



Recommendations Not Fully Implemented After One Year

The Omnibus Audit Accountability Act of 2006

January 2009 Report 2008-041



CALIFORNIA
STATE AUDITOR

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January 20, 2009

2008-041

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 presents its special report for the Joint Legislative Audit Committee, Joint Legislative Budget Committee, and Department of Finance. This report lists 63 recommendations made to 17 agencies in audit reports issued from January 2005 through October 2007, that had been outstanding for more than one year but were not yet fully implemented. In addition, the report contains written responses from each state agency that either explain why the recommendations have not been fully implemented or assert that the agency plans to begin implementation within 90 days. Finally, most of the agencies that intend to implement the recommendations have also included an estimated completion date as required. Based on recent responses to inquiries we sent to each of the agencies, we have identified 49 recommendations that state agencies have not yet fully implemented.

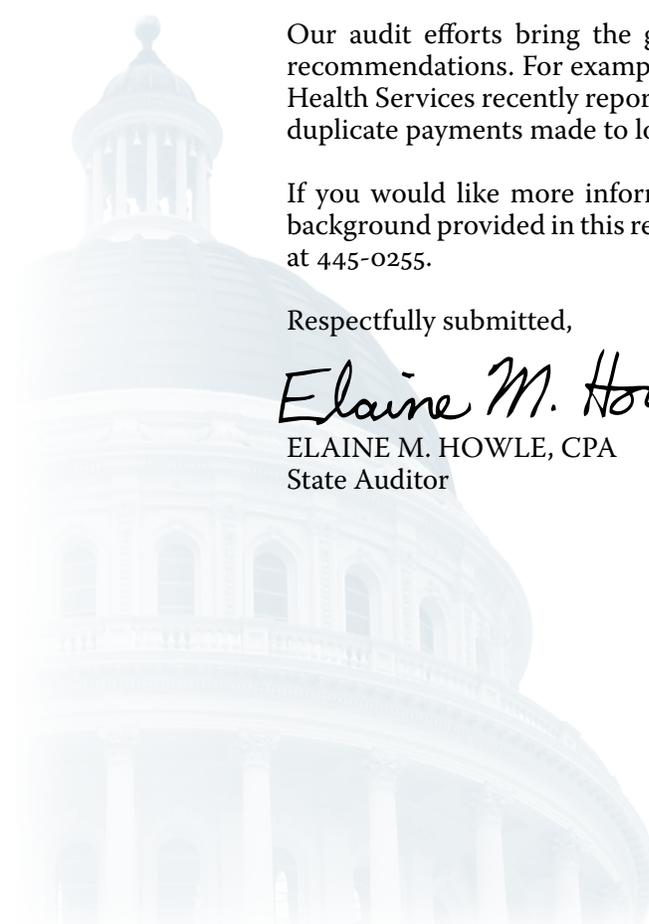
Our audit efforts bring the greatest returns when the auditee acts upon our findings and recommendations. For example, in response to a recommendation we made in February 2007, Health Services recently reported that it has recovered nearly all of the \$5.3 million identified as duplicate payments made to long-term care facilities.

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 (Accountability Act), which took effect on January 1, 2007, 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 2007, the bureau issued 46 reports for audits requested through the Joint Legislative Audit Committee or through legislation.¹ The bureau made numerous recommendations to the audited state agencies in those reports. While the state agencies implemented many of the recommendations, we identified 63 recommendations² made to 17 state agencies that had been outstanding for more than one year but were not yet fully implemented. Additionally, of those 63 recommendations, 40 appeared in last year's report.

Our audit efforts bring the greatest returns when the auditee acts upon our findings and recommendations. For example, in February 2007 we reported that the Department of Health Services' (Health Services) contractor responsible for receiving and authorizing payment of facility Medi-Cal claims had authorized duplicate payments to long-term care facilities. Specifically, we identified more than 2,100 instances of such payments totaling \$3.3 million. We recommended that Health Services further investigate the possibility that duplicate payments were authorized by the contractor beyond those we noted to ensure that the magnitude of the problem is identified and controlled, and that Health Services begin recouping these duplicate payments.

In its initial response to the audit report, Health Services stated that it took action to resolve the problem that caused the overpayments to occur. In addition, Health Services reported that it was conducting an investigation to determine the magnitude of the duplicate payments and that it was developing a corrective action plan to recoup all duplicate payments made to long-term care facilities. In its most recent response dated December 10, 2008, Health Services reported that it has recovered nearly all of the \$5.3 million it identified as duplicate payments to long-term care facilities.

In contrast, based on recent responses to our inquiries, agencies still have not fully implemented 49 of these 63 recommendations and some will not be implemented until as late as 2012. For example, to ensure that the Department of Corporations (Corporations) obtained better information about its performance, processed applications within time limits set by state law, and improved the usefulness of its information systems, we recommended in an audit we issued in January 2007 that Corporations do the following:

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

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

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

- Assess whether it needs additional staff to process applications.
- Maintain accurate and complete data to ensure that the information systems can be used more effectively as management tools.

Corporations responded that it would implement the first and third recommendations during fiscal year 2011–12 and did not indicate when it would implement the second recommendation.

The table beginning on page 3 summarizes the recommendations the bureau made to state agencies in audit reports the bureau issued from January 2005 through October 2007 that were not fully implemented as of one year from the date the report was published, along with the status of each agency's implementation efforts based on its most recent response. In some cases, the bureau's assessment does not agree with the agency's assertion that it has fully implemented the recommendation. To describe these assessments, symbols  and  appear in the table and indicate the following:

 = The agency either did not provide documentation to substantiate or the documentation did not support its claim of full implementation.

 = The agency's response did not address all aspects of the recommendation.

These symbols also appear in the body of the report adjacent to state agencies' responses as they apply.

| DEPARTMENT OR AGENCY | REPORT TITLE, NUMBER, AND ISSUE DATE | RECOMMENDATION | RECOMMENDATION APPEARED IN PRIOR YEAR'S REPORT? | FULLY IMPLEMENTED AS OF MOST RECENT RESPONSE? | ESTIMATED DATE OF COMPLETION | BUREAU'S ASSESSMENT | | PAGE NUMBER |
|--|---|--|---|---|------------------------------|--|---|-------------|
| | | | | | | DEPARTMENT DID NOT SUBSTANTIATE ITS CLAIM OF FULL IMPLEMENTATION | DEPARTMENT DID NOT ADDRESS ALL ASPECTS OF THE RECOMMENDATION | |
| K THRU 12 EDUCATION | | | | | | | | |
| Department of Education | School Districts' Inconsistent Identification and Redesignation of English Learners Cause Funding Variances and Make Comparisons of Performance Outcomes Difficult | 1. Establish required initial designation and redesignation criteria and pursue necessary legislative action. 2. Review and implement the evaluator's recommendations. | Yes | Yes | February 2009 | | | 9 |
| | 2004-120 (June 2005) | | | No | | | | 11 |
| Department of Education | Its Flawed Administration of the California Indian Education Center Program Prevents It From Effectively Evaluating, Funding, and Monitoring the Program | 1. a. Provide a description of the data that centers must annually report to measure program performance and create a standardized format for reporting. b. Outline the consequences for failing to submit the data. c. Develop an equitable process to select centers to receive grant awards and determine their respective funding amounts. d. Develop a set time frame that it adheres to for disbursing payments to the centers. e. Create a centralized filing system that contains all documents pertinent to the grant program. f. Ensure that reported fiscal and program information is accurate and complete. g. Create a set schedule indicating how long program records are to be kept. 2. Ensure that centers conduct needs assessments. | Yes | Yes | | | | 16 |
| | 2005-104 (February 2006) | | | No | June 2009 | | | 19 |
| Department of Education | Home-to-School Transportation Program: The Funding Formula Should Be Modified to Be More Equitable | Identify all school districts that provide transportation services but are not eligible to receive program funds and determine the actual costs and funding sources. | Yes | No | | | | 20 |
| HIGHER EDUCATION | | | | | | | | |
| 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 | 1. a. Ensure completion of critical tasks. b. Ensure that the roles and responsibilities it delineates for itself and EdFund do not inappropriately cede its statutory responsibilities to EdFund. | Yes | No | No date provided | | | 23 |
| | | 2. a. Student Aid to rescind delegation of approval authority of the budget to the EdFund board. b. Require staff to independently verify the accuracy of the reports submitted by EdFund. c. Complete key tasks outlined in the June 2005 mandated performance review of EdFund. | Yes | Yes | No date provided | | | 25 |
| 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 | 1. Develop a process to track management information reported annually by grantees. 2. Identify the appropriate standard for providing uninsured Californians access to therapies. | No | No | Spring 2009 | |  | 27 |
| | | 3. Complete the implementation of a grants monitoring process, including audits. 4. Resurvey salary ranges of certain positions. | No | No | | |  | 29 |
| | 2006-108 (February 2007) | | No | Yes | | | | 29 |
| | | | No | Yes | | | | 30 |

continued on next page...

| DEPARTMENT OR AGENCY | REPORT TITLE, NUMBER, AND ISSUE DATE | RECOMMENDATION | RECOMMENDATION APPEARED IN PRIOR YEAR'S REPORT? | FULLY IMPLEMENTED AS OF MOST RECENT RESPONSE? | ESTIMATED DATE OF COMPLETION | BUREAU'S ASSESSMENT | | PAGE NUMBER | | |
|--|--|--|--|--|------------------------------|--|--|-------------|--|----|
| | | | | | | DEPARTMENT DID NOT SUBSTANTIATE ITS CLAIM OF FULL IMPLEMENTATION | DEPARTMENT DID NOT ADDRESS ALL ASPECTS OF THE RECOMMENDATION | | | |
| HEALTH AND HUMAN SERVICES Pharmaceuticals—Department of Health Services | State Departments That Purchase Prescription Drugs Can Further Refine Their Cost Savings Strategies 2004-033 (May 2005) | 1. a. Analyze the cost-effectiveness of increasing the frequency of pricing updates. | Yes | Yes | No date provided | | | 34 | | |
| | | b. Identify prescription drug claims paid using the direct pricing method, determine the appropriate price for these claims, and make the necessary corrections. | | No | | | | | | |
| | | c. Ensure that the fiscal intermediary's Integrated Testing Unit removes future outdated pricing methods promptly. | | Yes | | | | | | |
| | | d. Verify that drug prices in the pricing file are calculated correctly before authorizing their use for processing claims. | | Yes | | | | | | |
| 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 current invoicing and accounting processes. | Yes | No | December 31, 2010 | | | 35 | | |
| | | b. Require consortia to prepare and publish annual reports that include various performance measures. | | No | December 31, 2010 | | | | | |
| | | c. Annually compile the content of these reports into a single, integrated report that is publicly available. | | No | December 31, 2010 | | | | | |
| | | d. Develop performance criteria and take appropriate action when performance is unsatisfactory. | | Yes | | | | | | |
| 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 appropriate level of fees charged by consortia to school districts and excess earnings allowed. | Yes | No | WILL NOT IMPLEMENT | | | 37 | | |
| | | 3. Reduce the number of entities it oversees and establish clear regional accountability guidelines and require competitive bidding in selecting vendors. | Yes | No | December 31, 2010 | | | 37 | | |
| | | 1. Develop a plan to monitor the frequency of visits against statutory requirements. | Yes | No | September 2010 | | | 38 | | |
| | | 2. a. Continue efforts to rebuild the oversight operations of the child care program. | Yes | No | September 2010 | | | | | |
| | | b. Develop sufficient automated management information to facilitate the effective oversight of its child care program regional offices. | | No | September 2010 | | | | | |
| | | c. Continue efforts to make all nonconfidential information about its monitoring visits more readily available to the public. | | No | June 2012 | | | 39 | | |
| | | 3. a. Clarify direction to regional offices staff. | Yes | Yes | | | | | | |
| | | b. Reevaluate its May 2004 memorandum. | | | | | | | | |
| | | c. Review use of noncompliance conferences to ensure policy compliance. | | | | | | 40 | | |
| | | 1. Conduct all the audits of facilities called for in the Reimbursement Act. | No | No | | | | | | |
| | | 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. Reconcile the fee payments made by facilities to the estimated payments due and follow up on significant variances. For those facilities that have not paid the full fee, we recommended that Health Services promptly initiate collection efforts. | No | Yes | | | | 41 |
| | | | | 3. Amend the contract to clearly describe the scope of work and include a specific date that Health Services will take over the reimbursement rate calculation. | No | Yes | | | | 42 |
| 4. Include information on any savings to the General Fund in required reports. | No | | | No | June 2009 | | | 42 | | |
| 5. Begin recouping duplicate payments. | No | | | No | No date provided | | | 43 | | |
| | | | | | | | | 43 | | |

| DEPARTMENT OR AGENCY | REPORT TITLE, NUMBER, AND ISSUE DATE | RECOMMENDATION | RECOMMENDATION APPEARED IN PRIOR YEAR'S REPORT? | FULLY IMPLEMENTED AS OF MOST RECENT RESPONSE? | ESTIMATED DATE OF COMPLETION | BUREAU'S ASSESSMENT | | PAGE NUMBER |
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| | | | | | | DEPARTMENT DID NOT SUBSTANTIATE ITS CLAIM OF FULL IMPLEMENTATION | DEPARTMENT 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 of complaint investigations and identify strategies to address workload imbalances. | No | No | No date provided | | | 44 |
| | | 2. a. Clarify its 45 working-day policy for closing complaints. b. Attempt to obtain mailing addresses from all complainants that do not wish to remain anonymous. | No | No | No date provided | | | 45 |
| | | 3. Institute a practice of conducting surveys throughout the entire survey cycle. | No | No | No date provided | | | 46 |
| | | 4. a. Take steps to gain assurance from temporary management companies that the funds they received were necessary. b. Expand its pool of temporary management companies. c. When Health Services changes general support items to the citation account, it should be able to document its rationale for determining the amounts charged. | No | Yes | | | | 47 |
| | | 5. Consider working with the Department of Personnel Administration to adjust staff salaries and consider hiring candidates who are not registered nurses. | No | No | No date provided | | | 48 |
| CORRECTIONS AND REHABILITATION | | | | | | | | |
| Department of Corrections | It Needs to Better Ensure Against Conflicts of Interest and to Improve Its Inmate Population Projections 2005-105 (September 2005) | 1. Before signing a no-bid contract, wait until all proper authorities have reviewed and approved the no-bid contract. | Yes | No | WILL NOT IMPLEMENT | | | 50 |
| | | 2. Require contractor staff to complete statements of economic interests. | Yes | No | WILL NOT IMPLEMENT | | | 50 |
| | | 3. Ensure it employs statistically valid forecasting methods and consider using expert advice. | Yes | No | March 2009 | | | 51 |
| | | 4. Update variable inmate projections with actual information. | Yes | No | November 2010 | | | 51 |
| | | 5. Enhance communication with local government agencies to identify changes affecting population. | Yes | No | No date provided. | | | 52 |
| | | 6. Fully document projection methodology and model. 1. a. Decide on appropriate benchmarks to monitor performance. b. Identify and use reliable data collected to evaluate program effectiveness. | Yes | No | December 31, 2008 | | | 52 |
| California Department of Corrections and Rehabilitation | The Intermediate Sanction Programs Lacked Performance Benchmarks and Were Plagued With Implementation Problems 2005-111 (November 2005) | | | | | | | 53 |
| | | | | | | | | |
| | | | | | | | | |
| BUSINESS, TRANSPORTATION AND HOUSING | | | | | | | | |
| Department of Corporations | It Needs Stronger Oversight of Its Operations and More Efficient Processing of License Applications and Complaints 2005-123 (January 2007) | 1. Consider assessing the need for new automated data systems. | No | No | Fiscal Year 2011-12 | | | 57 |
| | | 2. Assess whether it needs additional staff to process applications. | No | No | No date provided | | | 58 |
| | | 3. Maintain accurate and complete data. Revise current regulations to conform to recent amendments to statute. | No | No | Fiscal Year 2011-12 Fiscal Year 2008-09 | | | 58 |
| 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) | | No | No | | | | 60 |

continued on next page . . .

| DEPARTMENT OR AGENCY | REPORT TITLE, NUMBER, AND ISSUE DATE | RECOMMENDATION | RECOMMENDATION APPEARED IN PRIOR YEAR'S REPORT? | FULLY IMPLEMENTED AS OF MOST RECENT RESPONSE? | ESTIMATED DATE OF COMPLETION | BUREAU'S ASSESSMENT | | PAGE NUMBER | |
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| | | | | | | DEPARTMENT DID NOT SUBSTANTIATE ITS CLAIM OF FULL IMPLEMENTATION | DEPARTMENT DID NOT ADDRESS ALL ASPECTS OF THE RECOMMENDATION | | |
| 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) | 1. Complete and implement a strategic plan for the OHV program. | Yes | No | January 2009* | | | 63 | |
| | | 2. Prepare and submit required biennial reports when due. | Yes | No | January 2011* | | | 64 | |
| | | 3. Evaluate current spending restrictions in the law to determine if they allow the allocation of funds necessary to provide a balanced OHV program. | Yes | Yes | | | | | 64 |
| | | 4. Develop and implement a process to evaluate land acquisition projects. | Yes | No | January 1, 2009* | | | | 66 |
| 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) | 1. Work with Equalization to include more detail on invoices. | Yes | Yes | | | | 67 | |
| | | 2. Revise emergency regulations to assess each fee payer a single minimum annual fee plus an amount per acre-foot. | Yes | No | WILL NOT IMPLEMENT | | | | 68 |
| | | 3. Revise emergency regulations to assess annual fees consistently. | Yes | No | WILL NOT IMPLEMENT | | | | 70 |
| | | 4. Establish more realistic goals in regard to the various stages of processing an application. | Yes | No | | | | | 71 |
| STATE AND CONSUMER SERVICES | | | | | | | | | |
| Pharmaceuticals—Department of General Services | State Departments That Purchase Prescription Drugs Can Further Refine Their Cost-Savings Strategies 2004-033 (May 2005) | 1. Facilitate the development of guidelines relating to departments' adherence to the statewide formulary. | Yes | Yes | | | | 74 | |
| | | 2. Ensure notification of the volume, type, and price of prescription drugs purchased outside of the bulk-purchasing program. | Yes | Yes | | | | 74 | |
| State Athletic Commission | The Current Boxers' Pension Plan Benefits Only a Few and Is Poorly Administered 2004-134 (July 2005) | 1. a. Eliminate the break in service requirement and/or reduce the number of years a boxer must fight. | Yes | No | December 31, 2009 | | | 76 | |
| | | b. Mail an annual pension statement to all vested boxers. | | No | March 31, 2009 | | | | |
| | | 2. a. Raise the ticket assessment. | Yes | No | February 10, 2009 | | | | |
| | | b. Deposit checks timely. | | Yes | No date provided | | | | |
| | | c. Require promoters to remit pension fund contributions separate from show fees. | | No | | | | | |
| | | d. Retain all official documents from each boxing contest. | | Yes | | | | | |
| Department of General Services | Opportunities Exist Within the Office of Fleet Administration to Reduce Costs 2004-113 (July 2005) | e. Correct errors relating to boxers' eligibility status. | | No | January 5, 2009 | | | 77 | |
| | | f. Periodically review a sample of newly vested and pending boxers, and verify their eligibility status and pension account balances. | | No | March 31, 2009 | | | | |
| | | Examine individual garages to ensure that it is cost-effective to continue to operate them. | Yes | Yes | | | | | 80 |
| | | Consider refunding or reducing physicians' license fees. | No | No | End of 2009 legislative session | | | | 83 |
| 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) | | | | | | | | |

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| | | | | | | DEPARTMENT DID NOT SUBSTANTIATE ITS CLAIM OF FULL IMPLEMENTATION | DEPARTMENT DID NOT ADDRESS ALL ASPECTS OF THE RECOMMENDATION | |
| LABOR AND WORKFORCE DEVELOPMENT | | | | | | | | |
| San Francisco-Oakland Bay Bridge Worker Safety—Department of Industrial Relations | 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 annual injury reports and design procedures to detect the underreporting of workplace injuries. | Yes | No | WILL NOT IMPLEMENT | | | 85 |
| Department of Industrial Relations | Its Division of Apprenticeship Standards Inadequately Oversees Apprenticeship Programs 2005-108 (September 2006) | 1. Develop a process to coordinate exchange of information. 2. Establish a process to regularly reconcile information. | Yes Yes | No No | | | | 87 88 |
| GENERAL GOVERNMENT | | | | | | | | |
| Military Department | It Has Had Problems With Inadequate Personnel Management and Improper Organizational Structure and Has Not Met Recruiting and Facility Maintenance Requirements 2005-136 (June 2006) | 1. Review hiring policy and practices and make the necessary policy changes. 2. Develop and implement procedures for federal full-time military personnel to support part-time Guard forces. 3. Establish a process to protect active duty personnel who wish to file a complaint. | Yes Yes Yes | Yes Yes No | No date provided | | | 91 92 93 |
| LEGISLATIVE, JUDICIAL, AND EXECUTIVE | | | | | | | | |
| 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 sufficiently test the response of California's Medical and Health System. | Yes | No | | | | 96 |
| 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. Ensure its information technology systems can capture the required performance measurement data to support the projects needed to accomplish strategic planning objectives. 2. Complete its database and input all available information on the Client Security Fund and disciplinary debtors. 3. a. Develop a plan to perform the fiscal on-site monitoring visits that were not performed. b. Reduce its backlog of disciplinary cases to reach its goal of having no more than 200 cases. c. Ensure that staff use checklists of significant tasks when processing case files and implement directive for random audits of case files. | No No No | No No No | February 2009 December 18, 2008 End of 2008 WILL NOT IMPLEMENT | | | 98 99 99 |

* Dates reflect new statutory deadlines.

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

The Omnibus Audit Accountability Act (Accountability Act) requires state agencies audited by the bureau to provide updates on their status in implementing audit recommendations at intervals prescribed by the bureau. It is a long-standing practice of the bureau, consistent with generally accepted government auditing standards, to request that all audited state agencies provide a written update on their status in implementing audit recommendations at 60 days, six months, and one year from the public release date of the audit report. As we implemented the Accountability Act, we retained these prescribed time frames as the intervals at which agencies must report back to us on their status in implementing audit recommendations.

As a courtesy, in May 2007, the bureau notified all state agencies about their responsibilities under the Accountability Act as well as the bureau's responsibilities and plans for implementing these requirements. In September 2007 we provided written notice to those state agencies that had recommendations that were not fully implemented after one year or more associated with audits that were published on or after January 1, 2005. We made this determination using the one-year follow-up response to our reports. We requested that each of those affected agencies notify us as to whether the agency has since fully implemented the recommendation, plans to begin or continue implementation within 90 days and the estimated date of completion, or does not intend to implement the recommendation and the reasons for making that decision. Following this process, on January 16, 2008, we published our first report.

SECOND ANNUAL REPORT

In October and November 2008 we again provided written notice to those state agencies that had recommendations that were not fully implemented after one year or more associated with audits that were published on or after January 1, 2005. In this report the table, which appears on pages 3 through 7, summarizes the recommendations made to state agencies from audit reports the bureau issued from January 2005 through October 2007 that were not fully implemented one year from the date the report was published.

Following the table, the report provides a high-level summary of the scope of each respective audit and lists those recommendations we determined to be outstanding at one year after the public release of the audit report, in addition to those that appeared in our January 2008 inaugural report and that were still outstanding. Immediately following each recommendation is the bureau's assessment, based on the agency's response, supporting documentation and inquiries, of whether or not the agency has fully implemented the recommendation. Finally, we have included the agency's verbatim response as to its current status in fully implementing the recommendation, following the bureau's assessment. For reference, the appendix provides a template of the form that agencies used in submitting their responses.

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

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 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 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 five of those recommendations and had not fully implemented two as of the publication of our 2008 Accountability Act report. Furthermore, based on the department's most recent response, one recommendation still remains outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2007-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 6 | 5 | 2 | 1 |

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

Recommendation #1:

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

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

Department's Response:

PART A:

We recommended that the department, in consultation with stakeholders, establish required initial designation and redesignation criteria related to statewide tests that would provide greater consistency in the English learner population across the State.

EDUCATION'S STATUS:

1. Have you fully implemented the recommendation? Yes
 If Yes then answer questions 2 and 3 only
 If No then skip to question 4
2. By what date did you fully implement this recommendation? 2006–07
3. Explain how you have fully implemented the recommendation. (Please provide copies of any supporting documents or other evidence, including but not limited to that which you reference here.)

As indicated in previous status updates to the BSA, Education has initial designation and redesignation criteria based in part, on the state's English language proficiency exam—the California English Language Development Test (CELDT). California Education Code sections 313, 60810 and 52164.1 speak to this, as does Education's CELDT guide which includes California State Board of Education's classification/reclassification guidelines. These references can be found at <http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=edc&codebody=&hits=20> and <http://www.cde.ca.gov/ta/tg/el/documents/celdto8astpkt1.pdf>.

Education revised the CELDT criteria to ensure consistency in the reclassification/redesignation process. The 2006-07 CELDT, Form F, was based on new performance level cut scores. This revision to the CELDT scale raised the level at which students must perform in order to reach the Early Advanced and Advanced levels. This also allowed for a more accurate indicator of a student's level of English language development. Resetting the cut scores has raised the bar for English proficiency and will result in a more consistent pool for reclassification. It is expected that once students achieve the English proficient level on the CELDT, they will be more likely to meet the academic criteria for reclassification.

PART B:

Further, school districts should ensure that their redesignation criteria include each of the four criteria required by state law for redesignating English learners to fluent status.

EDUCATION'S STATUS:

1. Have you fully implemented the recommendation? Yes
2. By what date did you fully implement this recommendation? 2007–08
3. Explain how you have fully implemented the recommendation. (Please provide copies of any supporting documents or other evidence, including but not limited to that which you reference here)

Education's ongoing Categorical Program Monitoring (CPM) process is based on a four-year on-site review cycle. Through the CPM process, Education ensures that school districts' redesignation criteria includes each of the four criteria required by State law for redesignating English learners to fluent English proficient. LEAs that are found non-compliant are required to timely resolve non-compliant findings. The CPM Web site can be found at <http://www.cde.ca.gov/ta/cr/cc/>.

Recommendation #2:

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**

Department's Response:

(ACTION 1)

The state should identify school sites and districts that are successfully educating English learners at all grade levels, and create opportunities for their educational peers to learn from them.

EDUCATION'S STATUS:

1. Have you fully implemented the recommendation? No
If Yes then answer questions 2 and 3 only
If No then skip to question 4
4. Do you intend to begin or continue implementing the recommendation within 90 days? Yes
If Yes then answer question 5 only
If No then skip to question 6
5. By what date will the recommendation be fully implemented? February 2009

Education launched the English Language Learner Acquisition and Development Pilot (ELLADP) project for the 2007-08, 2008-09, and 2009-10 school years. Through the Request for Applications (RFA) process, the ELLADP project granted 44 LEAs (Enclosure 1) a total of \$20 million in funding to identify existing successful practices regarding topics including, but not limited to: curriculum, instruction, staff development, and academic English acquisition/development to promote the English language. Education is currently reviewing the FY 2007-08 progress reports that the LEAs submitted detailing funding activities that support successful practices.

Education is preparing the Request for Proposals (RFP) to secure a contractor to perform the evaluation study required by AB 2117; pending final approval, Education will release the RFP to the field. The resulting 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. The anticipated contract start date of the study is February 1, 2009.

(ACTION 3)

The State should focus monitoring efforts to ensure that language status does not impede full, comprehensible access to core curriculum.

EDUCATION'S STATUS:

1. Have you fully implemented the recommendation? Yes
If Yes then answer questions 2 and 3 only
If No then skip to question 4
2. By what date did you fully implement this recommendation? July 2006
3. Explain how you have fully implemented the recommendation. (Please provide copies of any supporting documents or other evidence, including but not limited to that which you reference here.)

In July 2006, Education developed its Uniform Complaints Procedure (UCP) Web site located at <http://www.cde.ca.gov/re/cp/uc/>. Additionally, Education incorporated several documents such as the UCP brochure (Enclosure 2) explaining how to file a complaint, classroom notices, and Williams settlement forms which were translated into approximately 26 other languages.

(ACTION 5)

While maintaining redesignation as a locally determined milestone, the state should specify clear performance standards for key statewide measures of English learner student progress and achievement.

EDUCATION'S STATUS:

1. Have you fully implemented the recommendation? Yes
If Yes then answer questions 2 and 3 only
If No then skip to question 4
2. By what date did you fully implement this recommendation? October 2008
3. Explain how you have fully implemented the recommendation. (Please provide copies of any supporting documents or other evidence, including but not limited to that which you reference here.)

In October 2008, Education developed the California English Language Development Test (CELDT) assistance packet entitled Reporting and Using Individual 2008-09 Results (Enclosure 3). The CELDT assistance packet delineates the guidelines for the reclassification of English learners approved by the California State Board of Education. These guidelines can be found in Education's CELDT guide at <http://www.cde.ca.gov/ta/tg/el/documents/celdto8astpkt1.pdf>.

(ACTION 6)

The state shall foster data use to guide English learner policy and instruction.

EDUCATION'S STATUS:

1. Have you fully implemented the recommendation? Yes
If Yes then answer questions 2) and 3) only
If No then skip to question 4)
2. By what date did you fully implement this recommendation? Fall 2008
3. Explain how you have fully implemented the recommendation. (Please provide copies of any supporting documents or other evidence, including but not limited to that which you reference here.)

In October 2008, Education provided technical assistance to LEAs that have failed to meet Annual Measurable Achievement Objectives (AMAOs) for four consecutive years. The technical assistance included two-day forums that emphasized the interpretation of English language proficiency and academic achievement data to assist LEAs in the systemic improvement of program curriculum and method of instruction to English learner students. In addition, regional leads from county offices of education representing 11 regions that were assigned to assist LEA participants in the development and implementation of the required Title III Year 4 Action Plan.

The forums provided an opportunity for LEA participants to gain knowledge in data analysis and interpretation (see enclosure 4 - forum agenda). On behalf of Education, the California Comprehensive Center at WestEd took participants through the inquiry process whereby a sample plan and data were provided for practice. Each LEA was provided with their own data and worked with an assigned regional lead on analysis and interpretation of data using the English Learner Subgroup Self Assessment (ELSSA) tool that was developed by Education to assist LEAs in analyzing systemic program implementation for English learners (Enclosure 5). Additionally, LEAs were given the opportunity to view available tools, such as the English Learner-School Level Tool (see enclosure 6—EL-SLT).

Title III Year 4 LEAs are required to modify curriculum, program and method of instruction. Each LEA works with a regional lead to develop a Title III Year 4 Action Plan. Regional leads monitor implementation of the plans for two years. LEAs are encouraged to revisit data periodically to make adjustments to their Action Plan and have the opportunity to participate in several technical assistance Webinars on such topics as the ELSSA, online tracker, and budgets.

Education also provides additional technical assistance to LEAs that have failed to meet AMAOs for two consecutive years. The technical assistance includes two separate two-day seminars that emphasize the use of English language proficiency and academic achievement data to assist LEAs in the improvement of program services and instruction for English learners.

Seminar presentations will be conducted in collaboration with the California Comprehensive Assistance Center at WestEd and will include topics such as Understanding Data Analysis, Conducting Data Analysis, Selecting Appropriate Strategies, and Ensuring Effective Implementation (see enclosure 7 - seminar agenda). Additionally, seminar participants will learn to complete and interpret results from the ELSSA to examine the performance levels of English learners and assess the level of implementation of the instructional program provided to English learners.

An interactive Webinar presentation on the ELSSA was conducted on November 10, 2008. The targeted audiences were school districts, county offices of education, Title III consortia, and direct funded charter schools that failed to meet AMAOs for either two or four consecutive years. School districts that were in Title I Program Improvement Year 1 were also invited to participate in the presentation.

Furthermore, Education provides LEAs assistance with the interpretation and use of summary test results for program evaluation and accountability by conducting data analysis and use workshops; the most recent occurring from October 28, 2008, to November 20, 2008. Training was expanded to benefit districts based on feedback from interviewing the CELDT Translations Advisory Group, district representatives, and educators at the Regional Assessment Network. The data analysis and use workshops included seven live workshops held across the state of California and four live WebEx presentations delivered via the Internet which targeted professional development. Additionally, approximately twelve recorded WebEx presentations are available on-demand via the Internet.

(ACTION 8):

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

EDUCATION'S STATUS:

1. Have you fully implemented the recommendation? Yes
If Yes then answer questions 2 and 3 only
If No then skip to question 4
2. By what date did you fully implement this recommendation? May 2008
3. Explain how you have fully implemented the recommendation. (Please provide copies of any supporting documents or other evidence, including but not limited to that which you reference here.)

In July 2007, the State Board of Education (SBE) adopted the regulations necessary to fully implement the English Learner Professional Development (ELPD) program. The ELPD program provides 40 hours of professional development in reading, language arts, and mathematics and is intended to be the follow-up training to the initial 40 hours of professional development provided by SB 472. The program includes effective strategies that support the teaching of English learners while providing access to standards-aligned instructional materials in mathematics and reading.

Training providers and the curriculum are approved by the SBE; the SBE approved the first professional development providers in May 2008. The enclosed three SBE agenda items (enclosure 8—enclosure 10) support the full implementation of the recommendation.

(ACTION 9):

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

EDUCATION'S STATUS:

1. Have you fully implemented the recommendation? Yes
If Yes then answer questions 2 and 3 only
If No then skip to question 4
2. By what date did you fully implement this recommendation? October 2008
3. Explain how you have fully implemented the recommendation. (Please provide copies of any supporting documents or other evidence, including but not limited to that which you reference here)

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

Education disbursed the \$30 million to LEAs that elected to participate in the program; the 1st apportionment of \$27,000,037 was made on March 10, 2008, the 2nd apportionment of \$2,999,963 was made on October 22, 2008.

DEPARTMENT OF EDUCATION

(Report Number 2005-104, February 2006)

Its Flawed Administration of the California Indian Education Center Program Prevents It From Effectively Evaluating, Funding, and Monitoring the Program

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

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

The following table summarizes the department'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 response and the publication of our 2008 Accountability Act report, the department had not fully implemented either recommendation. However, based on the department's most recent response, all recommendations are fully implemented.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2007-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 2 | 2 | 2 | 0 |

Below are the recommendations that we determined were fully implemented followed by the department's most recent response for each.

Recommendation #1:

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

- a. A description of the data that centers must annually report to measure program performance and a standardized format for reporting to allow the department to effectively aggregate and consolidate the data for reports to the Legislature and other interested parties.
- b. The consequences for failing to submit the data.
- c. An equitable process to select centers to receive grant awards and determine their respective funding amounts.

- d. A set time frame that it adheres to for disbursing payments to the centers once their applications are received and approved. The time frame for the first payment can be expressed as a set number of weeks after enactment of the state budget for centers with approved applications.
- e. A centralized filing system that contains all documents pertinent to the grant program, including documentation of the technical assistance provided to the centers.
- f. A monitoring process and plan to ensure that reported fiscal and program information is accurate and complete, including a process for corrective action and departmental follow-up for noncompliance.
- g. A set schedule indicating how long program records are to be kept.

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

Department's Response:

RESPONSE TO PART A:

1. Have you fully implemented the recommendation? Yes
2. By what date did you fully implement this recommendation? July 2007
3. Explain how you have fully implemented the recommendation? (Please provide documents of any supporting documents or other evidence, including but not limited to that which you have referenced here.)

The description of the data that will be collected was finalized with the adoption of the American Indian Education Centers Regulations (Attachment 1). In November 2007, the CDE developed an online system for data collection. The necessary data required (Attachment 2) was presented to the American Indian Education Center Directors at the February 2008 Program and Fiscal Training which took place in San Diego, CA (Attachment 3). For funding year 2007–08 the End of Year data collection will be made via an excel document. Beginning in 2008–09, data collection will be made via an online data collection system (Attachment 4).

RESPONSE TO PART B:

1. Have you fully implemented the recommendation? Yes
2. By what date did you fully implement this recommendation? July 2007
3. Explain how you have fully implemented the recommendation? (Please provide documents of any supporting documents or other evidence, including but not limited to that which you have referenced here)

The consequences for failing to submit the data can be found in California Code of Regulations, title 5, Section 11996.7, subdivision (d) Failure to submit the annual report, quarterly fiscal reports, or results of the fiscal audit of expenditures by the due dates will result in a delay of the second payment for the current year and all payments for subsequent grant years until the reports are submitted (Attachment 1). The regulations were adopted July 2007.

RESPONSE TO PART C:

1. Have you fully implemented the recommendation? Yes
2. By what date did you fully implement this recommendation? July 2007
3. Explain how you have fully implemented the recommendation? (Please provide documents of any supporting documents or other evidence, including but not limited to that which you have referenced here.)

The process for an equitable selection to select centers and to determine funding can be found in California Code of Regulations, title 5, sections 11996.3 -11996.5 (Attachment 1).

The 2007–12 cycle followed the regulations. The Request for Applications for the 2007–12 five year cycle was released July 16, 2007 (Attachments 5–16). CDE held two conferences for bidders; August 6, 2006 in Los Angeles and August 8, 2006 in Sacramento (Attachment 17). A conference for readers was held on September 19–21, 2006 (Attachment 18).

Funding decisions were made according to the procedure described in California Code of Regulations, title 5, section 11996.7 (Attachment 1).

RESPONSE TO PART D:

1. Have you fully implemented the recommendation? Yes
2. By what date did you fully implement this recommendation? January 2007
3. Explain how you have fully implemented the recommendation? (Please provide documents of any supporting documents or other evidence, including but not limited to that which you have referenced here.)

The American Indian Education Center program was reauthorized by SB 1710 which was chaptered September 30, 2007 and took affect January 1, 2007. The new language in the law addresses this issue (Attachment 1). CDE maintains a document checklist to track submission and approval of all required documents and forms (Attachment 19).

RESPONSE TO PART E:

1. Have you fully implemented the recommendation? Yes
2. By what date did you fully implement this recommendation? January 2007
3. Explain how you have fully implemented the recommendation? (Please provide documents of any supporting documents or other evidence, including but not limited to that which you have referenced here.)

The CDE established a centralized filing system for this grant program. This system maintains all annual applications, incoming and outgoing correspondence, meeting agendas and minutes, training information, monitoring reports, and other significant documents related to this program.

RESPONSE TO PART F:

1. Have you fully implemented the recommendation? Yes

2. By what date did you fully implement this recommendation? July 2007
3. Explain how you have fully implemented the recommendation? (Please provide documents of any supporting documents or other evidence, including but not limited to that which you have referenced here.)

The monitoring process is described in California Code of Regulations, title 5, Section 11996.8 (Attachment 1). CDE has developed both program and fiscal monitoring tools (Attachments 20–21). A monitoring flow chart (Attachment 22) has been developed and presented to the centers.

RESPONSE TO PART G:

1. Have you fully implemented the recommendation? Yes
2. By what date did you fully implement this recommendation? June 9, 2006
3. Explain how you have fully implemented the recommendation? (Please provide documents of any supporting documents or other evidence, including but not limited to that which you have referenced here.)

The record retention schedule was approved by the CDE on June 6, 2006 (Attachment 23–25).

Recommendation #2:

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

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

Department's Response:

1. Have you fully implemented the recommendation? Yes
2. By what date did you fully implement this recommendation? July 2007
3. Explain how you have fully implemented the recommendation? (Please provide documents of any supporting documents or other evidence, including but not limited to that which you have referenced here.)

The referenced State Board Adopted Guidelines have been superseded by the adoption, July 2007, of regulations in the California Code of Regulations (Attachment 1). The new regulations require that applicants for American Indian Education Funding complete a comprehensive needs assessment at the beginning of each five year cycle. Further, the department has developed an end of year reporting process that will allow the evaluation of American Indian Education Center success. This system will also allow the department to meet its obligation of submitting to the legislature consolidated results for all centers and supply information that is required for a comprehensive evaluation of those results, and make recommendations for program improvement.

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 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 department'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 department still had not fully implemented the recommendation.

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

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

Recommendation #1:

- a. To determine the fiscal impact on school districts that do not receive the Home-to-School program funds, the department should 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.
- b. The department should determine the actual costs these school districts incur and the funding sources they use to pay them.

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

Department's Response:**PART A:**

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

EDUCATION'S STATUS:

1. Have you fully implemented the recommendation? No
If Yes then answer questions 2 and 3 only
If No then skip to question 4
2. By what date did you fully implement this recommendation?
3. Explain how you have fully implemented the recommendation. (Please provide copies of any supporting documents or other evidence, including but not limited to that which you reference here.)
4. Do you intend to begin or continue implementing the recommendation within 90 days? Yes
If Yes then answer question 5 only
If No then skip to question 6
5. By what date will the recommendation be fully implemented? June 2009

By the close of fiscal year 2008–09, Education will use data reported in the standardized account code structure (SACS) to identify local educational agencies that report pupil transportation expenditures but do not receive Home-to-School Transportation funding, Special Education Transportation funding, or both. Additionally, Education will identify the local educational agencies that do not report expenditures and do not receive state funds.

PART B:

In addition, we recommended that Education determine the actual costs these school districts incur and the funding sources they use to pay them.

EDUCATION'S STATUS:

1. Have you fully implemented the recommendation? No
If Yes then answer questions 2 and 3 only
If No then skip to question 4
2. By what date did you fully implement this recommendation?
3. Explain how you have fully implemented the recommendation. (Please provide copies of any supporting documents or other evidence, including but not limited to that which you reference here.)
4. Do you intend to begin or continue implementing the recommendation within 90 days? Yes
If Yes then answer question 5 only
If No then skip to question 6

5. By what date will the recommendation be fully implemented? June 2009

By the close of fiscal year 2008–09, Education will use SACS data to capture local educational agencies' reported costs of pupil transportation and the reported funding source used to pay them.

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 department'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 department had not fully implemented six of those recommendations and had not fully implemented two as of the publication of our 2008 Accountability Act report. Furthermore, based on the department's most recent response, both recommendations still remain outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2007-041 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 department'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**

Student Aid's Response:**RESPONSE TO PART A:**

With respect to the Voluntary Flexible Agreement (VFA), this Recommendation has been implemented and is ongoing. 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 noted in the Commission's April 23, 2007 response on the status of the audit findings, the Department of Education 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 Department of Education to guaranty agencies. After reviewing the impact of these changes on the VFA, the Department 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. (See Attachment A.) 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 the Department of Education to develop mutually agreeable language. (See Attachment B.)

Before the language of the VFA could be finalized, certain other issues arose which prompted the Department of Education to delay the execution of the final VFA. It is unknown at this time when the Department of Education will be moving forward to complete the negotiation of a new VFA with the Commission.

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 April 23, 2007 response to the status of the audit findings, the funds in the Student Loan Operating Fund are insufficient to support any significant proposals for diversification. In addition, in August 2007, Senate Bill 89 (Chapter 182, Statutes of 2007) ("SB 89"), was enacted to sell the State's student loan guarantee program assets. (See Attachment C.) 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 guarantee 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 guarantee 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:

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.

RESPONSE TO PART 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. (Attachment D). The Operating Agreement has also been amended as indicated in the April 23, 2007, response to the status of the audit findings. (Attachment E.)

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; (Attachment F).
- 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 (Attachment G).
- 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 (Attachment H).

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

Recommendation #2:

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

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

Student Aid's Response:

RESPONSE TO PART A:

Yes, the recommendation was implemented June 22, 2006. The Commission rescinded the Commission's delegation of the approval authority of EdFund's detailed operating budget to the EdFund Board. This information was reported to BSA in an April 23, 2007 letter. Attachment I is a copy of the signed minutes which include the action taken by the Commission.

RESPONSE TO PART B:

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 (FPPD) responsible for EdFund oversight no longer has the resources to independently verify the accuracy of the reports submitted by EdFund. 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 of independently verifying the accuracy of the reports submitted by EdFund.

RESPONSE TO PART C:

The recommendation has been fully implemented. As noted in its April 23, 2007 response on the status of the audit findings, the Commission and EdFund have, and continue to, undertake most of the activities identified in the key tasks outlined in the June 2005 mandated performance review of EdFund. The current economic climate/credit market, the changes likely to occur within the Federal Family Education Loan Program with a new administration, the potential sale of EdFund and other significant business strategy changes impacting the loan program have been the subject of Commission meetings, EdFund Board Meetings, and regular meetings between Commission and EdFund staff over the last several months. (See Attachment J which includes meeting notices in which the 2008-09 EdFund Business Plan and Budget has been discussed). The key tasks related to the VFA and business diversification have not been implemented as discussed in relation to Finding 7, Recommendation 1, above.

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 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 department'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 department had not fully implemented four of those recommendations. However, in its most recent response, the department had asserted that it implemented one of the outstanding recommendations subsequent to the one-year date, leaving three recommendations still to be fully addressed.

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

Below is the recommendation that we determined was fully implemented and those that were not fully implemented followed by the department's most recent response for each.

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: **Not fully implemented**

Institute's Response:

RESPONSE FOR RECOMMENDATION #1:

- No.

- 4, Yes.
5. Spring 2009.

STATUS UPDATE

The above status summary notes three CIRM initiatives that implement this recommendation: annual progress reporting, annual scientific conferences for CIRM grantees, and a comprehensive grants management system.

PROGRESS REPORTING: IMPLEMENTATION COMPLETED SPRING 2007

Grantees submit annual reports detailing scientific progress on the funded research project, and accounting for use of CIRM funds. The scientific reports are reviewed by CIRM science officers. If a grantee fails to demonstrate adequate scientific progress, CIRM may seek corrective action, ranging from informal guidance to grant termination. The financial reports are reviewed by grants management staff to verify that funds have been used for approved purposes and within budget. If either the scientific or financial review show noncompliance, no further funding is released until problems have been addressed. 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. For example, CIRM's web page reports and summarizes scientific publications reported by grantees: <http://www.cirm.ca.gov/about/research.asp>. (Annual reporting requirements are set out in the grants administration policies. Event-based reporting requirements are set out in the intellectual property regulations.) A sample annual report form is attached.

ANNUAL MEETING: IMPLEMENTATION COMPLETED SEPTEMBER 2008

In September, CIRM held its first scientific conference for all CIRM grantees, 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.

GRANTS MANAGEMENT SYSTEM: IMPLEMENTATION CONTINUES

CIRM continues to make progress toward implementing a comprehensive grant management system, but has not completed implementation. After a competitive bidding process, CIRM selected Grantium, Inc. as the vendor for the grants management system. The Grantium contract was executed in April 2008, and CIRM staff have been working with Grantium to adapt Grantium's software to CIRM's specific needs. Testing and refinement are underway, and CIRM expects to begin transitioning to the new system in the Spring of 2009. Pending full implementation of the Grantium system, CIRM collects and monitors grant information through its self-developed legacy systems; transition to the Grantium system will include migration of data from the legacy systems.

SUPPORTING DOCUMENTATION

Attachment 1–A: Annual report form for Comprehensive grants
Attachment 1–B: CIRM Grantee Meeting Abstract Book (2008)

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: **Not fully implemented**

Committee's Response:

RESPONSE FOR RECOMMENDATION #2:

1. Yes.
2. March 2008.
3. The above status summary notes that CIRM had completed the rulemaking process for the IP regulations for non-profit grantees, and that the regulations for for-profit grantees were awaiting OAL approval. OAL issued its final approval of the For-Profit IP regulations (Sections 100400–100410) on March 4, 2008, and filed them with the Secretary of State on that date. (Note that the ICOC adopted further clarifications and revisions to sections 100407 (relating to Access and Pricing) and 100408 (revenue sharing) which were given final OAL approval in October of 2008.)

SUPPORTING DOCUMENTATION

Attachment 2-A: Final regulations, as approved by OAL March 4, 2008 (17 CCR §§ 100400-100410)
Attachment 2-B: OAL Approval of above

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: **Not fully implemented**

Institute's Response:

RESPONSE FOR RECOMMENDATION #3:

1. Yes.
2. June 2008
3. CIRM has completed implementation of the three main components of its grant monitoring process.

PRE-FUNDING REVIEW: COMPLETE IMPLEMENTATION PREVIOUSLY REPORTED

Each grant is subject to a comprehensive review before the initial funding is released. We discussed this pre-funding review in greater detail in our one-year response, and included (as Attachment A to that letter) a description of the procedures included in that review. The review includes verification that the grantee has obtained the ethical clearances required by CIRM regulations.

ANNUAL AND EVENT REPORTING: IMPLEMENTATION COMPLETED SPRING 2007

Grantees submit annual reports, as described above in the response to Finding #1. The annual reports are reviewed by CIRM staff for continued compliance with administrative and scientific requirements. No subsequent funding is released until the grantee demonstrates compliance.

COMPLIANCE AUDITS: IMPLEMENTATION COMPLETED JUNE 2008

The third component was implemented after we submitted our one-year response. 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 five grantee institutions since June. Audits continue on a regular basis.

Note: The status summary correctly states that the new grants management system will include tracking of grantee compliance, but we should clarify that CIRM already uses the three processes described above to collect and track verification of compliance for every grant. The new grants management system will enhance CIRM's ability to compile reports about compliance by all grantees.

SUPPORTING DOCUMENTATION

Attachment 6-A: Compliance review protocol, including a description of review procedures, audit checklists, and sample correspondence.

Recommendation #4:

To ensure that the methodology to set salary ranges complies with the act, the institute should follow through with its plan to resurvey any positions whose salary ranges were affected by the errors, omissions, and inconsistencies in its initial salary survey and salary-setting activities.

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

Institute's Response:**RESPONSE FOR RECOMMENDATION #4:**

1. Yes.
2. March 2008.
3. As noted in the above status summary, CIRM commissioned a new salary survey designed to correct the deficiencies identified by BSA. The survey was presented to ICOC at its March 2008 meeting. In response to the survey, the ICOC approved adjustments to CIRM's salary structure. That salary structure groups all positions into 10 salary levels, and

provides the salary range for each level. Positions are assigned to salary levels on the basis of the salary survey data. When CIRM has created new positions that were not included in the Mercer survey, those positions were assigned to a salary level by comparing the duties and qualifications to those of existing positions.

SUPPORTING DOCUMENTATION

Attachment 12-A: Agenda for March ICOC Meeting

Attachment 12-B: Minutes of March ICOC Meeting

Attachment 12-C: CIRM Salary Structure

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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), 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 (General Services), Health Services, and CalPERS.

The following table summarizes the department’s progress in implementing the recommendation the bureau made in the above referenced report. As shown in the table, as of its one-year response and publication of our 2008 Accountability Act report, the department had not fully implemented the recommendation. Furthermore, based on the department’s most recent response, the recommendation still remains outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2007-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 1 | 1 | 1 | 1 |

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.

On the following page is the recommendation that we determined was not fully implemented followed by the department’s most recent response.

Recommendation #1 to Health Services:

- a. To ensure that it reimburses pharmacies the appropriate amounts for prescription drug claims, Health Services should analyze the cost-effectiveness of increasing the frequency of its pricing updates. If this analysis shows that it would be cost-effective to conduct more frequent updates, Health Services should seek budgetary authority to do so.
- b. 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.
- c. Health Services should ensure that the fiscal intermediary's Integrated Testing Unit removes future outdated pricing methods promptly.
- d. Health Services should ensure that its fiscal intermediary's Integrated Testing Unit verifies that, in the future, drug prices in the pricing file are calculated correctly before authorizing their use for processing claims.

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

Health Services' Response:**RESPONSE TO PART A:**

The Department agrees with this finding and has fully implemented this recommendation. On January 1, 2006, DHCS implemented a weekly update process for the CA-MMIS formulary file to perform pricing updates.

RESPONSE TO PART B:

DHCS 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 CMS 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) will be performed to ensure that claims payment was not affected. This EPC is scheduled to begin implementation by mid-November 2008.

RESPONSE TO PART C:

This recommendation was in connection to system modifications being implemented without review by the FI Contractor's Integrated Testing Unit (ITU). DHCS agreed with this recommendation in that ITU needs to review any system modifications prior to implementation to ensure the accuracy of prices on the formulary file. Since mid-2005, the ITU has been reviewing all system modifications being made that affect the formulary file and pricing. This recommendation has been fully implemented.

RESPONSE TO PART D:

DHCS agrees with this recommendation and in mid-2005 implemented safeguards within the FI Integrated Testing unit to ensure that these types of errors in the formulary file would not occur on future system changes.

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 to review the Department of Health Services' (Health Services)³ 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 department'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 and the publication of our 2008 Accountability Act report, the department had not fully implemented three of those recommendations. Furthermore, based on the department's most recent response, all three recommendations still remain outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2007-041 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 department'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.

³ Effective July 1, 2007, the Department of Health Services was renamed as the Department of Health Care Services as a result of Senate Bill 162.

- d. Health Services should develop written criteria for consortia, and local governmental agencies should they continue to be part of MAA, and take appropriate action when performance is unsatisfactory.

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

Health Services' Response:

RESPONSE TO PART A:

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

RESPONSE TO PART B:

DHCS requires consortia and local governmental agencies to submit 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. DHCS also requires consortia and local governmental agencies to conduct local site visits to each school district once every three years and report the findings to DHCS. This recommendation has been partially implemented and DHCS will work toward making this recommendation part of the MAA automation project which is expected to be implemented by December 31, 2010.

RESPONSE TO PART C:

When the MAA automation project is in place and these statistics can be accurately compiled, DHCS will be able to annually compile the contents of these statistics and publish a single, integrated report that will be publicly available. DHCS expects MAA automation to be fully implemented by December 31, 2010.

RESPONSE TO PART D:

DHCS has written criteria for consortia, and local governmental agencies that participate in School-based MAA (SMAA). The SMAA Provider Manual is normally updated on a yearly basis. However, due the President's budget eliminating the SMAA program, the provider manual was not updated for fiscal year 2008–09. A moratorium to extend the SMAA program was put in place and extends the program until April 1, 2009. In addition, written criteria is provided to LEAs in the form of Policy and Procedure Letters submitted informing the LEAs of program policy updates, changes and modifications, and site visit templates which delineate the criteria used to review claiming units.

This recommendation was implemented in December 2008. When DHCS identifies that the LEC or LGA oversight is unsatisfactory, DHCS uses the existing non-compliance structure currently used for LEA site visits. Specifically, a report is issued to the LEC and LGA Coordinator reflecting positive and negative findings and recommendations for improved performance. The final report requires the coordinators to develop a corrective action plan, if applicable.

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**

Health Services' Response:

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, which is the basis on which DHCS declines to implement.

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**

Health Services' Response:**RESPONSE TO RECOMMENDATION #3:**

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

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 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 department'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 department had not fully implemented five of those recommendations and had not fully implemented three as of the publication of our 2008 Accountability Act report. Furthermore, based on the department's most recent response, the three recommendations still remain outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2007-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 8 | 5 | 3 | 3 |

Below are the recommendations that we determined were not fully implemented followed by the department'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**

Department's Response:

CDSS status response: Partially corrected. The anticipated correction date is September 2010.

The Department now has data to measure compliance with its random inspection requirement and is using it. The five year requirement will be built during Phase 1 of our Information Technology Strategic Plan. Funding for Phase 1 was approved in State Fiscal Year 2008–2009 and we are currently in the recruitment and hiring phase for the people who will develop the

computer programs. It is anticipated to take two years to complete (see Attachment A, Budget Change Proposal for Licensing Reform Automation; and Attachment B, approval letter for the Feasibility Study).

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**

Department's Response:**PART A:**

CDSS status response: Partially corrected, completion dependent upon the availability of resources.

A work group continues to identify management information needs and work with the Information Systems Division to make automated reports available on the Field Automation System (FAS). Programming for reports is accomplished as resources are available. Data from FAS is used to manually develop management reports to assist in the oversight of the program. In addition, the management reports are used by each supervisor to review the field inspectors' work and guide further efforts.

PART B:

CDSS status response: Remains uncorrected/agree with recommendation.

Once Phase 1 of the Information Technology Strategic Plan is operational, automated reports will be available to monitor inspection and compliance activities on divisional, regional, office, unit, and inspector levels. Until this is available, the activities in response to part A are being utilized as oversight tools to review activities of the regional offices.

PART C:

CDSS status response: Remains uncorrected/agree with recommendation.

The CDSS is working to obtain the necessary approvals for this project and will assess the need for resources following receipt of the approvals.

Recommendation #3:

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

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

Department's Response:**PART A:**

CDSS status response: Fully corrected effective November 30, 2007.

The Enforcement Section of the Evaluator Manual (Attachment C) was updated to clarify the purpose for holding a non-compliance conference as well as the circumstances upon which a non-compliance conference may be necessary, stressing the need for case by case assessment. The Evaluator Manual Update was issued on November 30, 2007. In addition, the Child Care Licensing program included in its January 2008 Child Care Update (Attachment D), an advisory to licensees and child care staff, that indicated specific scenarios that would prompt the need for a non-compliance conference.

PART B:

CDSS status response: Fully corrected effective November 30, 2007.

The May 2004 memorandum was evaluated and clarified and, where appropriate, incorporated into the Enforcement Section of the Evaluator Manual. The Evaluator Manual update was issued November 30, 2007 (Attachment C).

PART C:

CDSS status response: Fully corrected effective November 30, 2007.

As stated in the six-month response, review of the use of non-compliance conferences and the Enforcement Section of the Evaluator Manual are part of the Program Systems Review tool. The tool was shared with the Child Care Regional Offices so they can conduct periodic self-assessments. In addition, in November, 2007, the Child Care Program Office (CCPO) conducted a focused review of its entire program in the use of Enforcement/Administrative Actions which includes the use of non-compliance conferences. Based on the findings of the review, the CCPO conducted a meeting with its entire management team and provided direction on what types of scenarios warrant holding a non-compliance conference and possible legal action. Additionally, the CCPO included in its January 2008 Child Care Update, an advisory to licensees and child care staff, with specific scenarios that would prompt the need for a non-compliance conference.

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 to review the Department of Health Services' (Health Services)⁴ 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 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 still had not fully implemented five of those recommendations. Furthermore, based on the department's most recent response, three recommendations still remain outstanding.

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

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

Recommendation #1:

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: **Not fully implemented**

⁴ Effective July 1, 2007, the Department of Health Services was renamed as the Department of Health Care Services as a result of Senate Bill 162.

Health Services' Response:

RESPONSE FOR RECOMMENDATION #1:

The Department of Health Care Services (DHCS) has fully implemented this recommendation.

DHCS did not receive auditor positions to perform the combination of full scope and limited reviews required by the Reimbursement Act until October 2006.

During the production cycle for fiscal year 2007–2008 free standing level B facilities that needed a Medi-Cal rate received either a desk review or a full scope audit. Further, each free standing level B facility requiring a Medi-Cal rate that did not receive a full scope audit in the 2004–2005 or 2005–2006 production cycles received a full scope audit, bringing DHCS into full compliance with the requirements of the Reimbursement Act.

Recommendation #2:

Health Services should reconcile the fee payments made by facilities to the estimated payments due and follow up on significant variances. For those facilities that have not paid the full fee, Health Services should promptly initiate collection efforts.

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

Health Services' Response:

RESPONSE FOR RECOMMENDATION #2:

The Department of Health Care Services (DHCS) has fully implemented this recommendation.

DHCS' collection efforts are performed on a continuous basis. DHCS continues notifying facilities of outstanding fee balances and is receiving regular responses from those facilities. In addition, DHCS has completed reconciling its fee payment records for the 2006/07 rate year and has a process in place for collecting aged fee receivables.

Recommendation #3:

Health Services should amend the contract to clearly describe the scope of work, include a statement that Health Services will obtain the logic and business rules of the reimbursement rate system, and a specific date that Health Services will take over the reimbursement rate calculation.

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

Health Services' Response:

RESPONSE FOR RECOMMENDATION #3:

The Department of Health Care Services (DHCS) has fully implemented this recommendation.

In its one year progress report, DHCS reported that it had prepared a contract amendment that included a turnover plan. The turnover plan required the consultant to provide the logic and business rules of the reimbursement rate system and train DHCS employees to operate the system.

DHCS staff has received the training necessary to operate the reimbursement rate system and has created a software application capable of calculating reimbursement rates for the upcoming 2009–10 rate year.

Recommendation #4:

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**

Health Services' Response:

RESPONSE FOR RECOMMENDATION #4:

The Department of Health Care Services (DHCS) has not fully implemented this recommendation.

The Department of Health Care Services (DHCS) is currently working with the Department of Public Health's Licensing and Certification Program on implementing this recommendation. The DHCS intends to continue the implementation effort over the next 90 days and expects the recommendation to be fully implemented towards the end of the 2008/09 State Fiscal Year.

Recommendation #5:

Health Services should begin recouping duplicate payments.

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

Health Services' Response:

RESPONSE FOR RECOMMENDATION #5:

The Department of Health Care Services (DHCS) has not fully implemented this recommendation.

DHCS continues to recover the duplicate payments for which initial recoupment began September 14, 2007, under an Erroneous Payment Corrections (EPC) process. Out of \$5,338,042 identified as duplicate overpayments, DHCS has recovered \$5,307,520 and continues to pursue the recovery of \$30,522 from 39 of the original 901 overpaid providers identified by DHCS. 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.

A third recovery will take place during fiscal year 2008–2009 and may continue into year 2009–2010 for 246 providers identified in EPC 6101 Phase 2, which require an audit to determine the overpaid provider when duplicate overlapping claims were detected between two different providers. The DHCS Audits and Investigations Division is currently reviewing this claim data when performing its annual audits of providers. Once an overpayment is established, DHCS will recover the erroneous duplicate payment by direct provider reimbursement or an offset against future claims.

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 to conduct an audit assessing the Department of Health Services' (Health Services)⁵ oversight of skilled nursing facilities.

The following table summarizes the department'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 and its most recent response, the department still had not fully implemented five of those recommendations.

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

Below are the recommendations that we determined were not fully implemented followed by the department'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**

Health Services' Response:

1. Have you fully implemented the recommendation? Partially
If Yes then answer questions 2 and 3 only
If No then skip to question 4
2. By what date did you fully implement this recommendation? Unknown
3. Explain how you have fully implemented the recommendation. (Please provide copies of any supporting documents or other evidence, including but not limited to that which you reference here.)
4. Do you intend to begin or continue implementing the recommendation within 90 days? Yes.
If Yes then answer question 5 only
If No then skip to question 6

⁵ 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.

5. By what date will the recommendation be fully implemented? Unknown
6. Provide your reason(s) for not fully implementing the recommendation.

Response for Recommendation #1: For 2006–07 L&C closed 68.2% within 40 days. For 2007–08, L&C closed 72.1% within 40 days. See Attached Excel spreadsheet.

L&C tracks when initial complaints are received and when complaints are closed, and has implemented new policy and procedures, district office performance measures and a Quality Assurance Program to ensure timely complaint investigations.

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**

Health Services' Response:

1. Have you fully implemented the recommendation? Part A: (NO) Part B: (YES)
If Yes then answer questions 2 and 3 only
If No then skip to question 4
2. By what date did you fully implement this recommendation?
3. Explain how you have fully implemented the recommendation. (Please provide copies of any supporting documents or other evidence, including but not limited to that which you reference here.)
4. Do you intend to begin or continue implementing the recommendation within 90 days?
If Yes then answer question 5 only
If No then skip to question 6 Part A: (YES) Part B: (YES)
5. By what date will the recommendation be fully implemented?
6. Provide your reason(s) for not fully implementing the recommendation.

RESPONSE FOR PART A:

As indicated in Recommendation 1 above, L&C has closed approximately 68.2% of 5,688 complaints received in 2006–07 within 40 days and improved our performance in 2007–08 by closing approximately 72.1% of 6,356 complaints within 40 days of receipt. Given these high volumes of complaints, L&C has initiated virtually every LTC complaint on time. While L&C did not agree with this recommendation, it is confident that its current business practices will ensure continued compliance with LTC complaint resolution timeframes.

RESPONSE FOR PART B:

L&C reinforced with district office managers and staff the importance of attempting to obtain complainant mailing addresses. This message was also contained in our Support Staff Academy Training in April 2008. L&C will design a quality assurance audit to review and document District Office compliance.

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**

Health Services' Response:

1. Have you fully implemented the recommendation? **PARTIALLY**
If Yes then answer questions 2 and 3 only
If No then skip to question 4
2. By what date did you fully implement this recommendation?
3. Explain how you have fully implemented the recommendation. (Please provide copies of any supporting documents or other evidence, including but not limited to that which you reference here)
4. Do you intend to begin or continue implementing the recommendation within 90 days? **YES**
If Yes then answer question 5 only
If No then skip to question 6
5. By what date will the recommendation be fully implemented? **UNKOWN**
6. Provide your reason(s) for not fully implementing the recommendation.

Response for Recommendation #3: Delays with the federal contractor that maintains the federal Aspen Scheduling and Tracking System (AST) and L&C's focus on launching HFCIS prevented the timely launch of AST as expected in January 2008. AST has since become operational. District Office staff have been trained in its application and are beginning to use this ACO module to schedule surveys. The AST system has allowed L&C to increase unpredictability in its survey scheduling process. In addition to L&C's on-time complaint investigation process, SB 1312 licensing survey and regular survey scheduling have reduced the level of predictable surveys.

Recommendation #4:

- a. To ensure it can adequately justify the expenses it charges to the citation account, Health Services should take steps to gain assurance from temporary management companies that the funds they received were necessary. This should include reviewing the support behind temporary management companies' e-mails requesting payments.
- b. Health Services should take steps to expand its pool of temporary management companies to ensure that it has sufficient numbers of temporary management companies available and receives competitive prices.
- c. 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**

Health Services' Response:

1. Have you fully implemented the recommendation? YES to Parts A, B and C
If Yes then answer questions 2) and 3) only
If No then skip to question 4)
2. By what date did you fully implement this recommendation? August 28, 2008
3. Explain how you have fully implemented the recommendation. (Please provide copies of any supporting documents or other evidence, including but not limited to that which you reference here)
4. Do you intend to begin or continue implementing the recommendation within 90 days?
If Yes then answer question 5 only
If No then skip to question 6
5. By what date will the recommendation be fully implemented?
6. Provide your reason(s) for not fully implementing the recommendation.

Response for Part A: On August 29, 2008, L&C released the Temporary Manager Qualifications and Selection Criteria, Outline of Temporary Manager Procedures, and the List of Contact Names for Temporary Manager Solicitation. Copies of these documents are attached.

Response for Part B: On August 29, 2008, L&C released the Temporary Manager Qualifications and Selection Criteria, Outline of Temporary Manager Procedures, and the List of Contact Names for Temporary Manager Solicitation. Copies of these documents are attached.

Response for Part C: Please see attached e-mail to the L&C Deputy Director.



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**

Health Services' Response:

1. Have you fully implemented the recommendation? Part A: (NO) Part B: (NO)
If Yes then answer questions 2 and 3 only
If No then skip to question 4
2. By what date did you fully implement this recommendation?
3. Explain how you have fully implemented the recommendation. (Please provide copies of any supporting documents or other evidence, including but not limited to that which you reference here)
4. Do you intend to begin or continue implementing recommendation within 90 days? Part A: (YES) Part B: (YES)
If Yes then answer question 5) only
If No then skip to question 6)
5. By what date will the recommendation be fully implemented? Parts A and B: UNKOWN.
6. Provide your reason(s) for not fully implementing the recommendation.

Response for Part A: The CPS final report was stalled due to the protracted budget delay. L&C is still working with CPS to finalize the report and submit it to DPA.

Response for Part B: In its original response to the BSA report, L&C indicated that it had made a business decision to hire Registered Nurses (RNs) as its primary surveyor. As a result of the temporary hiring freeze and the addition of 45 positions allocated in FY 2007/2008, L&C currently has a 14.1% vacancy rate in its HFEN classification. Prior to this, however, the L&C vacancy rate was consistently about 8%. In recognition of the nationwide RN shortage, CDPH contracted with a personnel consulting firm to recruit RNs. L&C is confident that, between hiring this recruiter and mailing postcards to all RNs statewide, it will not need to hire non-RNs to fill surveyor vacancies.

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 California Department of Corrections⁶ (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 Agency⁷ 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.

The table on the following page summarizes the department’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 and the publication of our 2008 Accountability Act report, the department had not fully implemented six of those recommendations. Furthermore, based on the department’s most recent response, the six recommendations still remain outstanding.

⁶ The California Department of Corrections is now the California Department of Corrections and Rehabilitation (CDCR).

⁷ The Youth and Adult Correctional Agency is now within CDCR.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2007-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 9 | 6 | 6 | 6 |

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 recommendations that we determined were not fully implemented followed by the department's most recent response for each.

Recommendation #1:

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: **Not fully implemented**

Department's Response:

RESPONSE TO RECOMMENDATION #1: (RESPONSE BELOW PROVIDED TO QUESTION 6 AS INSTRUCTED)

CDCR believes the no-bid contract process is in full compliance with this recommendation and no implementation action is required. The response below was provided to BSA for the SB 1452 Special Report Number 2007-041, however was not included in the final printing of that report. We reiterate the response to Finding 1, recommendation 1 as follows:

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

Following the original BSA audit number 2005-105 in September 2005, CDCR reviewed its compliance with existing law, regulations and recommendations of the California Attorney General. Following that review, CDCR concluded its practices were compliant with all of the above, and declines to implement the additional recommendations of BSA as to that item.

Recommendation #2:

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

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

Department's Response:

RESPONSE TO RECOMMENDATION #1: (RESPONSE BELOW PROVIDED TO QUESTION 6 AS INSTRUCTED)

CDCR believes the conflict interest process is in full compliance with this recommendation and no implementation action is required. The response below was provided to BSA for the SB 1452 Special Report Number 2007-041, however was not included in the final printing of that report. We reiterate the response to Finding 2, recommendation 1 as follows:

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

Therefore, CDCR stands by its original responses to these two recommendations.

Recommendation #3:

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**

Department's Response:

RESPONSE TO RECOMMENDATION #3:

As noted in Report 2007-041, consultants have been reviewing the projections process. They have submitted several interim reports (attached) but due to departure of critical staff, difficulty recruiting a qualified replacement and budget constraints that resulted in a hiring freeze, the work has not been completed. It is anticipated that the work will be completed and a final report submitted by March 2009.

Recommendation #4:

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**

Department's Response:

RESPONSE TO RECOMMENDATION #4:

As noted in Report 2007-041, staff had been working with a retired annuitant with expertise in the Inmate Classification Scoring System in order to create the database necessary for completing this recommendation and work was anticipated to be completed for use in the Fall 2008 Projections. The staff member with knowledge of the model and the skills needed to implement changes left CDCR in March 2008. In addition, the retired annuitant was no longer able to continue working on the project. Due to difficulty recruiting a qualified replacement for the critical staff member, the loss of the retired annuitant with the necessary expertise and a subsequent hiring freeze, the work has not been completed.

It is anticipated that a qualified individual with modeling experience will be hired soon. The experts reviewing the projections process and evaluating the simulation model will be making recommendations for changes that CDCR believes will be feasible to implement. We are also developing new sources of data to improve accuracy and reliability of the projections. However, it is anticipated that it could take up to two years to implement all of these changes.

Recommendation #5:

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**

Department's Response:

RESPONSE TO RECOMMENDATION #5:

Due to budget constraints that restricted travel, we were not able to follow through on the plan to visit several of the larger county law enforcement/judicial agencies. However, it is still the intent of CDCR to enhance its communication with local government agencies. The Assistant Secretary of the Office of Research is in the process of developing a working relationship with the Administrative Office of the Courts and the Chief Probation Officers of California in order to increase communication with local law enforcement and judicial agencies throughout the state.

Recommendation #6:

The department should fully document its projection methodology and model.

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

Department's Response:

RESPONSE TO RECOMMENDATION #6:

Documentation of the projection methodology and model will be fully implemented by December 31, 2008.

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

(Report Number 2005-111, November 2005)

The Intermediate Sanction Programs Lacked Performance Benchmarks and Were Plagued With Implementation Problems

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

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

The following table summarizes the department'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 department had not fully implemented two of those recommendations and had not fully implemented one as of the publication of our 2008 Accountability Act report. Furthermore, based on the department's most recent response, one recommendation still remains outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2007-041 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 department'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**

Department's Response:

RESPONSE TO PART A:

The recommendation was fully implemented by March 15, 2007. All Division of Adult Parole Operations (DAPO) remedial sanction programs are meeting or exceeding the originally established program goals and objectives.

The Division of Adult Parole Operations (DAPO) administers the following established remedial sanction programs: Substance Abuse Treatment and Recovery Program (STAR), Residential Multi-Service Centers (RMSC), and Parolee Service Centers (PSC). The In-Custody Drug Treatment Program (ICDTP) is a remedial sanction program that falls under the Division of Addiction and Recovery Services.

ANALYSIS OF THE DATA COLLECTED

The RMSC and STAR programs were evaluated in the Preventing Parolee Crime Program (PPCP) study, conducted by the California State University San Marcos (CSUSM), as mandated in Penal Code Section 3068. The CSUSM evaluation, published in December 2003, stated that the RMSC and STAR programs are "very effective" and have a substantial impact in lowering the return to custody rate. For example, the PPCP Report states, "Those 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." Monitoring the capacity/participation rates in the programs is a direct indicator of the programs' effectiveness. Based on this study, the RMSC and STAR programs present an empirically-proven, greater opportunity for parolees to succeed on parole, as opposed to individuals that do not participate in the noted programs.

In addition to the PSCs and ICDTP, DAPO has established the Community Based Coalitions (CBC) and Day Reporting Centers (DRC). All of these programs are fairly new remedial sanction alternatives, and as such, there currently exists insufficient data to appropriately determine effectiveness and compliance with established performance measures. These programs are currently being evaluated by the San Diego State University Research Foundation which will be completed by December 31, 2009. In addition, in an effort to maintain statistical data for comparative and evaluation purposes, DAPO, in collaboration with the CDCR Office of Research, are also compiling statistical data on the noted programs. As such, it would be premature for CDCR to opine on the success/effectiveness of these programs until such time as a proper, substantive evaluation has been conducted.

BENCHMARKS

Pursuant to BSA's recommendation, DAPO established benchmarks for each of the remedial sanction programs. Initially, each program established a benchmark based on a percentage of parolees served. The benchmarks for each program were established as follows: (see attached 2005 benchmark report)

RMSC - 50%

PSC - 25%

ICDTP - 50%

STAR - 33%

DAPO surpassed the benchmarks. During fiscal year 2007/2008, a new measure of 80% capacity was established based on the number of parolees served in relation to the maximum capacity of the program.

At this juncture, program attendance is being utilized as the benchmark to demonstrate the Department's dedication to the remedial sanction process. Notwithstanding the RMSC and STAR programs, which have been proven to reduce recidivism, program participation is essential to the evaluation process. Absent adequate referrals and enrollment, program evaluators will not have the necessary participants to evaluate the program's effectiveness.

RESPONSE TO PART B:

The recommendation was fully implemented by March 15, 2007. All Division of Adult Parole Operations (DAPO) remedial sanction programs are meeting or exceeding the originally established program goals and objectives.

DATE COLLECTED AND UTILIZED TO MONITOR PERFORMANCE

DAPO staff receives information from contractors and field staff who track entry, attendance and exit data. The entry data collected includes: number of referrals, enrollments, occupancy/participation, remedial sanction referrals and placements. The attendance data includes: name of parolee, CDCR number, length of attendance, status, and various other information pertaining to the parolee. The exit data includes reasons for leaving programs, such as: completed program, arrested, discharged from program, employed, or several other reasons. Completing a program is defined as meeting the goals, objectives and staying in the program for the designated amount of time, ending in graduating from the program. Discharging from the program is when a parolee leaves or exits the program for reasons other than completing the program (i.e. arrested, paroled, and transferred). This information is compiled and monitored on a monthly basis.

The combination of the DAPO Data and the Revocation Scheduling and Tracking System (RSTS) information, which monitors all remedial sanctions, are used to measure capacity/participation on an ongoing basis. This combination of monitoring the number of parolees served, the remedial sanctions utilized, and the parolee exit data, provides DAPO with real-time views of the programs.

In September 2008, DAPO was granted access to the Department's Offender Based Information System (OBIS) Data Warehouse. As a result, DAPO is now able to compare program data against the return to custody information contained in OBIS in order to evaluate the effectiveness of programs. Further, DAPO is working with CDCR's Office of Research to create a system that determines outcome measures on a routine basis. This information will enable us to identify and correct programming shortfalls on a consistent basis, in an effort to enhance the effectiveness of DAPO's rehabilitative and programming resources.

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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 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 department'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 and its most recent response, the department still had not fully implemented three of those recommendations.

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

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

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: **Not fully implemented**

Corporations' Response:

RESPONSE FOR RECOMMENDATION #1:

1. Have you fully implemented the recommendation? No.
4. Do you intend to begin or continue implementing the recommendation within 90 days? No.
6. Provide your reason(s) for not fully implementing the recommendation.

The Feasibility Study Report for the IT project was approved by the Office of the Chief Information Officer during October 2008. The budget change proposal requesting the project's three-year funding is pending approval by the Department of Finance (DOF). If the funding is approved by DOF and the Legislature during this budget cycle, the projected completion date would be during FY 2011–2012.

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: **Not fully implemented**

Corporations' Response:

RESPONSE FOR RECOMMENDATION #2:

1. Have you fully implemented the recommendation? No.
4. Do you intend to begin or continue implementing the recommendation within 90 days? Yes.

On a monthly basis, the Department has begun monitoring the number of licensee applications received and processed by program. This data will assist the Department in identifying backlogs before they become unmanageable and determining a baseline for the processing time of applications before the Department is able to accurately assess the need for additional staff.

5. By what date will the recommendation be fully implemented? The Department reviewed its log of applications and developed a monthly report that indicates the flow of applications. The report identifies when a backlog is developing, which enables the Department to redirect resources to the impacted program. Due to the current economic condition of the State, the Department has decided that it is not prudent at this time to request additional resources through the budget 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: **Not fully implemented**

Corporations' Response:

RESPONSE FOR RECOMMENDATIONS #3:

1. Have you fully implemented the recommendation? No.
4. Do you intend to begin or continue implementing the recommendation within 90 days? No.
6. Provide your reason(s) for not fully implementing the recommendation.

The case management system currently utilized by the Enforcement Division would be replaced by the new IT system currently pending funding approval. At this time, the Department does not believe it would be fiscally prudent to expend resources on a system that would be eliminated in a couple of years. If the IT project funding is approved by the Department of Finance and the Legislature, the Bureau of State Audits' recommendation would be implemented during FY 2011–2012.

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 department's progress in implementing 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 department still had not fully implemented one of those recommendations.

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

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

Recommendation #1:

The California Department of Transportation (Caltrans) should revise current regulations to conform to recent amendments to statute.

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

Caltrans' Response:

1. Have you fully implemented the recommendation? No—skip to # 4

2. By what date did you fully implement this recommendation?
3. Explain how you have fully implemented the recommendation. (Please provide copies of any supporting documents or other evidence, including but not limited to that which you reference here)
4. Do you intend to begin or continue implementing the recommendation within 90 days? Yes
5. By what date will the recommendation be fully implemented? By the end of the fiscal year 2008/2009
6. Provide your reason(s) for not fully implementing the recommendation.

RESPONSE FOR RECOMMENDATION #1:

Caltrans continues with its efforts to implement the recommendation. Caltrans' Legal Division determined that insufficient notice was given to the public prior to the September 8, 2008, hearing. As a result, a second hearing was scheduled for November 24, 2008. Caltrans will submit the final package to the Office of Administrative Law for their review after the second hearing. When the proposed regulations are approved, the Office of Administrative Law will file the regulations with the Secretary of State. The revised regulations will be printed in the California Code of Regulations and become effective upon filing with the Secretary of State. Caltrans anticipates that this process will be completed by the end of the current fiscal year.

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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 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 department'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 department had not fully implemented six of those recommendations and had not fully implemented four as of the publication of our 2008 Accountability Act report. Furthermore, based on the department's most recent response, three recommendations still remain outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2007-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 9 | 6 | 4 | 3 |

Below is the recommendation that we determined was fully implemented and three that were not fully implemented followed by the department'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**

Division's and Commission's Response:

Many of the audit findings pertaining to the OHMVR Commission and Division were resolved as a result of the passage of Senate Bill 742, which became effective on January 1, 2008. This legislation clarified the roles and responsibilities of the OHMVR Commission and Division, and made significant changes to the grants and cooperative agreements program. In particular, it specified how grant funding was to be allocated to meet program goals. The legislation also extended the program by ten years, and set new deadlines for completion of the strategic plan and reports due to the legislature. Because many of the audit findings were resolved by SB 742, the corresponding actions recommended to the Commission and Division are no longer necessary (as noted in the following responses).

1. No.
4. Yes. The Commission continues to work with the Division on its strategic plan.
5. SB 742 amended the statute. The amended due date for the strategic plan is January 2009.

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**

Commission's Response:

Many of the audit findings pertaining to the OHMVR Commission and Division were resolved as a result of the passage of Senate Bill 742, which became effective on January 1, 2008. This legislation clarified the roles and responsibilities of the OHMVR Commission and Division, and made significant changes to the grants and cooperative agreements program. In particular, it specified how grant funding was to be allocated to meet program goals. The legislation also extended the program by ten years, and set new deadlines for completion of the strategic plan and reports due to the legislature. Because many of the audit findings were resolved by SB 742, the corresponding actions recommended to the Commission and Division are no longer necessary (as noted in the following responses).

1. No.
4. No.
6. Yes. The report will be completed by January 1, 2011, as required by SB 742.

Recommendation #3:

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

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

Commission's Response:

Many of the audit findings pertaining to the OHMVR Commission and Division were resolved as a result of the passage of Senate Bill 742, which became effective on January 1, 2008. This legislation clarified the roles and responsibilities of the OHMVR Commission and Division, and made significant changes to the grants and cooperative agreements program. In particular, it specified how grant funding was to be allocated to meet program goals. The legislation also extended the program by ten years, and set new deadlines for completion of the strategic plan and reports due to the legislature. Because many of the audit findings were resolved by SB 742, the corresponding actions recommended to the Commission and Division are no longer necessary (as noted in the following responses).

1. Yes.
2. SB 742 became effective on January 1, 2008
3. The 2008 Division budget follows the guidance of the Legislature as articulated in SB 742. The grant and cooperative agreements program now identifies the following specific funding categories and percentages: 50% to operations and maintenance; 25% to restoration, 20% to law enforcement and 5% for education and safety.

Division's Response:

Many of the audit findings pertaining to the OHMVR Division were resolved as a result of the passage of Senate Bill 742, which became effective on January 1, 2008. This legislation clarified the roles and responsibilities of the OHMVR Commission and Division, and made significant changes to the grants and cooperative agreements program. In particular, it specified how grant funding was to be allocated to meet program goals. The legislation also extended the program by ten years, and set new deadlines for completion of the strategic plan and reports due to the legislature. Because many of the audit findings were resolved by SB 742, the corresponding actions recommended to the Commission and Division are no longer necessary (as noted in the following responses).

1. Yes.
2. SB 742 was chaptered on 10/12/2007.
3. SB 742 changed the duties and responsibilities of the Division and the Commission and amended the previous spending restrictions. The Commission no longer awards funding for the grants and cooperative agreements program and the statute now identifies specific categories and funding for those categories. Additionally, the Commission no longer approves capital outlay projects.

Recommendation #4:

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**

Division's Response:

Many of the audit findings pertaining to the OHMVR Division were resolved as a result of the passage of Senate Bill 742, which became effective on January 1, 2008. This legislation clarified the roles and responsibilities of the OHMVR Commission and Division, and made significant changes to the grants and cooperative agreements program. In particular, it specified how grant funding was to be allocated to meet program goals. The legislation also extended the program by ten years, and set new deadlines for completion of the strategic plan and reports due to the legislature. Because many of the audit findings were resolved by SB 742, the corresponding actions recommended to the Commission and Division are no longer necessary (as noted in the following responses).

1. No.
4. Yes, the Division continues to develop and implement an acquisition strategy.
5. The Division's land acquisition strategy is an integral part of its pending Strategic Plan. SB 742 changed the due date of this plan to January 1, 2009.

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 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 five of those recommendations and had not fully implemented four as of the publication of our 2008 Accountability Act report. Furthermore, based on the department's most recent response, three recommendations still remain outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2007-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 6 | 5 | 4 | 3 |

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 is the recommendation that we determined was fully implemented and the three that were not fully implemented followed by the department's most recent response for each.

Recommendation #1:

To ensure that fee payers have sufficient information to review the accuracy of their bills, the division should work with the Board of Equalization (Equalization) to include more detail on its invoices, such as listing all the water rights identification numbers or application numbers for which the fee payer is subject to fees, along with the corresponding maximum amount of authorized diversion and the cost per acre-foot. Alternatively, the division could provide this

information as a supplement, using its own resources, by sending out a mailer at about the same time that Equalization sends the invoice to fee payers, or by providing the information on its Web site.

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

Water Board's Response:

The State Water Board has fully implemented this recommendation as of October 1, 2007. The Division of Water Rights (Division) has posted an example invoice on its website with notes on how to read the information on the invoice. In addition, the Division has provided a link on its website to its new Electronic Water Rights Information Management System (eWRIMS). Any person can search for the details of any water right(s) by using this web-based database and by typing in the owner of the water right or the Application, Permit or License number. A database search returns summary information regarding any water right that meets the search criteria. Additional detailed information on the water right can be downloaded by clicking on a button. Summary information includes the "face value" amount on which the water right fee is based. Please see Attachment 1 for an example of an eWRIMS display of water right information. In addition, copies of active permits and licenses have been posted and can be accessed by the public via a hyperlink to each water right in the database. These information enhancements allow the fee payer to verify that the database contains correct information regarding the water right and that the invoiced amount was correctly calculated. These enhancements respond to the concerns raised in the audit.

In addition to implementing this recommendation by providing information to fee payers on its website, the State Water Board would like to provide the "face value" of each water right on the fee invoices. State Water Board staff continue to request this enhancement with the Board of Equalization (BOE). To date, BOE has been unable to satisfy the request.

Recommendation #2:

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**

Water Board'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 on 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 that 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 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 the Fee Stakeholder Group supports the recommended change, the State Water Board will consider implementing such a change in its revised regulations.

Recommendation #3:

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**

Water Board's Response:

The State Water Board does not intend to implement this recommendation. The 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. As indicated above, 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.

As discussed in the Response to Recommendation #2, 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 the Fee Stakeholder Group supports this recommended change, the State Water Board will consider implementing such a change in its revised regulations. Resources to do this work would have to be provided or redirected from other programs.

Recommendation #4:

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: **Not fully implemented**

Water Board's Response:

The State Water Board has fully implemented this recommendation as of September 14, 2007. Though a number of activities have been implemented to address this recommendation, the State Water Board will continue to evaluate and implement activities to improve its water right application and permitting processes.

Realistic goals have been established that are measurable in days between the various stages of processing an application (See Attachment 2). One result of this goal setting is a change by which the Division interacts with its water right applicants and petitioners, by making them more accountable for providing information necessary for project approval. The Division now rejects or cancels their requests if such information is not provided in a timely manner.

The State Water Board designed eWRIMS to contain a route slip feature that tracks various water right program processes, and in particular tracks application processing (see Attachment 3 for an example of an eWRIMS route slip). This allows the Division to identify the current process step of each application and compare application processing against any established goals. It also serves as a reminder to Division management of individual water right actions that need attention as they are being processed.

In addition to this implementation, the State Water Board convened a group of stakeholders who are concerned with pending applications in northern California coastal counties. This is the geographic area in which the bulk of the State Water Board's pending applications are located. The group has discussed a number of issues related to improving the water right application and petition process, and has discussed appropriate timeframes for various processes. These discussions have resulted in the Division initiating a pilot project with a subgroup of these stakeholders to simultaneously process a group of pending water right applications within a single watershed and to coordinate the environmental and technical analyses for these applications to obtain a comprehensive and expeditious conclusion. The Division hopes that this pilot project will be successful and result in a model that can be used to expedite application processing in other watersheds. The State Water Board has carefully and methodically documented progress related to this pilot project. However, to date, processing of the pilot project applications has not been accomplished in accordance with schedules agreed upon by the Division of Water Rights and the pilot project participants. The delay is primarily related to the unavailability of fishery biologists hired by the applicants to complete the studies and reports necessary for the State Water Board to determine appropriate flow requirements for some of the projects involved in the pilot study. Without these studies, the State Water Board cannot permit the projects.

The State Water Board has also developed procedures for improving the timeliness of management review and issuance of documents. The Division Chief undertook a review of current delegations to determine if certain actions that are currently performed by Division management should instead be delegated to lower level staff. It was expected that doing so would reduce the workload of Division management and should improve review times. This review resulted in the State Water

Board adoption of Resolution 2007-0057 that provides this revised delegation. The resolution is available on the State Water Board's website at: http://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2007/rs2007_0057.pdf.

The Division reclassified two existing vacant technical positions to an administrative position and a clerical position. The individuals in those positions are able to reduce the workload of Division managers in other areas, allowing the managers to review and issue documents more expeditiously. The Division hired a Staff Services Analyst on September 1, 2006 and an Office Assistant in November 2006 for this purpose. However, the Office Assistant position was subsequently cut in response to General Fund reductions.

To continue the implementation of this recommendation, the State Water Board has included a commitment in its September 2, 2008 Strategic Plan Update to evaluate, re-engineer, and implement improvements to Water Board processes, beginning with a comprehensive evaluation of process and timelines by December 2008 for streamlining water right application processing (see Action 5.1.3 of the Strategic Plan Update). The Strategic Plan Update is available on the State Water Board's website at: http://www.waterboards.ca.gov/water_issues/hot_topics/strategic_plan/docs/final_draft_strategic_plan_update_090208.pdf.

STATE AND CONSUMER SERVICES

PHARMACEUTICALS

(Report Number 2004-033, May 2005)

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

Chapter 938, Statutes of 2004, required the Bureau of State Audits (bureau) to report to the Legislature on the State’s procurement and reimbursement practices as they relate to the purchase of drugs for or by state departments, including, but not limited to, the departments of Mental Health, Corrections and Rehabilitation, the Youth Authority,⁸ Developmental Services, Health Services (Health Services) and the California Public Employees Retirement System (CalPERS). Specifically, the statutes required the bureau to review a representative sample of the State’s procurement and reimbursement of drugs to determine whether it is receiving the best value 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 (General Services), Health Services, and CalPERS.

The following table summarizes the department’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 department had not fully implemented four of those recommendations and had not fully implemented two as of the publication of our 2008 Accountability Act report. However, based on the department’s most recent response, all recommendations have been fully implemented.

| TOTAL RECOMMENDATIONS (GENERAL SERVICES) | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2007-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|---|-----------------------------------|--|---|
| 5 | 4 | 2 | 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 recommendations the bureau issued in 2005.

On the following pages are the recommendations that we determined were fully implemented followed by the department’s most recent response for each.

⁸ The Youth and Adult Correctional Agency is now within the California Department of Corrections and Rehabilitation.

Recommendation #1 to General Services:

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

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

General Services' Response:

1. Have you fully implemented the recommendation? Yes
2. By what date did you fully implement this recommendation? November 21, 2007
3. Explain how you have fully implemented the recommendation.

On November 21, 2007, the Common Drug Formulary Committee adopted guidelines, policies and procedures drafted by the Department of General Services governing the administration and enforcement of the Common Drug Formulary. The protocol includes provisions for: (1) the Common Drug Formulary Committee (Committee) representative's communication responsibilities for adherence within their individual department; (2) departmental reporting of non-formulary use; and, (3) actions to be taken when noncompliance is observed with the Committee's guidelines, policies and procedures.

Recommendation #2 to General Services:

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

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

General Services' Response:

1. Have you fully implemented the recommendation? Yes
2. By what date did you fully implement this recommendation? January 29, 2008
3. Explain how you have fully implemented the recommendation.

During a June 2007 follow-up review to its original May 2005 audit, the BSA found that the Department of General Services (DGS) had addressed its primary recommended action by requiring departments that participate in the bulk purchasing program to provide the DGS Procurement Division (PD) with detailed information on prescription drugs purchased outside of the program. However, BSA expressed concerns that PD had not also developed a more formal process to analyze and use the information included in the quarterly reports. Of specific concern was the lack of a PD database to assist in the analysis of reported information

and a lack of report instructions being disseminated to departments. These outstanding issues have now been fully addressed through the November 2007 implementation of a new PD database to capture non-contract drug purchases and a January 29, 2008 notification to departments of additional reporting instructions.

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 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 commission'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 response and the publication of our 2008 Accountability Act report, the department had not fully implemented either of the recommendations. Furthermore, based on the department's most recent response, both recommendations still remain outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2007-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 2 | 2 | 2 | 2 |

Below are the recommendations that we determined were not fully implemented followed by the department'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**

Commission's Response:

RESPONSE TO PART A:

- 1) No.
- 4) Yes.
- 5) The Commission will begin 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 years (Rule 405). At this time, the pension eligibility age is already in the regulatory process for lowering the eligible age from 55 to 50 (Rule 406). The publication of the "Notice of Regulatory Action" is scheduled for December 19, 2008. It is anticipated that both regulatory changes will be implemented by December 31, 2009.

RESPONSE TO PART B:

- 1) No.
- 4) Yes.
- 5) The office staff of the Commission has completed mailing the annual pension statements for the year 2005. The 2006 pension statements should be arriving during the week of December 8, 2008 through December 12, 2008. It is anticipated that mailing of the 2006 pension statements will be completed by December 31, 2008. Subsequent mailings will occur for the 2007 and 2008 pension statements with an approximate date of completion of March 31, 2009.

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. To ensure receipts are deposited in a timely manner, the commission should implement the corrective action proposed by the acting executive officer to Consumer Affairs related to ensuring timely deposit of checks.
- c. 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.
- d. To ensure boxers' information concerning eligibility status and pension account balances are accurate, the commission should retain all official documents from each boxing contest.
- e. The commission should immediately work with the pension plan administrator to correct errors related to boxers' eligibility status and account balances.
- f. 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**

Commission's Response:

RESPONSE TO PART A:

1. No.
4. No.
6. With the assistance of the Pension Attorney under contract to the Commission, we are currently attempting to ascertain the amount of the funding floor as set by statute in 1995. This item is set for discussion at the Commission's special teleconference set for December 15, 2008. It is anticipated that the item will carry over to the full Commission

meeting scheduled for February 10, 2009. The Commission will either seek to implement a regulation to set an updated amount and source of funding or will seek legislation to repeal the funding floor provision in Section 18881(b).

RESPONSE TO PART B:

1. Yes.
2. September 1, 2006.
3. Implementation was successful due to office staff receiving formalized training from the Department of Consumer Affairs in relation to cashiering functions. Use of the Box Office Inspector's Report highlighting the breakdown of fees allows staff to follow manual cashiering procedures set forth by the Department of Consumer Affairs to ensure that all receipts are deposited in a uniform manner.

RESPONSE TO PART C:

1. No.
4. No.
6. The actions taken to resolve the Commission's cashiering problems have 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 alternate manner.

RESPONSE TO PART D:

1. Yes.
2. January 1, 2007.
3. Each event packet is retained in the office of the California State Athletic Commission. For events prior to 2007, the original event information is sent to the State Records Center with photocopies of the information retained in files in the office for the Professional Boxers' Pension Plan.

RESPONSE TO PART E:

1. Yes.
2. November 21, 2008.
3. 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. It is expected that work of this nature will continue on an ongoing basis until distributions begin for vested boxers. A review of 2007 data is expected to take place beginning Friday, December 12, 2008. Subsequently, it is anticipated the same review will occur for 2008 data during the week of January 5, 2009. As of today, the Commission's collection of data for rounds and purse information is in "real time" for the first time in nearly four years.

RESPONSE TO PART F:

1. No.
4. Yes.
5. Reviews of this nature are slated to become a standard procedure for maintaining the Professional Boxers' Pension Plan. It is anticipated that all previous years data will be updated with minimal "back work" and "revisions" by March 31, 2009.

DEPARTMENT OF GENERAL SERVICES

(Report Number 2004-113, July 2005)

Opportunities Exist Within the Office of Fleet Administration to Reduce Costs

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

The following table summarizes the department'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 department had not fully implemented four of those recommendations and had not fully implemented one as of the publication of our 2008 Accountability Act report. However, based on the department's most recent response, all recommendations have now been fully implemented.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2007-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 9 | 4 | 1 | 0 |

In May 2007 the bureau issued a follow-up report titled *Department of General Services: The Office of Fleet Administration Could Do More to Better Analyze the Cost-Effectiveness of Its Garages and Rental Vehicles* (Report No. 2007-502). In this report the bureau performed additional audit work pertaining to the status of recommendations the bureau issued in 2005.

Below is the recommendation that we determined was fully implemented followed by the department's most recent response.

Recommendation #1:

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

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

General Services' Response:

1. Have you fully implemented the recommendation? Yes
2. By what date did you fully implement this recommendation? March 2008
3. Explain how you have fully implemented the recommendation.

This recommendation was substantially implemented during the 2006/07 fiscal year when additional detailed information on individual garage service usage and operating costs was developed for Fleet management's use in continually evaluating the cost effectiveness of the individual garages. However, during a June 2007 follow-up review to its original July 2005 audit, the BSA did not see how Fleet used the data to evaluate the cost effectiveness of the individual garages. This viewpoint was primarily derived from Fleet management staff not being able to adequately explain the financial position of the individual garages based on information included on monthly income and expense reports.

In March 2008, the Department of General Services (DGS) took additional action to ensure that sufficient expertise is available in Fleet to allow garage cost effectiveness to be monitored on a continual basis. Specifically, DGS' Budget Officer, who has extensive fiscal and budget expertise, transferred to Fleet to manage that office's administrative unit. This action fully addresses the only outstanding concern expressed by BSA during its June 2007 follow-up review, i.e., Fleet management staff not being able to exhibit a sufficient level of knowledge of monthly financial report data.

In addition to the hiring of the new administrative unit manager, Fleet has taken numerous other actions related to ensuring the cost-effectiveness of the individual garages subsequent to BSA's July 2005 audit. These actions include:

- Implementing a new system that provides for employee time charges to be captured in a manner that provides more useful information on tasks performed in both inspection and garage operations.
- Working with DGS' information technology staff and a contracted consultant to obtain additional management data from its automated internal fleet management information system. These efforts were very successful in developing new management reports that provide timely and relevant cost-effectiveness information.
- Developing management reports that provide data which allows Fleet to identify and track the costs for each vehicle type in its motor pool.
- Conducting regular meetings with garage managers to review individual budgets in order to facilitate best practices.
- Regularly meeting with DGS' budget staff to review and discuss Fleet's fiscal operations.
- Shifting positions among the garage's to meet changing workload demands.
- Fleet headquarters' management staff regularly visiting and examining individual garage operations.

Implementing processes which ensure that the cost effectiveness of ongoing operations is fully considered prior to a lease being renewed for an individual garage. Currently, two of the five garages are being evaluated for cost saving opportunities as part of their lease renewal process.

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 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 department’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 department still had not fully implemented one of those recommendations.

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

Below is the recommendation that we determined was not fully implemented followed by the department’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**

Medical Board’s Response:

The Medical Board of California (Board) is responding to the above questions regarding the Board’s implementation of the recommendations in the Audit Report 2007-038. This Audit Report stated that the Board’s fund condition was over the recommended level at the end of fiscal year (FY) 2006–2007 and made two recommendations. The recommendations were: 1) to seek a legislative amendment to section 2435 of the Business and Professions Code to include language that allows the Board the flexibility to adjust physicians’ license fees when necessary to maintain its fund balance at or near the mandated level; and 2) to 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 in order to ensure the Board's fund does not continue to exceed the mandated level.

In response to your questions:

1. The Board was not able to implement fully the recommendations of the Audit Report because the legislation was not successful.
2. The Board intends to continue implementing the recommendations within 90 days.
3. As stated in the responses provided to the Bureau of State Audits regarding the Audit Report, legislative changes must be sought in order to implement the recommendations. Therefore, the recommendations will not be able to be fully implemented until the end of the 2009 legislative session.

The Board found the Audit Report valuable and proposed legislation to implement the recommendations during the 2008 legislative session. However, 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. Therefore, the Board could not implement this recommendation. At the November 6, 2008 Quarterly Board Meeting in San Diego the Board approved staff's recommendation to again seek legislation to implement this recommendation. The Board's Chief of Legislation has already approached a possible author regarding this 2009 legislative proposal.

At the November 6, 2008 meeting the Board also approved a motion to seek legislation to amend the requirement to permit the Board to maintain a two month reserve to a four month reserve in its fund. As previously stated, this legislative change is necessary for the Board to ensure that it has sufficient reserve to perform its duties. A two month reserve is the lowest mandate of all the boards/bureaus under the Department of Consumer Affairs and is not a viable amount to sustain the board's requests for approval to obtain the positions currently needed or anticipated future budget change proposals. Please see the Board's prior responses (attached) for further information regarding the need for this legislation.

The Board places great importance on the need to meet the legislative mandate for the amount of reserve in its fund condition. However, it is difficult to meet the mandate at the end of each year since the Board's fees are set by statute and its 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. An example is the passage of the State's budget that loaned \$6 million from the Board's fund to the State of California to assist with the General Fund deficit.

Thank you for the opportunity to provide this response to the Bureau of State Audits' inquiry. If you have any questions regarding this response, please contact Barb Johnston at (916) 263-2389.

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 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 department'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 and the publication of our 2008 Accountability Act report, the department had not fully implemented one of those recommendations. Furthermore, based on the department's most recent response, the same recommendation still remains outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2007-041 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 department's most recent response.

Recommendation #1:

To identify the underreporting of workplace injuries and to help ensure the reasonable accuracy of annual injury reports, 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**

Caltrans' Response:

The Division of Occupational Safety and Health (Cal/OSHA) has not fully implemented the recommendation, and does not have any practical means of going beyond its current program in this regard. 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 intends to refer to the annual injury and illness log, or "300 log," that employers are required by regulation to keep onsite for inspection by Cal/OSHA's 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 previously, Cal/OSHA has no practical means of obtaining the annual injury reports of every employer required to keep one. 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.

Cal/OSHA, however, has issued an instruction to its entire inspection staff that they are to obtain a copy of the 300 log as part of each enforcement inspection, and summary data from the forms are to be kept as a part of the inspection record. The entries in the log are used to help identify hazards, and if evidence gathered by the inspection indicates failure to record in violation of applicable requirements, the employer will be cited. However, investigations of failures to record as required are difficult to conduct and time consuming. The two most recent examples of such investigations have resulted in hundreds of hours of inspection and other staff time.

There is no 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 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.

As has also been mentioned in previous correspondence, however, 300 log information throughout the United States is collected by sampling logs from different industry classifications and extrapolating from these data to generate nationwide injury and illness statistics. This is done under the management of Federal OSHA and BLS. Cal/OSHA 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 OSHA of a sample of worksites to review the accuracy of 300 logs kept at the sites inspected. This inspection program is similar to what would result if the BSA recommendation were to be fully implemented, but scaled back to a level of activity that fits within existing Federal and State parameters for funding the Cal/OSHA Program.

Cal/OSHA continues to believe, with unanimous support from the stakeholders who attend its bi-monthly public meetings, that the most effective uses of its resources for inspection activity is to target high-hazard workplaces for inspection so that hazards can be directly observed and abated through enforcement or consultative measures as provided by statute.

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

The following table summarizes the department'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 department had not fully implemented four of those recommendations and had not fully implemented two as of the publication of our 2008 Accountability Act report. Furthermore, based on the department's most recent response, the two recommendations still remain outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2007-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 5 | 4 | 2 | 2 |

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

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: **Not fully implemented**

Division's Response:

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



For clarity, from the BSA audit findings: “. . . the division has not fulfilled its responsibility for coordinating the exchange of information on available minorities and women who may serve as apprentices among the council, the committees, the Fair Employment and Housing Commission, community organizations, and other interested persons. The chief stated that he plans to begin an aggressive outreach effort in 2007.”

2. By what date did you fully implement this recommendation? March 1, 2008
3. Explain how you have fully implemented the recommendation. (Please provide copies of any supporting documents or other evidence, including but not limited to that which you reference here)

The Division developed an aggressive apprenticeship campaign around the theme of “I Built It” and was rolled out with participation by the Governor, the Secretary of the Labor and Workforce Development Agency, the Director of Industrial Relations 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.

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 Industrial Relations was developed in 2008. The first award was made by the Director at the April 2008 meeting of the California Apprenticeship Council (CAC). This will be an annual award.

Minority statistics were expanded to break out building trades (75% of apprenticeship) from all trades and shared with the CAC as well as with all programs. This information is also posted on the Division of Apprenticeship Standards (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.

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: **Not fully implemented**

Division’s Response:

1. We recommended that the division establish a process for regularly reconciling information on the current status of apprentices with information maintained by committees and use data to set performance goals and to pinpoint program successes and failures.
2. By what date did you fully implement this recommendation? March 7, 2007

3. Explain how you have fully implemented the recommendation. (Please provide copies of any supporting documents or other evidence, including but not limited to that which you reference here)

As explained previously, DAS staff did 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. 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.

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GENERAL GOVERNMENT

MILITARY DEPARTMENT

(Report Number 2005-136, June 2006)

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

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

The following table summarizes the department’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 department had not fully implemented five of those recommendations and had not fully implemented three as of the publication of our 2008 Accountability Act report. Furthermore, based on the department’s most recent response, one recommendation still remains outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2007-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 12 | 5 | 3 | 1 |

Below are the recommendations that we determined were fully implemented and the one that was not fully implemented followed by the department’s most recent response for each.

Recommendation #1:

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

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

Department’s Response:

The Department has fully implemented this recommendation. As directed by Major General Wade (the Adjutant General) the Review Panel (initially established as the Reform Panel) developed improved policies covering the hiring practices and polices of State Active Duty personnel. Effective February 1, 2008, the guidance establishing the Military Department’s polices regarding State Active Duty was revised and published to reflect the changes recommended by

the Review Panel. This regulation was subsequently updated November 7, 2008. This regulation was issued by the Adjutant General, to all California Military Department personnel, and will be updated annually or as deemed necessary.

Recommendation #2:

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

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

Department's Response:

The California Military Department (CMD) has fully implemented this recommendation and enhanced its internal controls over the management of federal full-time Active Guard and Reserve (AGR) personnel.

Major General Wade is responsible for ensuring the National Guard units are trained and ready to perform their state and federal mission requirements. These duties are prescribed in Military and Veterans Code Section 163.

To ensure the department is manned successfully and complies with the National Guard Bureau's authorizations for federal full-time military personnel to support the part-time (traditional guardsmen) forces, the CMD has developed guidance and have implemented procedures to record, track, and monitor authorized federal full-time military staff positions and assignments. The new guidance and procedures were presented by the Adjutant General to managers and supervisors on February 25, 2008. The CMD has also enhanced its internal control system by establishing a central filing system within the Joint Staff Directorate of the CMD to maintain the following documents:

- National Guard Bureau's Fiscal Year 2000 through 2009 Full-time Support Manpower Vouchers;
- Full Time Manning (AGR) Realignment Control documents;
- National Guard Bureau Annual Funding Guidance; and
- The Joint Force Manpower and Personnel (AGR Branch) is the sole source for issuing orders for AGR personnel.

Effective November 7, 2008, a letter of authorization has been delivered through the chain of command, describing these procedures.

Recommendation #3:

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

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

Department's Response:

On February 24, 2006, Assembly Bill 2620 was introduced by Assembly Member Umer to establish the Office of the Inspector General. This bill was introduced to require the Governor to appoint the Inspector General, subject to senate confirmation, and specify that the Inspector General is independent of the chain of command of the CMD and serves at the discretion of the Governor. Conversely, this bill was placed on suspense and abandoned by the legislature at the close of the 2006 legislative session. The legislature has not commenced any further legislative action to establish a State Inspector General for the CMD since the Bureau of State Audits report was published in June 2006.

Until such bill is passed, Major General Wade has made and will continue to make every effort to ensure that the state active duty members be provided a procedure to report, monitor, and resolve complaints. A qualified officer has been assigned as the Inspector General with the authority to monitor and resolve complaints and cases involving allegations of reprisal against any individual, and has established procedures necessary to ensure the collection, confidentiality, and maintenance of information. In addition, a toll free "Whistleblower Hotline" and webpage (<http://ww.calguard.ca.gov/stateig>) has been established as well as the posting of the compliant hotline information through the CMD offices that employ State Active Duty personnel.

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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 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).

The following table summarizes the department’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 department had not fully implemented two of those recommendations and had not fully implemented one as of the publication of our 2008 Accountability Act report. Furthermore, based on the department’s most recent response, the one recommendation still remains outstanding.

| TOTAL RECOMMENDATIONS | NOT IMPLEMENTED AFTER ONE YEAR | NOT IMPLEMENTED AS OF 2007-041 RESPONSE | NOT IMPLEMENTED AS OF MOST RECENT RESPONSE |
|-----------------------|--------------------------------|---|--|
| 5 | 2 | 1 | 1 |

On the following page is the recommendation that we determined was not fully implemented followed by the department’s most recent response.

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: **Not fully implemented**

Emergency Services' Response:

The Governor's Office of Emergency Services (OES) and the State Office of Homeland Security (OHS) believe that implementation of this recommendation has been fully accomplished. Evidence of courses and information related to prior and current exercises and 2008 Golden Guardian may be reviewed on OES' website at www.oes.ca.gov under the training tab.

In response to BSA's finding, OES and Homeland Security concentrated on development of ongoing courses and exercise programs to assure that California's medical and health systems are sufficiently prepared and tested, through realistic exercises, for the potential events of terrorism, disasters or emergencies.

OES conducted a training needs assessment to identify specific exercise needs related to the medical community. As stated in our previous response, these assessments led to the development of the Multiyear Exercise Plan (MEP) which was rolled out in January of 2008.

OES developed a coordinated Exercise Program combining enhanced planning, new equipment purchases, innovative training, and realistic and focused exercises, in order to strengthen California's emergency prevention and response capabilities, including medical and health systems' emergency responses. Ongoing development of specific training courses, developed and conducted by OES' CSTI, prepare and assist members of the medical community to actively participate in annual exercises, such as Golden Guardian.

Participation in these exercises, and preparatory training enhances the realism of a potential actual event for the medical community. OES Training Branch (CSTI) developed and offered specific courses enhancing medical and health responses in emergency events beginning in November 2007. At that time, in conjunction with the California Department of Public Health (CDPH), CSTI introduced Medical Support Team Training (MST), focusing on the support of mid-to-large scale disaster medical emergencies, and related organizational support needed to run an effective medical response system during emergencies or disasters.

The course was designed to assist medical programs in preparing for exercises and actual disasters. OES strategy specifies that once training needs are met, training will be tested in an actual exercise situation. Ongoing exercises include actual simulations of disasters and emergency events, as well as testing of support and continued readiness capability in Regional Emergency Operations Centers and State Operations Centers, or in tabletop exercises, in addition to ongoing exercises such as Golden Guardian, which occur annually.

Continued effort to move forward with appropriate medical and health system training led to OES' development of Medical Manager Training, that will be piloted as a part of CSTI curriculum in December 2008, and which will be tested in tabletop exercises conducted jointly with CDPH in December 2008, and again in June 2009.

The Office of Homeland Security ensures that each Golden Guardian exercise is as robust and realistic a scenario as possible. In addition to Golden Guardian, the California Health and Human Services Agency and the Emergency Medical Services Authority each have their own exercises that focus on health and medical related preparedness.

Over the last few years Golden Guardian has tested using the strategic national stockpile for epidemiological response and a mass evacuation-receiving center in 2006. In the 2007 Golden Guardian, 170 casualties were evacuated to 23 local area hospitals in Orange County and San Jose tested their point of distribution capabilities for a mass prophylaxis situation. In addition the fourth Annual Governor's Golden Guardian All Hazard Preparedness Exercise for 2007 tested capabilities of first responders, emergency managers, private sector partners and local, state and federal agencies. The Golden Guardian Exercise Series in past years has included over 25 separate, but linked exercises and nearly 35 official planning conferences. The 2007 Exercise was held in Anaheim/Santa Ana and surrounding cities in Orange County, San Jose, and surrounding cities in Santa Clara County, and Stockton and surrounding communities in San Joaquin County. Considering the world-wide risk of terrorism associated with large public gathering venues and mass transit systems, this exercise included these two high risk targets by focusing on specific stadiums and rail systems in each area. As in past years' exercises, Golden Guardian 2007 Exercise Series planners used significant findings from past exercises and current threat information to conduct a year-long building block approach that creates a set of solution based exercises and training activities. These principals have also been used in the planning for Golden Guardian 2008.

Continuing our tradition of realistic scenarios, in 2008 the Golden Guardian Exercise series will be focused around a massive response to catastrophic earthquakes within California, with the largest centered in Los Angeles County. During this response the Emergency Medical Services Authority will deploy and exercise one of their mobile field hospitals to test California's medical system. Other regional participants will include the City of San Francisco and surrounding communities, as well as the City of South Lake Tahoe, which will be an important contributor to a cross-border exercise with the State of Nevada during the course of events in this exercise series. The 2008 exercise planning cycle is continuing through the November 2008 exercise. The 2008 exercise is expected to engage a wide variety of participants within and from outside the State. These participants will include local, regional and State first responder and emergency management organizations, as well as a very large response from our federal counterpart at the United States Department of Homeland Security (including the Federal Emergency Management Agency), and the Department of Defense's Support to Civilian Authorities capabilities.

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 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 department'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 and its most recent response, the department still had not fully implemented any of those three recommendations.

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

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

Recommendation #1:

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: **Not fully implemented**

State Bar's Response:

RESPONSE FOR RECOMMENDATION #1:

1. Have you fully implemented the recommendation?
If No then skip to question 4

4. Do you intend to begin or continue implementing the recommendation within 90 days?
If Yes then answer question 5
5. By what date will the recommendation be fully implemented?

The business case for member services is underway and was delayed due to the number of RFP processes. We expect that the final business case will be completed February 2009. We are capturing performance data using excel spreadsheets and existing systems.

Recommendation #2:

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: **Not fully implemented**

State Bar's Response:

RESPONSE FOR RECOMMENDATION #1:

1. Have you fully implemented the recommendation?
If No then skip to question 4
4. Do you intend to begin or continue implementing the recommendation within 90 days?
If Yes then answer question 5 only
5. By what date will the recommendation be fully implemented? December 18, 2008

Supporting documents are attached. Please see Attachments 1 and 2

The State Bar acquired the recommended third-party software application and Web-hosted services. Application setup and configuration, customization of the application for the information maintained by the different State Bar departments, and system and user testing have been completed. Data conversion and loading is largely complete, with full deployment of the system to users scheduled for December 18, 2008.

Recommendation #3:

- a. 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.
- b. 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.
- c. 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.

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

State Bar's Response:

RESPONSE FOR PART A:

1. Have you fully implemented the recommendation?
If No then skip to question 4

Legal Services Trust Fund Program staff completed all 2006 and 2007 program and fiscal monitoring visits before the end of 2007. Program feedback was provided for each of those monitoring visits. Monitoring visits for the current calendar year are underway and are scheduled to be completed by the end of 2008.

The State Bar continues to coordinate with our Equal Access Fund grant partner, the Judicial Council/Administrative Office of the Courts, to survey other grant-making organizations to assist in establishing monitoring "best practices". Survey data has been received and shall continue to be received on an ongoing basis. As a result of this study, "best practices" that will benefit the State Bar's program have been and will continue to be adopted.

4. Do you intend to begin or continue implementing the recommendation within 90 days?
If Yes then answer question 5 only
5. By what date will the recommendation be fully implemented?

The monitoring visits have been brought completely current through the end of 2008. The enhancement and improvement of monitoring tools is an ongoing project of continuing self improvement.

RESPONSE FOR PART B:

1. Have you fully implemented the recommendation?
If No then skip to question 4
4. Do you intend to begin or continue implementing the recommendation within 90 days?
If No then skip to question 6
6. Provide your reason(s) for not fully implementing the recommendation.

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 open backlog cases. This revised, aspirational goal was not achieved in 2007, when the year-end backlog was 327 cases. It is also uncertain, but doubtful, that the revised goal will be achieved by December 31, 2008. Due to budgetary constraints, since at least October 2007, there have been seven (7) investigator vacancies in the Office of the Chief Trial Counsel which (along with the absence of a number of other investigators on lengthy medical and other leaves of absence) has resulted in higher caseloads for other investigators and has adversely affected the ability to complete investigations more quickly. While the backlog of 327 cases on December 31, 2007 was more than the Office of the Chief Trial Counsel's goal, it is still the third lowest backlog figure since 1997, surpassed only by the backlog of 246 cases in 2006 and 315 cases in 2007. Moreover, while the backlog goal of 250 cases is an important aspirational goal, the year-end backlog has only been below 250 cases on one occasion since 1995 (i.e., 246 cases in 2006).

RESPONSE FOR PART C:

1. Have you fully implemented the recommendation?
If Yes then answer questions 2 and 3 only
2. By what date did you fully implement this recommendation? October 4, 2007
3. Explain how you have fully implemented the recommendation. (Please provide copies of any supporting documents or other evidence, including but not limited to that which you reference here)

Supporting documents are attached. Please see Attachments 3 and 4.

Shortly after issuance of the State Auditor's Report in April 2007, all affected staff were reminded of the requirements of Policy Directive 2005-04 [Random Audit of Open Investigation Files]. Staff was directed to use the checklists and appropriate supervisory personnel were directed to perform random audits on a monthly basis with respect to open investigation files. Supervisory personnel were also directed to adequately document the random audits and to confirm that any necessary corrective action has been taken. Finally, a revised "Monthly Open File Audit Checklist" was developed and distributed to all affected staff on October 4, 2007. (A copy of Policy Directive 2005-04 and the revised checklist is attached.) The Office of the Chief Trial Counsel is currently preparing a new Policy Directive to streamline the checklists and to focus more closely on those tasks and events that directly impact the timeliness, completeness and quality of OCTC's investigations.



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APPENDIX



**California State Auditor
Bureau of State Audits**
SB 1452, Omnibus Audit Accountability Act of 2006

DEPARTMENT _____ (REPORT NUMBER _____, Date Issued)
Title of Report

| |
|---|
| As of the most recent response the agency had not fully corrected the following finding: |
| Finding #XX: Description of finding. |
| Recommendation(s) that correspond to Finding #XX: |
| 1) Recommendation. 2) Recommendation. 3) Recommendation. |

For each recommendation listed above, please answer all applicable questions below in the space provided. Insert your responses directly into the form:

- 1) Have you fully implemented the recommendation?
If Yes then answer questions 2) and 3) **only**
If No then **skip** to question 4)
- 2) By what date did you fully implement this recommendation?
- 3) Explain how you have fully implemented the recommendation. (Please provide copies of any supporting documents or other evidence, including but not limited to that which you reference here.)
- 4) Do you intend to begin or continue implementing the recommendation within 90 days?
If Yes then answer question 5) **only**
If No then **skip** to question 6)
- 5) By what date will the recommendation be fully implemented?
- 6) Provide your reason(s) for not fully implementing the recommendation.

| |
|---------------------------------------|
| Response to Recommendation #1: |
| Response to Recommendation #2: |
| Response to Recommendation #3: |

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