

The California State Auditor released the following report today:

Employment Development Department

It Failed to Participate in a Federal Program That Would Have Allowed the State to Collect Hundreds of Millions of Dollars

BACKGROUND

The California Whistleblower Protection Act authorizes the California State Auditor (state auditor) to investigate allegations of improper governmental activities by state agencies and employees. The state auditor received an allegation that the Employment Development Department (EDD) had put off participation in a specific aspect of the federal Treasury Offset Program (Offset Program)—a program established by the U.S. Treasury in which state and federal agencies may collect delinquent debts by intercepting federal payments, primarily federal tax refunds, directed to persons who owe money to government entities. EDD administers the State's unemployment benefits program in addition to carrying out various employment and workforce functions within California. EDD began using the Offset Program in 2004 in connection with particular benefit programs it administers as allowed by federal law. In 2010 and 2011, changes to federal law expanded the Offset Program to allow states to use it for collecting unemployment benefit overpayments.

KEY FINDINGS

Our investigation at EDD revealed the following:

- EDD missed an opportunity to collect an estimated \$516 million owed to the State in unemployment benefit overpayments made to claimants because it delayed participating in the Offset Program for over three years.
 - ✓ The U.S. Department of Labor advised EDD, in June 2010, that the Offset Program was expanding and instructed EDD on what it should do immediately to begin collecting unemployment benefit overpayments using the program as soon as regulations were enacted, but EDD took no significant actions to prepare.
 - ✓ When the federal government adopted regulations in January 2011 to implement the expansion of the Offset Program, three states immediately started collecting delinquent overpayments and other states, within a year, stepped up their preparations for participating in the program—EDD took no action to participate.
 - ✓ In June 2012 EDD staff estimated that it would need to spend nearly \$323,000 to complete the computer programming necessary to participate in the Offset Program and, by doing so, would reap more than \$100 million in additional revenue during just its first year of participation—however, EDD continued to take no action.
- Although 31 states were participating in the Offset Program by early 2013, EDD still did not have a plan to participate until shortly after we began questioning EDD officials about EDD's lack of participation. EDD now plans to join the Offset Program in September 2014, well after most federal tax refunds are distributed in 2014. Thus, EDD will have missed the opportunity to collect more than 90 percent of the unemployment benefit overpayments it could have collected in 2014.

KEY RECOMMENDATIONS

We recommended to EDD that it adhere to its commitment to begin participating in the Offset Program to collect unemployment benefit overpayments by no later than September 2014. We also recommended that EDD institute a routine process for staff to identify and thoroughly evaluate ideas for improving EDD's ability to collect overpayments so that those ideas are brought to the attention of EDD's senior management for prompt, informed, and well-documented consideration.

Date: March 13, 2014

Investigative Report: I2012-0651

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To report suspected improper governmental activities, contact the
Whistleblower Hotline: (800) 952-5665, mail information to the state auditor,
or submit a complaint online to www.auditor.ca.gov