

Dymally-Alatorre Bilingual Services Act

State Agencies Do Not Fully Comply With the Act,
and Local Governments Could Do More to Address
Their Clients' Needs

November 2010 Report 2010-106



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November 18, 2010

2010-106

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As requested by the Joint Legislative Audit Committee, the California State Auditor presents this audit report concerning state and local agencies' compliance with the Dymally-Alatorre Bilingual Services Act (Act).

This report concludes that the State Personnel Board (Personnel Board) is not meeting most of its responsibilities under the Act. The Personnel Board has not informed all state agencies of their responsibilities under the Act and has not ensured that state agencies conduct language surveys to assess their clients' language needs. In addition, the Personnel Board does not obtain necessary information from state agencies that would allow it to evaluate their compliance with the Act and does not order deficient agencies to take the necessary actions to ensure they have sufficient qualified bilingual staff and translated written materials to address the language needs of their substantial populations of limited-English-proficient (LEP) clients. Moreover, the Personnel Board's complaint process needs improvement because it does not ensure that complaints are resolved in a timely manner and its report to the Legislature does not adequately address whether state agencies are complying with the Act.

We also found that state agencies are not fully complying with the Act. Although nine of the 10 agencies we reviewed conducted language surveys in 2008, four reported inaccurate survey results for one or more of their local offices, and two did not have sufficient documentation to support their survey results. In addition, only one of the state agencies we reviewed formally analyzed its survey results to determine whether the use of other available options, in addition to qualified bilingual staff in public contact positions, was serving the language needs of its clients as the Act requires. Further, none of the state agencies we reviewed had adequate procedures in place to determine whether they met the Act's requirements to translate certain written materials for their substantial LEP populations. Furthermore, most of the state agencies we reviewed have not developed plans to address their staffing deficiencies and translated written materials deficiencies. We also found that some state agencies are not maximizing opportunities to reduce their costs of providing bilingual services by leveraging existing state contracts for interpretation and translation services.

Finally, our survey of local government administrators and department managers in 25 counties and cities throughout California found that some are not fully addressing their clients' bilingual needs. As a result, their clients may not be receiving the government services to which they are entitled.

Respectfully submitted,



ELAINE M. HOWLE, CPA
State Auditor

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Summary

Results in Brief

The Bureau of State Audits previously reviewed state and local agencies' compliance with the Dymally-Alatorre Bilingual Services Act (Act). In November 1999 we released a report titled *Dymally-Alatorre Bilingual Services Act: State and Local Governments Could Do More to Address Their Clients' Needs for Bilingual Services* (Report 99110). We stated in the report that the State Personnel Board (Personnel Board) could do more to monitor state agencies' compliance with the Act and found that the Personnel Board's report to the Legislature did not adequately present state agencies' ability to meet the language needs of their clients. Further, we reported that most of the 10 state agencies we reviewed had not adequately monitored their compliance with the Act and that many of the local agencies we surveyed were not fully addressing their clients' language needs.

During our current review, we found that the Personnel Board has not effectively implemented key recommendations from our 1999 report and that it is not meeting most of its responsibilities under the Act. Specifically, the Personnel Board has not informed all state agencies of their responsibilities under the Act, and it has not ensured that state agencies conduct language surveys to assess their clients' language needs. Additionally, the Personnel Board does not obtain necessary information from state agencies that would allow it to evaluate their compliance with the Act. Furthermore, the Personnel Board does not order deficient agencies to take the necessary actions to ensure that they have sufficient qualified bilingual staff and translated written materials to ensure that individuals who do not speak or write English or whose primary language is not English—individuals referred to in this report as limited-English-proficient (LEP) clients—are not prevented from using public services. Moreover, the Personnel Board's complaint process needs improvement because it does not ensure that complaints are resolved in a timely manner, and its report to the Legislature still does not adequately address whether state agencies are complying with the Act. Because the Personnel Board is not meeting its statutory responsibilities to monitor and enforce state agencies' compliance with the Act, the State cannot be certain that LEP clients have equal access to public services. The Personnel Board's bilingual services program manager cited a lack of resources as the primary reason that the Personnel Board is not meeting its responsibilities.

In addition, we found that state agencies are still not fully complying with the Act. Although nine of the 10 agencies we reviewed conducted language surveys in 2008, four reported

Audit Highlights . . .

Our review of state and local agencies' compliance with the Dymally-Alatorre Bilingual Services Act (Act) revealed that the State Personnel Board (Personnel Board):

» *Has not effectively implemented key recommendations from our 1999 report.*

» *Is not meeting most of its responsibilities under the Act, including:*

- *Informing state agencies of their responsibilities and ensuring they assess their clients' language needs.*

- *Evaluating compliance with the Act and ordering deficient state agencies to take corrective action.*

- *Ensuring complaints are resolved timely.*

» *Further, our review of 10 state agencies' compliance with the Act revealed the following:*

- *Nine conducted required language surveys, yet four reported erroneous results and two could not adequately support their results.*

- *None had adequate procedures in place to determine compliance with requirements for translation of certain written materials.*

- *Some are not maximizing opportunities to reduce their bilingual services costs by leveraging existing California Multiple Award Schedules or the Personnel Board's contracts.*

continued on next page . . .

Moreover, our survey of administrators and department managers in 25 cities and counties throughout California disclosed the following:

- » *Some are not fully addressing their clients' bilingual needs.*
- » *Several have not translated materials explaining their services.*
- » *Many are not aware of the Act and do not have formal policies for providing bilingual services.*

erroneous survey results for one or more of their local offices, and two did not have sufficient documentation to support their survey results. The use of inaccurate survey data to evaluate the need for additional bilingual staff and to identify the written materials that need to be translated compromises state agencies' abilities to ensure they comply with the Act.

Additionally, only one of the state agencies we reviewed formally analyzed its survey results to determine whether the use of other available options, in addition to qualified bilingual staff in public contact positions, was serving the language needs of its clients, as the Act requires. None of the state agencies we reviewed had adequate procedures in place to determine whether they met the Act's requirements to translate certain written materials for their substantial LEP populations. Furthermore, most of the state agencies we reviewed have not developed plans to address their deficiencies in staffing and translated written materials. The Personnel Board has not required state agencies to evaluate their deficiencies in staffing and written materials or to develop plans to correct them. As a result, some of the state agencies we reviewed believed incorrectly that they were complying with the Act by providing the limited information that the Personnel Board asked them to provide.

We also found that some state agencies are not maximizing opportunities to reduce their costs to provide bilingual services by leveraging existing California Multiple Award Schedules (CMAS) contracts with the Department of General Services (General Services) and the Personnel Board's contracts for interpretation and translation services. For example, both the Employment Development Department (Employment Development) and the Department of Food and Agriculture entered into separate agreements with a contractor to translate documents into Spanish at a cost of 30 cents per word; however, this service is available from a CMAS vendor for 17 cents per word. If these agencies purchase these services up to their maximum contracted amounts, they will collectively end up paying approximately \$47,400 more than if they purchased these services from the CMAS vendor. Further, the Department of Public Health (Public Health) and the Department of Corrections and Rehabilitation (Corrections) split contracts by entering into multiple service orders with single vendors to provide the same type of bilingual services. Thus, these agencies violated the State's contracting rules by not combining the services into one job and obtaining competitive bids.

Much like our 1999 review, our current survey of administrators and department managers in 25 cities and counties throughout California found that some are not fully addressing their clients' bilingual needs. Many local agencies indicated that

they have bilingual staff members or telephone interpreters to communicate with clients who do not speak English, but several local agencies have not translated materials explaining their services into the languages spoken by a substantial number of their clients. The fact that some local agencies indicated that they are not fulfilling some clients' needs for bilingual services means these clients may not be receiving the government services to which they are entitled.

We also found that many local government administrators and department managers are not aware of the Act and do not have formal policies for providing bilingual services. For example, many administrators and managers we surveyed reported that they use informal methods to assess the needs of their LEP clients. In addition, many local agencies reported that they assess the need to provide bilingual services "when needed" or on an "ongoing" basis rather than at regular intervals. Responses to our survey questions also indicate that the responsibility for such assessments is not always clearly communicated among administrators and agency managers. Finally, we found that local agencies may also use CMAS contracts, which could help to ensure that they obtain competitive prices for bilingual services.

Recommendations

The Personnel Board should do the following to fulfill its responsibilities under the Act:

- Improve its processes to identify and inform all state agencies subject to the Act about the Act's requirements so the agencies are aware of their potential responsibilities to provide certain bilingual services. The Personnel Board should also ensure that all such agencies conduct language surveys and submit implementation plans unless it exempts them from the requirements.
- Require state agencies to provide all of the information required by the Act. For example, it should ensure that state agencies identify their deficiencies in staffing and translated written materials and that agencies' implementation plans sufficiently detail how and when they plan to address those deficiencies.
- Assess the adequacy of state agencies' language surveys and implementation plans, and order the agencies to supplement or make changes to remedy any deficiencies and to report to the Personnel Board every six months on the agencies' progress.

- Seek enough additional staff to fulfill its obligations under the Act, or seek changes to the Act to reduce its responsibilities to be commensurate with its staffing levels.

State agencies should do the following to ensure that they comply with the Act:

- Make certain that they assess accurately their clients' language needs and that the information they report to the Personnel Board is correct.
- Formally analyze their language survey results and consider other available bilingual resources to determine their true staffing deficiencies.
- Develop procedures to identify the written materials that the Act requires them to translate into other languages and ensure that such materials are translated or made accessible to their LEP clients through other means.
- Develop detailed corrective action plans describing how and when they will address their staffing and written materials deficiencies. In addition, state agencies should submit these corrective action plans to the Personnel Board as part of their overall implementation plans.

In addition, state agencies should leverage General Services' and the Personnel Board's contracts for interpretation and translation services to potentially reduce the costs of providing bilingual services.

Public Health and Corrections should develop procedures to detect and prevent contract splitting.

Local government agencies should consider taking the following actions to make certain that they identify and address adequately their clients' needs for bilingual services:

- Use formal procedures to identify the languages that their clients speak and assess the sufficiency of their bilingual resources to meet these needs on a regular basis.
- Translate materials explaining their services into languages spoken by a substantial number of their LEP clients to ensure these clients receive information about available services.
- Develop policies that clarify local agencies' responsibilities for providing bilingual services.

- In addition, city and county administrators should encourage local departments to consider using state CMAS contracts to obtain bilingual services whenever cost-effective.

Agency Comments

The Personnel Board and nine of the other state agencies that we reviewed generally concurred with our conclusions and recommendations. Employment Development also generally agreed with our conclusions and recommendations, but offered clarifying information.

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Introduction

Background

The Dymally-Alatorre Bilingual Services Act (Act), enacted by the Legislature in 1973 and last amended in 2007, is intended to provide for effective communication between the State's residents and their state, county, and municipal governments. The Act is also intended to ensure that individuals who do not speak or write English or whose primary language is not English, referred to in this report as limited-English-proficient (LEP) clients, are not prevented from using public services because of language barriers. The Act addresses two factors that concerned the Legislature when it was enacted. First, the Legislature found that a substantial portion of California's population could not communicate effectively with government because these individuals spoke a different language than English. Second, employees of state agencies and local government agencies (local agencies) frequently were unable to communicate with constituents requiring their services. Because of these two factors, the Legislature declared that individuals with limited proficiency in English were being denied rights and benefits to which they were entitled.

In defining how its requirements are to be met, the Act distinguishes between state and local agencies. It establishes specific legal mandates for state agencies,¹ including the State Personnel Board (Personnel Board). In contrast, the Act allows local agencies significant discretion in establishing the level and extent of bilingual services they provide.

State Agencies' Responsibilities to Provide Bilingual Services

The Act generally requires state agencies to ensure that they provide information and services in the various languages of their constituents. Specifically, state agencies directly involved in furnishing information or services to a "substantial number of non-English-speaking people" must do the following:

- Employ a "sufficient number of qualified bilingual persons in public contact positions."
- Translate and provide documents explaining available services into the languages of these constituents.

¹ In this report, *state agency* is the general term used to specify state offices, departments, divisions, bureaus, boards, and commissions, except those specifically exempted from the definition in the California Government Code, Section 11000.

For state agencies, *qualified bilingual staff* are employees who have passed written or oral examinations that certify their ability to speak, write, and understand another language. A *public contact position* is one determined by a state agency to involve employees meeting, contacting, and dealing with the public while performing the agency's function.

For state agencies, the Act defines *substantial number of non-English-speaking people* as members of a group who either do not speak English or are unable to communicate effectively in English because it is not their native language and who also comprise 5 percent or more of the constituents served by any local office or facility of a state agency. Moreover, for state agencies, the Act defines *sufficient number of qualified bilingual persons in public contact positions* as the number of employees required to provide the same level of services to LEP persons as is available to English-speaking persons. In addition to requiring that state agencies employ qualified bilingual persons in public contact positions, the Act requires state agencies to consider the use of other resources, such as contracts for telephone-based interpretation services in evaluating the number of qualified bilingual staff necessary to meet their LEP clients' needs. Further, the Act is not intended to prohibit state agencies from providing bilingual services for languages spoken by less than 5 percent of their clients.

In addition, the Act generally requires state agencies to translate written materials into other languages. For example, they must translate materials explaining services available to the public into any language spoken by 5 percent or more of those served. In addition, notice of the availability of translated materials explaining services must be given in English and in the languages of the translated materials. However, the Act explicitly states that these provisions must not be interpreted as a requirement to provide verbatim translations of any materials provided in English by a state agency.

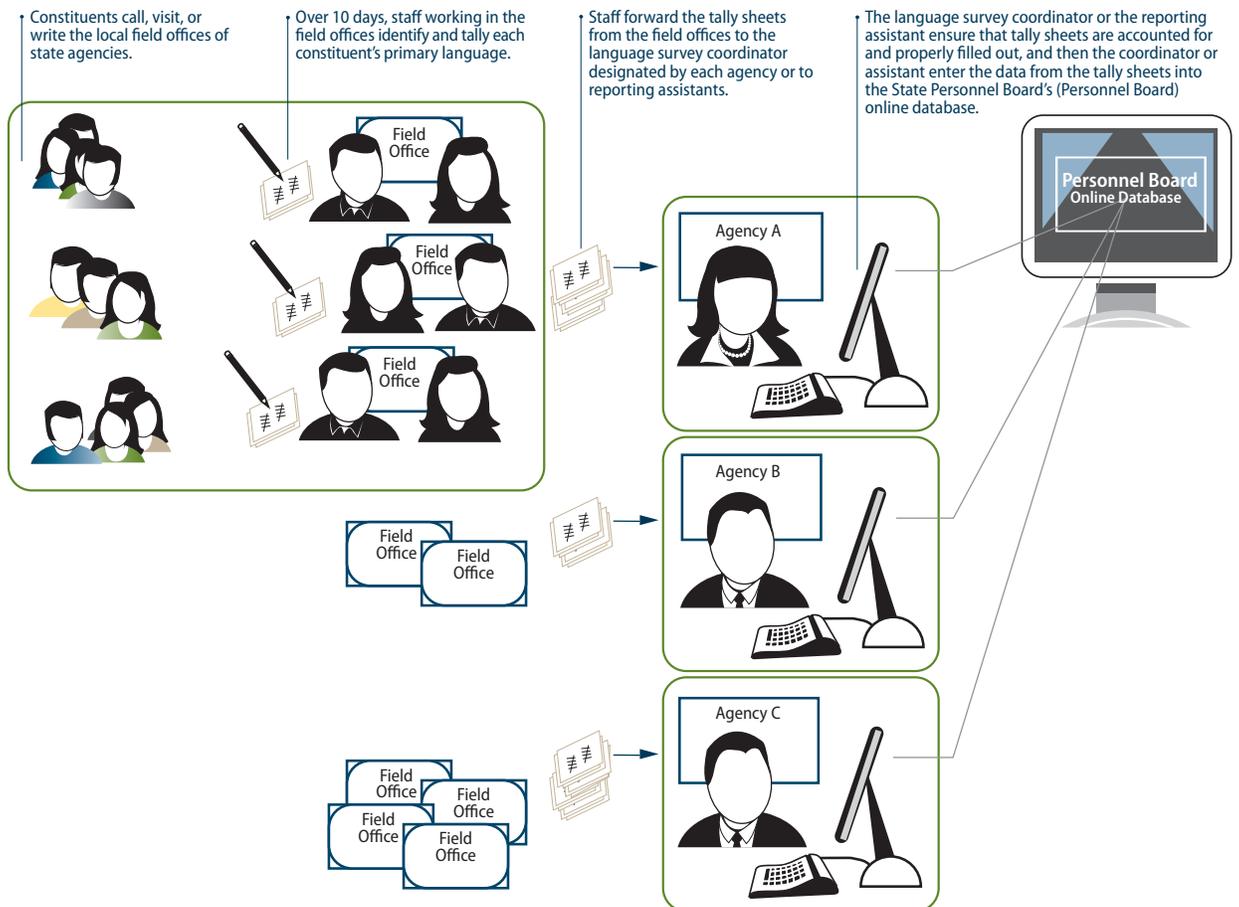
State Agencies' Responsibilities for Language Surveys and Implementation Plans

Since the Act was amended in 2007, state agencies have been required to survey their field offices by October 1 of each even-numbered year to identify the language needs of their constituents and the agencies' ability to meet those needs unless the Personnel Board exempts them from the requirement (the next section discusses such exemptions). Commonly referred to as language surveys, these surveys provide the information necessary to identify the languages of the populations that comprise 5 percent or more of the constituents served at agencies' field offices, which in

turn provide the information that the state agencies need to evaluate their staffing levels and their need to translate written materials, as required by the Act.

As part of the language surveys, state agencies identify their public contact staff at each of their field offices and identify those who are certified in languages other than English and the languages in which they have been certified. As Figure 1 illustrates, over 10 days, public contact staff at each field office identify and record on tally sheets the primary languages of the constituents they serve in person, over the telephone, or through written correspondence. Each field office then forwards its language survey results to a language survey coordinator or to reporting assistants designated by its agency to collect the results. These staff members are responsible for reviewing the tally sheets and entering the survey results into the language survey database that the Personnel Board has created for this purpose.

Figure 1
General Summary of the Language Survey Process



Source: Auditor-generated from documentation obtained from the State Personnel Board and other state agencies.

Information That Each State Agency Must Include in Its Language Survey

- The number of public contact positions.
- The number of qualified bilingual employees in public contact positions, and the languages they speak, other than English.
- The number and percentage of limited-English-proficient (LEP) clients served, broken down by native language.
- The number of anticipated vacancies in public contact positions for the coming year.
- A statement about whether the use of other available options, including contracted telephone-based interpretation services in addition to qualified bilingual persons in public contact positions, is serving the language needs of LEP clients.
- A list of all written materials that the agency must translate or otherwise make accessible to LEP clients.
- A list of materials that have been translated and the languages into which they have been translated.
- The number of additional qualified bilingual public contact staff that the agency needs to comply with the Dymally-Alatorre Bilingual Services Act.

Source: California Government Code, Section 7299.4(b).

The state agencies' language surveys must also indicate the numbers and percentages of LEP clients served and specify the native languages of these clients. The text box summarizes all of the information that state agencies are responsible for identifying when preparing their language surveys.

Since 2003 state agencies have been responsible for developing implementation plans to address deficiencies in staffing and written materials identified in their language surveys. Specifically, the Act requires state agencies' implementation plans to provide detailed descriptions of how they intend to address any deficiencies in meeting the requirements of the Act, including any failures to employ sufficient numbers of qualified bilingual employees in public contact positions or to translate written materials for use at their field offices.

A state agency's staffing deficiencies are specifically identified in its language survey as the number of additional qualified bilingual staff in public contact positions that each field office needs for the agency to comply with the Act. Each state agency also uses the language survey to calculate its deficiencies in translated written materials by subtracting the number of written materials that have already been

translated for each field office from the number of written materials requiring translation for substantial populations. As the text box on the following page notes, each state agency must also provide other information in its implementation plan.

The Personnel Board's Responsibilities Under the Act

The Act requires the Personnel Board to inform state agencies of their responsibilities under the Act and to provide technical assistance to them if requested. Further, the Act was amended in 2002 to require the Personnel Board to monitor and enforce state agencies' compliance. The Act requires the Personnel Board to obtain state agencies' language surveys and implementation plans unless the agencies are exempt. The Act allows the Personnel Board to exempt an agency whose primary mission does not include responsibility for furnishing information or rendering services to the public. An agency can also qualify for an exemption if it has consistently received such limited contact with the LEP public that

it has not been required to employ bilingual staff under the Act and if it employs fewer than the equivalent of 25 full-time employees in public contact positions.

Once it receives state agencies' implementation plans, the Personnel Board is required by the Act to review the plans and determine whether they adequately address the agencies' deficiencies in staffing and in written materials. If it determines that plans are inadequate, the Personnel Board must order those agencies to supplement or make changes to their plans and to submit progress reports to the Personnel Board every six months. Further, if the Personnel Board determines that agencies have not made reasonable progress to address their deficiencies, it may issue orders that it deems appropriate to fulfill the purposes of the Act. Under the Act, the Personnel Board must also compile data from agencies' surveys and implementation plans and provide a report to the Legislature every two years identifying significant problems or deficiencies and proposing solutions where warranted.

Local Agencies' Responsibilities Under the Act

Although the Act establishes specific legal mandates for state agencies, it allows local agencies discretion in establishing the level and extent of the bilingual services that they provide. The Act requires local agencies serving a substantial number of LEP clients to employ a sufficient number of qualified bilingual public contact staff or interpreters to ensure the provision of information and services in languages other than English. However, for the purposes of determining the languages for which local agencies will provide assistance, the Act authorizes these local agencies to define what constitutes a substantial number of non-English-speaking persons. The Act also authorizes local agencies to define who is a qualified bilingual person and how many people constitute a sufficient number of qualified bilingual persons. Further, the Act does not require local agencies to conduct formal surveys to identify the number and percentage of LEP clients they serve, and it allows them to determine when it is necessary to translate documents into other languages.

Information that Each State Agency Must Include in Its Implementation Plan

- The name, position, and contact information of the employee designated by the agency to be responsible for overseeing the implementation plan.
- A description of the agency's procedures for identifying written materials that need to be translated.
- A description of the agency's procedures for identifying language needs at local offices and for assigning qualified bilingual staff.
- A description of how the agency recruits qualified bilingual staff.
- A description of any training that the agency gives its staff on the provision of services to limited-English-proficient clients.
- A detailed description of how the agency plans to address any deficiencies in meeting the requirements of the Dymally-Alatorre Bilingual Services Act (Act), including the failure to employ sufficient numbers of qualified bilingual employees in public contact positions at local offices or failure to translate written materials. The plan should list proposed actions to address the deficiencies and proposed dates by which the agency can remedy the deficiencies.
- A description of the agency's procedures for accepting and resolving complaints of alleged violations of the Act.
- A description of how the agency complies with any federal or other state laws that require the provision of linguistically accessible services to the public.

Source: California Government Code, Section 7299.4(d).

Limitations Set by the Act

Agencies must use existing funds to implement the Act. Further, state and local agencies need only fulfill the bilingual staff requirement by filling public contact positions made vacant through retirement or normal attrition; they may not dismiss employees who are not bilingual in order to hire bilingual employees. The Act expressly does not apply to school districts, county boards of education, offices of county school superintendents, or the State Compensation Insurance Fund.

Scope and Methodology

The Joint Legislative Audit Committee (audit committee) asked the Bureau of State Audits (bureau) to determine whether state and local agencies comply with the Act. Specifically, for a sample of state and local agencies, we were asked to determine the procedures and practices that the agencies use to identify the need for language assistance, to evaluate whether these processes accurately identify actual need, and to determine the effectiveness of the methods that the agencies use to monitor their own compliance with the Act. The audit committee also asked us to review and assess the corrective actions taken by a sample of the agencies included in our 1999 audit, to determine if they are currently complying with the Act, and to identify any best practices used by state and local agencies to meet the needs of LEP clients. Further, the audit committee asked us to ascertain whether opportunities exist for state and local agencies to centralize translation and interpretation services. During our audit, we were to evaluate, to the extent possible, whether such centralization would reduce the costs of complying with the Act and to determine whether the State is applying for and receiving all available federal funding for language assistance. Finally, we were asked to review the policies and procedures used by the Personnel Board to monitor and enforce compliance with the Act; our review was to include assessing how the Personnel Board ensures that agencies that are out of compliance take corrective actions.

We selected a sample of 10 state agencies for our review. To select five of the 10 agencies that we audited in 1999, we analyzed the agencies' 2008 biennial language survey results, selecting some with higher numbers of public contacts and some with relatively lower numbers of public contacts. We also considered the number of staffing deficiencies that the agencies had reported in their surveys, selecting some agencies that reported few deficiencies and others that reported a relatively greater number of deficiencies. Once we had chosen five of the agencies that we had previously reviewed, we obtained a report generated by the Personnel Board summarizing other state agencies' 2008 biennial language

survey results. Using this report, we selected three additional state agencies, all of which had relatively high numbers of public contacts. To complete our sample, we added the remaining two state agencies specifically identified in the audit request.

We then interviewed agency management and staff of the 10 state agencies to obtain an understanding of the policies and practices each had in place to administer the Act. To determine whether the state agencies accurately reported their need for language assistance, we attempted to trace to a sample of field offices' supporting documentation the information that the state agencies reported to the Personnel Board in their 2008 biennial surveys. To evaluate the effectiveness of the methods the state agencies use to monitor their compliance with the Act, we reviewed each state agency's 2009 biennial implementation plan, and obtained any additional documentary support regarding its efforts to monitor its compliance with the Act as applicable. For the five state agencies that we audited in 1999, we also reviewed each state agency's current practices against the recommendations from our previous audit to determine if the state agency sufficiently implemented our recommendations.

To identify any best practices used by state and local agencies, we interviewed state agency management and staff and sent a survey to a sample of local agencies asking them to name the various methods they use to identify and address their LEP clients' language needs. To evaluate the extent to which the centralization of translation and interpretation services could reduce the costs of complying with the Act, we obtained a sample of contracts that the state agencies use for these services. On a sample basis, we then identified the extent to which the state agencies were paying different rates for specific services and evaluated whether the use of Department of General Services' contracts could potentially reduce the state agencies' costs.

To determine if the State is applying for and receiving all available federal funding for the provision of language access services, we reviewed the U.S. General Services Administration's Catalog of Federal Domestic Assistance, which contains a complete listing of all federal grants, to ascertain whether federal funds are available specifically for these services. Through this assessment, we did not identify any federal grants that are available to state or local agencies specifically for the purpose of providing bilingual services.

To evaluate how local agencies identify the need for language assistance, ascertain whether these processes accurately identify actual need, and determine the effectiveness of the methods the local agencies use to monitor their own compliance with the Act, we surveyed 25 counties and cities throughout

the State. Using U.S. Census Bureau data collected during the 2008 American Community Survey, we selected jurisdictions that have a relatively high number of persons who reported that they spoke English less than well. We sent the surveys to 25 administrators and 25 department managers—that is, one administrator and one department manager in each of the 25 cities and counties. Appendix A lists the names of the survey participants. Appendices B and C identify the survey results from the city and county administrators and from the department managers, respectively.

Using the responses to our survey, we determined what impact, if any, the Act has on the level and extent of bilingual services that local agencies provide. We analyzed instances in which local agencies reported an identified need to provide bilingual services in a particular language but the local agencies did not fully address that need. Additionally, we determined how cities and counties assess the need for bilingual services and the types of resources they use to provide language assistance to their clients. We then identified the approach that the cities and counties use to provide bilingual services. Finally, we compared certain responses from local department managers within a jurisdiction against responses reported by the jurisdiction's administrator to identify any incongruities between their responses.

To determine how the Personnel Board fulfills its responsibilities and to assess the effectiveness of the mechanisms it has established to monitor and enforce compliance with the Act, we interviewed as well as obtained relevant documentation from Personnel Board management and staff within its bilingual services unit, which is the unit responsible for carrying out the Act's various requirements. In addition, we reviewed the Personnel Board's policies and procedures for administering the biennial statewide language survey and for collecting the biennial implementation plan. We also examined its most recent report to the Legislature to determine whether the report summarizes the survey and implementation plan results accurately and adequately. Further, we assessed whether the Personnel Board adequately evaluated the 2008 biennial language surveys and 2009 biennial implementation plans submitted by state agencies. Finally, to evaluate the Personnel Board's language access complaint process, we interviewed Personnel Board management and staff, and we analyzed available documentation.

Chapter 1

THE STATE PERSONNEL BOARD DOES NOT FULFILL ITS RESPONSIBILITIES UNDER THE DYMALLY-ALATORRE BILINGUAL SERVICES ACT

Chapter Summary

In November 1999 the Bureau of State Audits (bureau) issued a report titled *Dymally-Alatorre Bilingual Services Act: State and Local Governments Could Do More to Address Their Clients' Needs for Bilingual Services* (Report 99110). In presenting our various findings, we reported that the State Personnel Board (Personnel Board) could do more to fulfill its responsibilities under the Dymally-Alatorre Bilingual Services Act (Act) and that its report to the Legislature did not adequately present state agencies' ability to meet the language needs of their clients.

In our current review, we found that the Personnel Board has not implemented key recommendations from our 1999 report and that it is not meeting most of its responsibilities under the Act. Specifically, the Personnel Board has not informed all state agencies of their responsibilities under the Act, and it has not ensured that state agencies conduct language surveys to assess their clients' language needs. Additionally, the Personnel Board does not obtain necessary information from state agencies that would allow it to evaluate their compliance with the Act, and it does not order deficient agencies to take the necessary actions to ensure they have a sufficient number of qualified bilingual staff and translated written materials to address the language needs of their substantial populations of limited-English-proficient (LEP) clients. Moreover, the Personnel Board's complaint process needs improvement and its report to the Legislature still does not adequately address whether state agencies are complying with the Act. Because the Personnel Board is not meeting its statutory responsibilities to monitor and enforce state agencies' compliance with the Act, the State lacks assurance that LEP clients have equal access to public services. The Personnel Board's bilingual services program manager (bilingual program manager) cited a lack of resources as the primary reason that the Personnel Board is not meeting its responsibilities.

The Personnel Board Does Not Adequately Monitor or Enforce State Agencies' Compliance With the Act

During our review, we found that the Personnel Board is not fulfilling its responsibilities to monitor and enforce state agencies' compliance with the Act. Table 1 summarizes the Personnel Board's performance during the 2008 biennial language survey and the 2009 biennial implementation plan cycle (2008–09 biennial reporting cycle). We refer to this table throughout this section.

Table 1
The State Personnel Board's Fulfillment of Responsibilities During the 2008–09 Biennial Reporting Cycle

RESPONSIBILITY	FULFILLED	SUMMARY
Inform all state agencies of their responsibilities under the Dymally-Alatorre Bilingual Services Act (Act).	No	During the 2008–09 biennial reporting cycle, the State Personnel Board (Personnel Board) did not inform at least nine state agencies of their responsibilities to comply with the Act.
Provide agencies with technical assistance upon request.	Yes	The Personnel Board trains representatives from state agencies on how to complete their language surveys, and will respond to state agencies' questions and requests for assistance.
Obtain and review state agencies' language surveys and implementation plans, unless it exempts the state agencies from the requirements.	No	The Personnel Board does not always ensure state agencies conduct language surveys and prepare implementation plans. For example, according to the Personnel Board's records, 33 state agencies did not participate in the 2008 biennial language survey, even though the Personnel Board did not exempt them from this requirement. In addition, the Personnel Board does not always use the criteria described in the Act when exempting state agencies from completing a language survey.
Determine if state agencies' implementation plans adequately address deficiencies in staffing and written materials (deficiencies).*	No	The Personnel Board does not solicit sufficient information from state agencies to determine whether they have adequate plans to address deficiencies.
Order state agencies to supplement or make changes to their implementation plans when the plans do not adequately address deficiencies.	No	The Personnel Board does not order state agencies to make changes to their implementation plans, primarily because it does not have sufficient information to issue such orders.
Obtain a progress report every six months from state agencies it determines to be deficient.	No	The Personnel Board does not request progress reports from state agencies, primarily because it does not have sufficient information to adequately determine state agencies' deficiencies.
May order state agencies to comply with the Act if it determines that they have not made reasonable progress to address their deficiencies.	No	The Personnel Board does not issue orders to state agencies to comply with the Act, primarily because it does not have sufficient information to assess whether state agencies are making reasonable progress to address their deficiencies.
Provide a report to the Legislature every two years identifying significant problems or deficiencies and propose solutions where warranted.	No	The Personnel Board's March 2010 report did not adequately identify deficiencies or propose solutions.

Sources: California Government Code, sections 7290 through 7299.8; interviews with and documentation obtained from Personnel Board officials.

Note: 2008–09 biennial reporting cycle refers to the 2008 biennial language survey and the 2009 biennial implementation plan cycle.

* A staffing deficiency is the number of additional qualified bilingual staff in public contact positions that an agency needs at its local offices or facilities to ensure the provision of information and services to substantial populations of people with limited-English proficiency. A written materials deficiency is the difference between the written materials a state agency is required to translate and the written materials that it has already translated or otherwise made accessible.

The Personnel Board Does Not Inform All State Agencies About Their Responsibilities

As Table 1 shows, the Personnel Board is not meeting the Act's requirement that it inform all state agencies of their duties under the Act. The Act requires the Personnel Board to notify state agencies of such responsibilities, including the need to conduct a language survey at each of their field offices by October 1 of each even-numbered year to identify languages other than English that 5 percent or more of the state agencies' LEP clients (substantial LEP populations) speak.

In its efforts to meet this requirement, the Personnel Board created a master list to identify and track the agencies that were potentially required to comply with the Act during the 2008–09 biennial reporting cycle. One of the sources for its master list is a report of state entities that it creates from a file it receives from the State Controller's Office. However, the Personnel Board's chief information officer explained that the Personnel Board is unsure of the parameters that determine which entities that file includes. He asserted that the file would include all major agencies but that some smaller boards or commissions might be omitted. We identified at least nine entities that the Personnel Board should have informed about their responsibilities under the Act but did not.

According to the Personnel Board's bilingual program manager, many of the nine entities are small boards or commissions that would likely have been exempt from conducting language surveys or developing implementation plans during the 2008–09 biennial reporting cycle because the primary missions of these entities do not include furnishing information or rendering services to the public. However, the Personnel Board still should have informed these entities of their potential responsibilities under the Act. The bilingual program manager acknowledged that the Personnel Board should have informed the nine entities about their responsibility to participate in the 2008 language survey or to submit exemption requests. She also recognized that the current process for identifying entities required to comply with the Act needs improvement.

The Personnel Board Does Not Sufficiently Monitor State Agencies' Participation in Language Surveys

The Personnel Board provides technical assistance to state agencies, such as training their representatives on how to complete language surveys; however, it is not adequately monitoring state agencies' compliance with the Act. As Table 1 indicates, the Personnel Board does not always ensure that state agencies conduct language surveys

We identified at least nine entities that the Personnel Board should have informed about their responsibilities under the Act but did not.

Thirty-three of the 151 state agencies that the Personnel Board identified as potentially subject to the Act in 2008 did not conduct the required language surveys.

to identify their clients' language needs. The Personnel Board identified 151 state agencies as potentially subject to the Act in 2008; however, only 58 of these agencies conducted language surveys. Further, the Personnel Board's records also indicate that three of the 58 agencies did not follow through and submit implementation plans after completing their language surveys. Records also show that 33 of the 151 state agencies did not take part in the surveys, even though the Personnel Board did not exempt them from doing so. Finally, the Personnel Board exempted the remaining 60 agencies from participating in the 2008 biennial language survey, but the Personnel Board did not always adhere to the Act's exemption criteria when granting these exemptions.

In reviewing eight of the 60 exemptions, we found that the Personnel Board improperly exempted one state agency from participating. Specifically, it granted the California Housing Finance Agency's exemption request on the basis that the agency's previous 2006 biennial language survey demonstrated that the agency had very limited contact with the LEP public. However, the agency's 2006 biennial language survey showed otherwise; nearly 16 percent of its public contacts were Spanish speakers. Consequently, the Personnel Board should not have approved this agency's request for an exemption from the 2008 biennial language survey. If the Personnel Board does not make certain that state agencies conduct language surveys and prepare implementation plans, or if the Personnel Board inappropriately grants exemptions, it is not ensuring that state agencies that provide services to the public are aware of and address the language needs of their LEP clients.

The Personnel Board's bilingual program manager acknowledged that the Personnel Board does not have formal procedures for following up with state agencies that do not submit language surveys or implementation plans. She stated that individual staff members use their own discretion in determining the extent of any follow-up actions. She also affirmed that in the process of ensuring that state agencies complete their language surveys and submit implementation plans, the Personnel Board does not routinely take other actions, such as sending letters to department directors or agency secretaries or ordering agencies' executive officers to explain to the Personnel Board why they have not met the Act's requirements. According to the bilingual program manager, many of the 33 agencies that did not participate in the language survey are small boards, authorities, and commissions that are not likely to have a substantial amount of public contact. Although the 33 agencies may indeed have minimal public contact, the Personnel Board did not verify whether these agencies should have completed biennial language surveys in 2008, and therefore did not follow the requirements of the Act.

During our review, the bilingual program manager also agreed that the Personnel Board's exemption process needs improvement. She stated that staff may not always accurately document the reasons for granting an exemption, which could result in errors. The bilingual program manager also said that the Personnel Board will review its exemption process and make adjustments to ensure that it minimizes the risk of such errors in the future.

The Personnel Board Does Not Require State Agencies to Submit Key Information

As Table 1 shows, the Personnel Board does not require state agencies to submit critical information that it needs to assess whether the agencies are meeting all of their responsibilities to serve their LEP clients. As the Introduction discusses, the Personnel Board receives state agencies' language survey results and implementation plans electronically through an online system that it has designed for this purpose. However, the Personnel Board does not solicit all of the information required by the Act. Specifically, the Personnel Board does not require agencies to identify their deficiencies in providing translated written materials, to provide detailed descriptions of how they plan to address any deficiencies in written materials or staffing, or to identify when they will remedy any noted deficiencies. Managers at some of the state agencies we reviewed incorrectly thought that they were complying with the Act when the agencies provided the limited information that the Personnel Board requested. Consequently, as Chapter 2 discusses, the state agencies did not have adequate procedures in place to determine whether they met the Act's requirements to translate certain written materials for their substantial LEP populations.

Because the Personnel Board does not solicit all required information from state agencies, it cannot fulfill its monitoring and enforcement responsibilities. For example, without detailed plans to address deficiencies in staffing or translated written materials, it cannot evaluate adequately whether state agencies are taking appropriate corrective action to ensure that they have sufficient numbers of qualified bilingual staff and translated written materials in their field offices—two of the primary requirements included in the Act to ensure that LEP populations can communicate effectively with their government.

The bilingual program manager agreed that the limited information the Personnel Board collects inhibits its ability to monitor and enforce state agencies' compliance with the Act. She also said that the Personnel Board does not adequately review agencies' implementation plans or conduct other formal monitoring activities to evaluate whether the state agencies are complying with

Managers at some of the state agencies we reviewed incorrectly thought that they were complying with the Act by providing the limited information requested by the Personnel Board.

the Act's staffing and written materials requirements. Additionally, she acknowledged that the Personnel Board does not order agencies to make changes to their implementation plans or to provide periodic progress reports on their efforts to comply with the Act, and it does not otherwise order state agencies to comply with the Act. She told us that the bilingual services unit currently has only four staff, which she asserts is not enough to address all of the Personnel Board's responsibilities under the Act. She stated that in fiscal year 2007–08 the Personnel Board submitted a budget change proposal to request one additional position that was approved. However, the manager explained that funding for the position was subsequently eliminated during the fiscal year 2008–09 budget-balancing reductions.

In identifying other practices the Personnel Board uses to monitor state agencies' compliance with the Act, the bilingual program manager stated that the Personnel Board implemented a toll-free complaint line with mailbox options for the top 12 languages other than English reportedly encountered by state agencies. At that time, it sent both a memorandum informing state agencies of the complaint line and posters for the agencies to display in their field offices. The posters display a message in all 12 languages that informs clients of their right to receive services and information in their native languages and that directs them to call the Personnel Board's complaint line if state agencies do not meet the clients' language needs.

Although its database indicates it received 43 complaints between May 2006 and April 2010, the Personnel Board generally does not follow up on the resolution of complaints with the responsible state agencies.

The Web-based database that the Personnel Board uses to manage the complaints it receives indicates that it received 43 complaints between May 2006 and April 2010. The Personnel Board intends its complaint process to ensure that clients' issues are directed to the appropriate government agency for resolution; consequently, in most cases the Personnel Board forwards the complaints to relevant state agencies for them to resolve. However, it generally does not follow up with the responsible state agencies to ensure that language access complaints are resolved; therefore, the Personnel Board does not have assurance that state agencies are addressing the language needs of these clients. In one instance, an individual repeatedly called the Personnel Board's complaint line over a period of nearly three weeks to report that he had not received language assistance from a state agency. If the Personnel Board had followed up with the agency to ensure that it resolved the initial complaint, the Personnel Board might have eliminated the need for this individual to make subsequent calls. The bilingual program manager stated that after we brought this issue to her attention, the Personnel Board began following up with agencies in August 2010 to ensure that complaints are resolved.

The Personnel Board's Biennial Report Lacks Substance

The Act requires the Personnel Board to identify significant problems or deficiencies and propose solutions where warranted in its reports to the Legislature. We reviewed the most recent report, which the Personnel Board issued in March 2010, and we found that it does not clearly identify whether state agencies have the number of qualified bilingual staff in public contact positions that is sufficient to serve the agencies' substantial populations of LEP clients. For example, in one section of the March 2010 report, the Personnel Board states that during the 2008–09 reporting cycle, the 57 participating state agencies identified a total of 975 deficiencies in qualified bilingual public contact staff.² The report then specifies that 37 of these state agencies reported unmet bilingual staffing needs. However, the Personnel Board concludes that LEP clients' language needs are being met because state agencies reported using various alternative resources to fulfill their clients' language needs. The Personnel Board reported that these alternative resources included using qualified staff from other units, contract interpreters, and uncertified bilingual staff. Because of these seemingly contradictory statements and the Personnel Board's inadequate supporting analysis, we believe that users of the Personnel Board's report are left wondering whether state agencies have sufficient qualified bilingual staff to adequately meet the needs of their LEP clients.

Moreover, as the previous section explains, the Personnel Board compromised its ability to make this determination because it does not solicit sufficient information from state agencies. Further, as the previous section discusses, 33 state agencies did not participate or receive exemptions from participating in the 2008 biennial language survey. Consequently, the staffing deficiencies the Personnel Board presents may be incomplete.

As in the case of staffing deficiencies, the Personnel Board's March 2010 report also does not clearly address whether state agencies are meeting the Act's requirements for translating written materials. The Personnel Board states that 88 percent of reporting state agencies that serve substantial numbers of LEP clients claimed that they have procedures to identify materials that need to be translated as required by the Act. However, the report does not indicate whether these state agencies have translated all required written documents into the languages spoken by their substantial populations of LEP clients. In addition, the Personnel Board does not address those state agencies that did not report having

² The Personnel Board reported that 57 state agencies participated in the 2008 language survey; however, in reviewing the Personnel Board's records, we found that 58 state agencies participated.

procedures for identifying materials requiring translation, nor does its report describe what it intends to do to ensure that those state agencies develop such procedures. The bilingual program manager acknowledged that the Personnel Board does not currently obtain sufficient information from state agencies to determine whether they are meeting the Act's requirements for translating written materials.

Finally, the Personnel Board's March 2010 report does not identify specific agencies that may not be complying with the Act. For example, it states that 13 state agencies accounted for 90 percent of the reported bilingual position deficiencies, but it does not identify these agencies by name. Further, although state agencies often have field offices located throughout the State, the report does not show these deficiencies by field office. If the Personnel Board were to summarize and present key survey and implementation plan data by state agency and by field office, it could more accurately inform policymakers and the public about the language needs of residents in certain areas of the State and about state agencies' available resources to meet those needs. Data presented in this way also could be used to hold agencies that may not be complying with the Act accountable. The bilingual program manager agrees that the Personnel Board could improve its report to the Legislature, and that it will consider and determine which recommendations it can implement based on its system capabilities and resources.

Recommendations

To ensure that all state agencies subject to the Act are aware of their potential responsibilities to provide bilingual services, the Personnel Board should improve its processes to identify and inform all such state agencies of the Act's requirements. It should also make certain that every state agency required to comply with the Act conducts language surveys and submits implementation plans unless the Personnel Board exempts them from these requirements.

The Personnel Board should ensure that it adheres to the specific criteria contained in the Act when exempting agencies from conducting language surveys or preparing implementation plans.

The Personnel Board should require state agencies to provide all of the information required by the Act. For example, the Personnel Board should ensure that state agencies identify their deficiencies in staffing and translated written materials and that the state agencies' implementation plans detail sufficiently how and when they plan to address these deficiencies.

The Personnel Board should assess the adequacy of state agencies' language surveys and implementation plans. If it determines that implementation plans do not address deficiencies in staffing or written materials adequately, the Personnel Board should order the agencies to revise or supplement their plans accordingly. The Personnel Board should also require state agencies to report to it every six months on their progress in addressing their deficiencies.

If the Personnel Board determines that agencies have not made reasonable progress toward complying with the Act, it should consider ordering them to comply with the Act. These actions could include ordering state agency officials to appear before the Personnel Board to explain why their agencies have not complied. If these actions or its other efforts to enforce the Act are ineffective, the Personnel Board should consider asking a court to issue writs of mandate under Section 1085 of the Code of Civil Procedure, to require agencies to perform their duties.

The Personnel Board should seek enough additional staff to fulfill its obligations under the Act, or it should seek changes to the Act that would reduce its responsibilities and make them commensurate with its staffing levels.

The Personnel Board should follow up with responsible state agencies to ensure that the agencies resolve the language access complaints it receives in a timely manner.

The Personnel Board should improve the content of its biennial report to the Legislature to identify problems more clearly and to propose solutions where warranted. Specifically, the report should clearly indicate whether state agencies have true staffing deficiencies or deficiencies in translated materials. In addition, the report should identify any agencies that are not complying with the Act and should present key survey and implementation plan results by state agency and field office to better inform policymakers and the public about the language needs of residents in certain areas of the State and about state agencies' available resources to meet those needs.

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Chapter 2

STATE AGENCIES DO NOT FULLY ENSURE THAT THEY MEET CLIENTS' LANGUAGE NEEDS

Chapter Summary

In November 1999 we reported that most of the state agencies we reviewed had not periodically assessed the language needs of their clients and had not adequately monitored their compliance with the Dymally-Alatorre Bilingual Services Act (Act). Our current review—which included five of the state agencies we audited in 1999 as well as five other state agencies—revealed similar issues. Nine of the 10 agencies we reviewed conducted biennial language surveys in 2008, but four reported erroneous survey results for one or more of their local offices, and two did not have sufficient documentation to support their survey results. If agencies use inaccurate survey data or do not retain documentation supporting their survey results, they compromise their ability to evaluate their potential need for additional bilingual staff and to identify written materials they need to translate.

Even when the State Personnel Board (Personnel Board) receives accurate survey results, its staffing deficiency calculation is only an indicator of state agencies' potential need for additional qualified bilingual staff. However, of the state agencies we reviewed only the Department of Motor Vehicles (Motor Vehicles) formally analyzed its survey results to determine whether the use of other available options, in addition to qualified bilingual staff in public contact positions, was serving the language needs of its clients, as the Act requires. In addition, none of the state agencies we reviewed had adequate procedures in place to determine whether they were meeting the Act's requirements to translate certain written materials for the LEP populations that constitute 5 percent or more of their constituents (substantial LEP populations). Furthermore, most of the state agencies we reviewed have not developed plans to address their staffing and translated written materials deficiencies. As Chapter 1 discusses, the Personnel Board has not required state agencies to evaluate their deficiencies in staffing and written materials or to develop plans to address them. As a result, some of the state agencies we reviewed incorrectly believed that they were complying with the Act by supplying the limited information that the Personnel Board asked them to provide.

We also found that state agencies are not maximizing opportunities to reduce their costs of providing bilingual services by leveraging the Department of General Services' (General Services) and the Personnel Board's contracts for interpretation and translation services.

We also discovered that the Department of Public Health (Public Health) and the Department of Corrections and Rehabilitation (Corrections) split contracts by entering into multiple service orders with single vendors to provide the same type of bilingual services without soliciting competitive bids, and thus violated the State's contracting rules.

State Agencies Still Do Not Fully Comply With the Act

In 1999 the Bureau of State Audits reviewed a sample of 10 state agencies and reported that some had not fully complied with the Act.³ Although the agencies were providing bilingual services to the public, most had not established procedures to periodically assess the language needs of their clients and were not aware of their responsibility to translate written materials explaining services into languages spoken by their substantial LEP populations. Also, agencies did not always assign staff to monitor their bilingual programs continuously.

In the current audit, we revisited five of the state agencies included in our 1999 report and found that these agencies have made some progress in addressing our previous recommendations. For example, all five conducted biennial language surveys in 2008 to identify the language needs of their clients. However, as the Introduction explains, amendments to the Act in effect since 2003 have increased state agencies' responsibilities. In light of the changes, these and the other five agencies we reviewed in this current audit did not fully comply with the Act during the 2008–09 biennial language survey and implementation plan cycle (2008–09 biennial reporting cycle), as Table 2 indicates.

Nine of the state agencies we reviewed conducted biennial language surveys in 2008, but four reported erroneous survey results for one or more of their local offices, and two agencies did not have sufficient documentation to support their survey results. The tenth agency we reviewed, the California Emergency Management Agency (Emergency Management), failed to conduct the 2008 biennial language survey. Emergency Management is responsible for the overall coordination of the State's response to major disasters, and it was established as part of the Governor's Office on January 1, 2009, by the merger of the Governor's Office of Homeland Security (Homeland Security) and the Governor's Office of Emergency Services (Emergency Services).

The California Emergency Management Agency—the agency responsible for the overall coordination of the State's response to major disasters—failed to conduct the 2008 biennial language survey.

³ *Dymally-Alatorre Bilingual Services Act: State and Local Governments Could Do More to Address Their Clients' Needs for Bilingual Services*, Report 99110, November 1999.

Table 2
State Agencies' Performance in Fulfilling the Act's Requirements During the 2008–09 Biennial Reporting Cycle

KEY REQUIREMENTS OF THE DYMALLY-ALATORRE BILINGUAL SERVICES ACT (ACT)	CALIFORNIA EMERGENCY MANAGEMENT AGENCY	DEPARTMENT OF CORRECTIONS AND REHABILITATION*	DEPARTMENT OF FOOD AND AGRICULTURE	CALIFORNIA HIGHWAY PATROL*	DEPARTMENT OF MOTOR VEHICLES*	DEPARTMENT OF JUSTICE	DEPARTMENT OF PUBLIC HEALTH	DEPARTMENT OF TOXIC SUBSTANCES CONTROL*	EMPLOYMENT DEVELOPMENT DEPARTMENT	DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT*
2008 Biennial Language Survey										
Unless exempted by the State Personnel Board (Personnel Board), conduct a survey of each local office to assess clients' language needs.	DNC	✓	✓	✓	✓	✓	✓	✓	✓	✓
Accurately assess language needs at local offices.	DNC	No	No	✓	No	No	✓	✓	UNK	UNK
As part of the language survey, include the following:										
The number and percentage of limited-English-proficient (LEP) clients served by each local office, grouped by language.	DNC	✓	✓	✓	✓	✓	✓	✓	✓	✓
The number of qualified bilingual public contact staffing deficiencies at each local office (based on the Personnel Board's formula, which is an indicator of potential staffing deficiencies).	DNC	✓	✓	✓	✓	✓	✓	✓	✓	✓
An analysis indicating whether the use of other available options, in addition to qualified bilingual staff in public contact positions, is serving the language needs of the LEP clients served by the agency (an indicator of true staffing deficiencies).	DNC	No	No	No	✓ [†]	No	No	No	No	No
A list of all materials that the agency is required to translate or otherwise make accessible to LEP clients.	DNC	No	No	No	✓	No	No	No	No	No
A list of materials requiring translation that have in fact been translated and the languages into which they have been translated.	DNC	No	No	No	No	No	No	No	No	No
2009 Biennial Implementation Plan										
Unless exempted by the Personnel Board, develop an implementation plan.	DNC	✓	✓	✓	✓	✓	✓	✓	✓	✓
As part of the implementation plan, identify the following:										
A description of the agency's procedures for identifying written materials that it needs to translate.	DNC	No	No	No	✓	No	No	No	No	No
A detailed description of how the state agency plans to address its staffing deficiencies and the proposed dates by which the deficiencies can be remedied.	DNC	No	No	No	✓ [†]	No	No	No	NA	No
A detailed description of how the state agency plans to address its deficiencies in translated written materials and the proposed dates by which the deficiencies can be remedied.	DNC	No	No	No	No	No	No	No	No	No

Sources: State agencies' 2008 biennial language surveys and 2009 biennial implementation plans as well as other documentation obtained from officials at the state agencies and the Personnel Board.

Note: The 2008–09 biennial reporting cycle refers to the 2008 biennial language survey and the 2009 biennial implementation plan cycle.

✓ = Indicates that an agency has complied with these requirements.

DNC = Indicates that this agency did not complete a 2008 biennial language survey or 2009 biennial implementation plan.

UNK = Indicates that an agency did not have sufficient documentation to support its language survey results.

NA = Not applicable because the state agency identified in its 2009 biennial implementation plan that it resolved all of its staffing deficiencies by hiring new bilingual staff.

* These agencies were also included in our 1999 review.

† Although the Department of Motor Vehicles' 2008 biennial language survey and 2009 biennial implementation plan did not explicitly contain these required elements, it did formally analyze the results of its language survey and develop a plan describing how it would address its staffing deficiencies.

The Personnel Board exempted Homeland Security from the 2008 biennial survey, but it did not exempt Emergency Services. The chief of Emergency Management's civil rights and equal employment opportunity programs, who is the former bilingual services coordinator for Emergency Services, stated that she did not conduct a 2008 biennial language survey or submit a biennial implementation plan in 2009 primarily because she was out of the office for an extended period in 2008 and early 2009. Emergency Management conducted its biennial language survey in October 2010 and the deputy chief of staff reported that the agency plans to complete an implementation plan in 2011.

Meanwhile, some of the state agencies that conducted language surveys either committed errors or did not have documentation to support their survey results. For example, the equal employment opportunity officer for the Department of Food and Agriculture (Food and Agriculture) at the time of the 2008 biennial language survey acknowledged that her agency's survey results were inaccurate. Specifically, she stated that the agency did not provide clear survey instructions to staff and that some staff recorded LEP contacts based on potentially misleading factors, such as perceived ethnicity and accent instead of the person's ability to communicate in English. Other agencies reported survey results to the Personnel Board that were significantly different from the source documents generated at one or more of the agencies' local offices. For example, Corrections reported that during a 10-day survey period, staff at its California State Prison in Los Angeles County had 333 public contacts with people whose primary language was Spanish. However, Corrections' documentation shows that staff actually counted 854 Spanish-speaking contacts during the survey. Because of its error, Corrections underreported by 10 this prison's deficiencies in qualified bilingual Spanish-speaking public contact staff. In another instance, one of the local offices for the Department of Justice (Justice) significantly underreported its number of English-speaking contacts, causing its few Spanish-speaking contacts to appear to exceed 5 percent of total public contacts during the survey period. As a result of its mistake, the office reported four deficiencies in bilingual Spanish-speaking public contact staff when it should have reported none. Further, as Table 2 shows, two state agencies—the Employment Development Department (Employment Development) and the Department of Housing and Community Development (Housing)—did not possess sufficient documentation to demonstrate that they accurately assessed their clients' language needs. When agencies do not accurately assess their clients language needs or lack documentation to support their assessment, they jeopardize their ability to ensure their compliance with the Act.

During a 10-day survey period at a prison in Los Angeles County, Corrections only reported 333 public contacts with people whose primary language was Spanish rather than the 854 we found in the supporting documentation.

Even when it receives accurate survey results, the Personnel Board’s staffing deficiency calculation is only an indicator of an agency’s potential need for additional qualified bilingual staff. As the text box indicates, the underlying assumption in the Personnel Board’s formula is that staffing ratios should at least equal public contact ratios for substantial populations of LEP clients to ensure that such clients receive the same level of service as those whose primary language is English. However, as the example in the text box illustrates, the Personnel Board’s formula can potentially overstate the need for additional bilingual staff. Specifically, the Personnel Board’s formula suggests that Corrections’ Ventura Youth Correctional Facility needs five additional bilingual staff, for a total of 17 bilingual public contact staff certified in Spanish, to serve approximately 13 Spanish-speaking clients per day. (In other words, contact with 132 Spanish-speaking constituents in 10 days equals approximately 13 contacts per day.) This example illustrates why it is imperative that state agencies critically evaluate their language survey results and consider other available bilingual resources, in addition to bilingual public contact staff, when determining whether the agencies have true staffing deficiencies.

Illustration of How the State Personnel Board’s Formula Was Used to Calculate the Number of Additional Qualified Bilingual Public Contact Staff Potentially Needed at the Department of Corrections and Rehabilitations’ (Corrections) Ventura Youth Correctional Facility

1. Divide the number of Spanish-speaking contacts by the total number of public contacts during the 10-day survey period.
(132/1,638 = 8 percent)
2. Multiply the number of existing public contact staff by the percentage of Spanish-speaking contacts to calculate the total number of bilingual public contact staff that potentially should be certified in Spanish.
(216 x 8 percent = 17)
3. Subtract the number of existing public contact staff who are certified in Spanish from the total number of bilingual staff that potentially should be certified in Spanish to calculate the number of additional Spanish bilingual public contact staff potentially needed.
(17-12) = 5

Source: Corrections’ 2008 biennial language survey and the State Personnel Board’s March 2008 language survey training.

However, as Table 2 illustrates, of the 10 state agencies we reviewed, only Motor Vehicles formally analyzed its survey results to determine whether the use of other available options, in addition to qualified bilingual public contact staff, was serving the language needs of its clients, as the Act requires. Other agencies indicated that they use other resources—including qualified bilingual staff located in other offices, noncertified bilingual staff, and contract interpreters—to supplement their qualified bilingual public contact staff in serving their substantial LEP populations. In addition, managers at some of these agencies indicated that they do not believe that the Personnel Board’s staffing deficiency calculation accurately reflects the state agencies’ true need for additional bilingual staff. However, these agencies did not perform supplemental analyses that would identify their true staffing deficiencies and thus would support their positions that they were meeting their LEP clients’ needs through the combined use of qualified bilingual public contact staff and other resources.

In addition, the agencies we reviewed did not have adequate procedures in place to determine whether they met the Act’s requirements to translate certain written materials for their substantial LEP populations. As Table 2 shows, Motor Vehicles

was the only agency that developed a list of written materials that it needed to translate to comply with the Act. However, neither Motor Vehicles nor any of the other agencies compared the written materials requiring translation under the Act to the materials that the state agencies had actually translated to identify whether the agencies had any written materials deficiencies for their substantial LEP populations. Some state agencies said that they believed they were complying with the Act's written materials requirements because they submitted the Personnel Board's online forms for the biennial language survey and implementation plan. However, as Chapter 1 discusses, the Personnel Board does not require state agencies to identify or respond to written materials deficiencies, so an agency that does not monitor its own compliance may not meet the Act's requirements. Further, state agencies cannot ensure that they are providing an equal level of services to their substantial LEP populations at their local offices if they do not identify and translate the types of written materials specified in the Act.

Finally, Table 2 shows that most of the state agencies we reviewed have not developed plans to address their deficiencies in staffing and translated written materials. Motor Vehicles was the only agency that prepared a detailed plan describing how it would address its staffing deficiencies, and none of the agencies developed detailed plans to address any of their written materials deficiencies. We found that some state agencies incorrectly assumed that they were complying with the Act's requirements for dealing with deficiencies by simply providing the information that the Personnel Board requests in its online implementation plan form. However, as Chapter 1 details, the Personnel Board has not required state agencies to describe in their implementation plans how they plan to

address any deficiencies in staffing or written materials. State agencies that do not prepare such corrective action plans cannot demonstrate that they are taking appropriate steps to rectify these deficiencies.

Best Practices That State Agencies Sometimes Use to Serve Clients' Language Needs

- Maintaining a centralized listing of bilingual employees able to assist public contact staff.
- Contracting for interpretation and translation services.
- Maintaining non-English telephone options.
- Establishing a Web site that is accessible in non-English languages.
- Posting notifications in multiple languages in public places stating language access rights.
- Developing language services manuals.

Source: Interviews with and documentation obtained from staff of the state agencies we reviewed.

State Agencies Employ Some Best Practices to Identify and Address Their Clients' Language Needs

State agencies have developed several alternative methods, as summarized in the text box, to identify and serve the language needs of their LEP clients. As previously mentioned, state agencies sometimes supplement their qualified bilingual public contact staff with contract interpreters and other bilingual staff. Agencies also sometimes provide access to services or information through non-English Web sites or telephone options. In

addition, a few state agencies have also developed language services manuals to ensure that employees are aware of their obligation and commitment to provide services to their LEP clients. The manuals cite the agencies' commitment to comply with the Act and include detailed information on how employees can access available language resources. The manuals also identify employee and management responsibilities for serving LEP clients and provide some guidance on how to interact respectfully and sensitively to clients who cannot easily communicate in English.

The California Highway Patrol (Highway Patrol) also trains its cadets to communicate effectively with LEP clients through its academy's cultural diversity and nondiscrimination course. The commander of its equal employment opportunity office told us that the Highway Patrol also provides all of its cadets 60 hours of Spanish language training at its academy. Finally, she stated that as a condition of employment and as a graduation requirement, cadets must demonstrate basic proficiency in communicating in Spanish during all phases of training (that is, first aid, enforcement contacts, interviews, accident investigations, and so forth). Nonetheless, as the previous section explains, state agencies are not sufficiently evaluating how the use of these alternative resources affects their need for qualified bilingual public contact staff.

State Agencies Are Not Maximizing Opportunities to Reduce the Costs of Providing Bilingual Services

As of September 2010 General Services maintained 20 California Multiple Award Schedules (CMAS) contracts for language access services, including translation, interpretation, and American Sign Language interpretation. By leveraging these CMAS contracts and the Personnel Board's contracts for interpretation and translation services, state agencies may be able to reduce the costs of providing bilingual services.

For example, Employment Development and Food and Agriculture entered into separate agreements with a contractor to translate documents into Spanish at a cost of 30 cents per word. However, another vendor's CMAS rate for this service is only 17 cents per word. If these departments were to purchase these services up to their maximum contracted amounts, Employment Development and Food and Agriculture will pay approximately \$32,300 and \$15,100 more, respectively, than if they purchased these services from the CMAS vendor. Moreover, the savings could be greater because the prices listed in CMAS vendors' contracts represent the maximum rates they may charge for a given service; thus, General Services strongly encourages agencies to negotiate more favorable rates with these vendors. For example,

Two departments could pay approximately \$47,400 more for translating documents than if they purchased these services from a CMAS vendor.

The CMAS program enables state agencies to streamline purchases by removing repetitive, resource-intensive, costly, and time-consuming bid processes.

one vendor's CMAS rate for foreign language interpreter services is \$133 per hour, yet this vendor agreed to provide these services to the Highway Patrol for \$69 per hour.

According to General Services, the CMAS program enables state agencies to streamline purchases by removing repetitive, resource-intensive, costly, and time-consuming bid processes. General Services currently bills each state agency an administrative fee and surcharge totaling 1.89 percent of the value of services that the agency purchases using CMAS contracts. However, General Services waives these fees when the CMAS vendor is a certified small business. For example, Employment Development and Food and Agriculture would not have to pay these fees if they purchased Spanish translation services from the CMAS vendor previously referenced because that vendor is a certified small business.

There are also some limitations to using CMAS vendors for interpretation and translation services. For example, orders with these vendors valued at more than \$50,000 require General Services' approval, and the maximum order amount allowed for language access services through the CMAS program is \$250,000. Two of the agencies we reviewed stated that they are sometimes unable to use CMAS contracts because of the \$250,000 cap. However, state agencies are not precluded from contracting with these vendors outside of the CMAS program. For example, when Motor Vehicles chose to contract for interpreter services, it obtained bids from nine different vendors ranging from \$508 to \$1,380 for a sample of services. Three CMAS vendors were among the nine vendors that submitted bids. Although Motor Vehicles ultimately awarded a \$625,000 contract to a vendor that underbid the lowest CMAS vendor by 11 percent, that CMAS vendor's bid was still 58 percent less than the highest bid that Motor Vehicles received.

Finally, the Personnel Board also maintains one contract for sign language interpretation services and another contract for over-the-telephone interpretation services and written translation services. We found that these contracts contained rates that were sometimes lower than the rates negotiated by other state agencies. For example, the Personnel Board's contracted rate for Spanish phone interpretation services is \$75 per hour, whereas Housing agreed to pay a contractor \$90 per hour for the same service. Thus, state agencies needing contract interpreters or translators should check with the Personnel Board to identify the vendors with which the Personnel Board contracts and the associated rates it is paying. State agencies can use this information as leverage when negotiating prices with CMAS or other vendors.

Two State Agencies Did Not Follow Contracting Rules to Pay for Their Bilingual Services

During the course of our work to determine whether opportunities exist for state agencies to reduce their costs by leveraging existing contracts for translation and interpretation services, we discovered some inappropriate contracting practices at Public Health and Corrections. The Public Contracts Code generally requires state agencies to obtain a minimum of three bids when contracting for services valued at \$5,000 or more. In addition, the *State Contracting Manual* prohibits agencies from splitting into separate tasks, steps, phases, locations, or delivery times to avoid competitive bidding requirements any series of related services that would normally be combined and bid as one job.

Despite these requirements, during fiscal year 2007–08, Public Health used four individual service orders for \$4,999.99 each to one vendor for interpreting services. Instead of executing multiple service orders having an aggregate value exceeding \$5,000 with one vendor for the same service, Public Health should have combined the services into one job and solicited competitive bids. Public Health has a decentralized procurement process; thus, program staff is responsible for overseeing their own service orders. Because Public Health does not track centrally the service orders that exist for language access services, it places itself at risk for violating the State's contracting rules. Further, Public Health does not require program staff to check on the availability of CMAS vendors before entering into their own agreements.

Public Health officials acknowledged that they have been aware of the potential for issuing multiple service orders to the same vendor for the same services since a 2009 internal audit found such a violation. In response to the internal audit, the department issued a bulletin to remind program staff to maintain a service order log and to check the log before issuing service orders to ensure that orders do not exceed \$4,999.99 for the same vendor. The deputy director of administration also stated that Public Health plans to provide contract and procurement training, including instruction on processing service orders, to both central office staff in its contracts management unit and program staff in the local offices.

Corrections established five individual service orders for \$4,999.99 each to purchase interpretation services from one vendor during fiscal year 2009–10. It agrees that these five service orders should have been consolidated into a single competitively bid contract. However, Corrections allows its institutions, facilities, and camps to issue service orders for amounts under \$5,000. According to Corrections' service contracts section chief, the program office and the headquarters office have disagreed in recent years over who is

Public Health and Corrections violated the Public Contract Code when they used multiple service orders having an aggregate value of more than \$5,000 to purchase the same services from a single vendor.

responsible for handling service orders. Ultimately, Corrections has determined that the headquarters office is responsible, but when staff at headquarters receive requests for service orders at different times, they do not know whether other service orders with a particular vendor are already in place. Therefore, according to Corrections' service contracts chief, it inadvertently used the five service orders in the case described above to purchase services from one vendor because its headquarters office received these service orders from different parole regions at different times, and it did not identify the need for a single contract.

In addition to violating the State's contracting rules, these agencies could have procured these services at reduced rates by using an existing CMAS contract. For example, Corrections agreed to pay one vendor \$135 per hour for telephone interpreter services under the terms of each of its five service orders, whereas one CMAS vendor's contract rate for such services is capped at \$96 per hour. Moreover, the savings could have been greater because, as discussed previously, a CMAS vendor's contract rate represents the maximum rate it may charge for a given service, thus, agencies can negotiate more favorable rates with these vendors.

Recommendations

To ensure that they meet their constituents' language needs, state agencies should do the following:

- Make certain that they accurately assess and report their clients' language needs to the Personnel Board.
- Analyze formally their language survey results and consider other available bilingual resources to determine their true staffing deficiencies.
- Establish procedures to identify the written materials that the Act requires them to translate into other languages and ensure that such materials are translated or made accessible to the agencies' LEP clients.
- Develop detailed corrective action plans describing how and when the state agencies will address their staffing and written materials deficiencies. In addition, they should submit these corrective action plans to the Personnel Board as part of the state agencies' overall implementation plans.

- Leverage General Services' and the Personnel Board's contracts for interpretation and translation services to potentially reduce the costs of providing bilingual services.

In addition, Public Health and Corrections should develop procedures to detect and prevent contract splitting.

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Chapter 3

LOCAL AGENCIES COULD DO MORE TO ADDRESS THEIR CLIENTS' NEEDS FOR BILINGUAL SERVICES

Chapter Summary

Similar to our November 1999 report, our current survey of local government administrators and department managers in 25 cities and counties throughout California found that some local government agencies (local agencies) are not fully addressing their clients' language needs. Many local agencies indicated that they have bilingual staff members or telephone interpreters to communicate with limited-English-proficient (LEP) clients, but several reported that they have not translated materials explaining their services into the languages spoken by a substantial number of their LEP clients. In addition, some local agencies indicated that they do not have a sufficient number of bilingual staff to serve their clients' language needs. The Dymally-Alatorre Bilingual Services Act (Act) allows local agencies discretion in establishing the level and extent of the bilingual services that they provide to LEP clients. However, if local agencies are not meeting some clients' needs for bilingual services, these individuals may not be receiving the government services to which they are entitled.

We also found that many local government administrators and department managers are not aware of the Act and do not have formal policies for providing bilingual services. For example, only 32 percent of the local department managers reported that they formally assess the languages spoken by their clients. In addition, most do not assess regularly—such as annually or biannually—the need to provide bilingual services. Our survey also revealed that administrators and department managers do not always communicate clearly among themselves about their local agencies' responsibilities for assessing clients' language needs. In addition, as we found in our 1999 review, some local agencies do not have formal processes to identify and address complaints about the local agencies' lack of bilingual staff and translated materials. Finally, we found that local agencies may be able to reduce their costs of procuring bilingual services by using existing contracts.

Some Local Departments Have Not Fully Addressed the Need for Bilingual Services

In 1999 we reported that many of the local agency administrators and department managers in the 50 cities and counties we surveyed were not fully addressing their clients' bilingual needs. Our current survey

Some local departments are not translating documents explaining available services in all of the languages for which staff have identified a need.

of 25 cities and counties also found that some are not fully addressing their LEP clients' needs for bilingual services. The Act allows local agencies discretion in establishing the level and extent of bilingual services that they provide to LEP clients. Given the discretion that the Act allows, we considered local departments to be fully addressing their clients' language needs when the departments reported that they have bilingual staff or telephone-based interpretation services as well as translated pamphlets or brochures explaining available services in those languages for which they identified the need to provide these services. Using this definition, we found that nine of the 25 local departments we surveyed are not fully addressing their clients' language needs. Specifically, these nine local departments identified a total of 29 languages for which they either do not have enough bilingual staff or do not have adequate translated written materials.

Although 18 of the 25 local departments reported having translated documents explaining available services into the languages spoken by their LEP clients, some local departments are not translating this literature into all of the languages for which staff have identified a need. For example, eight local departments identified the need to provide services to clients who speak Vietnamese, but only four of these indicated that they have translated into this language the written materials describing the services that the departments offer. The other four local departments stated that they have personnel or phone help available for their Vietnamese-speaking clients.

In addition, five of the 25 local departments reported that they do not have sufficient interpreters or enough bilingual staff in public contact positions to assist the departments' LEP clients. Two of these local departments stated they would need more than 25 additional bilingual staff each in order to provide sufficient oral interpretation services to LEP clients. Finally, four local departments did not indicate any languages for which they had identified a need to provide bilingual services.

Local Agencies Use an Informal, Varied Approach Regarding Bilingual Services

In 1999 we reported that most of the 50 cities and counties we surveyed used various resources to provide bilingual services, and most used an informal approach to assess their clients' language needs. Consequently, we recommended that local agencies consider using formal assessment methods to track the languages their clients speak and to assess clients' language needs on a regular basis. We also recommended that local agencies consider developing and using formal complaint processes to capture and address complaints about any lack of bilingual staff and translated materials explaining available

services. However, our current survey revealed that many local agencies continue to use informal approaches to evaluate clients' language needs. Further, the survey indicates that the responsibilities for assessing bilingual needs are not always clearly communicated, and some local agencies have no formal process for clients to complain about any lack of bilingual services.

Assessments of Local Agencies' Need to Provide Bilingual Services Is Typically Informal and Determined at the Departmental Level

In responding to our current survey, many city and county administrators and local department managers reported—as they had in 1999—that they do not conduct formal assessments of the languages spoken by their clients. Most of the local administrators we surveyed indicated that individual departments are responsible for assessing bilingual services needs, and as Figure 2 on the following page shows, only 32 percent of the local department managers stated that they track formally the languages spoken by their clients during public contact.

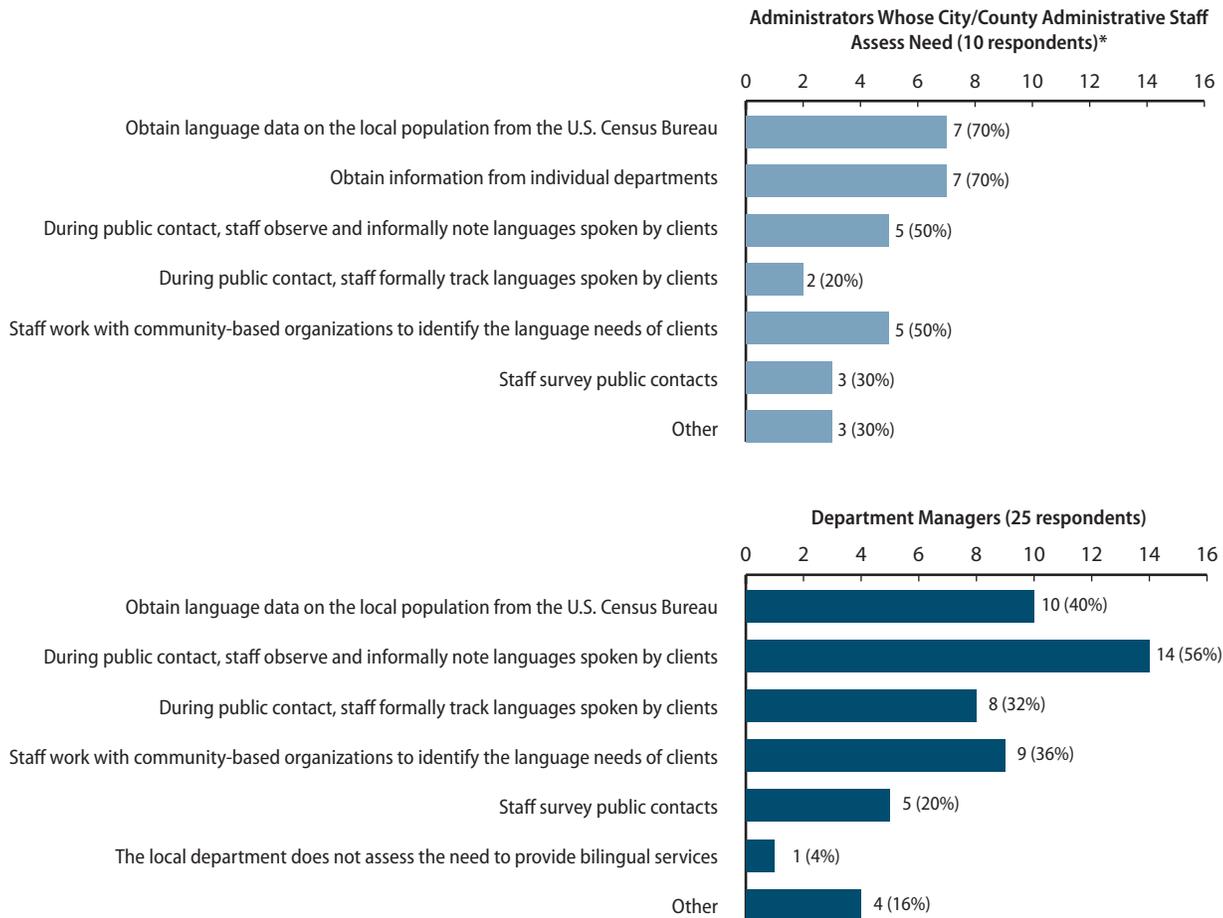
In addition, most local department managers reported that they use informal methods to assess their departments' need to provide bilingual services. These methods include noting informally the languages spoken by clients and obtaining language data on local populations from the U.S. Census Bureau. Additionally, 60 percent of administrators and 72 percent of local department managers stated that the frequency of language assessments is informal as well. Although our survey offered multiple options—monthly, quarterly, annual, and biennial evaluations—as possible responses to questions about assessment frequency, most respondents did not select these categories, as indicated in Appendix B, question six, and Appendix C, question five. In the written responses of those indicating that they use other intervals, over half of these administrators and local department managers reported that they assess their clients' language requirements as needed or on an ongoing basis. When local agencies do not assess their clients' language needs formally and regularly, the agencies cannot be certain that they are accurately identifying and addressing these needs.

As discussed in the Introduction, the Act allows local agencies discretion in establishing the level and extent of bilingual services they provide. For example, unlike state agencies, for which the Act defines *substantial number of non-English-speaking people* (substantial populations) as members of a group who either do not speak English, or are unable to effectively communicate in English because it is not their native language and who comprise 5 percent or more of the people served by any local office or facility of a state agency, the Act gives local agencies discretion to determine the

Only 32 percent of the local department managers we surveyed stated that they track formally the languages spoken by their clients during public contact.

amount that constitutes a substantial number of LEP clients. Most of the administrators responding to our survey indicated that individual local departments determine when they will provide bilingual services, and most local department managers reported that they do not use a specific threshold. Specifically, Appendix C, question six, shows nine of the 25 local department managers reported that they use 5 percent or more as their threshold for determining whether to provide interpretation services and written materials in a particular language other than English. However, 14 local department managers indicated that they use some other method to define substantial populations, such as providing services as the need arises. In addition, six of the 25 administrators who reported that they define substantial populations at the city or county level stated that they use a threshold of 5 percent or more, and four indicated that they use another method to make this determination, as Appendix B, question seven, shows.

Figure 2
Ways That Local Administrators and Local Department Managers Gauge Their Need for Bilingual Services



Sources: City and county administrators' and local department managers' responses to the Bureau of State Audits' survey.

* The other 15 administrators indicated that individual local departments are primarily responsible for assessing bilingual service needs.

In practice, however, local governments may be using stricter criteria than are state agencies—which are required to comply with the 5 percent threshold—when assessing the need to provide bilingual services to their constituents. For example, the local departments that we surveyed collectively identified 35 languages in which they needed to provide bilingual services. In contrast, when asked to identify languages spoken by 5 percent or more of the clients to whom the local departments provide services, the departments indicated that only 16 languages met this criterion.

Local Agencies Do Not Always Clearly Communicate Responsibilities for Assessing Bilingual Needs

Local administrators and department managers are not always clear about who is primarily responsible for assessing language needs. Of the 50 respondents to our survey, 27 reported that they lack a written plan or policies for providing bilingual services to their LEP clients. In addition, 15 administrators reported that individual local department management and staff are primarily responsible for assessing their local governments' need to provide bilingual services. However, three of the individual local departments within those 15 administrators' jurisdictions specified that the governments' administrators or executive management are primarily responsible for these assessments. Moreover, the city and county administrators over those three local departments stated that they do not have formal procedures for assessing bilingual needs documented in a city- or county-wide manual.

Of the 50 respondents to our survey, 27 reported that they lack a written plan or policies for providing bilingual services to their LEP clients.

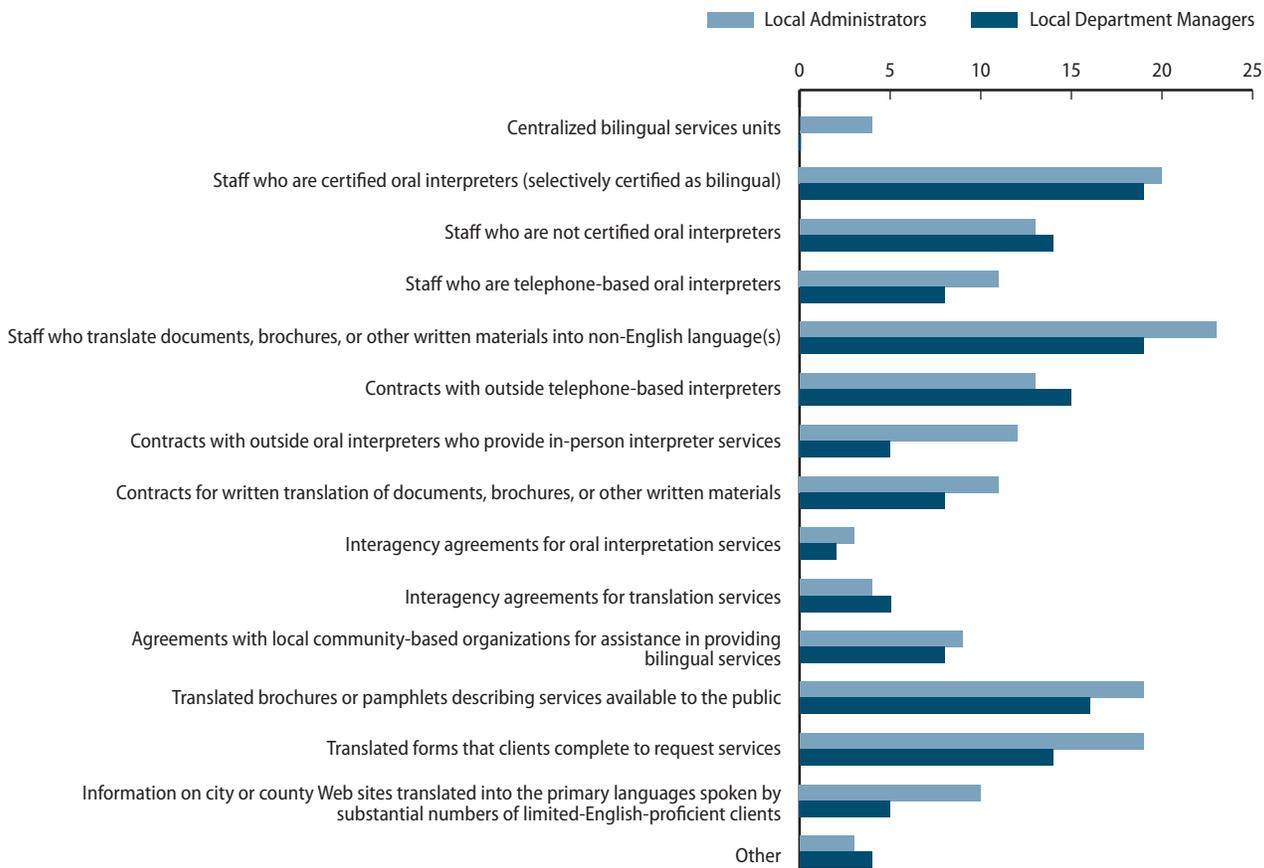
Local Agencies Use Various Resources to Provide Bilingual Services

Much like our 1999 audit, our current survey revealed that many local agencies are still not aware of the Act. Only 13 (52 percent) of the 25 administrators and 16 (64 percent) of the 25 local department managers knew of the Act. Despite this significant lack of awareness, all but one of the respondents indicated that their agencies either have bilingual individuals on staff as oral interpreters or that the agencies contract for interpreter services. Moreover, several local department managers who indicated that they had no knowledge of the Act and no policies for providing bilingual services, indicated that their departments still provide interpreter and translation services to address the needs of LEP clients.

Survey respondents also described using various resources to provide services that satisfy their clients' bilingual needs. Administrators and local department managers most often use three resources: certified bilingual staff, in-house translators,

and translated brochures and pamphlets. As Figure 3 shows, administrators and local department managers also reported using other resources to provide bilingual services to their clients, including contracts with outside interpreters, agreements with community-based organizations, and Web sites containing information translated into other languages.

Figure 3
Ways That Local Administrators and Department Managers Address Bilingual Needs



Sources: City and county administrators' and local department managers' responses to the Bureau of State Audits' survey.

Some Local Agencies Have No Formal Process for Clients to Complain About Any Lack of Bilingual Services

In our 1999 report we indicated that some local departments did not have a formal process that would capture complaints about any lack of bilingual staff and translated documents. As a result, we recommended that local agencies consider developing and using formal complaint processes to capture and address such complaints. Our current survey revealed that six (24 percent) of

the 25 administrators and 10 (40 percent) of the 25 department managers do not have such a complaint process at their local agencies. However, we found that 22 of the 25 jurisdictions reported having complaint processes at either the city or county's administration offices or at the individual local department level that would allow the public to notify them about the lack of available bilingual staff or translated written materials. However, residents in the remaining jurisdictions—Fremont, Santa Ana, and Garden Grove—may have insufficient means of voicing their need for bilingual services. Local agencies without a formal complaint process that would allow their LEP clients to report formally any lack of bilingual services may not hear or address such complaints appropriately.

To Minimize Costs, Local Agencies Should Consider Using Existing Contracts for Bilingual Services

Local departments may be unnecessarily entering into their own individual contracts because city and county administrators may not be doing enough to notify departments about the language resources already available to them. In addition, local agencies may be able to reduce the costs of contracted bilingual services by using existing state contracts. Four of the five administrators who reported that their offices contract for bilingual services and maintain a centralized list of such contractors also indicated that they expect local departments to access this list in order to provide services to LEP clients. However, only two of the local departments that we surveyed within those jurisdictions were aware of such a list.

Local agencies have opportunities to purchase bilingual services from existing California Multiple Award Schedules (CMAS) vendors. As Chapter 2 explains, by leveraging those CMAS contracts agencies may be able to reduce the costs of procuring bilingual services. Local agencies often reported using contracts for telephone interpreter services, which are available through CMAS contracts at potentially lower rates than are otherwise available. For example, one local department reported that it paid \$178 per hour for Spanish telephone interpreter services. However, one CMAS vendor's contract rate for this service was only \$96 per hour—a potential savings of at least \$82 per hour. Because the prices listed in CMAS vendors' contracts represent the maximum rates they may charge for a particular service, this local department could have potentially purchased these bilingual services for even less than \$96 per hour. Finally, effective January 2010, local agencies are no longer required to pay the Department of General Services an administrative fee for placing orders using a CMAS contract.

Recommendations

To assess more fully their abilities to meet their clients' language needs, local agencies should consider using formal procedures regularly to identify the languages that their clients speak and to assess the sufficiency of their bilingual resources to meet these needs.

To ensure that their LEP clients receive information about available services, local agencies should consider translating materials explaining the agencies' services into languages spoken by substantial numbers of their LEP clients.

Local administrators should consider developing policies that clarify agencies' responsibilities for providing bilingual services.

The Fremont, Santa Ana, and Garden Grove jurisdictions should consider establishing complaint processes through which the public can report the absence of bilingual services or resources.

City and county administrators should ensure that local departments are aware of existing bilingual services resources. In addition, administrators should encourage these local departments to consider using state CMAS contracts to obtain bilingual services whenever doing so is cost-effective.

We conducted this audit under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives specified in the scope section of the report. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Respectfully submitted,



ELAINE M. HOWLE, CPA
State Auditor

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

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Appendix A

LIST OF LOCAL AGENCIES INCLUDED IN OUR SURVEY

COUNTY OR CITY AND ITS LOCAL DEPARTMENT	COUNTY OR CITY AND ITS LOCAL DEPARTMENT
1 Fresno County County Administrative Office Sheriff's Office	14 Tulare County County Administrative Office Health and Human Services Agency
2 Kern County County Administrative Office Sheriff's Office	15 Ventura County County Executive Office Health Care Agency
3 Los Angeles County Chief Executive Office Office of Emergency Management	16 City of Anaheim City Administration Department Community Development Department
4 Merced County County Administrative Services Human Services Agency	17 Daly City City Manager's Office Community Service Center
5 Monterey County County Administrative Office Health Department	18 City of Fontana City Manager's Office Department of Housing and Business Development
6 Orange County County Executive Office Emergency Operations Center	19 City of Fremont City Manager's Office Human Services Department
7 Riverside County County Administrative Office Office of Emergency Services	20 City of Garden Grove City Manager's Office Police Department
8 San Bernardino County County Administrative Office Department of Workforce Development	21 City of Glendale Management Services Community Redevelopment and Housing Department
9 San Diego County Chief Administrative Office Office of Emergency Services	22 City of Los Angeles City Administrative Office Police Department
10 San Joaquin County County Administrator's Office Employment and Economic Development Department	23 City of Oakland City Administrator's Office Police Department
11 Santa Clara County Office of the County Executive Office of Emergency Services	24 San Francisco City and County Office of the City Administrator Department of Emergency Management
12 Solano County County Administrator's Office Employment and Eligibility Services	25 City of Santa Ana City Manager's Office Fire Department
13 Stanislaus County Chief Executive Office Community Services Agency	

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Appendix B

RESULTS OF THE SURVEY SENT TO ADMINISTRATORS OF LOCAL GOVERNMENTS

We received responses from 25 city and county administrators. For some questions, administrators could check more than one option; therefore, numbers and percentages on those questions total more than 25 responses and 100 percent, respectively. Further, some questions related to only a specific subset of the population; therefore, the responses are fewer than 25.

1: Were you aware of the requirements of the Dymally-Alatorre Bilingual Services Act (Act) before receiving this survey? (25 local administrators responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Yes	13	52%
No	12	48%

2: Is there a city- or county-wide policy for providing bilingual services to residents? (25 local administrators responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Yes	11	44%
No	14	56%

2a: If you answered yes to Question 2, please describe the policy and cite the city/county ordinance(s) or resolution(s) as applicable.

- Local administrators that answered yes to Question 2 provided a variety of examples of their policies related to bilingual pay, equal access to services, and translated documents.

2b: What other policies does the city/county have to ensure that non-English-speaking residents receive information and services that are available to them?

- Three local administrators who answered no to Question 2 stated that local departments develop their own policies to meet the needs of their limited-English-proficient (LEP) clients.

3: Are individual departments that provide information or services in the city/county expected to develop their own policies for providing bilingual services to their clients? (25 local administrators responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Yes	17	68%
No	8	32%

4: Who is primarily responsible for assessing the city/county's need to provide bilingual services? (25 local administrators responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Individual local department management and staff	15	60%
City/county executive management	6	24%
City/county personnel office	1	4%
City/county affirmative action/equal employment office	0	0%
The city/county does not assess the need to provide bilingual services	0	0%
Other	3	12%

4a: If individual department management and staff assess the need to provide bilingual services, which methods do they use? Please check all that apply. (15 local administrators whose individual department management and staff assess need responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Obtain language data on the local population from the U.S. Census Bureau	5	33%
During public contact, staff observes and informally notes languages spoken by clients	8	53%
During public contact, staff formally tracks languages spoken by clients	6	40%
Staff works with community-based organizations to identify language needs of clients	7	47%
Staff surveys public contacts	5	33%
Other	6	40%

4b: If city/county administration staff (executive management, personnel office, affirmative action office, or another administrative office) assesses the need to provide bilingual services, which methods do they use? Please check all that apply. (10 local administrators whose city/county administrative staff assess need responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Obtain language data on the local population from the U.S. Census Bureau	7	70%
Obtain information from individual local departments	7	70%
During public contact, staff observes and informally notes languages spoken by clients	5	50%
During public contact, staff formally tracks languages spoken by clients	2	20%
Staff works with community-based organizations to identify language needs of clients	5	50%
Staff surveys public contacts	3	30%
Other	3	30%

5: Is the process for assessing the need to provide bilingual services documented in a city/county manual? (25 local administrators responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Yes	7	28%
No	18	72%

6: How often are bilingual needs assessed? (25 local administrators responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Monthly	1	4%
Quarterly	0	0%
Annually	9	36%
Biennially	0	0%
Other	15	60%

7: How does your city/county define what the Act refers to as “a substantial number of non-English-speaking people,” meaning what threshold does your city/county use to determine that it will provide interpretation services and written materials in a particular non-English language? (25 local administrators responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Less than 5% of its non-English-speaking clients speak a particular language	1	4%
5% or more of the non-English-speaking clients speak a particular language	6	24%
The determination is made by individual local departments, not at the city/county administration level	14	56%
Other	4	16%

8: Which of the following resources does the city/county use to meet bilingual needs? Please check all that apply. (25 local administrators responded to this question)

RESPONSE	NUMBER	PERCENTAGE
A centralized bilingual services unit	4	16%
Staff who are certified oral interpreters (selectively certified as bilingual)	20	80%
Staff who are not certified oral interpreters	13	52%
Staff who are telephone-based oral interpreters	11	44%
Staff translates documents, brochures, or other written materials into non-English language(s)	23	92%
Contracts with outside telephone-based interpreters	13	52%
Contracts with outside oral interpreters who provide in-person interpreter services	12	48%
Contracts for written translation of documents, brochures, or other written materials	11	44%
Interagency agreements for oral interpretation services	3	12%
Interagency agreements for translation services	4	16%
Agreements with local community-based organizations for assistance in providing bilingual services	9	36%
Translated brochures/pamphlets describing services available to the public	19	76%
Translated forms that clients complete for services	19	76%
Information on the city/county Web site is translated into primary languages spoken by a substantial number of non-English-speaking people	10	40%
Other	3	12%

8a: If contracts or interagency agreements were identified in Question 8, at what level does the city/county enter into contracts or interagency agreements for bilingual services? Please check all that apply. (19 local administrators with contracts or interagency agreements responded to this question)

RESPONSE	NUMBER	PERCENTAGE
County administration enters into central contracts for interpreters or translation services, which can then be utilized by individual local departments that need these services	5	26%
County administration enters into central interagency agreements for interpreters or translation services, which can then be utilized by individual local departments that need these services	1	5%
Individual local departments enter into contracts for interpreters or translation services to meet their needs as necessary	15	79%
Individual local departments enter into interagency agreements for interpreters or translation services to meet their needs as necessary	5	26%
Other	3	16%

8b: For the central city/county contracts or interagency agreements identified in Question 8a, please provide the vendors' names, a description of the services (i.e., translating written material, verbal interpreter services, etc.), and a brief description of their billing rates.

- The five local administrators who contract for services indicated that they used various contractors with billing rates ranging from \$55 to \$200 per hour. One administrator also reported that the city has an interagency agreement with a school district for translation services at no cost.

8c: For the central city/county contracts or interagency agreements identified in Question 8a, how does the city/county ensure contractors meet the language needs of clients? Please check all that apply. (Six local administrators with central city/county contracts or interagency agreements responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Bilingual requirements are outlined in the contract	5	83%
City/county staff are assigned to monitor the contractor	4	67%
The contractor is required to notify clients of their right to receive bilingual assistance	1	17%
The contractor is required to report the languages clients speak in its regular status reports to the city/county	1	17%
Other	2	33%

8d: For the central city/county contracts or interagency agreements identified in Question 8a, does the city/county maintain a centralized list of contractors who are available to serve as interpreters or translators across departments? (Six local administrators with central city/county contracts or interagency agreements responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Yes	5	83%
No	1	17%

8e: If you answered yes to Question 8d, are local departments within your jurisdiction expected to access this list in order to provide services to its non-English-speaking residents?
(Five local administrators responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Yes	4	80%
No	1	20%

9: Does the city/county specifically recruit bilingual individuals for public contact positions?
(25 local administrators responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Yes	22	88%
No	3	12%

10: Which of the following is included in the job descriptions for city/county public contact positions?
Please check all that apply. (25 local administrators responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Must be able to speak and understand a specific language other than English	9	36%
Must be able to speak and understand a second language other than English	5	20%
Prefer the ability to speak and understand a specific language other than English	5	20%
Prefer the ability to speak and understand a second language other than English	8	32%
None of the above	1	4%
Other	10	40%

11: Who certifies the bilingual abilities of employees? Please check all that apply.
(25 local administrators responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Individual local departments certify their own staff	8	32%
City/county personnel department	19	76%
Affirmative action/equal employment opportunity office (if separate from personnel department)	0	0%
Testing administered by state or federal agency	1	4%
Educational institution	3	12%
Other	2	8%

12: Do bilingual employees receive a pay differential? (25 local administrators responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Yes	24	96%
No	1	4%

13: Does the city/county maintain a centralized list of its employees who are available to serve as interpreters or translators across departments? (25 local administrators responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Yes	18	72%
No	7	28%

13a: If you answered yes to Question 13, are local departments within your jurisdiction expected to access this list in order to provide services to its non-English-speaking clients? (18 local administrators responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Yes	12	67%
No	6	33%

14: Does the city/county have a budget allocation specifically for providing bilingual services? (25 local administrators responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Yes	7	28%
No	18	72%

14a: If you answered yes to Question 14, for fiscal year 2009–10, what was the city/county budget allocation for providing bilingual services?

- Four responding local administrators generally stated that the budget varies by department, based on need. One local administrator reported that the budget for his agency included \$449,420 for bilingual services. The remaining two local administrators did not respond to this question.

14b: If you answered yes to Question 14, what are the sources of this funding? Please check all that apply and include the approximate amount that was allocated for fiscal year 2009–10. (Seven local administrators who reported having a budget allocation specifically for bilingual services responded to this question)

RESPONSE	NUMBER	PERCENTAGE
City/county funds specifically designated for bilingual services	4	57%
As needed from other city/county general funds	4	57%
Federal	3	43%
State	3	43%
Other	0	0%

15: If the city/county receives federal funds specifically for the provision of bilingual services, please specify the administering federal agency, the name of the grant, the federal catalog number, and the amount allocated to your department during fiscal year 2009–10. If no federal funds were received, please enter “not applicable.”

- One of three local administrators who stated that they receive federal funds for bilingual services stated that local departments receive federal funds that are not specific to bilingual services. The other two local administrators did not respond to this question.

16: If the city/county receives state funds specifically for the provision of bilingual services, please specify the administering state agency or department, and the amount allocated to your department during fiscal year 2009–10. If no state funds were received, please enter “not applicable.”

- One of three local administrators who indicated that they receive state funds for bilingual services stated that local departments receive state funds that are not specific to bilingual services. The other two local administrators did not respond to this question.

17: Does the city/county have a complaint process through which the public can notify the city/county about a lack of bilingual staff or written materials explaining government services in languages other than English? (25 local administrators responded to this question)

RESPONSE	PERCENT	PERCENTAGE
Yes	19	76%
No	6	24%

17a: If you answered yes to Question 17, has the city/county received complaints about a lack of bilingual staff or written materials explaining government services in languages other than English? (19 local administrators responded to this question)

RESPONSE	PERCENT	PERCENTAGE
Yes	7	37%
No	12	63%

17b: If you answered yes to Question 17, who tracks these complaints? Check all that apply. (19 local administrators responded to this question)

RESPONSE	PERCENT	PERCENTAGE
The city/county maintains a centralized list of complaints	6	32%
The individual departments track their complaints internally	10	53%
No formal tracking is performed	5	26%

17c: If you answered yes to Question 17, how does the city/county address these complaints?
(19 local administrators responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Complaints are referred to the local department about which the complaint was received	5	26%
Complaints are addressed by county administration staff; they are not referred back to the local department about which the complaint was received	1	5%
Complaints are resolved by county administration staff working with the department about which the complaint was received	7	37%
Complaints are referred to an outside agency, such as a community-based organization	0	0%
The city/county does not take action on complaints it receives regarding a lack of bilingual staff or written materials explaining government services in languages other than English	0	0%
Other	6	32%

18: If representatives from the Bureau of State Audits visited your office, could you provide documentation supporting your answers above? (25 local administrators responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Yes	23	92%
No	2	8%

Appendix C

RESULTS OF THE SURVEY SENT TO LOCAL DEPARTMENT MANAGERS

We received responses from 25 city and county department managers. For some questions, department managers could check more than one option; therefore, numbers and percentages on those questions total more than 25 responses and 100 percent, respectively. Further, some questions related to only a specific subset of the population, therefore, the responses are fewer than 25.

- 1: Were you aware of the requirements of the Dymally-Alatorre Bilingual Services Act (Act) before receiving this survey? (25 local department managers responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Yes	16	64%
No	9	36%

- 2: Does your department have a written plan or policy for complying with this law? (25 local department managers responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Yes	12	48%
No	13	52%

- 3: Has your department designated someone who is responsible for implementing this law? (25 local department managers responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Yes	13	52%
No	12	48%

- 3a: Please provide contact information for the person who is responsible for implementing this law (name, department, title, phone number, and e-mail address).

- Many local departments reported that an individual from their human resources department is responsible for implementing the requirements of the Act.

3b: What entity is primarily responsible for ensuring that non-English-speaking clients are aware of and receive the public services that are available to them? (12 local department managers who have not made a designation responded to this question)

RESPONSE	NUMBER	PERCENTAGE
City/county administrators or executive management	4	33%
Management within your local department	6	50%
Personnel office within your local department	0	0%
Affirmative action/equal employment office within your local department	0	0%
Other	2	17%

4: How does your department assess the need to provide bilingual services? Please check all that apply. (25 local department managers responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Obtain language data on the local population from the U.S. Census Bureau	10	40%
During public contact, staff observe and informally note languages spoken by clients	14	56%
During public contact, staff formally tracks languages spoken by clients	8	32%
Staff works with community-based organizations to identify language needs of clients	9	36%
Staff surveys public contacts	5	20%
The local department does not assess the need to provide bilingual services	1	4%
Other	4	16%

5: How often does your department assess the need to provide bilingual services? (25 local department managers responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Monthly	0	0%
Quarterly	1	4%
Annually	5	20%
Biennially	1	4%
Other	18	72%

6: How does your department define what the Act refers to as “a substantial number of non-English-speaking people,” meaning what threshold does your department use to determine that it will provide interpretation services and written materials in a particular non-English language? (25 local department managers responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Less than 5% of its non-English-speaking clients speak a particular language	2	8%
5% or more of the non-English-speaking clients speak a particular language	9	36%
Other	14	56%

7: For each of the languages below, please mark the box(es) that apply. If residents in your jurisdiction (your clients) speak languages that are not listed, please include them in the selection labeled “Other” and mark the appropriate boxes.

	NUMBER OF LOCAL DEPARTMENTS REPORTING THAT THIS IS A PRIMARY LANGUAGE SPOKEN BY 5 PERCENT OR MORE OF ITS CLIENTS	NUMBER OF LOCAL DEPARTMENTS IDENTIFYING A NEED TO PROVIDE BILINGUAL SERVICES IN THE LANGUAGE	NUMBER OF LOCAL DEPARTMENTS IDENTIFYING THAT BILINGUAL STAFF OR PHONE HELP IS AVAILABLE FOR THE LANGUAGE	NUMBER OF LOCAL DEPARTMENTS IDENTIFYING THAT PAMPHLETS/ BROCHURES EXPLAINING SERVICES ARE AVAILABLE IN THE LANGUAGE
Languages Listed in Survey				
Amharic	0	0	5	0
Arabic	0	1	5	2
Armenian	0	1	5	1
Cambodian	1	3	7	2
Chinese (Cantonese)	2	4	10	5
Chinese (Mandarin)	3	5	10	5
Dari	0	1	5	1
Farsi	0	2	7	2
Filipino	4	5	8	3
French	0	1	6	0
German	0	1	6	0
Greek	0	1	6	0
Gujarati	0	0	5	0
Hebrew	0	1	5	0
Hindi	0	2	7	1
Hmong	1	2	8	3
Ilocano	1	1	5	0
Indian	2	1	6	1
Italian	0	1	7	0
Japanese	0	1	6	1
Korean	1	3	9	3
Kupang	0	0	5	0
Lahu	0	0	5	0
Laotian	1	2	8	1
Malay	0	0	5	0
Mein	0	1	7	1
Nuer	0	0	5	0
Oromo	0	0	5	0
Pakistani	0	0	5	0
Pashto	0	1	5	1
Polish	0	1	5	0
Portuguese	0	1	6	1
Punjabi	1	2	7	2
Russian	1	3	10	2
Samoan	0	1	6	0
Serbo-Croatian	0	1	5	0
Sign Language	0	3	6	1
Slovak	0	0	5	0
Somali	0	0	5	0
Spanish	18	19	21	20
Swahili	0	0	5	0
Tagalog	4	6	12	5
Thai	0	1	7	0
Urdu	0	0	6	0
Vietnamese	4	8	15	6
Yoruba	0	0	5	0
Other Languages Identified by Respondents in Written Responses				
Mixteco	*	1	*	*
Czechoslovakian	*	*	1	*
Dutch	*	*	1	*
Romanian	*	*	2	*
Assyrian	1	*	1	*
Oaxacan	1	1	1	*

* The local department managers did not identify this information in their written responses.

8: Which of the following resources does your department use to provide bilingual services? Please check all that apply. (25 local department managers responded to this question)

RESPONSE	NUMBER	PERCENTAGE
A centralized bilingual services unit	0	0%
Staff who are certified oral interpreters (selectively certified as bilingual)	19	76%
Staff who are not certified oral interpreters	14	56%
Staff who are telephone-based oral interpreters	8	32%
Staff translates documents, brochures, or other written materials into non-English language(s)	19	76%
Contracts with outside telephone-based interpreters	15	60%
Contracts with outside oral interpreters who provide in-person interpreter services	5	20%
Contracts for written translation of documents, brochures, or other written materials	8	32%
Interagency agreements for oral interpretation service	2	8%
Interagency agreements for translation services	5	20%
Agreements with local community-based organizations for assistance in providing bilingual services	8	32%
Translated brochures/pamphlets describing services available to the public	16	64%
Translated forms that clients complete for services	14	56%
Information on the local department's Web site is translated into primary languages spoken by a substantial number of non-English-speaking people	5	20%
Other	4	16%

8a: If contracts or interagency agreements were identified in Question 8, how does your department ensure contractors meet the language needs of clients? Please check all that apply. (16 local department managers with contracts or interagency agreements responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Bilingual requirements are outlined in the contract	10	63%
Local department staff are assigned to monitor the contractor	8	50%
The contractor is required to notify clients of their right to receive bilingual assistance	2	13%
The contractor is required to report the languages clients speak in its regular status reports to the local department	2	13%
Other	3	19%

8b: If your department contracts with outside vendors for oral interpretation services, please indicate the cost (per hour, per contract, or however you are charged) for interpretation into non-English languages.

- Many local departments did not provide their contract rates for these bilingual services, while others indicated that they paid varying rates ranging from \$25 to \$298 per hour for interpreter services.

8c: If your department contracts with outside vendors for written translation services, please indicate the cost (per word, per page, per hour, or however you are charged) for translation into non-English languages.

- Most local departments did not provide their contract rates for these bilingual services. One department reported paying 16 cents to 45 cents per word with an \$85 to \$125 minimum translation cost per document.

8d: Does the city/county maintain a centralized list of contractors who are available to serve as interpreters or translators across departments? (16 local department managers with contracts or interagency agreements responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Yes	8	50%
No	4	25%
Unknown	4	25%

9: Approximately how many documents issued by your department have been translated into non-English language(s)?

- Local department responses ranged from “unknown” to “hundreds.”

9a: How many documents still need to be translated?

- Several local departments have not determined how many of their documents still require translation. Other local departments indicated that the number of documents requiring translation ranged from “o” to “hundreds”.

9b: Of the documents that still need to be translated, how many do you estimate your department will translate during fiscal year 2009–10?

- Many local departments have not determined how many of their documents will be translated during fiscal year 2009–10. Other local departments indicated that they planned to increase the number of available translated documents by 0 to 37 documents.

10: Does your department have sufficient bilingual staff in public contact positions and/or interpreters to assist those in such positions to provide oral interpretation services to non-English-speaking clients? (25 local department managers responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Yes	20	80%
No	5	20%

10a: How many additional bilingual staff would your department need in order to provide sufficient oral interpretation services to non-English-speaking clients?

- Local departments stated that the number “varies by language” or that they require between 10 to 37 additional bilingual staff.

11: Does your department specifically recruit bilingual individuals for public contact positions? (25 local department managers responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Yes	18	72%
No	7	28%

12: Which of the following is included in the job descriptions for your department’s public contact positions? Please check all that apply. (25 local department managers responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Must be able to speak and understand a specific language other than English	6	24%
Must be able to speak and understand a second language other than English	2	8%
Prefer the ability to speak and understand a specific language other than English	8	32%
Prefer the ability to speak and understand a second language other than English	7	28%
None of the above	10	40%
Other	3	12%

13: What training does your department provide to its public contact staff related to providing bilingual services? Please check all that apply. (25 local department managers responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Instruction in explaining technical terms and procedures to non-English-speaking clients	9	36%
Informing staff about outside resources available to non-English-speaking clients	19	76%
Communication training for business settings provided by an internal or outside source	2	8%
Training in developing problem-resolution skills	8	32%
Advanced language training	3	12%
Courses to qualify as a court-certified interpreter	0	0%
Other	6	24%

14: Does your department maintain an updated list of staff who are able to assist public contact staff in providing oral interpretation services to clients? (25 local department managers responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Yes	22	88%
No	3	12%

14a: Are staff employed in public contact positions trained regarding utilizing this list to provide interpretation services to clients? (22 local department managers with an updated staff listing responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Yes	18	82%
No	4	18%

15: Does your department have a budget allocation specifically for providing bilingual services? (25 local department managers responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Yes	8	32%
No	17	68%

15a: If you answered yes to Question 15, for fiscal year 2009-10, what was your department’s budget allocation for providing bilingual services?

- Local departments reported budget allocations ranging from \$13,000 to \$490,000.

15b: What are the sources of this funding? Please check all that apply and include the approximate amount that was allocated for fiscal year 2009–10. (Eight local department managers who reported having a budget allocation specifically for bilingual services responded to this question)

RESPONSE	NUMBER	PERCENTAGE
City/county funds specifically designated for bilingual services	4	50%
As needed from other city/county general funds	4	50%
Federal	1	13%
State	1	13%
Other	1	13%

16: If your department receives federal funds specifically for the provision of bilingual services, please specify the administering federal agency, the name of the grant, the federal catalog number, and the amount allocated to your department during fiscal year 2009–10. If no federal funds were received, please enter “not applicable.”

- The local department that reported receiving federal funding stated that its budget comes from a mixture of federal, state, and county monies, and that its federal funds are actually not specifically for bilingual services.

17: If your department receives state funds specifically for the provision of bilingual services, please specify the administering state agency or department and the amount allocated to your department during fiscal year 2009–10. If no state funds were received, please enter “not applicable.”

- The local department that reported receiving state funding stated that its budget comes from a mixture of federal, state, and county monies, and that its state funds are not specifically for bilingual services.

18: Does your department have a complaint process through which the public can notify the department about a lack of bilingual staff or written materials explaining government services in languages other than English? (25 local department managers responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Yes	15	60%
No	10	40%

18a: If you answered yes to Question 18, has your department received complaints about a lack of bilingual staff or written materials explaining government services in languages other than English? (15 local department managers responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Yes	2	13%
No	13	87%

18b: How does your department address these complaints? Check all that apply.
(Two local department managers who have a complaint process and have received complaints responded to this question)

RESPONSE	NUMBER	PERCENTAGE
The local department resolves complaints internally by providing the requested information or service either with existing staff or by utilizing a contracted vendor	2	100%
The local department refers complaints to an outside agency, such as a community-based organization, for resolution	0	0%
The local department does not take action on complaints	0	0%
Other	0	0%

19: If the representatives from the Bureau of State Audits visited your office, could you provide documentation supporting your answers above? (25 local department managers responded to this question)

RESPONSE	NUMBER	PERCENTAGE
Yes	22	88%
No	3	12%

(Agency comments provided as text only.)

California State Personnel Board
801 Capitol Mall
Sacramento, CA 95814

November 3, 2010

Elaine M. Howle, State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

RE: RESPONSE TO BUREAU OF STATE AUDITS (BSA) DRAFT AUDIT REPORT NO. 2010-106

Dear Ms. Howle:

On behalf of the five-member State Personnel Board (SPB), I would like to thank you for the opportunity to respond to the Bureau of State Audit's (BSA) draft audit report - *Dymally-Alatorre Bilingual Services Act: State Agencies Do Not Fully Comply and Local Governments Could Do More to Address Their Client's Needs*.

We appreciate your thorough review of SPB's Bilingual Services Program (BSP), and agree with the findings and recommendations contained in the audit report.

SPB is committed to ensuring that the provisions of the Act are implemented, and that there is effective communication between state government and the public it serves. We will continue to make program improvements to ensure that SPB provides enhanced leadership under the Act.

Thank you for assisting SPB in identifying additional areas of improvement. Please contact me at 916-653-1028 if you have any questions.

Sincerely,

(Signed by: Suzanne M. Ambrose)

SUZANNE M. AMBROSE
Executive Officer

Enclosure

THE STATE PERSONNEL BOARD'S (SPB) RESPONSES TO THE RECOMMENDATIONS CONTAINED IN THE BUREAU OF STATE AUDIT'S (BSA) REPORT ENTITLED, *Dymally-Alatorre Bilingual Services Act: State Agencies Do Not Fully Comply and Local Governments Could Do More to Address Their Client's Needs (Report No. 2010-106)*.

The State Personnel Board (SPB) agrees with the findings and recommendations contained in the Bureau of State Audit's (BSA) report No. 2010-106, and specifically responds to each recommendation below.

Recommendation

To ensure all state agencies subject to the Act are aware of their potential responsibilities to provide bilingual services, the Personnel Board should improve its processes to identify and inform all such state agencies of the Act's requirements. It should also ensure that every state agency required to comply with the Act conducts language surveys and submits implementation plans unless it exempts them from these requirements.

Response

SPB concurs with this recommendation and has obtained the Department of Finance's Uniform Codes Manual to create a comprehensive state agency listing. BSP's processes will also include procedures to ensure that all newly created state agencies are properly notified and contacted with regard to both language surveys and implementation plans.

Recommendation

The Personnel Board should ensure that it adheres to the specific criteria contained in the Act when exempting agencies from conducting language surveys or preparing implementation plans.

Response

SPB concurs with this recommendation and has incorporated accurate exemption language as specified in the Act into the forms for the language survey and implementation plan. BSP has also instituted a tracking mechanism and review process for each exemption approval to reduce the risk of error.

Recommendation

The Personnel Board should require state agencies to provide all of the information required by the Act. For example, it should ensure that state agencies identify their deficiencies in staffing and written materials, and that their implementation plans sufficiently detail how and when they plan to address these deficiencies.

Response

SPB agrees with this recommendation and has revised its forms to capture all of the information required by the Act.

SPB's Response to BSA
November 3, 2010
Page 2

Recommendation

The Personnel Board should assess the adequacy of state agencies' language surveys and implementation plans. If it determines that implementation plans do not adequately address deficiencies in staffing or written materials, the Personnel Board should order the agencies to revise or supplement their plans accordingly. The Personnel Board should also require agencies to report to it every six months on their progress in addressing their deficiencies.

Response

SPB concurs with this recommendation. If it is determined that state agencies' implementation plans do not adequately address deficiencies, BSP staff will follow-up with the agencies to supplement their plans. BSP's procedures have been revised to incorporate a six-month progress report by deficient agencies.

Recommendation

If the Personnel Board determines that agencies have not made reasonable progress toward complying with the Act, it should consider ordering them to comply with the Act, which could include ordering state agency officials to appear before the Personnel Board to explain why their agency has not complied. To the extent that this or its other efforts to enforce the Act are ineffective, the Personnel Board should consider asking a court to issue writs of mandate under Section 1085 of the Code of Civil Procedure, which would require agencies to perform their duties.

Response

SPB concurs with the recommendation that the five-member board should order non-compliant agencies to appear before the board to explain their non-compliance. BSP has revised its procedures accordingly. SPB will consider additional appropriate measures to enforce compliance.

Recommendation

The Personnel Board should seek enough additional staff to fulfill its obligations under the Act or seek changes to the Act to reduce its responsibilities to be commensurate with its staffing levels.

Response

SPB concurs with this recommendation and will consider options such as legislative changes and/or budget change proposals to increase staffing.

Recommendation

The Personnel Board should follow up with responsible state agencies to ensure that language access complaints it receives are resolved in a timely manner.

Response

SPB concurs and has revised BSP's procedures to incorporate additional fields to the tracking system to capture the date that a complaint was resolved and how it was resolved.

SPB's Response to BSA
November 3, 2010
Page 3

Recommendation

The Personnel Board should improve the content of its biennial report to the Legislature to more clearly identify problems and propose solutions where warranted. Specifically, the report should clearly indicate whether state agencies have true staffing deficiencies or deficiencies in translated materials. In addition, the report should identify any departments that are not complying with the Act and should present key survey and implementation plan results by state agency and field office to better inform policy makers and the public about the language needs of residents in certain areas of the State and state agencies' available resources to meet those needs.

Response

SPB concurs with this recommendation and will revise the format and content of future biennial reports to reflect more comprehensive and meaningful data.

(Agency comments provided as text only.)

Business, Transportation and Housing Agency
980 9th Street, Suite 2450
Sacramento, CA 95814-2719

November 3, 2010

Elaine M. Howle, State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Ms. Howle:

Attached please find responses from the California Highway Patrol, the Department of Motor Vehicles and the Department of Housing and Community Development to your draft audit report *Dymally-Alatorre Bilingual Services Act: State Agencies Do Not Fully Comply and Local Governments Could Do More to Address Their Client's Needs* (#2010-106). Thank you for allowing the departments and the Business, Transportation and Housing Agency (Agency) the opportunity to respond to the report.

As noted in their responses, the departments concur with the findings noted in the report, and either have implemented or are in the process of implementing the recommendations. We appreciate your identification of opportunities for improvement and your recommendation for maximizing opportunities to reduce the cost of providing bilingual services.

If you need additional information regarding the departments' responses, please do not hesitate to contact Michael Tritz, Agency Deputy Secretary for Audits and Performance Improvement, at (916) 324-7517.

Sincerely,

(Signed by: Michael Tritz for)

DALE E. BONNER
Secretary

Attachments

(Agency comments provided as text only.)

Department of California Highway Patrol
P.O. Box 942898
Sacramento, CA 94298-0001

October 29, 2010

File No.: 001.9968.A14635.010

Dale E. Bonner, Secretary
Business, Transportation and Housing Agency
780 Ninth Street, Suite 2450
Sacramento, CA 95814-2719

Dear Secretary Bonner:

I am pleased to provide our response to the Bureau of State Audits (BSA) report entitled, "Dymally-Alatorre Bilingual Services Act: *State Agencies Do Not Fully Comply and Local Governments Could Do More to Address Their Clients' Needs.*"

At the request of the Legislature and approved by the Joint Legislative Audit Committee (Audit Committee), the BSA conducted an audit of the Department of California Highway Patrol (CHP), as well as other state departments, to determine compliance with laws, regulations, and rules governing the Dymally-Alatorre Bilingual Services Act (Act). Specifically, the BSA was tasked with determining if corrective actions took place to resolve issues reported in the 1999 audit; identify best practices used to meet the needs of non or limited English speaking clients; and if centralization of translation and interpretation services would reduce the cost of complying with the Act.

The BSA concluded the CHP appears to have complied with many aspects of the Act. However, they did identify three areas where the CHP could improve. The CHP agrees with the BSA assessment and has provided a response to each issue. I am also pleased to report the CHP was recognized within the audit report for best practices related to training CHP cadets to effectively communicate with limited English proficient (LEP) individuals through the Academy's Cultural Diversity and Non-Discrimination course. Additionally, the CHP was recognized for providing all cadets with 60 hours of Spanish language training, and as a condition of employment, training. Finally, the CHP was acknowledged for negotiating more favorable contract rates for foreign language interpreter services.

Dale E. Bonner, Secretary
Page 2
October 29, 2010

CHP Response to the BSA Recommendations:

Recommendation #1

State agencies should ensure that they accurately assess and report their clients' language needs to the Personnel Board.

Response #1

The CHP complies with this requirement and will continue to assess our clients' language needs and report accurate information to the State Personnel Board (SPB).

Recommendation #2

State agencies should formally analyze their language survey results and consider their other available bilingual resources to determine their true staffing deficiencies.

Response #2

Currently, the CHP posts and distributes language survey results statewide, monitors transfers and separations of bilingual staff and geographical assignments of bilingual cadets. Based on the survey results, the CHP identifies primary languages spoken statewide by the non or LEP public served in each Area command and utilizes that information to develop publications, such as the Corridor Safety Program, in those languages.

The CHP provides 60 hours of certified California Peace Officer Standards and Training in the Spanish language to all cadets as a condition of employment. Additionally, all cadets receive training on cultural awareness and first responder communication techniques specific to interacting with the Spanish speaking public, the most spoken language, other than English, in the community served by the CHP.

The CHP implemented a bilingual bypass process to facilitate filling bilingual positions. In addition to bilingual staff, the CHP utilizes contracts to assist with interpretation and translation services for the LEP public. This includes responding to emergency and non-emergency calls. The CHP also works closely with allied agencies and the community to provide interpretation services to the public. The bilingual staff deficiencies identified in the language survey equates to less than three percent of the CHP public contact positions. Considering the additional methods used by the CHP to provide services to the LEP public, the CHP is able to continuously provide the highest level of service to the residents of California.

The CHP will continue to enhance and formalize methods of analyzing language survey results and monitoring bilingual staff deficiencies. Formal procedures will be developed within six months, in consultation with the SPB, and included in the CHP Office of Equal Employment Opportunity (OEEO) Standard Operating Procedures.

Recommendation #3

State agencies should develop procedures to identify the written materials that the Act requires them to translate into other languages and ensure that such materials are translated or made accessible to their LEP clients.

Dale E. Bonner, Secretary
Page 3
October 29, 2010

Response #3

Currently, the CHP translates several hundred documents, forms, public service announcements, and other informational materials for the LEP public. In 2008, the CHP released interim policies and procedures on translation services. Within six months, the CHP will finalize those policies and procedures to monitor the need for and accessibility of translated materials. The CHP will develop a list of documents that are required to be translated and compare this list to existing translations to identify any remaining translated material needs. Command input will be requested to ensure projected needs are met. The OEEO will monitor progress through completion. The CHP will continue to translate materials for the public and communities based on knowledge of demographics, even if the target audience does not comprise a substantial number of non or limited English speaking public served by the CHP.

Recommendation #4

State agencies should develop detailed corrective action plans describing how and when they will address their staffing and written materials deficiencies. In addition, they should submit these corrective action plans to the Personnel Board as part of their overall implementation plans.

Response #4

In response to the staffing deficiencies identified in the 2010/2011 language survey, the CHP identified a number of corrective measures to address the deficiencies. These deficiencies were reported to the SPB as part of the language survey results in October 2010. While the survey identified staffing deficiencies, the survey does not reflect the actual need since other available resources provide these services, as described above in response number two. Also, as recognized by the BSA, deficiencies identified through the language survey are only an indicator of a potential need for additional qualified bilingual staff. All of these factors impact the corrective action plan of the CHP and will be included in the detailed plans required by the Act to address both staffing and written materials deficiencies. Corrective action plans will be completed and submitted to the SPB by April 1, 2011.

Recommendation #5

State agencies should leverage General Services' and the Personnel Board's contracts for interpretation and translation services to potentially reduce the cost of providing bilingual services.

Response #5

The CHP complies with this requirement and will continue to negotiate the lowest possible rates for bilingual services while ensuring quality deliverables.

We appreciate the opportunity to provide a response to the draft audit report. If you have any questions or require further information, please contact Captain Bob Jones, our Deputy Inspector General at (916) 843-3160.

Sincerely,

(Signed by: M. C. A. Santiago)

M. C. A. SANTIAGO, CIG, CLEA
Deputy Commissioner

(Agency comments provided as text only.)

Department of Motor Vehicles
P.O. Box 932328
Sacramento, CA 94232-3280

November 2, 2010

Dale E. Bonner, Secretary
Business, Transportation, and Housing Agency
980 9th Street, Suite 2450
Sacramento, CA 95814-2719

Dear Secretary Bonner:

We are pleased to present the Department of Motor Vehicle's (DMV) response to the Bureau of State Audit's (BSA) draft report, *Dymally-Alatorre Bilingual Services Act: State Agencies Do Not Fully Comply and Local Governments Could Do More to Address Their Client's Needs (#2010-106)*, issued on October 28, 2010.

The BSA determined that State agencies covered by the review did not fully comply with the Act during the 2008 biennial language survey and the 2009 biennial implementation plan cycle (2008-2009). The BSA's recommendations and DMV's responses (in bold) are as follows:

1. State agencies should ensure that they accurately assess and report their clients' language needs to the State Personnel Board.

DMV was cited for this issue and concurs with the BSA recommendation. DMV acknowledges that there were some inconsistencies in the collection of data during the 2008 Survey. DMV implemented improved procedures and incorporated additional checks and balances for the 2010 Survey to address this finding. No further action is required.

2. State agencies should formally analyze their language survey results and consider their other bilingual resources to determine their staffing deficiencies.

DMV is currently in compliance and no further action is required.

3. State agencies should develop procedures to identify the written materials that the Act requires them to translate into other languages and ensure that such materials are translated or made accessible to their clients.

DMV was cited for this issue and concurs with the BSA recommendation. DMV agrees with the conclusion that we need to improve our procedures for identification of written materials that the Act requires to be translated into other languages. DMV will be establishing a taskforce to set procedures and processes in place that will ensure compliance with the printed materials requirements of the Act and will include the following milestones:

- January 2011—establish taskforce
- February 2011—develop procedures for identifying forms to be translated
- April 2011—create a list of DMV materials required to be translated.
- June 2011—establish dates for translation and distribution of materials
- August 2011—implement ongoing review of written translation language needs.

Dale E. Bonner, Secretary
Page 2
November 2, 2010

4. State agencies should develop detailed corrective action plans describing how and when they will address their staffing and written deficiencies. In addition, they should submit these corrective action plans to the Personnel Board as part of their overall implementation plans.

DMV was cited for this issue as it relates to written deficiencies and concurs with the BSA recommendation. By October 2011, DMV will develop and submit to the State Personnel Board a detailed corrective action plan that describes how and when the DMV will address its written deficiencies.

5. State agencies should leverage Department of General Services' and the State Personnel Board's contracts for interpretation and translation services to potentially reduce the costs of providing bilingual services.

DMV is currently in compliance and no further action is required.

If you have questions or concerns, please contact Mr. Jerry McClain, Chief of the Audits Office at (916) 657-0455.

Sincerely,

(Signed by: George Valverde)

GEORGE VALVERDE
Director

(Agency comments provided as text only.)

Department of Housing and Community Development
1800 Third Street, Room 450
Sacramento, CA 95811

November 1, 2010

Mr. Dale E. Bonner, Secretary*
Business, Transportation and Housing Agency
980 Ninth Street, Suite 2450
Sacramento, CA 95814

Dear Secretary Bonner:

We are pleased to present the Department of Housing and Community Development (HCD/Department) response to the Bureau of State Audit's (Bureau) draft report, *Dymally-Alatorre Bilingual Services Act: State Agencies Do Not Fully Comply and Local Governments Could Do More to Address Their Client's Needs (#2010-106)*, issued on October 28, 2010.

The Bureau determined that State agencies covered by the review did not fully comply with the Dymally-Alatorre Bilingual Services Act (Act) during the 2008 biennial language survey and the 2009 biennial implementation plan cycle (2008-2009). While we note that no other department's performance was materially better than the HCD's, the Department continues its efforts to improve processes that ensure effective and efficient program administration and is taking or has taken the necessary corrective actions to ensure compliance with the Act.

The Bureau's recommendations and HCD's responses (in bold) are as follows:

1. State agencies should ensure that they accurately assess and report their clients' language needs to the Personnel Board.

The Department concurs with this recommendation.

In the past, the Department relied on its Division-level reporting assistants to analyze and report information from survey tally sheets directly to the State Personnel Board (SPB) language survey reporting tool. Beginning with the 2010 biennial language survey (the most recent biennial language survey), the Department has assigned responsibility for the biennial language survey to a single point of contact, the Department's EEO Officer, who also serves as the Department's Bilingual Services Program Coordinator. More specifically, the Department's EEO Officer is responsible for (1) coordinating, implementing and overseeing the language survey, (2) training Division-level coordinators, (3) analyzing completed survey tally sheets, (4) reporting the results of the analysis to the SPB through its language survey reporting tool and (5) maintaining sufficient documentation to support the analysis in determining staffing deficiencies.

No further action required.

* California State Auditor's comments appear on page 79.

Mr. Dale E. Bonner, Secretary
Page 2

2. State agencies should formally analyze their language survey results and consider their other bilingual resources to determine their staffing deficiencies.

The Department concurs with this recommendation. The Department has formally analyzed and will continue to formally analyze its language survey results, including a consideration of available options for bilingual services other than bilingual staff in determining staffing deficiencies. Additionally, beginning with the 2010 biennial language survey, by June 30, 2011, the Department will formally document its analyses. It should be noted that the Department currently uses the California Multiple Award Schedule (CMAS) and Western States Contracting Alliance (WSCA) Leveraged Procurement Agreements in obtaining bilingual vendors for bilingual services.

3. State agencies should develop procedures to identify the written materials that the Act requires them to translate into other languages and ensure that such materials are translated or made accessible to their clients.

The Department concurs with this recommendation and plans to take the following actions by June 30, 2011:

- The Department will confer with the SPB and other Act-compliant departments to identify best practices in developing formal procedures for determining which written materials need to be translated.
- The EEO Officer/Bilingual Services Program Coordinator will begin coordinating with the Department's public contact unit managers/supervisors in developing formal procedures for identifying written materials to be translated.

By June 30, 2012:

- ①
 - The Department will develop procedures for identifying written materials to be translated. In general, the procedures will involve (1) documenting all forms requested at local offices during a two-week survey period in 2012, (2) analyzing the results of the survey information and (3) generating a list of written materials that need to be translated based on the results of the analysis.
 - As part of the 2012 biennial language survey, the Department will create a list of written materials that require translation.
 - The Department will establish dates for the translation and distribution of written materials.
 - The Department will implement an ongoing review of its progress toward meeting its established dates for the translation and distribution of written materials.

Mr. Dale E. Bonner, Secretary
Page 3

4. State agencies should develop detailed corrective action plans describing how and when they will address their staffing and written materials deficiencies. In addition, they should submit these corrective action plans to the Personnel Board as part of their overall implementation plans.

The Department concurs with this recommendation. By June 30, 2011:

- Regarding staffing (since the results of the 2010 biennial language survey revealed that the Department no longer has staffing deficiencies), the Department will submit a memorandum to the SPB informing them that a detailed corrective action plan relative to staffing deficiencies is not required.
 - Regarding written deficiencies, the Department will confer with the SPB and other Act-compliant departments to identify best practices relative to developing detailed corrective action plans to address written deficiencies.
 - The Department will prepare and submit to the SPB a detailed corrective action plan that describes how and when the Department will address its written deficiencies. ②
5. State agencies should leverage General Services' and the Personnel Board's contracts for interpretation and translation services to potentially reduce the costs of providing bilingual services.

The Department concurs with this recommendation. In an effort to achieve the best service at the lowest cost possible, by June 30, 2011, the EEO Officer/Bilingual Services Program Coordinator will (1) contact the SPB to obtain information and pricing on its bilingual service contracts, and (2) review/examine those prices in comparison to the CMAS and WSCA vendors, which are currently being used by the Department for its bilingual service needs.

The Department recognizes the importance of providing quality service to non- or limited-English speaking customers. The Department's employees in public contact positions have been and continue to be exceptionally sensitive to the issues of bilingual services; they do and will continue to provide the highest quality service to all of the Department's customers. Full compliance with the Act further serves this effort. As such, the Department will continue to evaluate its bilingual services program for areas of improvement, and thanks the Bureau for its efforts in assisting the Department in this endeavor.

Sincerely,

(Signed by: Elliott Mandell for)

Lynn L. Jacobs
Director

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Comments

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

To provide clarity and perspective, we are commenting on the Department of Housing and Community Development's (Housing) response to our audit report. The numbers below correspond to the numbers we placed in the margin of Housing's response.

Housing indicates that it will develop procedures for identifying materials that should be translated by June 2012. However, we believe that it should develop these procedures much earlier so that its limited-English-proficient clients have access to this information sooner. In fact, we believe that Housing should develop these procedures and describe how and when it will address any written materials deficiencies in its next biennial implementation plan, which is due on October 1, 2011.

As noted above, Housing will need to develop procedures for identifying materials requiring translation before it will be in a position to develop a detailed corrective action plan for addressing any written materials deficiencies.

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(Agency comments provided as text only.)

California Department of Corrections and Rehabilitation
P.O. Box 942883
Sacramento, CA 94283-0001

Ms. Elaine Howle
State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Ms. Howle:

This letter represents the California Department of Corrections and Rehabilitation's (CDCR) response to the Bureau of State Audits (BSA) report entitled, *Dymally-Alatorre Bilingual Services Act: State Agencies Do Not Fully Comply and Local Governments Could Do More to Address Their Client's Needs*. The Dymally-Alatorre Bilingual Services Act was intended to ensure that individuals who do not speak or write English or whose primary language is other than English are not prevented from using public services because of language barriers. We agree that there are deficiencies with regard to compliance with the Act as outlined in the audit report, and we will be evaluating these identified deficiencies further and taking corrective action. In addition, we will review the internal procurement controls to ensure we are utilizing the reduced rates offered by existing California Multiple Award Schedules contracts for language access services.

We would like to thank BSA for their work on this report, and we will address BSA's specific recommendations in a corrective action plan at 60-day, six-month, and one-year intervals. If you should have any questions or concerns, please contact Lee Seale, Deputy Chief of Staff, at (916) 323 6001.

Sincerely,

(Signed by: Brett H. Morgan)

BRETT H. MORGAN
Chief of Staff

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(Agency comments provided as text only.)

California Emergency Management Agency
3650 Schriever Avenue
Mather, CA 95655

November 3, 2010

Elaine M. Howle, CPA
State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Ms. Howle:

The California Emergency Management Agency (Cal EMA) has received and reviewed the Bureau of State Audits (BSA) report concerning deficiencies on our Bilingual Services Program.

At Cal EMA we strive for excellence in all that we do and appreciate your timely, independent review of our Bilingual Services Program. Your review is of the utmost importance to us, our staff, as well as the public we serve. We also know with the Bilingual Services Program we seek to find ways to be more effective in making sure that there are enough resources for non-English-speaking and/or limited-English proficient customers. Our dedicated team of public servants is always open to learning how we can do a better job.

Recommendation # 1

State agencies should ensure they accurately assess and report their clients' language needs to State Personnel Board (SPB).

Cal EMA Response

Cal EMA will participate in the Dymally-Alatorre Biennial Statewide Language Survey that is held every even numbered year. We will ensure that this report is submitted in a timely fashion to the State Personnel Board upon its due date.

On September 14 through September 29, 2010 we conducted our 2010 Biennial Statewide Language Survey. The results of the survey were submitted to the State Personnel Board on October 1, 2010.

Recommendation # 2

State agencies should formally analyze their language survey results and consider their other available bilingual resources to determine their true staffing deficiencies.

Cal EMA Response

Cal EMA by nature is not a public contact agency; however, there are a few divisions within the agency where public contact may possibly occur. Those divisions within Cal EMA participated in the language survey to determine the adequacy of the Cal EMA bilingual staffing. The Bilingual Services Coordinator tallied the language survey results and reviewed the number of public contacts Cal EMA received as well as how many of those contacts were non-English-speaking and/or limited-English-proficient (LEP).

Based on the survey results, our agency was able to determine which divisions may require the services of a bilingual employee within the specific program. We will also ensure that translated written materials in the appropriate languages are made accessible for our non-English-speaking and/or LEP clients. Furthermore,

Ms. Elaine Howle, CPA
November 3, 2010
Page 2

Cal EMA has updated its statewide listing of bilingual employees to better assist in meeting the needs of the non-English-speaking and/or limited-English-proficient clients.

Recommendation # 3

State agencies should develop procedures to identify the written materials that the Act requires them to translate into other languages and ensure that such materials are translated or made accessible to their LEP clients.

Cal EMA Response

Cal EMA has translated materials for our non-English-speaking and/or limited-English-proficient clients that provide information on our agency and the services we offer as well as what to do in the event of an emergency or natural disaster. Cal EMA is currently in the process of updating our Bilingual Services Policy. This process includes creating a Bilingual Services Handbook that explains the responsibilities and requirements of the Dymally-Alatorre Bilingual Services Act.

Recommendation # 4

State agencies should develop detailed corrective action plans describing how and when they will address their staffing and written materials deficiencies. In addition, they should submit these corrective plans to the SPB as part of their overall implementation plans.

Cal EMA Response

Cal EMA is in the process of developing an implementation plan showing the corrective actions to be taken to ensure there are no staffing or translated written materials deficiencies.

This implementation plan will be submitted to the State Personnel Board by the October 1, 2011 due date for review and approval.

Recommendation # 5

State agencies should leverage General Services' and the Personnel Board's contracts for interpretation and translation services to potentially reduce the cost of providing bilingual services.

Cal EMA Response

As part of Cal EMA's implementation plan, Cal EMA will be researching the possibility of utilizing General Services' and SPB's contracts as a cost effective tool to provide written translation and interpretation services for our non-English-speaking and/or LEP clients. We will outline this process in our 2011 implementation plan.

On behalf of Cal EMA, and our dedicated team, we thank you and the Bureau of State Audits for the review of the Bilingual Services Program. We look forward to reviewing your final report and continuing our efforts to improve our effectiveness and customer service. If you have any questions or concerns, please feel free to call my Chief of Staff, Helen Lopez at (916) 323-7615.

Sincerely,

(Signed by: Matthew R. Bettenhausen)

MATTHEW R. BETTENHAUSEN
Secretary

(Agency comments provided as text only.)

California Environmental Protection Agency
1001 I Street
Sacramento, CA 95814

November 3, 2010

Ms. Elaine M. Howle
State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, California 95814

Dear Ms. Howle:

Thank you for your letter dated October 28, 2010 asking for our review of the draft report titled "Dymally-Alatorre Bilingual Services Act: State Agencies Do Not Fully Comply and Local Governments Could Do More to Address Their Client's Needs". This report reviewed how state and local agencies identify the need for language assistance as required by the Dymally-Alatorre Bilingual Services Act (Act) and the effectiveness of those procedures and practices. As part of your audit you reviewed the Department of Toxic Substances Control (DTSC). Enclosed are DTSC's responses to the recommendations.

The DTSC is committed to the principles declared in the Act and to providing effective communication between all levels of government and the people of this state. It is DTSC's routine practice to assess language needs of communities where DTSC is actively involved, such as when DTSC is overseeing remedial cleanup of hazardous waste or hazardous substances; issuing a hazardous waste permit; and conducting the biennial language survey. On a great number of projects, DTSC has informational materials such as fact sheets and public meeting announcements translated and makes interpretative services available for the community. Moreover, to reach language diverse communities, DTSC proactively partners with various publications to feature translated public meeting notices. While your report notes areas in need of improvement, I am pleased the report finds that DTSC was one of the state agencies that accurately assessed and reported its language needs and submitted an implementation plan to the State Personnel Board (SPB) as required in the Act. DTSC will continue its efforts to improve implementation of the Act, as outlined in the report. Your recommendations come at an opportune time as DTSC is in the process of developing its action plan to address the outcome of the 2010 Bilingual Survey results, as required by the Act.

We appreciate the professional and diligent work conducted by the Bureau of State Audits (BSA) team in evaluating DTSC's program and for the resulting insightful recommendations. Thank you for the opportunity to provide the BSA with a response to this audit. Enclosed please find DTSC's response to your specific recommendations.

If you have any further questions or should need additional information, please contact Mr. Maziar Movassaghi, Acting Director of DTSC, at 916-322-0504 or by e-mail at mmovassa@dtsc.ca.gov.

Sincerely,

(Signed by: Linda S. Adams)

Linda S. Adams
Secretary for Environmental Protection

Enclosure

Department of Toxic Substances Control Responses to Bureau of State Audit Recommendations

Recommendation:

State agencies should ensure that they accurately assess and report their clients' language needs to the State Personnel Board.

Response:

The DTSC is appreciative of the Bureau of State Audit's findings that DTSC was one of the state agencies that accurately assessed and reported its language needs to State Personnel Board as required in the Dymally-Alatorre Bilingual Services Act (Act).

Recommendation:

State agencies should formally analyze their language survey results and consider their other available bilingual resources to determine their true staffing deficiencies.

Response:

DTSC performs an internal analysis of its language survey data and results to determine whether or not we have true staffing deficiencies. As part of this analysis DTSC ensures other bilingual resources are available that provide language services to its limited-English-proficient (LEP) clients and communities we serve. For example, in addition to qualified (certified) bilingual staff in public contact positions, DTSC maintains an electronic staff directory that lists both certified and non-certified staff including those in non-public contact positions who have verbal and written proficiency in 39 languages; DTSC also has contracts in place to ensure translation and interpreter services are provided. While DTSC performs an internal analysis, we recognize our need to formally document our analysis and process as identified in the audit finding. Thus, DTSC will ensure any and all analysis performed and resulting conclusions related to the language survey results are formally documented and retained with the related language survey documents.

Recommendation:

State agencies should develop procedures to identify written materials that the Act requires them to translate into other languages and ensure that such materials are translated or made accessible to their LEP clients.

Response:

DTSC routinely translates written materials into other languages to serve the language needs of its clients and the people of this state. However, DTSC recognizes the need to improve this process as identified in the audit findings. Thus, DTSC will develop procedures that identify what materials the Act requires to be translated and a process to ensure those materials are translated or made accessible to our LEP clients.

Recommendation:

State agencies should develop detailed corrective action plans describing how and when they will address their staffing and written material deficiencies. In addition, they should submit those corrective action plans to the State Personnel Board as part of their overall Implementation Plans.

Response:

In addition to the completion and timely submission of the Biennial Implementation Plan to the State Personnel Board, DTSC will develop a corrective action plan describing how and when we will address our staffing and written material deficiencies (where applicable) and include this plan as a part of our Implementation Plan we submit to the State Personnel Board.

Recommendation:

State agencies should leverage Department of General Services' and the State Personnel Board's contracts for interpretation and translation services to potentially reduce costs of providing bilingual services.

Response:

DTSC will consult and consider Department of General Services' and State Personnel Board's contracts for interpretation and translation services when and where appropriate and as applicable in an effort to reduce cost for the provision of bilingual services.

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(Agency comments provided as text only.)

California Department of Food and Agriculture
1220 N Street, Suite 400
Sacramento, CA 95814

November 3, 2010

Elaine M. Howle*
State Auditor
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Ms. Howle:

The California Department of Food and Agriculture (CDFA) acknowledges the receipt of the Bureau of State Audits (BSA)'s draft Report (Report) titled "Dymally-Alatorre Bilingual Services Act: State Agencies Do Not Fully Comply and Local Governments Could Do More to Address Their Client's Needs." CDFA appreciates the opportunity to review and respond to the Report.

CDFA envisions to facilitate the 21st century renaissance of agriculture with an infrastructure that makes California the leading source for safe, healthy, and sustainable food, fiber, and energy. In accomplishing this vision, it is essential for CDFA to effectively communicate with the public it serves, which includes individuals who do not speak or write in English, or whose primary language is other than English. CDFA is committed to the implementation of the provisions of the Dymally-Alatorre Bilingual Services Act (Act), which intend to provide equal opportunity access to services, regardless of an individual's English language proficiency.

The report showcases sections, where CDFA is noted as an example or as a relevant subject. CDFA would like to respond to these sections:

I. Opportunities for Improvement:

A. On page 18, the Report references CDFA as follows:

The Department of Food and Agriculture (Food and Agriculture)'s equal employment opportunity officer at the time of the 2008 biennial language survey acknowledged that her agency's survey results were inaccurate because it did not provide clear survey instructions to its staff and some staff recorded LEP contacts based on potentially misleading factors such as perceived ethnicity and accent instead of the person's ability to communicate in English.

CDFA Response:

CDFA acknowledges the information stated in the report and recognizes the opportunity for change and improvement. Since the 2008 biennial language survey, the EEO Office has enhanced its training processes and provided education and guidance for all reporting assistants prior to the commencement of this year's language survey. The Bilingual Services Program (BSP) Coordinator worked closely with the reporting assistants to ensure that the reporting assistants have a better understanding of their role and responsibilities, and are following the appropriate

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* California State Auditor's comment appears on page 93.

standards and procedures in tallying LEP contacts. At the conclusion of the reporting period, the BSP Coordinator reviewed all the tally sheets from every participating CDFA division to make sure that the information gathered and reported will yield accurate survey results.

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B. On page 24, the Report references CDFA as follows:

For example, Agency I and Food and Agriculture entered into separate agreements with a contactor to translate documents into Spanish at a cost of \$0.30 per word, while one vendor's CMAS rate for this service is only \$0.17 per word. If these departments were to purchase these services to their maximum contracted amounts, Agency I and Food and Agriculture will end up paying approximately \$32,300 and \$15,100 more, respectively, than if they purchased these services from the CMAS vendor...

CDFA Response:

CDFA is mindful of the state's current fiscal condition and is departmentally conscientious regarding its responsibility to maintain wise fiscal decisions. The EEO Office started providing briefings regarding the BSP to CDFA divisions. The EEO Office will provide further education to all CDFA divisions regarding the availability of California Multiple Award Schedules (CMAS) contracts for language access services, which include translation, interpretation, and American Sign Language (ASL) interpretation. In upcoming training sessions and workshops, the EEO Office will promote the utilization and negotiation with CMAS vendors as a cost effective way of providing language access services.

II. Report Recommendations

CDFA concurs with the Report recommendations and with resources permitting make a concerted effort to implement the Report recommendations. Through the EEO Office, CDFA has already started efforts that are in line with the Report's recommendations:

- The EEO Officer officially appointed a BSP Coordinator who will facilitate CDFA's BSP. The new BSP Coordinator led the reporting assistants in facilitating this year's successful language survey. The BSP Coordinator will continue to serve as liaison to the State Personnel Board (SPB) in language services matters and will sustain positive working relationship with the SPB to assure the accurate assessment of CDFA clients' language needs.
- The EEO Office has engaged in a dialogue with the SPB and other state agencies such as the California Department of Justice (DOJ) to collaboratively share ideas, efforts, and resources to address the requirements of the Act.
- In a recent California Civil Rights Officers' Council (CCROC) meeting, CDFA's EEO Officer invited other EEO professionals to form a collaborative group that will discuss and work together in defining and implementing the provisions of the Act.
- The EEO Office is in the process of redesigning its Intranet portal. The revised EEO Intranet portal will contain more information on how to obtain assistance with language services needs.
- The BSP Coordinator is engaged in the process of refining CDFA's BSP Handbook. Further training regarding the BSP Handbook will be developed as well.

- In August 2010, the EEO Office started an outreach program to inform CDFA management and employees regarding EEO services and resources. Future outreach efforts will provide further information regarding language access services. In these outreach efforts, the EEO Office also promotes and encourages the certification of bilingual employees. The BSP Coordinator will work closely with Human Resources and the CDFA divisions in facilitating the certification of bilingual employees.

CDFA would like to thank the BSA's audit team for their professional approach in conducting the audit. CDFA values the opportunity to further develop our BSP and potentially be in full compliance with the requirements of the Act. CDFA reiterates its commitment to implement the Act's provisions and provide equal opportunity access to its services for the population it serves.

Sincerely,

(Signed by: Nate Dechoretz for)

AG Kawamura
Secretary

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Comment

CALIFORNIA STATE AUDITOR'S COMMENT ON THE RESPONSE FROM THE CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

To provide clarity and perspective, we are commenting on the California Department of Food and Agriculture's (Food and Agriculture) response to our audit report. The number below corresponds to the number we placed in the margins of Food and Agriculture's response.

While preparing our draft report for publication, there were slight text changes and page numbers shifted. Therefore, the page numbers that Food and Agriculture cites in its response do not correspond to the page numbers in our final report. The statements referenced in Food and Agriculture's response now appear on pages 28 and 31, respectively.

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(Agency comments provided as text only.)

Department of Justice
P.O. BOX 944255
Sacramento, CA 94244-2550

November 3, 2010

Elaine M. Howle, State Auditor*
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Ms. Howle,

The Department of Justice (DOJ) has reviewed the Bureau of State Audits' (BSA) draft report titled "*Dymally-Alatorre Bilingual Services Act: State Agencies Do Not Fully Comply and Local Governments Could Do More to Address Their Client's Needs*" and appreciates the opportunity to respond to the report.

Based on the BSA's review of the DOJ's 2008-2009 Biennial Language Survey and Implementation Plan, it was determined that the DOJ is out of compliance with certain requirements and aspects of the Dymally-Alatorre Bilingual Services Act (the Act). As noted in the report, the State Personnel Board (SPB) is responsible for monitoring and ensuring state agencies comply with the Act. Since the SPB serves as the oversight agency for the Act and the DOJ has been following SPB's guidelines and providing the information they required, the DOJ was under the impression that it was in compliance with the Act. ①

In response to the BSA's recommendations identified in the report, the DOJ submits the following responses:

BSA Recommendation: *State agencies should ensure that they accurately assess and report their clients' language needs to the Personnel Board.*

DOJ Response: The Equal Employment Rights and Resolution (EER&R) Office recently appointed a new Bilingual Services Program (BSP) Coordinator to monitor the program, the Biennial Language Survey, and the subsequent Implementation Plan.

The 2008-2009 Biennial Language Survey results were carefully analyzed, it was determined that the true staffing deficiencies were significantly less than originally reported, and that we are adequately serving the language needs of members of the general public. These findings were included in the Implementation Plan follow-up report submitted to the SPB.

The DOJ has posted the Language Assistance Resolution Process form on its Intranet website. This form is available in English, Spanish, and other languages upon request, to address possible violations of the Act. Pending internal departmental approval, this form will be made available on the Attorney General's public Internet website.

* California State Auditor's comments appear on page 99.

Elaine Howle, State Auditor
November 3, 2010
Page 2

BSA Recommendation: *State agencies should formally analyze their language survey results and consider their other available bilingual resources to determine their true staffing deficiencies.*

DOJ Response: The DOJ has adopted and implemented new procedures that provide a higher level of quality control regarding reviewing and analyzing the language survey data in order to avoid future reporting errors.

Based on legal advice rendered by the DOJ's Government Law Section in August 2010 regarding the Act, the EER&R Office correctly analyzed its public contact positions, which employees actually qualified as public contact employees (PCEs), and how local office reporting groups should be structured. Analysis revealed that local office reporting groups should be categorized by division and location rather than by unit/bureau/section. The result of this analysis and group restructuring for the 2010-2011 Biennial Language Survey was that the number of PCEs was significantly reduced.

An Internal Resources Assessment Form has been created to evaluate the use of our other bilingual resources (such as the directory of internal qualified bilingual staff and contracted interpretation/translation language services vendor). Employees will be required to complete this form and submit it to the BSP Coordinator each time an alternate resource is utilized. Pending internal departmental approval and assignment of a form number, this form will be made available to all employees on the DOJ's Intranet website.

BSA Recommendation: *State agencies should develop procedures to identify the written materials that the Act requires them to translate into other languages and ensure that such materials are translated or made accessible to their LEP clients.*

DOJ Response: Although the DOJ did have procedures in place for identifying materials requiring translation, they lacked detail and the procedures were not sufficiently communicated to the appropriate departmental management and BSP staff. The EER&R Office has since revised the DOJ's Bilingual Services Program portion of the DOJ Administrative Manual to detail the procedures used to identify written materials that require translation according to the Act (revisions are pending internal departmental approval) and are summarized below.

②

- The Four-Factor-Analysis adapted from federal Title VI and Executive Order 13166.
- The Four-Factor-Analysis Monitoring Plan developed within the DOJ will be utilized twice a year to ensure compliance with the Act.
- Programmatic responsibilities based on the needs identified by each local office.
- Five percent threshold based on the results of the Biennial Language Survey and the DOJ's own mini-survey. (This is further identified below in the DOJ's response to the next recommendation.)
- A list of materials that have already been translated was created and posted on the DOJ's Intranet.

Elaine Howle, State Auditor
November 3, 2010
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BSA Recommendation: *State agencies should develop detailed corrective action plans describing how and when they will address their staffing and written materials deficiencies. In addition, they should submit these corrective action plans to the Personnel Board as part of their overall implementation plans.*

DOJ Response: The DOJ submitted an Implementation Plan follow-up report to the SPB in August 2010, with a corrective action plan to address the deficiencies of the 2008-2009 Biennial Language Survey cycle. The DOJ utilized its interpreter/translator services contract to address the identified deficiencies. Later that same month, an addendum to that report was submitted addressing the lack of detailed procedures for identifying materials requiring translation. The DOJ plans to take as following corrective actions to address any future identified staffing and/or written materials deficiencies:

- Analyze the Biennial Language Survey results to help identify staffing deficiencies; identify non-certified bilingual staff and encourage testing for certification; and for any future position vacancies, list bilingual skills as a desirable qualification on the Job Opportunity Bulletin.
- Develop, distribute, and implement an internal mini-survey to identify deficiencies in written materials. The survey results will be submitted to the SPB with the Biennial Language Survey Implementation Plan.

BSA Recommendation: *State agencies should leverage General Services' and the Personnel Board's contracts for interpretation and translation services to potentially reduce the cost of providing bilingual services.*

DOJ Response: The DOJ will consider exploring these recommended options when the DOJ's current language interpretation and translation service contract expires.

Thank you for the opportunity to review and comment on this draft audit report. It has been a very valuable learning experience for the DOJ. The DOJ appreciates that the BSA recognizes the positive efforts we have made regarding the Bilingual Services Program and the Biennial Language Survey. The DOJ would also like to acknowledge the SPB for providing guidance and information regarding the preparation of our 2009 Implementation Plan follow-up report and conducting the 2010-2011 Biennial Language Survey. If you have any questions or concerns regarding this matter, please contact me at the telephone number above or Laurie Pejuhesh, Director, EER&R Office, at (916) 324-7557.

Sincerely,

(Signed by: Andrew J. Kraus III)

ANDREW J. KRAUS III, CPA
Director

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COMMENTS

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE DEPARTMENT OF JUSTICE

To provide clarity and perspective, we are commenting on the Department of Justice's (Justice) response to our audit report. The numbers below correspond to the numbers we placed in the margin of Justice's response.

As described on page 19 of our report, the State Personnel Board (Personnel Board) has not required state agencies to evaluate their deficiencies in staffing and written materials or to develop plans to address them. As a result, some state agencies incorrectly believed that they were complying with the Dymally-Alatorre Bilingual Services Act (Act) by supplying the limited information that the Personnel Board asked them to provide. However, as described on pages 8 through 10 in the Introduction, state agencies have specific responsibilities under the Act, including conducting language surveys and preparing complete implementation plans. Thus, in the future, Justice should ensure that it is meeting its responsibilities under the Act regardless of what the Personnel Board asks it to do.

Justice did not have procedures for identifying written materials requiring translation that met the Act's requirements. Specifically, as shown in Table 2 on page 27, Justice did not have a description of such procedures, did not have a list of the materials requiring translation, and did not have a list of the materials that it had translated in accordance with the Act.

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(Agency comments provided as text only.)

California Labor and Workforce Development Agency
801 K Street, Suite 2101
Sacramento, CA 95814

November 3, 2010

Elaine M. Howle*
California State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Ms. Howle,

Thank you for the opportunity to respond to your audit report about how the State administers the Dymally-Alatorre Bilingual Services Act (Act) based on the 2008 survey.

The Employment Development Department (EDD) is fully committed to ensuring all customers, including Limited English Proficient (LEP) clients, have equal access to its programs, services, and information. Each employee is responsible for identifying the language needs of EDD's clients and making bilingual resources available when needed. EDD survey results over the past two survey cycles has demonstrated overwhelming compliance with the Act, with deficiencies representing 4/10 of one percent in 2008, and 3/10 of one percent in 2010. Meeting the language needs of EDD's diverse customers has long been a priority and the results demonstrate that EDD continues to meet the intent of the Act.

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EDD's commitment to provide bilingual resources matches the scale of services it offers. During the 2008 survey period, EDD had over 900,000 public contacts, including over 150,000 LEP contacts needing services in 50 different languages. To meet the needs of its clients, EDD called upon more than 5,200 public contact employees, of whom 2,300 were bilingual (1,625 bilingual-certified). EDD recently completed the 2010 survey and found that total public contacts during the survey period rose to over 1.1 million, including nearly 180,000 LEP contacts needing services in 78 different languages. EDD kept pace with the growing language needs of its clients; increasing the number of public contact employees to over 7,200, of whom 3,190 are bilingual (2,102 bilingual-certified).

Recommendation 1 – State agencies should ensure that they accurately assess and report their clients' language needs to the Personnel Board.

EDD believes it accurately assessed and reported its clients' language needs to the Personnel Board for the 2008 survey but acknowledges improvements were needed in maintaining the hardcopy documentation supporting the information.

In 2008, EDD began using computer software to collect and analyze survey tallies submitted online by public contact employees in order to execute the survey more effectively and efficiently. As required by the Personnel Board, the public contact employees also completed hardcopy tally sheets in addition to the on-line survey.

* California State Auditor's comments begin on page 105.

Dymally-Alatorre Audit Response (#2010-106) from EDD via LWDA

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EDD believes the on-line survey provides reliable data for determining compliance with the Act. A comparison of the 2008 and 2010 on-line survey data shows the percent of LEP contacts to the total public contacts reported, as well as the number of bilingual staffing deficiencies are nearly identical. The percent of Spanish-speaking contacts in both the 2008 and 2010 surveys are also very similar. This comparison would suggest the 2008 survey data reported to the Personnel Board is accurate.

For the 2008 survey, EDD experienced challenges in collecting and reconciling the hardcopy tally sheets to the online data. This resulted in inconsistent hardcopy documentary support for the data submitted to the Personnel Board.

Recognizing these problems, EDD designed and implemented corrective actions for the recently completed 2010 survey to ensure all hardcopy documentation was collected from all public contact employees and there would be no questions about the accuracy of data provided to the Personnel Board. Controls were added for data collection, tabulation, and submission so that all information could be traced back to hardcopy documentation.

EDD encourages the Personnel Board to consider giving departments more flexibility in meeting the Act's requirements. This might include using more efficient and effective computer-based tools to collect data and doing away with hardcopy tally sheets. Further, there may be better ways to measure the ongoing LEP needs of the State's clients than can be achieved by a two-week period survey.

Recommendation 2 – State agencies should formally analyze their language survey results and consider their other available bilingual resources to determine their true staffing deficiencies.

EDD effectively addresses its LEP needs through its ongoing hiring practices. This is evidenced in the 2008 survey results, which found LEP deficiencies of 9.84 positions (or 4/10 of one percent); an insignificant deficiency compared to the 2,300 public contact bilingual employees providing those services. The recently completed 2010 survey found language deficiencies again amounted to less than 10 positions department-wide (3/10 of one percent). These newest results confirm that EDD continues its historical commitment to meeting the language needs of all clients, and meeting the intent of the Act.

①

For both the 2008 and 2010 survey, EDD management was provided a comprehensive analysis report of the results. This report presented in-depth details of the survey results at the operating branch and office level. The report also included information about EDD's capacity to provide LEP services, deficiencies by business unit and language, and proposed corrective actions.

EDD's current procedures include giving operational managers information on specific deficiencies along with a variety of remedy options. The managers then decide upon the best option to remedy each situation. Historically, deficiencies are remedied by either certifying an additional handful of bilingual staff or using existing certified staff from other units. Given the very small number of deficiencies identified by the survey (ranging from 0.04 to 2.49 positions by location in 2008), EDD does not consider it cost effective to implement procedures that require extensive analysis of how to remedy minor deficiencies. However, EDD will update its procedures to have managers document their analyses for significant deficiencies.

②

Recommendation 3 – State agencies should develop procedures to identify the written materials that the Act requires them to translate into other languages and ensure that such materials are translated or made accessible to their LEP clients.

EDD continually reviews statewide and local area needs for having publications, documents and other materials translated into other languages. The result of this ongoing review was 359 translated materials in seven different languages at the time of the 2008 survey. These materials include written documents, audio/video products, signs, and posters. At the time of the 2010 survey, EDD had translated 593 materials into eight languages. Currently EDD offers materials in Spanish, Chinese, Korean, Laotian, Thai, Russian, Cambodian, and Vietnamese.

All publications, documents, and other materials provided to the public describing services or giving instructions are translated into Spanish on a statewide basis. Local offices then determine whether to translate these materials into other languages based on their specific local needs. Because translations are made as each need is identified, EDD ensures clients' needs for translated materials are continually met. Over the years, EDD believes this process has been very effective in meeting its clients' needs and achieving compliance with the Act. Accordingly, EDD accurately reported to the Personnel Board in 2008 that it had translated all materials consistent with the provisions of the Act.

③

However, EDD will supplement its existing policy and procedures to provide further guidance about translating materials into other languages. This guidance will address steps to identify and maintain lists of which materials need translation as well as tracking to ensure identified materials do get translated.

Recommendation 4 – State agencies should develop detailed corrective action plans describing how and when they will address their staffing and written materials deficiencies. In addition, they should submit these corrective action plans to the Personnel Board as part of their overall implementation plans.

EDD will amend its current procedure to obtain the operational managers' reasons for choosing a particular deficiency remedy option along with implementation details should a significant deficiency occur or an uncommon option be selected. This information will be included in EDD's submission to the Personnel Board.

Should any materials be identified by future surveys as needing translation, EDD will identify its corrective action steps and timeline and submit that information to the Personnel Board.

Recommendation 5 – State agencies should leverage General Services' and the Personnel Board's contracts for interpretation and translation services to potentially reduce the costs of providing bilingual services.

EDD leverages all of the Department of General Services' master and statewide contracts, including California Multiple Award Schedules (CMAS), when appropriate for use. Government Code (GC) §19130(b)(3) states that personal services contracts are permissible when "...the services contracted are not available within civil service, cannot be performed satisfactorily by civil service employees, or are of such a highly specialized or

Dymally-Alatorre Audit Response (#2010-106) from EDD via LWDA

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④

technical nature that the necessary expert knowledge, experience, and ability are not available through the civil service system." Before contracting out personal services with a private vendor as available through CMAS, EDD considers an Interagency Agreement with another State agency to perform the services to be consistent with GC §19130. The contract identified during the audit was an Interagency Agreement with the UC Davis Medical Center and, since EDD had obtained State staff to perform the services through this agreement, none of the conditions within GC §19130 applied. Accordingly, EDD followed State law in executing the contract.

We thank the BSA staff for their professionalism and openness during this audit. If you have questions about this response, please contact Gregory Riggs, Deputy Director of EDD's Policy, Accountability and Compliance Branch at (916) 654-7014.

Sincerely,

(Signed by: Doug Hoffner)

Doug Hoffner
Undersecretary

Comments

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE EMPLOYMENT DEVELOPMENT DEPARTMENT

To provide clarity and perspective, we are commenting on the Employment Development Department's (Employment Development) response to our audit report. The numbers below correspond to the numbers we placed in the margin of Employment Development's response.

Employment Development is citing statistics related to the number of staffing deficiencies it identified during its 2008 and 2010 biennial language surveys. However, as shown in Table 2 on page 27, Employment Development did not have adequate procedures in place to determine whether it met the Dymally-Alatorre Bilingual Services Act's (Act) requirements to translate certain written materials for its substantial limited-English-proficient (LEP) clients. Specifically, Employment Development did not have a written description of its procedures for identifying the materials it needs to translate under the Act. In addition, Employment Development did not identify the materials it needed to translate or otherwise make accessible to its LEP clients. Finally, Employment Development did not have a listing of the materials that it had translated in accordance with the Act. Consequently, we do not believe that Employment Development is in compliance with the Act.

①

The Act requires state agencies to determine whether the use of other available options, in addition to qualified bilingual staff in public contact positions, is serving the language needs of its clients. We believe that Employment Development could determine whether it has sufficient alternative resources (i.e., certified staff from other units, contract staff, etc.) to mitigate the staffing deficiencies identified in its biennial language survey without having to perform an "extensive analysis".

②

We disagree with Employment Development's assertion that it accurately reported to the State Personnel Board (Personnel Board) in 2008 that it had translated all materials consistent with the provisions of the Act. As shown in Table 2 on page 27, Employment Development did not have a written description of its procedures for identifying the materials it needs to translate under the Act, did not identify such materials, and did not have a listing of the materials that it had translated in accordance with the Act. Consequently, Employment Development cannot demonstrate that it met the Act's requirements for translated materials.

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- ④ Employment Development is missing the point of our recommendation that state agencies should leverage the Department of General Services' and the State Personnel Board's contracts for interpretation and translation services to potentially reduce the costs of providing bilingual services. We did not conclude that Employment Development did not follow the law in executing its interagency agreement, nor did we say that it was required to use a California Multiple Award Schedules' (CMAS) vendor to procure these services. On page 31 of our report, we are simply using Employment Development's contract to illustrate that state agencies have opportunities to reduce their costs of providing bilingual services by leveraging CMAS contracts.

(Agency comments provided as text only.)

California Department of Public Health
MS 0500
P.O. BOX 997377
Sacramento, CA 95899-7377

November 3, 2010

Elaine M. Howle*
State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Ms. Howle:

The California Department of Public Health (CDPH) has prepared its response to the Bureau of State Audits' (BSA) draft report entitled, "Dymally-Alatorre Bilingual Services Act: State Agencies Do Not Fully Comply and Local Governments Could Do More to Address Their Client's Needs November 2010 Report 2010-106." The CDPH appreciates the opportunity to provide the Bureau of State Audits' with a response to the draft report.

If you have any questions, please contact Karen Petruzzi, CDPH Audit Coordinator (916) 650-0266.

Sincerely,

(Signed by: José Ortiz for)

Mark B Horton, MD, MSPH
Director

Enclosure

* California State Auditor's comment appears on page 111.

CDPH Response to BSA Draft Report:
Dymally-Alatorre Bilingual Services Act: State Agencies Do Not Fully Comply and Local
Governments Could Do More to Address Their Client's Needs November 2010 Report 2010-106

BSA Recommendation 1:

State Agencies should ensure that they accurately assess and report their clients' language needs to the Personnel Board.

CDPH Response:

CDPH agrees state Agencies should ensure that they accurately assess and report their clients' language needs to the State Personnel Board.

CDPH will continue to ensure that it accurately assesses and reports its client's needs to State Personnel Board.

BSA Recommendation 2:

State agencies should formally analyze their language survey results and consider their other available bilingual resources to determine their true staffing deficiencies.

CDPH Response 2:

CDPH agrees state Agencies should formally analyze their language survey results and consider their other available bilingual resources to determine their true staffing deficiencies.

CDPH will utilize the language survey results and available bilingual resources to conduct further analysis to determine our true staffing deficiencies by February 2011.

BSA Recommendation 3:

State agencies should develop procedures to identify the written materials that the Act requires them to translate into other languages and ensure that such materials are translated or made accessible to their LEP clients.

CDPH Response 3:

CDPH agrees state agencies should develop procedures to identify the written materials that the Act requires them to translate into other languages and ensure that such materials are translated or made accessible to their LEP clients.

By March 2011, CDPH will develop procedures for identifying written materials needing translation for LEP clients. By October 2011, CDPH will have correction action plans for the translation and dissemination of materials needed for LEP clients.

BSA Recommendation 4:

State agencies should develop detailed corrective action plans describing how and when they will address their staffing and written materials deficiencies. In addition, they should submit these corrective action plans to the Personnel Board as part of their overall implementation plans.

CDPH Response to BSA Draft Report:
Dymally-Alatorre Bilingual Services Act: State Agencies Do Not Fully Comply and Local
Governments Could Do More to Address Their Client's Needs November 2010 Report 2010-106

CDPH Response 4:

CDPH agrees state agencies should develop detailed corrective action plans describing how and when they will address their staffing and written materials deficiencies. In addition, they should submit these corrective action plans to the State Personnel Board as part of their overall implementation plans.

CDPH will provide an implementation plan which includes corrective action plans as requested by State Personnel Board by October 2011.

BSA Recommendation 5:

State Agencies should leverage General Services' and the Personnel Board's contracts for interpretation and translation services to potentially reduce the costs of providing bilingual services.

CDPH Response 5:

CDPH agrees that State Agencies should leverage General Services and the Personnel Board's contract for interpretation and translation services to potentially reduce the costs of providing bilingual services.

Program Support Branch (PSB) will issue a "Contract Bulletin" to the department by March 31, 2011 that will outline the usage of California Multiple Award Schedules (CMAS) to procure interpretation and translation services. Also, this bulletin will inform the department that utilizing CMAS could provide leverage to reduce cost, and provide a list of Small Business vendors which will assist in the acquisition process. State Personnel Board recommends that State Agencies utilize CMAS when these services are needed.

<http://www.dgs.ca.gov/pd/Programs/Leveraged/CMAS.aspx>

http://www.spb.ca.gov/bilingual/interpreter_contracting.htm

This new contract bulletin will be presented to our Administration Users Group in order to help disseminate these new requirements that will potentially reduce the costs of providing bilingual services.

BSA Recommendation 6:

Public Health and Agency B should develop procedures to detect and prevent contract splitting.

CDPH Response 6:

The CDPH partially agrees with the recommendation that CDPH should develop procedures to detect and prevent contract splitting. CDPH already has a "Service Order Manual" which is currently posted on the CDPH Intranet under "Forms & Publications" that is available to all department staff, but CDPH will strengthen its oversight of service orders (SOs) by providing semi-annual reminders to the department staff on the use of SOs to ensure that programs are complying with the guidelines of the Service Order Manual.

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CDPH Response to BSA Draft Report:
Dymally-Alatorre Bilingual Services Act: State Agencies Do Not Fully Comply and Local
Governments Could Do More to Address Their Client's Needs November 2010 Report 2010-106

The manual (<http://cdphintranet/FormsPubs/Documents/Publications/CDPH-ServiceOrderManual.pdf>) provides program with an overview of SO, forms, attachment, and backup documentation, payment and invoice handling, amendments and cancellations, SOs requiring special handling, and miscellaneous issues.

Also, the manual outlines the tracking log programs must keep for auditing purposes, and how they are audited to ensure compliance with the SO guidelines.

In addition to semi-annual reminders about the use of SOs, CDPH Internal auditors will periodically inspect the logs to ensure compliance to contract requirements, prevent splitting of SOs, and to ensure SOs do not exceed the maximum allowed amount of \$4,999.99 in one State Fiscal year per service type and per contractor. Program Support Branch (PSB) will issue an Administration Policy memo by January 1, 2011 for the department that outlines the appropriate and inappropriate uses of Service Orders, and the required tracking log that each program must keep for auditing purposes.

Comment

CALIFORNIA STATE AUDITOR'S COMMENT ON THE RESPONSE FROM THE DEPARTMENT OF PUBLIC HEALTH

To provide clarity and perspective, we are commenting on the Department of Public Health's (Public Health) response to our audit report. The number below corresponds to the number we placed in the margin of Public Health's response.

Although Public Health states that it only partially agrees with our recommendation that it develop procedures to detect and prevent contract splitting, its subsequent statements indicate that it does agree with this recommendation. Specifically, Public Health reports that it plans to implement various new procedures to strengthen its oversight over service orders.

①

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