

# DEPARTMENT OF TRANSPORTATION

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## ***It Manages the State Highway Operation and Protection Program Adequately, but It Can Make Improvements***

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

*Our review of the California Department of Transportation's (Caltrans) management of its State Highway Operation and Protection Program (SHOPP) found that:*

- Most SHOPP projects do not exceed their original funding allocation. Also, although most of the 20 projects we reviewed experienced time delays, the causes for the delays appear reasonable.*
  - Resident engineers did not always maintain complete records of project events. Without these records, Caltrans is vulnerable to contractor claims for more money and cannot accurately assess contractors for liquidated damages.*
  - Caltrans does not evaluate the financial stability of the surety insurers that issue performance and payment bonds to its contractors.*
  - Caltrans lacks comprehensive policies and procedures instructing district staff on how to document and address complaints from the public regarding projects.*
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**REPORT NUMBER 2002-103, AUGUST 2002**

**Department of Transportation's response as of October 2002**

The Bureau of State Audits examined the California Department of Transportation's (Caltrans) process for managing State Highway Operation and Protection Program projects. Specifically, we were asked to determine whether Caltrans is managing projects to ensure minimal or no cost overruns and time delays, contractors have valid performance bonds from solvent companies, and staff follow Caltrans' public relations policies and procedures.

### **Finding #1: Some Construction Engineers Do Not Adhere to Caltrans' Policies for Managing Projects**

Some resident engineers, who manage the project construction costs and administer the contracts, are failing to keep adequate records of days with adverse weather conditions and days that contractors choose not to work on scheduled tasks. Thus, the State lacks necessary records of the causes for project delays and may not be able to assess and collect damages in disputes with contractors about days when they did not work. Also, some resident engineers do not get the required prior approval from the Division of Construction or the district director for construction change orders, which can lead to delays in processing the change orders and to interest charges for late payments to the contractors.

To ensure an adequate defense against contract disputes and to properly assess liquidated damages, Caltrans should ensure that resident engineers and assistant resident engineers maintain complete and accurate daily records of all relevant events occurring on working and nonworking days and that resident engineers complete the weekly statements accurately and in a timely manner. Further, Caltrans should ensure that its staff obtain prior approval for construction change orders

in a timely manner to avoid incurring any unnecessary costs, such as interest for late payments to the contractor, and to ensure that managers agree that proposed changes are necessary. Finally, to aid staff in properly managing construction projects, Caltrans should continue implementing its capital project skill development plan and ensure that staff continue to receive training after the plan expires.

***Department Action: Partial corrective action taken.***

Caltrans states that it convened a statewide meeting with its construction deputy directors to reiterate its policies and procedures and to improve its contract administration processes. For example, Caltrans is researching opportunities to further improve contract administration through automation and plans to evaluate its procedures in the spring of 2003. However, Caltrans is uncertain whether it will continue its capital project skill development program and related staff training beyond the current fiscal year, because it is subject to the budgetary process.

**Finding #2: Although Somewhat Limited by State Law, Caltrans Can Reduce the Risk of Loss to the State From Poor Contractor Performance**

Caltrans relies on state-required performance and payment bonds issued by a surety insurer (insurer) for loss protection when contractors fail to do the work as specified in the contract. However, although state law permits Caltrans to obtain financial statements from insurers, Caltrans believes it lacks authority to use those statements. Thus, it does not examine the insurer's financial statements, either at the beginning of or during a project, to evaluate its ability to cover possible project losses. However, because state law prevents Caltrans from knowing that the state's Department of Insurance is investigating an insurer that is on its list of approved insurers, it is important that Caltrans does its own checking of insurer's financial statements to reduce its risk of loss.

To ensure that Caltrans can collect on a performance bond if a contractor does not perform, we recommended that the Legislature consider expanding Caltrans' ability to use other financial indicators included within the financial statements and information available from rating companies such as A.M. Best Company and S&P as a basis for determining the sufficiency of an insurer, before accepting performance bonds.

Further, the Legislature should clarify Caltrans' authority to use the information it obtains from financial statements and other financial indicators to object to the sufficiency of an insurer throughout the bond term.

***Legislative Action: Unknown.***

We are not aware of any legislation that has passed to address this issue.

**Finding #3: Caltrans Can Improve Its Public Relations Process to Avert Negative Publicity**

Caltrans can better meet its goal of communicating effectively with the public about construction projects that inconvenience drivers. Caltrans provides guidance to the district offices, but it relies primarily on them to determine when and how to communicate with the public. Unfortunately, most district public information officers do not track the nature and resolution of the complaints they receive, so public dissatisfaction can grow unbeknown to either the public information officers or Caltrans' headquarters.

To ensure that districts handle complaints and inquiries consistently, Caltrans should develop comprehensive public relations policies and procedures that specify the process to use when responding to complaints, the documents that should be maintained, and the method that district offices should use to assess their public relations efforts. Further, Caltrans should monitor the district offices' public relations efforts periodically.

***Department Action: Partial corrective action taken.***

Caltrans' Public Affairs Office has met with division and program managers to discuss the components and actions necessary to develop a comprehensive process to use when responding to complaints about projects. Additionally, Caltrans states that it is continuing to review and modify its existing policies and procedures for handling complaints and inquiries and where necessary, is implementing new policies to ensure timely and consistent responses.

