclassifying positions and including process improvement tasks in its 2008 strategic plan. As the State Water Board implements these activities, it is

committed to continually investigate ways to improve and streamline its processes. Over the past year, it has implemented additional improvements to its application processing by (1) drafting permits prior to protest resolution in order to facilitate the protest resolution process, and (2) streamlining the small domestic use renewal program. Improvements in application processing are illustrated by the continual decrease in the number of pending applications despite staff reductions and imposition of furloughs. The State Water Board posts monthly status reports of its application processing workload at: [http://www.waterboards.ca.gov/waterrights/publications\\_forms/available\\_documents/progress\\_reports/index.shtml](http://www.waterboards.ca.gov/waterrights/publications_forms/available_documents/progress_reports/index.shtml).



## DEPARTMENT OF WATER RESOURCES

### (Report Number 2007-108, November 2007)

#### Its Administration of Grants Under the Flood Protection Corridor Program Needs Improvement

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits review the Department of Water Resources' (Water Resources) administration of the Flood Protection Corridor Program (flood protection program). California's voters created the flood protection program by approving the Safe Drinking Water, Clean Water, Watershed Protection and Flood Protection Bond Act (Proposition 13) in March 2000. With an initial funding of \$70 million, of which \$57 million was available for projects, the program aims to increase flood protection, agricultural land preservation, and wildlife habitat protection throughout the State by taking various actions, such as acquiring real property interests and setting back and strengthening existing levees. The audit committee asked us to review and evaluate Water Resources' processes for selecting projects under the flood protection program. We were also asked to assess Water Resources' policies and procedures for monitoring projects and its fiscal controls over payments to grantees. In addition, the audit committee asked us to assess how Water Resources holds grantees accountable to the terms of their grant agreements and to determine whether it has properly reported on project status.

In November 2006 California's voters approved two propositions—the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84) and the Disaster Preparedness and Flood Prevention Bond Act of 2006 (Proposition 1E)—that will provide Water Resources an additional \$330 million for similar flood protection projects.

The following table summarizes the auditee's progress in implementing the 14 recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the auditee had not fully implemented 10 of the recommendations. Based on the auditee's most recent response, four recommendations still remain outstanding.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
14	10	4

Below are the four recommendations that we determined were not fully implemented and the six that were fully implemented, followed by the auditee's most recent response.

#### Recommendation #1:

To provide consistency in its project selection process and to better justify its decisions on selecting future projects, Water Resources should do the following: Adhere to the regulations of the flood protection program requiring a hydrologic study as part of the grant application. If Water Resources believes hydrologic studies are too costly for some grant applicants, it should consider establishing a process to obtain this information or substantial other evidence supporting its decisions before awarding grants. For example, Water Resources could use funds from the flood protection program to pay for a study after preliminary selection, before deciding whether to fund the entire project.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

Hydrologic studies are being required for all projects that affect hydrology. In its February 2009 report to the Legislature, BSA staff referred to the Department's compliance with this recommendation as "pending", because a hydrologic study was not required for a project that did not affect hydrology or hydraulic conditions. Program funding guidelines are being revised to eliminate the requirement for a hydrologic study if a project under review for funding has no effect on hydrology or hydraulics, and this amendment is expected to be complete by mid-February, 2010.

Estimated date of completion: February 15, 2010

**Recommendation #2:**

To provide consistency in its project selection process and to better justify its decisions on selecting future projects, Water Resources should do the following: Develop a rationale for determining whether scope changes are significant enough to warrant another review of a project's merits or whether an unfunded project might be a better alternative.

Bureau's assessment of status: **Not fully implemented\***

**Auditee's Response:**

A policy for evaluating the significance of proposed scope changes to existing funding agreements has been developed and is included in the Program's draft funding guidelines.

**Recommendation #3:**

To provide consistency in its project selection process and to better justify its decisions on selecting future projects, Water Resources should do the following: Develop policies and procedures to consistently evaluate whether proposed structural and recreational enhancements conform to the goals of the flood protection program and are the most effective use of funds.

Bureau's assessment of status: **Not fully implemented\***

**Auditee's Response:**

A policy addressing what percentage of an FPCP grant-funded project budget can be used for structural actions related to flood risk reduction and other uses was developed and attached to Water Resources' 60-day response to the audit findings. This policy has been included in the Draft Funding Guidelines and Procedures Manual.

\* Contrary to the bureau's determination, the auditee believes it has fully implemented the recommendation. However, the auditee did not substantiate its claim of full implementation.

**Recommendation #4:**

To effectively monitor projects, Water Resources should develop policies and procedures to ensure that it does the following: Regularly updates its project budget-tracking sheets to adjust for contract amendments and changes in budgeted tasks and to accurately track funds disbursed to grantees.

Bureau's assessment of status: **Not fully implemented**<sup>‡</sup>

**Auditee's Response:**

A Staff Services Analyst was hired to implement this recommendation, and regular updates have added to budget tracking sheets. An example of an updated budget tracking sheet from the San Diego River project is included for reference. In the February 2009 report to the State Legislature, BSA staff referred to Water Resources compliance with this recommendation as "pending" because there was no track record available for new projects with contracts funded from Proposition 84. There are still no new Proposition 84 funding agreements under the Flood Protection Corridor Program. The 1-year review interview with BSA staff that formed the basis of the February 2009 BSA report to the Legislature occurred on December 2, 2008. Two weeks later, on December 17, 2008, Water Resources was directed by the California Department of Finance to stop executing new funding agreements because of the State's cash flow shortage. As of November 17, 2009, this prohibition remained in effect, so no new funding agreements have been allowed, and will not be allowed until sufficient cash is raised from future bond sales. Water Resources believes it has implemented this recommendation, because the budget tracking sheets for existing contracts continue to be updated in compliance with the audit recommendation.

**Recommendation #5:**

To provide consistency in its project selection process and to better justify its decisions on selecting future projects, Water Resources should do the following: When awarding direct-expenditure grants, select projects in a manner that allows it to justify its project rankings. One way Water Resources could achieve this would be to develop and use a consistent scoring process and use the scores as a basis for making funding decisions.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

Direct expenditure projects are now being evaluated in the same manner as competitive projects. No direct expenditure projects have been funded since the audit report was completed in November 2007, but the more rigorous evaluation requirement has been incorporated into the Program's draft funding guidelines. There is one direct expenditure project currently under consideration for funding, and it has been evaluated using the same procedure as for competitive projects.

<sup>‡</sup> Contrary to the bureau's determination, the auditee believes it has fully implemented the recommendation. However, the auditee did not substantiate its claim of full implementation and did not address all aspects of the recommendation.

**Recommendation #6:**

To provide consistency in its project selection process and to better justify its decisions on selecting future projects, Water Resources should do the following: For proposed projects involving land acquisitions, adhere to the regulations of the flood protection program requiring grant applicants to submit evidence of willing sellers.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

The Flood Protection Corridor Program has requested proposals for new grant-funded projects only once since the 2007 BSA audit began. All projects considered for funding in this solicitation that involved grant-funded purchase of property rights were required to provide evidence of the seller's willingness to sell in one of three ways as part of the application package: a willing seller letter, a copy of a valid purchase agreement, or a copy of a valid purchase option. Of the eight projects selected for funding, three did not entail any grant-funded property purchase.

**Recommendation #7:**

To effectively monitor projects, Water Resources should develop policies and procedures to ensure that it does the following: Receives sufficiently detailed and complete progress reports from grantees, with supporting records of expenditures, descriptions of project activities, status of budget and schedule, and key issues to resolve.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

As indicated in Water Resources' 60-day response to the November 2007 audit findings, the Flood Protection Corridor Program has instituted a requirement that all grantees submit progress reports with every invoice and periodically, at least once per year, if no invoice is submitted. Progress reports must contain records of expenditures, description of project activities, status of budget and schedule, and key issues to resolve. This requirement has been enforced for existing grants, and will be included in every new funding agreement. Reporting requirements are also included in the Draft Funding Guidelines and the Procedures Manual.

**Recommendation #8:**

To effectively monitor projects, Water Resources should develop policies and procedures to ensure that it does the following: Communicates to staff its expectations for conducting and documenting site visits.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

A standardized site visit form was developed and is actively being used by Program staff.

**Recommendation #9:**

To effectively monitor projects, Water Resources should develop policies and procedures to ensure that it does the following: Establishes expectations for how often staff should communicate with grantees and develops a process to record communications consistently.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

The auditor-recommended policy for staff communications with grantees has been developed and included in the Program's Procedures Manual.

**Recommendation #10:**

To effectively monitor projects, Water Resources should develop policies and procedures to ensure that it does the following: Withholds a percentage of payments to a grantee when appropriate and releases the funds only after it is satisfied that the project is reasonably complete.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

As indicated in Water Resources 60-day response to the audit findings, the Program has implemented this recommendation. Existing contracts allow Water Resources to withhold 10 percent from invoice payments, and this has been done where it appears such withholding is helpful to ensure effective and rapid achievement of the project objectives. Examples of projects where the 10 percent payment has been withheld are the Middle Creek Project and the Knaggs Ranch Project.



## OFFICE OF SPILL PREVENTION AND RESPONSE

### (Report Number 2008-102, August 2008)

It Has Met Many of Its Oversight and Response Duties, but Interaction With Local Government, the Media, and Volunteers Needs Improvement

In November 2007 the Cosco Busan, an outbound container ship, hit a support on the San Francisco—Oakland Bay Bridge, releasing about 53,600 gallons of oil into the bay. This event, known as the Cosco Busan oil spill, focused public attention on California’s Office of Spill Prevention and Response (spill office), a division of the Department of Fish and Game (Fish and Game). The spill office, created in 1991, is run by an administrator appointed by the governor, who is responsible for preventing, preparing for, and responding to oil spills in California waters.

The spill office, along with the contingency plans it oversees, fits into a national framework for preventing and responding to oil spills, with entities at every level of government handling some aspect of the planning effort. When an oil spill occurs, the response is overseen by a three-part unified command consisting of representatives from the spill office; the party responsible for the spill and its designated representatives; and the federal government, represented by the U.S. Coast Guard (Coast Guard), which retains ultimate authority over the response.

The following table summarizes the auditee’s progress in implementing the 15 recommendations the Bureau of State Audits (bureau) made in the above referenced report. As shown in the table, as of its one-year response, the auditee had not fully implemented eight of the recommendations. Based on the auditee’s most recent response, five recommendations remain outstanding.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
15	8	5

Below are the five recommendations that we determined were not fully implemented and the three that were fully implemented, followed by the auditee’s most recent response.

#### Recommendation #1:

With regard to postspill reviews, the spill office should determine whether the postspill reviews are an effective means for identifying areas for plan improvement and then take steps to either ensure the reviews are submitted or eliminate them from its regulations.

Bureau’s assessment of status: **Not fully implemented**

#### Auditee’s Response:

The requirement for a “post spill review” has routinely run into legal challenges; the responsible party (RP) is reluctant to admit fault or deficiencies in their plan due to liability issues. The investigations conducted by OSPR and/or the U.S. Coast Guard as to the cause of the spill is a better source for this information, which can then be addressed in the RP’s contingency plan, if appropriate. Therefore, the requirement for a “post spill review” will be removed from regulation. This process will begin by the end of January 2010.

Estimated date of completion: July 2010

**Recommendation #2:**

To avoid logistical problems in responding to oil spills, the spill office should collaborate with area committees in California to identify potential command centers that are sized appropriately and possess all necessary communications equipment.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

The San Diego Area Committee has established a subcommittee to develop a list of pre-identified suitable command post locations in the area. The subcommittee will submit a proposed list to the Area Committee for approval. The finalized list will be included in the area plan for San Diego.

Estimated date of completion: July 2010

**Recommendation #3:**

To strengthen its role as a liaison between local governments and the unified command, the spill office should continue with its plans to develop qualification standards for liaison officers and to train more staff for that role. In addition, the spill office should ensure that staff in its operations center provide all necessary support, including communications equipment, to liaison officers in the field.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

To further enhance the Liaison staff depth, OSPR has restructured its training program to align training and development for all critical Incident Command System (ICS) positions used most often during a spill response.

OSPR currently has Liaison position Subject Matter Experts (SME). These SMEs have been developing a Liaison training program for staff members for serving at either the Incident Command Post or in the Operations Center in Sacramento. Recently, OSPR conducted a Liaison overview training for 30 staff. Several in attendance hold positions where they currently serve with various multi-agency committees that work with OSPR. Those who indicated they would like to serve as a Liaison will be contacted for future training and development.

The SMEs are collaborating with OSPR's training unit to develop a training program that builds skills and experience. This will be accomplished by providing spill response specific information and procedures, conducting classroom training, tabletop exercises and drill participation. Curriculum development will begin with Coast Guard/FEMA Liaison Officer (LO) Task Books.

OSPR has developed and incorporated a Liaison component for the Ops Center Manual. During the Dubai Star incident which occurred Oct. 30 in the San Francisco Bay, OSPR activated the Ops Center Liaison position which provided critical support to the field Liaison officer, and bridged the need for communication between the Command post and the Assembly, Senate, and other local, State and Federal agencies. During this event, OSPR also staffed its Ops Center Public Information Officer position which resulted in increased collaboration and coordination to immediately

provide information to the press and general public. Sensitive information will be available to government agencies under password protection. The goal is to have this information tool available by FY 2010/11.

OSPR expects to complete the development of the Liaison training curriculum by Fall 2010, and conduct initial training sessions in winter 2010/11. Using USCG/FEMA LO Task books modified by the SMEs for spill response, OSPR will initiate a program to formally qualify Liaison Officers in 2011. Continuing education and skill development will be ongoing.

In terms of providing equipment and support to Liaison officers in the field, OSPR will be implementing training sessions in 2010 for Logistics team members.

The Operations Center Manual excerpts have been included. Please note that while they guide operations currently, the SMEs are in the process of updating this document(s), and additional changes are expected in the coming year.

Estimated date of completion: December 2011

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

To ensure that a state employee knowledgeable in oil spills is available to assist in public relations during a spill response, public relations staff in the communications office should participate in spill drills. The spill office should also develop protocols to ensure that key information, such as the role of volunteers, is disseminated to the public early in a spill response.

Bureau's assessment of status: **Not fully implemented**

#### **Auditee's Response:**

OSPR designed a program to improve and expand its public information/relations abilities during a spill response which it expects to completely implement by Fall of 2010. The program includes expanding staffing resources and abilities through a four phase approach. OSPR started its program by hiring a manager to oversee the public information team in June 2009. The manager has an extensive public relations, marketing and emergency response background, and has been tasked with developing and implementing the publications expansion effort.

Phase I of the program began with building a stronger collaborative relationship with the DFG headquarters public affairs office. Through the development of procedures and protocols, OSPR was able to ensure that DFG public affairs would receive timely information and updates during a response. This phase began with returning the staff Information Officer and the Marketing Specialist to OSPR. They had been staged in the DFG Headquarters Communications Office which had resulted in disconnect and response difficulty. To assure DFG that communication would be solid, Phase I required staffing the emergency operations center (Ops center) in Sacramento with a public information officer to support and assist the field information officer during an incident. The Ops center information officer maintains close contact with the incident command and other responders already onscene while the field information officer is enroute. The Ops center information officer gathers data, facts and situation status, and then apprises the DFG Deputy Director of Communication, the DFG public affairs team, and the Natural Resources public affairs staff. Regular, timely reporting of status and facts occurs while also gathering questions, identifying concerns, staying tuned to Governor's office comments, and informing the field information officer of any issues. The Ops center information officer also

monitors the media during the incident, tracking storylines, issues, and monitors misinformation. Once the field information officer is onscene, the Ops Center information officer takes a complete support role, staying in regular contact with the field information officer and continuing the relay of information to DFG Headquarters, Agency, etc. In addition, OSPR staff completed a special Oil Spill Tool Kit for public information officers (attached electronically). The kit includes pre-approved fact sheets, press release templates, glossaries, petroleum product descriptions, diagrams, photographs and more. The Tool Kit sits on a shared drive and is part of the “Go Kit” for anyone responding as an information officer.

OSPR tested Phase I of the program during the Dubai Star incident in San Francisco Bay, Oct. 30, 2009. Natural Resources Agency reported that they had all of the information they needed, that the Governor’s office was well informed, and that the Phase I approach was a success. The Tool Kit provided information on the red diesel fuel, and a fact sheet from the National Oceanic Atmospheric Administration for immediate dispersal to the media, and templates for fisheries closures and other events which meant an even faster, more thorough public relations response.

Phase I proved to be successful, therefore, Phase II was designed to further develop the depth and expertise of staff available to support a large event. Phase II involved working collaboratively with the DFG Office of Communications and Education Branch in October 2009 to attend a drill. This was followed up with discussions of cross support during a large incident, and the participation of the public affairs staff in the introduction to an Oil 101 class and training in Hazardous Waste Operations and Emergency Response (HAZWOPER) 24-Hr course (available in 2010). An agreement has been made that DFG headquarters public information officers will provide support and back up OSPR’s public information team during an incident.

Phase III of the program focuses on developing additional resources within OSPR to provide support. Two additional staff have been identified to serve as assistant information officers during an event. During a spill event, they will provide assistance (phone response, research, press release and writing). A training program has been developed to expand and improve their skills (press release, crisis communication, OSPR specific media training, etc). Following training, these individuals will be attending drills to further develop their skills. OSPR anticipates to have training complete by June 2010, but continuing education and skill development will be ongoing.

Phase IV of the OSPR’s public information improvement program includes training OSPR’s field response team members (wardens, biologists, and oil spill prevention specialists) in how to respond to the media. Because an oil spill incident can affect large geographical areas, OSPR recognizes that field staff working shoreline cleanup, wildlife recovery and other response positions could be requested to interview with the media. OSPR’s media training will build the skills of responders to better understand the media, recognize boundaries, and interview do’s and don’ts. OSPR’s training will take a facilitative approach whereby attendees with practice, role play and self critique through video replay. OSPR expects to have the training module completed and training to begin by April 2010. OSPR’s goal is to have all of the training completed by the fall of 2010. Refresher courses will be offered periodically.

Estimated date of completion: Fall 2010

**Recommendation #5:**

To ensure that the fund is charged only for oil spill prevention activities, the spill office and Fish and Game should do the following: Take steps to ensure that spill prevention wardens' time is charged appropriately, such as performing a time study of wardens to use as a basis for allocating wardens' time between the fund and other Fish and Game funding sources. Such a time study should be updated periodically to ensure that it remains valid and accurate.

Bureau's assessment of status: **Not fully implemented**<sup>†</sup>

**Auditee's Response:**

The Department of Fish and Game Law Enforcement Division (LED) conducted a work study of warden time in the Southern California area. The work study determined the amount of time wardens were available in the Marine Zone to respond to marine oil pollution incidents. The study period was January 2009, and the area encompassed the Marine Zone between Santa Barbara and the Mexico border. Documents reviewed in the study included warden Daily Activity Reports (DAR) and time sheets for the study period. The scope of the study was to determine the total number of hours LED Wardens in the study area were available for response in the Marine Zone.

Wardens are required to complete a DAR for each day worked. The warden fills out a DAR during their work day capturing information on date, time worked, location, activity, contacts, citations, warnings and time sheet accounting information. The DAR is completed daily and copies of all DARs for a work week are submitted to the supervisor for review. The DARs are used to complete a time sheet at the end of each month. The time sheet documents the hours worked per day, total hours worked in the month, time off, overtime worked, activity code information and where the warden time is charged.

The LED work study covered the month of January 2009. During January, there is one state holiday, and some wardens will take accrued time off. Otherwise, the month is a fair indication of the work and time accounting by wardens within the Southern California area. There has been one significant change in overall time worked since this study was completed. This change is the result of the three furlough days imposed as a result of current state budget deficits resulting in an 14.82 percent decrease in availability.

DARs and time sheets were reviewed for each warden in the study area for the entire month of January 2009. The reviewers documented hours wardens were available for spill response in the Marine Zone in the Southern California area. The study included all LED Wardens including those assigned to administrative duties within the LED. The study did not include hours LED supervisors and managers were in the Marine Zone. Supervisors and managers are not required to complete DARs, and it is difficult to pull specific work location information from a time sheet. However, LED supervisors and managers do spend a significant amount of time available for response in the Marine Zone.

The results of the work study showed the LED Wardens were available to respond within the Marine Zone a total of 3528 hours during the month of January 2009. The Department of Fish and Game Office of Spill Prevention and Response was funded for a total of 1176 hours of response capability for that same timeframe. The LED Wardens were available to respond in the Marine Zone 2352 hours more than funding supports.

<sup>†</sup> Contrary to the bureau's determination, the auditee believes it has fully implemented the recommendation. However, the auditee did not address all aspects of the recommendation.

The LED continues to monitor warden time within the Marine Zone to ensure hours within the area meet mandated levels and to ensure proper time accounting by wardens. Future updates of this study are not scheduled at this time. The LED believes the current monthly monitoring of DARs and time sheets by LED supervisors will provide adequate monitoring to ensure Marine Zone coverage by LED.

**Recommendation #6:**

To ensure that the State's activities in response to an oil spill are complete and well integrated with other efforts, the spill office should regularly update the California Oil Spill Contingency Plan and include references to sections of the regional and area plans that cover required elements.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

The Draft State plan was shared with external partners and the Review Subcommittee of the State Interagency Oil Spill Committee per Government Code 8574.10. This office reviewed submitted comments, provided responses, and incorporating them into the plan. The State Oil Spill Contingency Plan was approved by the Administrator on December 15, 2009 and can be found by searching the DFG Document library at <http://nrm.dfg.ca.gov/documents/> under State Oil Spill Contingency Plan.

**Recommendation #7:**

To ensure that it performs and reports spill volume calculations quickly and accurately, the spill office should collaborate with the Coast Guard to establish spill calculation protocols, including transportation needs and the sharing of each entity's calculations. The spill office should also establish procedures to ensure that staff promptly report spill calculations to the state coordinator. Further, the spill office should include spill calculations as part of its drills.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

The "Joint USCG/OSPR Protocol for Oil Spill Quantification" was written by OSPR in early 2009 and submitted to the Coast Guard's Eleventh District by March, 2009. See the attached protocol. The Coast Guard's District Commander determined that the proper place for the protocol was in each Federal On-Scene Coordinator's Area Contingency Plan (ACP). The protocol is to be placed in the ACP addendums and will be referenced in the ACPs at the next scheduled update. Quantification has become a standard element in our required oil spill contingency plan drills. The protocol was properly used in the recent DUBAI STAR incident on October 30, 2009 to the satisfaction of the Unified Command (e.g. the Federal On-Scene Coordinator, the State On-Scene Commander, and the Responsible Party) and those analyzing the spill response.

**Recommendation #8:**

To ensure that the spill office has necessary resources available to it, and to reduce friction regarding the use of staff, the spill office and other Fish and Game units should discuss their respective authorities and better define the role of each in the management of spill prevention staff consistent with the administrator's statutory responsibilities and the other needs of Fish and Game. Such discussions could clarify the spill office's role in hiring and firing employees, spell out specific training needs, and identify how staff will be funded.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

In an effort to improve departmental organization and operations and deliver mission-critical programs at the highest level the Department refined its organization structure and clearly defined roles and responsibilities. To provide a solid framework for those affected by direct reporting relationships the OSPR has taken the following steps: a) The department's Law Enforcement Division has agreed to collaborate with OSPR when filling vacancies and provide notification when purchases of over \$5,000 are incurred b) Minimal operational changes have been experienced by our Legal Branch with the exception that all civil and criminal cases referred to the Attorney Generals Office will be directed to the Departments Office of General Counsel Deputy Director for initial review c) All Information and Technology (IT) functions have remained at OSPR. Weekly coordination with the department's Assistant Deputy Director of IT is carried out to discuss ongoing projects and future needs of the program d) To improve communication, education and outreach efforts, OSPR's Public Information and External Affairs positions have been physically relocated back to the division's headquarters. We've hired a manager with an extensive communications background to manage and direct staff and coordinate with the department's Deputy Director of Office of Communications and agency personnel.

All hiring and purchasing functions for the Legal, Communication and IT programs remain at the OSPR. To ensure adequate resources are available during a spill event, personnel department-wide have been cross trained to perform response and communication activities.



## DEPARTMENT OF FISH AND GAME (Report Number 2008-115, October 2008)

### Its Limited Success in Identifying Viable Projects and Its Weak Controls Reduce the Benefit of Revenues From Sales of the Bay-Delta Sport Fishing Enhancement Stamp

The Joint Legislative Audit Committee (audit committee) asked the Bureau of State Audits to independently develop and verify information related to the Bay-Delta Sport Fishing Enhancement Stamp (fish stamp) program. Generally speaking, the audit committee's request focused on spending authority for the fish stamp revenues, the appropriateness of expenditures incurred in the program, and the required reporting to the fish stamp advisory committee (committee).

The following table summarizes the auditee's progress in implementing the eight recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the auditee had not fully implemented one recommendation. Based on the auditee's most recent response, the recommendation remains outstanding.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
8	1	1

Below is the recommendation that we determined was not fully implemented, followed by the auditee's most recent response.

#### Recommendation #1:

To ensure that the fish stamp program fulfills its intended benefit, Fish and Game should work with the committee to develop a spending plan that focuses on identifying and funding viable projects and on monitoring revenues to assist Fish and Game in effectively using the fish stamp revenues.

Bureau's assessment of status: **Not fully implemented**

#### Auditee's Response:

A Draft Spending Plan has been developed and is currently being reviewed by management personnel within the Department of Fish and Game. It is expected that the spending plan will be finalized by January 15, 2010 and then forwarded to the Resources Agency for approval. AB 1052, Section 7364(a)(1), requires a spending plan be completed by January 31, 2010 and submitted to the Legislature upon completion.

Estimated date of completion: January 31, 2010



## STATE AND CONSUMER SERVICES

### 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.

The following table summarizes the auditee's progress in implementing the two recommendations the bureau made in the above referenced report. As shown in the table, as of the auditee's one-year response and most recent response, certain aspects of both recommendations remain outstanding.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF 2008-041 RESPONSE	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
2	2	2	2

Below are the recommendations that we determined were and were not fully implemented followed by the auditee's most recent response for each.

#### Recommendation #1:

- a. If the Legislature decides to continue the boxers' pension plan, the commission should consider eliminating the break in service requirement and/or reducing from four to three the number of calendar years that a boxer must fight if it believes the current vesting criteria is excluding professional boxers for which the pension plan was intended.
- b. 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.

Bureau's assessment of status: **Not fully implemented for recommendation (a) and fully implemented for recommendation (b)**

**Auditee's Response to Recommendation (a):**

The Commission began the regulatory process at the Commission's February 10, 2009 meeting by reviewing proposed regulatory language for changing the vesting requirement from four years to three year (Rule 405). It has not moved past the initial stages of review. At this time, the pension eligibility age has been reduced from 55 to 50 (Rule 406). Retired athletes age 50 and above are scheduled to receive benefit payments beginning January 1, 2010.

Estimated date of completion: July 2010

**Auditee's Response to Recommendation (b):**

The Commission has completed mailing the annual pension statements for the years 2005, 2006, 2007, and 2008. The 2009 pension statements should be arriving January 31, 2010. Mailing of statements is caught up and current.

**Recommendation #2:**

- a. To maximize pension fund assets, the commission should 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.
- b. 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.
- c. The commission should immediately work with the pension plan administrator to correct errors related to boxers' eligibility status and account balances.
- d. The commission should periodically review a sample of newly vested and pending boxers, and verify their eligibility status and pension account balances.

Bureau's assessment of status: **Not fully implemented for recommendations (a) and (b), and fully implemented for recommendations (c) and (d)**

**Auditee's Response to Recommendation (a):**

The proposal to raise the ticket assessment is currently in the regulatory process where the per ticket assessment is to be increased from \$0.88 per ticket to \$1.36 per ticket. A regulatory hearing is scheduled on this matter for the December 21, 2009 Commission meeting in Los Angeles.

Estimated date of completion: July 2010

**Auditee's Response to Recommendation (b):**

The actions taken to resolve the Commission's cashiering problems have been completed and resulted in all deposits being made from one check issued to the Commission by the promoter. The Box Office Inspector's Report lists the individual breakdown of fees. It is the individual pension breakdown that is being used to move funds into the appropriate account for the Professional Boxers Pension Plan. However, Commission staff is willing to explore the collection of funds in an alternative manner.

Estimated date of completion: Unknown

**Auditee's Response to Recommendation (c):**

Continuing efforts are being made between the staff of the Commission and the Pension Benefits Administrator to correct errors related to eligibility and account balances on a monthly basis in order to maintain consistency. For the first time in over four years, the Professional Boxer's Pension Plan is free of error. Again, it is a monthly process that must continue to be closely monitored by staff.

**Auditee's Response to Recommendation (d):**

Reviews of this nature are now standard procedure for maintaining the Professional Boxer's Pension Plan. As stated in the response to Recommendation #5, a review of these items must continue on a monthly basis and be closely monitored by staff.



**MEDICAL BOARD OF CALIFORNIA**  
**(Report Number 2007-038, October 2007)**

**It Needs to Consider Cutting Its Fees or Issuing a Refund to Reduce the Fund Balance of Its Contingent Fund**

Section 2435 of the Business and Professions Code (code) directs the Bureau of State Audits (bureau) to review the Medical Board of California’s (medical board) financial status and its projections related to expenses, revenues, and reserves, and to determine the amount of refunds or licensure fee adjustments needed to maintain the reserve legally mandated for the medical board’s contingent fund. The medical board assesses fees for physicians and surgeons (physicians) according to rates and processes established in the code. In 2005 passage of Senate Bill 231 increased physicians’ license fees (fees) from a maximum rate of \$600 to \$790. In addition to establishing the rate, the code also states that the Legislature expects the medical board to maintain a reserve, or fund balance, in its contingent fund equal to approximately two months of operating expenditures.

The following table summarizes the auditee’s progress in implementing the two recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year and its most recent response, the auditee had not fully implemented one of those recommendations.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF 2008-041 RESPONSE	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
2	1	1	1

Below is the recommendation that we determined was not fully implemented followed by the auditee’s most recent response.

**Recommendation #1:**

The medical board should consider refunding physicians’ license fees or, if successful in gaining the flexibility to adjust its fees through an amendment to existing law, consider temporarily reducing them to ensure that its fund balance does not continue to significantly exceed the level established in law.

Bureau’s assessment of status: **Not fully implemented**

**Auditee’s Response:**

To provide some background on the Board’s implementation of these recommendations, it is important to note that Assembly Bill (AB) 547, which would have authorized the Board the flexibility to adjust the physicians’ initial licensing and renewal fees in Business and Professions Code section 2435, was vetoed in 2008. Therefore, the Board could not implement this recommendation. The Board again sought legislation in 2009 and was successful.

In addition to seeking legislation that would allow the Board the flexibility to change its licensing and renewal fees, the Board also sought the flexibility to have a larger fund reserve, which was also approved in AB 501. Since this legislation has just been signed, and will be effective January 1, 2010, the Board will be discussing the full implementation of this last recommendation

at its January 2010 Board meeting. The Board cannot determine the need to adjust its current fees until such time as the Department of Finance and the Legislature render their decisions on several critical budget change proposals which have been submitted for the 2010/2011 budget year and ongoing.

At this time, the Board has a backlog in its processing of licensing applications. In order to eliminate this backlog, the Board is utilizing overtime and has hired several temporary staff. Without this assistance the Board cannot resolve the backlog and cannot meet its statutorily mandated time frames for licensing qualified applicants. By not licensing physicians timely, it puts a strain on the physician work force and also on the postgraduate programs throughout California. Therefore, this additional spending of overtime and temporary help funds is necessary, and is being absorbed within existing resources. The full impact of utilizing temporary help to work down the backlog cannot be assessed until the end of this fiscal year. Additionally, the Board has submitted two proposals for additional staff in its Licensing Program. These proposals are still pending and their outcome will not be known until January 2010, and will have an impact on the Board's budget and fund condition.

In addition to the staffing needs in the Licensing Program, the Board is involved with the Department of Consumer Affairs' (DCA) reorganization and restructuring of the all Boards, Bureaus, and Committees' Enforcement Programs. The changes that are being suggested, both to staffing and legislation, will have a significant impact on the Board's budget. However, the changes will not be realized until the end of this fiscal year and the end of the 2010 legislative session.

As previously stated, the Board's budget and expenditures are affected by the actions of both the Administration and the Legislature, which can take independent budget and legislative actions that can affect a special fund balance. The Board's projected expenditures in the current year are uncertain given several unfunded items. Not only is the Board absorbing significant costs of additional overtime and temporary help to assist with the backlog of licensing applications, it has had to absorb the cost of 11 FY 09/10 BCP positions (6.0 positions for Operation Safe Medicine, the Board's unlicensed activity unit; 5.0 positions for Probation Monitoring) for which no funding was approved. This cost is estimated at \$800,000. Further, the Board mandated staff to hire a consultant to perform a Board-wide operations review. This cost is \$150,000. An unfunded telemedicine study is also in place in the current year at a cost of \$400,000 (AB 329, Nakanishi, Statutes of 2007, Business and Professions Code section 2028.5).

Therefore, given this uncertainty, the Board must reassess its spending in January 2010, after several pending matters have been resolved, and discuss the full implementation of the BSA's final recommendation. By the end of fiscal year 2009/2010, the Board should be in a better position to make an informed decision regarding its licensing and renewal fees, overall budget, and fund condition.

Estimated date of completion: June 2010

## NONPROFIT HOSPITALS

### (Report Number 2007-107, December 2007)

#### Inconsistent Data Obscure the Economic Value of Their Benefit to Communities, and the Franchise Tax Board Could More Closely Monitor Their Tax-Exempt Status

The Joint Legislative Audit Committee (audit committee) requested the Bureau of State Audits (bureau) to conduct an audit to ascertain whether the activities performed by hospitals that are exempt from paying taxes because of their nonprofit status truly qualify as allowable activities consistent with their exempt purpose. Specifically, the audit committee requested that we determine the roles of the entities involved in determining tax exemptions and the extent of oversight they exercise over nonprofit hospitals to ensure that they comply with requirements for tax exemption and community benefit reporting. It also asked us to examine the financial reports and any community benefit documents prepared during the last five years by a sample of both nonprofit hospitals and hospitals that operate on a for-profit basis and determine the value and type of community benefits and uncompensated care provided. In addition, the audit committee asked us to compare the community benefits provided by nonprofit and for-profit hospitals, and compare the types of care that both types of hospitals provide without receiving compensation (uncompensated care). Further, the audit committee asked us to review the financial information and the claims submitted to the State Board of Equalization (Equalization) or other agencies by nonprofit hospitals to determine whether they meet income requirements to qualify for tax-exempt status and to assess how tax-exempt nonprofit hospitals use excess income, to ensure that the uses are permissible and reasonable in terms of expansion of plant and facilities, additions to operating reserve, and the timing of debt retirement. The audit committee also asked us to determine the most current estimated total annual value of the taxation exemptions of both state corporation income taxes (income taxes) and local property taxes for nonprofit hospitals.

Finally, the audit committee asked us to determine whether the community benefits and uncompensated care provided by nonprofit hospitals meet the requirements for exemption from local property and state income tax. However, although state law outlines the requirements a nonprofit hospital must meet to receive an exemption from paying taxes, it does not specify community benefits and uncompensated-care costs as requirements. Additionally, although state law requires most tax-exempt hospitals to annually submit to the Office of Statewide Health Planning and Development a community benefits plan (plan), which may include an uncompensated-care element, the law also clearly states that the information included in the plan a nonprofit hospital submits cannot be used to justify its tax-exempt status.

The following table summarizes the Franchise Tax Board's (FTB) progress in implementing the seven recommendations the bureau made in the above referenced report. Based on its latest responses, the FTB has not fully implemented two of those recommendations.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
7	2	2

Below are the recommendations that we determined were not fully implemented, followed by the FTB's most recent response for each.

**Recommendation #1:**

The FTB should consider developing methodologies to monitor nonprofit hospitals' continuing eligibility for income tax exemption. These methodologies should include reviewing the financial data and other information on the Form 199 annually submitted by tax-exempt hospitals.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

We have finalized enhancements to the department's audit inventory/case management system that will provide data collection, modeling, and audit selection capabilities. Implementation of the system enhancements is planned for May 2010. In the interim, we are running ad hoc reports from the department's business entities accounting system to select a sample of hospitals. We will examine the Form 199 returns filed by the sampled hospitals to gain an understanding of compliance with tax-exempt requirements and materiality thresholds for ongoing review to verify continuing eligibility for income tax exemption.

Estimated date of completion: May 2010

**Recommendation #2:**

The FTB should consider developing methodologies to monitor nonprofit hospitals' continuing eligibility for income tax exemption. These methodologies should include ensuring that the annual Form 199 contains all the information required to determine eligibility for an income tax exemption in accordance with state law.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

The FTB provided the same response as it did under Recommendation #1.

Estimated date of completion: May 2010

## DEPARTMENT OF GENERAL SERVICES

### (Report Number 2007-111, January 2008)

#### California Highway Patrol: It Followed State Contracting Requirements Inconsistently, Exhibited Weaknesses in Its Conflict-of-Interest Guidelines, and Used a State Resource Imprudently

The Joint Legislative Audit Committee (audit committee) directed the Bureau of State Audits (bureau) to review the California Highway Patrol's (CHP) purchasing and contracting practices and its use of state resources. Specifically, the audit committee asked us to:

- Review the CHP contracts awarded since January 1, 2004, for helicopters, motorcycles, guns and accessory equipment, patrol car electronics, and counseling services to determine whether the CHP had complied with laws related to purchasing and whether the contracts were cost-beneficial and in the best interest of the State.
- Ascertain whether the State could cancel any noncompetitive purchasing agreements that were not compliant with laws or in the best interest of the State and repurchase goods using competitive bidding.
- Examine relevant internal audits and personnel policy or financial reviews to determine whether the CHP responded to the issues raised and took recommended corrective actions.
- Evaluate the CHP's contracts for specified goods and services and determine whether conflicts of interest existed.
- Identify the CHP's policies and practices for using state equipment, including aircraft, and determine whether the CHP complied with these policies and laws and whether its employees reimbursed the State for any personal use of state property.

Because some of the purchases we reviewed exceeded the dollar amount specified in CHP's delegated purchasing authority and the CHP worked with the Department of General Services (General Services) to complete these purchases, we reviewed General Services' purchasing practices for these purchases.

The following table summarizes General Services' progress in implementing the five recommendations the bureau made to it in the above referenced report. As shown in the table, as of its latest response, General Services had fully implemented all five recommendations, including one that was outstanding after one year.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
5	1	0

Below is the recommendation that we determined was fully implemented, followed by General Services most recent response.

**Recommendation #1:**

To ensure that state agencies use the sole-brand procurement method appropriately and not in a manner to avoid the stricter justification requirements for noncompetitive procurements, General Services should study the results from its review procedures related to sole-brand purchases. Based on the results of its study, General Services should assess the necessity of incorporating specific information on sole-brand purchases into its existing procurement reporting process to evaluate how frequently and widely the sole-brand purchase method is used.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

This recommendation was primarily addressed in April 2008 with the implementation of additional policies on overseeing the conduct of transactions that resulted in the limiting of competitive bidding (LCB). On April 15, 2008 (See Enclosure I), the DGS' Procurement Division disseminated a broadcast to departments announcing a change to the State's policies on conducting LCB procurements to make them more closely align with the more restrictive procurement policies governing the conduct of non-competitively bid transactions. Specifically, the State's policies were revised to require that all LCB procurements valued at greater than \$25,000 be submitted to the DGS for review and approval, regardless of whether the DGS/PD or the submitting department would be conducting the transaction. The implementation of these policies ensures that higher risk LCB transactions are reported to the DGS and properly overseen for compliance with the State's competitive procurement requirements.

At the time of our one-year status report in January 2009, the DGS' intent was to also establish a quarterly reporting requirement for departments to report LCB purchasing data for transactions of \$25,000 or less to the PD. However, prior to developing the new reporting requirement, the PD determined that the State's new electronic State Contract and Procurement Registration System (eSCPRS) had the ability to provide LCB transaction data, which alleviated the need for an additional quarterly reporting requirement. The eSCPRS is a module within the State's web-based eProcurement system that was implemented in March 2009. State buyers are required to enter information, including the acquisition method such as LCB (See Enclosure II), into eSCPRS for purchases of a dollar value over \$5,000. As deemed necessary, this information is being used for program monitoring and audit purposes.

## STATE BOARD OF CHIROPRACTIC EXAMINERS

(Report Number 2007-117, March 2008)

Board Members Violated State Laws and Procedural Requirements, and Its Enforcement, Licensing, and Continuing Education Programs Need Improvement

The Joint Legislative Audit Committee (audit committee) directed the Bureau of State Audits (bureau) to review the State Board of Chiropractic Examiners' (chiropractic board) enforcement, licensing, and continuing education programs; to determine the role of the chiropractic board as defined by state laws and regulations and the board's policies and procedures; and to assess whether board members consistently act within their authority. The audit committee also asked us to analyze the role, function, and use of the chiropractic quality review panels (review panels) and the chiropractic board's compliance with the Chiropractic Initiative Act of California (initiative act) requirement to aid attorneys and law enforcement agencies in enforcing the initiative act.

The following table summarizes the auditee's progress in implementing the 48 recommendations the bureau made in the above referenced report. As shown in the table, as of its latest responses, the auditee had not fully implemented one recommendation.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
48	4	1

Below are the one recommendation that remains not fully implemented and the three recommendations that were fully implemented since the auditee's one-year response, followed by the auditee's most recent response.

### Recommendation #1:

Establish procedures that direct chiropractic board management to monitor the status of open complaints regularly, especially those given priority status, to ensure that they do not remain unresolved longer than necessary.

Bureau's assessment of status: **Not fully implemented**

#### Auditee's Response:

The Board's management reviews workload statistics on a weekly basis to ensure the Compliance Unit closes cases in a timely manner. The workload statistics enable management to identify cases that are aging, which may signal the need for a case review. The Board has placed a priority on handling aged complaints and has seen a significant and continuing decrease in complaint backlogs. The Board is finalizing Case Review and Case Audit tools that will be used in concert with workload statistics to ensure staff compliance with enforcement procedures and timelines. The Case Review Form will be used to conduct monthly reviews of pending cases that are aging and/or have priority status. By conducting structured reviews, management can provide timely guidance and feed back to staff, thereby minimizing the likelihood of unnecessary delays in case closures. The Case Audit Form will be used by management to conduct random audits of closed cases to ensure procedures and timelines were adhered to.

Estimated date of completion: February 1, 2010

**Recommendation #2:**

To consistently process and resolve consumer complaints regarding the same allegation and to consistently process consumer complaints according to its enforcement policies and procedures, the chiropractic board should strengthen its existing procedures to provide guidance for staff on how to process and resolve all types of complaints and to ensure appropriate management oversight.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

All staff was issued the guidelines on how to prioritize incoming complaints. The Field Investigation Unit developed processes and written procedures to conduct investigations, inspect chiropractic clinics, and perform probation monitoring. These procedures were completed in June 2009.

**Recommendation #3:**

Establish a tracking system for applications and petitions to analyze where delays are occurring and ensure that applications and petitions are processed promptly.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

The Board established procedures and a tracking system for applications and petitions. This allows the Board to identify and take action where delays are occurring and ensure that applications and petitions are processed promptly.

**Recommendation #4:**

Comply with requirements for notifying a provider of board approval within two weeks following a scheduled board meeting and for notifying a provider of application deficiencies within three weeks of receiving the application.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

The Board established procedures for the Continuing Education (CE) analyst to notify providers upon ratification of Board member approval within two weeks following a Board meeting. Additionally, the Board established procedures to notify providers of application deficiencies within three weeks of receipt.

## 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.

The following table summarizes the auditee's progress in implementing the three recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the auditee had not fully implemented one of those recommendations. Based on the auditee's most recent response, the same recommendation still remains outstanding.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF 2008-041 RESPONSE	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
3	1	1	1

Below is the recommendation that we determined was not fully implemented followed by the auditee's most recent response.

#### Recommendation #1:

To identify the underreporting of workplace injuries and to help ensure the reasonable accuracy of annual injury reports, the division should 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 contribute to the underreporting of injuries.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

For the purposes of this response, it should be noted that Cal/OSHA receives "reports" of fatalities, injuries, and illnesses pursuant to one of many statutory mandates under which the agency operates. Cal/OSHA understands that by using the phrase "annual injury reports," BSA intended to refer to the injury and illness log, or "300 log," that employers are required by regulation to keep onsite for inspection by Cal/OSHA's at its discretion and for use as a statistical tool by the federal Bureau of Labor Statistics (BLS) and its California counterpart, the Division of Labor Statistics and Research.

As explained in previous years, Cal/OSHA has no practical means of obtaining the annual injury reports of every employer required to keep one, and this situation has not changed. To do this would add an unsustainable cost burden to the agency that would necessarily include developing an entire information management system separate from and independent of the current IMIS system operated by Federal OSHA which Cal/OSHA is required to use. Rulemaking would also be needed to require employers to submit these logs to Cal/OSHA. If such a requirement were to become law, it would be the only one in the nation. This would make California out of step with the BLS injury and illness data gathering and reporting system, which is meant to constitute a national data base.

There is no California or federal statutory mandate to obtain these reports, and the cost burden Cal/OSHA would need to absorb by obtaining all of these reports and accessing their content would result in a substantial redirection of resources away from the more direct measures Cal/OSHA currently employs, pursuant to specific non-discretionary statutory mandates, to discover and correct serious workplace hazards. Consequently, there does not appear to be any practical or realistic means at this time to implement the BSA recommendation to gather employers' 300 logs.

Cal/OSHA believes that the potential problem with 300 logs is not unique to California. It is a nationwide issue, it has been the subject of study by independent researchers as well as congressional committees, and it should be addressed on a nationwide basis.

As Cal/OSHA stated in previous responses to this audit, the Federal effort to address 300-log information throughout the United States in previous years was limited to sampling logs from different industry classifications and extrapolating from these data to generate nationwide injury and illness statistics. This has been done under the management of Federal OSHA and BLS. Cal/OSHA continues 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 Federal OSHA of a sample of worksites to review the accuracy of 300 logs kept at the sites inspected.

However, this year the Federal effort has been significantly intensified. On September 30, 2009 Federal OSHA issued Directive Number 09-08 (CPL 02) instituting a new initiative entitled the “Injury and Illness Recordkeeping National Emphasis Program”, or RK NEP. This is a new program to “pilot test Federal OSHA’s ability to effectively target establishments to identify under-recording of occupational injuries and illnesses”, and it is to include all state plans willing to participate. Cal/OSHA has officially indicated its commitment to participate fully and has initiated plans to work closely with Federal OSHA Region 9 to implement the RK NEP in California.

This program will consist of targeting a specific number of workplaces in California for intensive inspections focusing on the accuracy of the employer’s 300 log recording of injuries. Cal/OSHA believes its participation in this new initiative together with the ODI initiative mentioned above is compliant with BSA’s recommendation in that it includes developing a mechanism to obtain a realistic sampling of employers’ annual injury reports designing procedures to detect the underreporting of workplace injuries through instituting a special investigative procedure to which Cal/OSHA inspection staff will be specially trained with assistance from Federal OSHA.

Estimated date of completion: January 2010



## 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 Standards (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.

The following table summarizes the auditee's progress in implementing the five recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the auditee had not fully implemented four of those recommendations. However, based on the auditee's most recent response, it has fully implemented all five recommendations.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF 2008-041 RESPONSE	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
5	4	2	0

Below are the two recommendations that we determined were fully implemented since last year's report and the auditee's latest responses regarding these recommendations.

#### Recommendation #1:

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

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

The recommendation was fully implemented on March 1, 2008. The Department of Industrial Relations' (DIR) Division of Apprenticeship Standards (DAS) developed an aggressive apprenticeship campaign around the theme of "I Built It" that was rolled out with participation by the Governor, the Secretary of the Labor and Workforce Development Agency, the Director of DIR and many others in early 2008. This campaign includes short promotional videos produced and focused on minorities and women in addition to a broader presentation. The videos are currently receiving excellent play as public service announcements throughout the state with excellent support on Spanish language stations.

Minority statistics were expanded to break out building trades (75% of apprenticeship) from all trades and shared with the California Apprenticeship Council (CAC) as well as with all programs. This information is also posted on the DAS website.

The DAS Chief and appropriate staff participate in the CAC "Equal Opportunity in Apprenticeship" Committee meetings on a regular basis.

DAS consultants review minority and female participation in apprenticeship regularly as they meet with their programs at least quarterly.

A new award that recognizes the apprenticeship programs with the best results in indenturing minorities and females and presented under the authority of the Director of DIR was developed in 2008. The first award was made by the Director at the April 2008 meeting of the CAC to the Electrical Training Institute in Southern California and to Local 3 Operating Engineers.

Each District office of DAS produces printed Apprenticeship Information Guides (AIG's) that include the contact information, program entry requirements and other information for apprenticeship opportunities in the geographical area that the district office covers. DAS has also created a searchable web based program that allows web users to search for apprenticeship opportunities by county and occupation. This application is located at <http://www.dir.ca.gov/databases/das/aigstart.asp>. For the one year period April 1, 2008 to March 31, 2009 this web application returned 931,261 searches and provided specific program information to 731,061 requests. The printed AIG's are provided on request to any individual or organization that makes a request. All of our promotional materials drive the audience to the web application. DAS has the responsibility to provide oversight of the apprenticeship committees and has no interaction with individuals other than to direct them to programs in their field of interest in the area that they reside in; the programs keep their own list of prospective apprentices. Also all of the apprenticeship standards have lists of organizations that must be notified of apprenticeship opportunities as part of their selection procedures. We direct any prospective apprentices or organizations that contact DAS regarding apprenticeship opportunities to the web application noted above and/or provide them with a printed AIG.

**Recommendation #2:**

The division should 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.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

DAS staff conducted a system-wide reconciliation late 2006, early 2007. Following the reconciliation and the full staffing and training of field consultants, requirements were established to require consultants to work with programs to synchronize their results quarterly.

Additionally, the implementation of the Electronic Data Interchange (EDI) apprentice registration system assures accuracy for those programs that use the system. Currently approximately 28% of apprentices are monitored via EDI. We expect the carpenters program and other programs to implement EDI this year and that will increase the number to approximately 70%.

DAS publishes graduation rates by program on the Internet and uses the data for selection criteria when prioritizing audits. DAS also uses the data to commend the programs that have better than average completion rates and to focus on and work with the programs that are falling below the industry average to bring up the quality of their programs. DAS has also used the data to focus on particular industries that have low industry graduation rates to bring the major players in the industry together to explore options that can improve the apprenticeship programs in order to complete more competent journeypersons for that industry. With the peer pressure between programs and the desire not to be found to have completion rates below the trade average, programs now have a vested interest in ensuring that DAS data reflects their actual apprentice count and progress.



## GENERAL GOVERNMENT

### VETERANS HOME OF CALIFORNIA AT YOUNTVILLE

(Report Number 2007-121, April 2008)

It Needs Stronger Planning and Oversight in Key Operational Areas, and Some Processes for Resolving Complaints Need Improvement

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) conduct an audit of the Veterans Home of California at Yountville (Veterans Home), with an emphasis on the adequacy of health care and accommodation of members with disabilities. Specifically, the audit committee requested that we determine the roles and responsibilities of the various entities involved in the governance of the Veterans Home, including those responsible for setting guidelines for the care of residents. The audit committee asked that we determine whether any of the entities had evaluated staffing levels for medical personnel, review the Veterans Home staffing ratios, and identify any efforts the Veterans Home had taken to address personnel shortages. Additionally, the audit committee asked us to assess how the Veterans Home manages its medical equipment to ensure that it is up to date and functioning properly and evaluate efforts the Veterans Home has made to ensure that its facilities and services are meeting the accessibility requirements of the Americans with Disabilities Act. Finally, the audit committee asked that we review and assess the policies and procedures for filing, investigating, and taking corrective action on complaints from members and review how the Veterans Home ensures members comply with its code of conduct.

The following table summarizes the auditee's progress in implementing the 22 recommendations the bureau made in the above referenced report. As shown in the table, as of the latest response, two of those recommendations have not been fully implemented.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
22	2	2

Below are the two recommendations that we determined were not fully implemented followed by the most recent response for each.

#### Recommendation #1:

To prevent its nursing staff from working excessive overtime, the Veterans Home should consider adopting a formal policy for distributing overtime more evenly among nurses, establishing a cap on how much overtime nursing staff may work, and monitoring overtime usage for compliance with these policies.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

The Yountville Veterans Home has developed a plan to fully implement this recommendation, and the basic unit-based staffing program was implemented effective May, 2009.

It has taken longer than anticipated to complete all aspects of our planned correction due to impact of mandated furlough days and limited training resources. The attached policy details the new procedure, and the attached spreadsheet demonstrates the results of ongoing tracking of Nursing overtime by the Fiscal officer, as required.

Estimated date of completion: January 30, 2010

**Recommendation #2:**

To meet the requirements of federal ADA regulations, the Veterans Home should develop and update as needed a plan that identifies areas of noncompliance and includes the appropriate steps and milestones for achieving full compliance. In addition, the Veterans Home should develop grievance procedures and identify a specific employee as its ADA coordinator.

Bureau's assessment of status: **Not fully implemented**

**Auditee's Response:**

The Yountville Veterans Home has developed a plan to fully implement this recommendation, as indicated in previous reports. All aspects of the plan have been completed with the exception of the Americans with Disabilities Act (ADA) survey of the facility, which was contracted with the Department of General Services (DGS) Office of Real Estate and Design Professional Services Branch. As of October 28, 2009, DGS has completed their survey of all but seven buildings and has begun documentation of their findings. DGS anticipates completing this survey by January 30, 2010. An earlier completion date was originally projected, however the State-mandated furlough days have impacted the staffing required to complete the project. When completed, this report will provide the basis of the plan to bring the entire 500-acre Veterans Home campus up to ADA standards, fully implementing this audit recommendation. As reported previously the Homes Deputy Administrator was assigned as ADA coordinator and a Grievance Policy was completed and approved by the Homes Governing Body.

Estimated date of completion: January 30, 2010

## LEGISLATIVE, JUDICIAL, AND EXECUTIVE

### 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. The audit committee 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 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).<sup>12</sup>

The following table summarizes Emergency Services’ and State Homeland Security’s progress in implementing the five recommendations the bureau made in the above referenced report. As shown in the table, as of the one-year response, two of those recommendations had not been fully implemented. Based on the most recent response, all recommendations have been fully implemented.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF 2008-041 RESPONSE	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
5	2	1	0

Below is the recommendation that we determined has been fully implemented since last year’s report.

<sup>12</sup> In September 2008 legislation merged the Governor’s Office of Emergency Services and the Governor’s Office of Homeland Security into a single, cabinet-level agency, the California Emergency Management Agency.

**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.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

The Offices of Homeland Security and Emergency Services considered the recommendation implemented as of November of last year. However, since the finding was based on the Golden Guardian exercise, as we were told, confirmation of the finding was to have been based on the contents of the after-action report. Since the report was not complete as of December 2008, we understood that to be the reason the finding was carried forward. We have attached applicable excerpt pages and a summary of the final after action report, which was finalized in March 2009, as documentation of the implementation of the recommendation. The Agency considers this to satisfy the finding, however, we intend to pursue continuous improvement in our exercises to improvise ongoing real life situations and recognize that continuing improvement will be ongoing. Please don't hesitate to contact us should you have any questions or need more information.

**STATE BAR OF CALIFORNIA**  
**(Report Number 2007-030, April 2007)**

**With Strategic Planning Not Yet Completed, It Projects General Fund Deficits and Needs Continued Improvement in Program Administration**

The State Bar of California (State Bar), established by the California State Constitution, is a public corporation with a mission to preserve and protect the justice system. The law requires every person admitted and licensed to practice law in a court in California to be a member unless the individual serves as a judge in a court of record. The State Bar’s 23-member board of governors (board) establishes policy and guides such functions as licensing attorneys and providing programs to promote the professional growth of members of the State Bar.

State law requires the Bureau of State Audits (bureau) to audit the State Bar’s operations from January 1, 2006, through December 31, 2006, but does not specify topics the audit should address. For this audit we reviewed the implementation of the State Bar’s long-range strategic plan, its financial forecasts of expected revenues and expenditures, its administration of the Legal Services Trust Fund Program (legal services program), and its implementation of the recommendations from our 2005 audit. The 2005 audit assessed how the State Bar monitored its disciplinary case backlog, followed procedures for processing disciplinary cases, prioritized cost recovery efforts, and updated forecasts of revenues and expenditures.

The following table summarizes the auditee’s progress in implementing the three recommendations the bureau made in the above referenced report. As shown in the table, as of its one-year response, the auditee had not fully implemented any of the three recommendations. Based on the auditee’s most recent response, it has fully implemented two of the three recommendations.

TOTAL RECOMMENDATIONS	NOT IMPLEMENTED AFTER ONE YEAR	NOT IMPLEMENTED AS OF 2008-041 RESPONSE	NOT IMPLEMENTED AS OF MOST RECENT RESPONSE
3	3	3	1

Below are the recommendations that we determined were fully and not fully implemented followed by the auditee’s most recent response for each.

**Recommendation #1:**

- a. The State Bar should continue its efforts to reduce its backlog of disciplinary cases to reach its goal of having no more than 200 such cases.
- b. The State Bar should ensure that staff use checklists of significant tasks when processing case files and fully implement its 2005 policy directive for random audits of case files by supervising trial counsel.
- c. The State Bar should develop a plan to perform the fiscal on-site monitoring visits that were not performed while staying current with its ongoing monitoring requirements.

Bureau’s assessment of status: **Not fully implemented for recommendations (a)<sup>†</sup> and (b)<sup>‡</sup> and fully implemented for recommendation (c)**

<sup>†</sup> Contrary to the bureau’s determination, the auditee believes it has fully implemented the recommendation. However, the auditee did not address all aspects of the recommendation.

<sup>‡</sup> Contrary to the bureau’s determination, the auditee believes it has fully implemented the recommendation. However, the auditee did not substantiate its claim of full implementation and did not address all aspects of the recommendation.

### **Auditee's Response to Recommendation (a):**

The State Bar's efforts to reduce its backlog are continuous and ongoing. Every year the office focuses significant effort and resources on addressing and reducing the backlog of matters in investigation in order to maintain an acceptable number and age of backlog cases consistent with its public protection mission and office resources.

Each month the office produces both a backlog report and a backlog "roll-in" report. These reports are used by the Assistant Chief Trial Counsels (ACTCs) to monitor and address the backlog within their respective units. The ACTCs review these reports and use them to specifically target backlog cases in their units and to work with their supervising trial counsel (STC) and investigators to prevent the roll-in of new cases into backlog.

In May 2007, the Office of the Chief Trial Counsel established a revised goal of having no more than 250 open backlog cases at the end of each year, rather than the previous goal of 200 backlog cases at year's end.

However, due in large part to misconduct by lawyers providing loan modification services, there has been a significant increase in the number of inquiries received by the office (up 17% over the same period last year):

- Inquiries opened from January 1 through September 30, 2008 totaled 10,269.
- Inquiries opened from January 1 through September 30, 2009 totaled 12,027, for an increase of 1,758 inquiries.

The number of inquiries and reportable actions forwarded to investigations is up 69% over the same period last year:

- Inquiries and reportable actions forwarded to investigations from January 1 through September 30, 2008 totaled 2,433 cases.
- Inquiries and reportable actions forwarded to investigations from January 1 through September 30, 2009 totaled 4,104 cases, for an increase of 1,671 cases.

Six investigators that would have been working a regular caseload and backlog have been assigned to a special loan modification misconduct task force since March of 2009. They each have an average caseload of 136 cases.

Although the number of inquiries and reportable actions has significantly increased, the staff available to receive and investigate these inquiries has remained the same. Budgetary limitations in 2009 have resulted in a hiring freeze. The Office of the Chief Trial Counsel no longer believes the goal of having no more than 250 backlog matters at the end of 2009 is achievable. The Office of the Chief Trial Counsel now aims to end 2009 with no more than 400 cases in backlog.

The Office of the Chief Trial Counsel is evaluating whether setting a specific backlog number to be reached yearly is the best measure of system productivity or efficiency. The Office of the Chief Trial Counsel is considering whether to measure performance by setting an acceptable percentage of cases that may be in backlog at the end of a year compared to the total number of matters handled by the office in that year. The Office of the Chief Trial Counsel will continue to report the number of matters in backlog at the end of the year.

The Office of the Chief Trial Counsel is in the process of implementing the Bureau of State Audit's recommendations in Report Number 2009-030 of conducting a time study. The results of this study might help the State Bar evaluate the efficient use of its resources to further manage and reduce the backlog.

**Auditee's Response to Recommendation (b):**

In 2005 the Office of the Chief Trial Counsel implemented Policy Directive 2005-04, which formalized the random audit of open investigation files. The Chief Trial Counsel issued a memorandum to the Assistant Chief Trial Counsels requiring the use of case processing checklists.

Case Processing Checklists

On June 27, 2005, the Office of the Chief Trial Counsel issued a memorandum to its attorney managers, effective July 1, 2005, requiring the use of case file checklists to be completed by staff as files move from intake to investigations to trials. A copy of the June 27, 2005, memorandum was previously provided to the Bureau of State Audits in December 2008 as an attachment to the State Bar's response to the Omnibus Accountability Act of 2006 re 2007-030.

The ACTCs are, and have been, primarily responsible for ensuring compliance with the completion of the case processing checklists as well as compliance with other policies and procedures within their respective units. It is a policy of the office that cases should not move from intake to investigations to trials unless the checklists are appropriately completed.

The Bureau of State Audits noted that some case processing checklists have not been completely filled out because not all of the boxes were checked, or the date of completion was left blank. The office strives for 100% compliance in completing the checklists. In those instances where not all of the boxes were checked, our review indicated that the unchecked items were either generally not relevant to the particular matter or could be attributed to human error. The office believes some allowance should be made for human error and, even though it has not technically achieved 100% compliance, it believes it has fully implemented the recommendation to use case file checklists.

Based upon a further recommendation of the Bureau of State Audits, the Audit and Review Unit will also provide specific training and feedback to staff based upon its findings to help ensure that the case processing checklists are being completed in all cases as required by the June 27, 2005 memorandum.

### Random Audit of Open Investigation Files (and checklist)

On or about October 21, 2005, the Office of the Chief Trial Counsel issued policy directive 2005-04, entitled *Random Audits of Open Investigation Files*. A copy of this policy directive was previously provided to the Bureau of State Audits in December 2008 as an attachment to the State Bar's response to the Omnibus Accountability Act of 2006 re 2007-030.

This policy directive formalized what was previously an informal policy that the office began in or about October of 2004 to spot check, or audit, open disciplinary investigations to ensure staff are properly handling investigations and properly maintaining the investigation files. Each spot check consists of a file review and feedback to the investigator. A summary report is generated twice a year covering the preceding six month period.

The Supervising Deputy Trial Counsel (STC) assigned to spot check open disciplinary investigation matters have generally followed policy directive 2005-04. There are four investigation/trial units in the office, three in Los Angeles and one in San Francisco. Three of the units have shown substantial compliance with the process. However, it was noted that in 2008, the STC assigned to one of the trial/investigation units in the Los Angeles office, fell behind in performing random audits of open investigation files due to his own workload and other issues.

Beginning in early 2009, the ACTCs have been instructed to ensure through their oversight that the random audit of open investigations is completed regularly by all assigned STCs.

#### **Auditee's Response to Recommendation (c):**

Items #7 and #8 were reported by the Bureau of State Audits to be fully implemented.

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

To ensure that the strategic plan is fully implemented in an effective and timely manner, the State Bar should take the steps necessary to ensure its information technology systems can capture the required performance measurement data to support the projects needed to accomplish strategic planning objectives, or devise alternative means of capturing this data such as using an Excel spreadsheet.

Bureau's assessment of status: **Fully implemented**

#### **Auditee's Response:**

This recommendation was completed through the alternative method of capturing data using Excel spreadsheets. Evidence was provided to the Bureau of State Audits and verified in the most recent audit.

**Recommendation #3:**

To ensure that it maximizes collection efforts and its ability to implement the Rules of Court as soon as the supreme court approves procedures allowing their use, the State Bar should complete its database and input all available information on the Client Security Fund and disciplinary debtors.

Bureau's assessment of status: **Fully implemented**

**Auditee's Response:**

Testing and deployment of the State Bar's new system for tracking cost recovery information (RevQ) was completed on December 18, 2008. Input of backlogged CSF data going back to June 1998 into the AS400 system (GRACIE) was completed in July 2009. Cost recovery data in GRACIE has been reconciled with KOALA, the billing system on the AS400 system and uploaded into RevQ. This reconciliation will continue as new case data is inputted. Debtor data is available now in RevQ and the system is in use.

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  
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