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Bureau of State Audits

Implementation of State Auditor's Recommendations

Audits Released in January 2008 Through December 2009

Special Report to
Assembly Budget Subcommittee #3—Resources

SPECIAL REPORT

February 2010 Report 2010-406 A3

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February 23, 2010 2010-406 A3

The Governor of California
Members of the Legislature
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

The State Auditor's Office presents its special report for the Assembly Budget Subcommittee No. 3—Resources. This report summarizes the audits and investigations we issued during the previous two years that are within this subcommittee's purview. This report includes the major findings and recommendations, along with the corrective actions auditees reportedly have taken to implement our recommendations. To facilitate the use of the report, we have included a table that summarizes the status of each agency's implementation efforts based on its most recent response.

This information is also available in a special report that is organized by policy areas that generally correspond to the Assembly and Senate standing committees. This special policy area report includes a table that identifies monetary values that auditees could realize if they implemented our recommendations, and is available on our Web site at www.bsa.ca.gov. Finally, we notify auditees of the release of these special reports.

Our audit efforts bring the greatest returns when the auditee acts upon our findings and recommendations. This report is one vehicle to ensure that the State's policy makers and managers are aware of the status of corrective action agencies and departments report they have taken. Further, we believe the State's budget process is a good opportunity for the Legislature to explore these issues and, to the extent necessary, reinforce the need for corrective action.

Respectfully submitted,

Elaine M. Howle

ELAINE M. HOWLE, CPA
State Auditor

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Introduction

This report summarizes the major findings and recommendations from audit and investigative reports we issued from January 2008 through December 2009, that relate to agencies and departments under the purview of the Assembly Budget Subcommittee No. 3—Resources. The purpose of this report is to identify what actions, if any, these auditees have taken in response to our findings and recommendations.

For this report, we have relied upon periodic written responses prepared by auditees to determine whether corrective action has been taken. The State Auditor's Office (office) policy requests that the auditee provides a written response to the audit findings and recommendations before the audit report is initially issued publicly. As a follow-up, state law requires the auditee to respond at least three times subsequently: at 60 days, six months, and one year after the public release of the audit report. However, we may request an auditee to provide a response beyond one year or we may initiate a follow-up audit if deemed necessary.

We report all instances of substantiated improper governmental activities resulting from our investigative activities to the cognizant state department for corrective action. These departments are required to report the status of their corrective actions every 30 days until all such actions are complete.

Unless otherwise noted, we have not performed any type of review or validation of the corrective actions reported by the auditees. All corrective actions noted in this report were based on responses received by our office as of January 2010. The table below summarizes the number of recommendations along with the status of each agency's implementation efforts based on its most recent response related to audit reports the office issued from January 2008 through December 2009. Because an audit report and subsequent recommendations may cross over several departments, they may be accounted for on this table more than one time. For instance, the E-Waste Report, 2008 112, is reflected under the Department of Toxic Substances Control and the Integrated Waste Management Board.

Table
Recommendation Status Summary

	FOLLOW-UP RESPONSE				STATUS OF RECOMMENDATION					
	INITIAL RESPONSE	60-DAY	SIX-MONTH	ONE-YEAR	FULLY IMPLEMENTED	PARTIALLY IMPLEMENTED	PENDING	NO ACTION TAKEN	NO FOLLOW-UP RESPONSE	PAGE NUMBERS
Energy Resource Conservation & Development Commission										
Recovery Act Funds Report 2009-119.1	●					1	1			3
California Environmental Protection Agency										
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Department of Fish and Game										
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Bay -Delta Sport Fishing Stamp Report 2008-115				●	2		1			15
Investigations Report I2009-1 [I2006-1125]			●				2			19
Integrated Waste Management Board										
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Investigations Report I2009-1 [I2008-0606]		●			1					29
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E-Waste Report 2008-112				●	1					23

California Energy Resources Conservation and Development Commission

It Is Not Fully Prepared to Award and Monitor Millions in Recovery Act Funds and Lacks Controls to Prevent Their Misuse

REPORT NUMBER 2009-119.1, DECEMBER 2009

California Energy Resources Conservation and Development Commission response as of December 2009

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits conduct a review of the preparedness of the California Energy Resources Conservation and Development Commission (Energy Commission) to receive and administer federal American Recovery and Reinvestment Act of 2009 (Recovery Act) funds awarded by the U.S. Department of Energy for its State Energy Program (Energy Program). The federal government enacted the Recovery Act for purposes that include preserving and creating jobs; promoting economic recovery; assisting those most affected by the recession; investing in transportation, environmental protection, and other infrastructure; and stabilizing state and local government budgets.

Finding #1: Because the Energy Commission is not yet prepared to administer Recovery Act funds, the State is at risk of losing millions.

As of November 16, 2009, the Energy Commission had entered into contracts totaling only $40 million despite having access to $113 million of the $226 million in Recovery Act funds it had been awarded for the Energy Program—the Energy Commission is not authorized to spend the remaining $113 million until January 1, 2010. Although these funds have been available to the Energy Commission since July 2009, it has approved the use of only $51 million for Energy Program services, and of this amount has entered into two contracts totaling $40 million with subrecipients for only two of the eight subprograms it intends to finance with Recovery Act funds. However, none of the $40 million has been spent. The funds from these two contracts, which were awarded to the Department of General Services and the Employment Development Department, will be used to issue loans, grants, or contracts to state departments and agencies to retrofit state buildings to make them more energy efficient and to provide job skills training for workers in the areas of energy efficiency, water efficiency, and renewable energy. However, none of the $40 million has been spent. Therefore, except for the $71,000 that the Energy Commission has used for its own administrative costs, no Recovery Act funds have been infused into California's economy. Additionally, the Energy Commission has been slow in implementing the internal controls needed to administer the Energy Program. Furthermore, based on the time frames provided by the Energy Commission, the Recovery Act funds will likely not be awarded to subrecipients until at least April 2010 to July 2010.

The Energy Commission still needs to complete several critical tasks before it can begin implementing the Energy Program and award Recovery Act funds to subrecipients to be spent for various projects. For example, the Energy Commission has not completed guidelines for subrecipients to follow when providing services under some of the new subprograms, or completed and released solicitations to potential subrecipients who will provide program services.

If the Energy Commission continues its slow pace in implementing the necessary processes to obligate the Recovery Act funds, the State is at risk of either having the funds redirected by the U.S. Department of Energy or awarding them in a compressed period of time without first establishing an adequate system of internal controls, which increases the risk that Recovery Act funds will be misused.

According to the Energy Commission's administrator for the Economic Recovery Program (program administrator), several factors have contributed to the delay in spending the Energy Program's Recovery Act funds. He stated that seven of the eight subprograms being funded by the Recovery Act funds are new, and therefore it was necessary to develop program guidelines. He indicated that the Energy Commission had to wait until a bill was signed on July 28, 2009, giving it the statutory authority to develop and implement the guidelines and to spend the federal Recovery Act funds.

We recommended that the Energy Commission promptly solicit proposals from entities that could provide the services allowable under the Recovery Act and execute contracts, grants, or loan agreements with these entities.

Energy Commission's Action: Pending.

Although the Energy Commission does not agree with our characterization of its progress in implementing the Energy Program, it does agree that additional internal controls should be implemented to meet federal Recovery Act requirements and that further work is needed to finalize its preparations to disburse the Recovery Act funds. Additionally, the Energy Commission agrees that program implementation should be expedited to maximize the economic benefits of the Recovery Act.

Finding 2: The Energy Commission's current control structure is not sufficient to ensure proper use of Recovery Act funds.

The Energy Commission has not yet established the internal control structure it needs to adequately address the risks of administering Recovery Act funds. The Energy Commission is in the process of seeking help in establishing such a control structure, but as of November 16, 2009, had not issued a request for proposal (RFP) from potential contractors. The Energy Commission's contract manager estimates that it takes three to five months from the time the commission releases an RFP until the contract is executed. Added to the three to five months estimated to execute a contract will be whatever time the contractor needs to render the services it is hired to perform. Further delay increases the risk of delays in implementing the subprograms, possibly inhibiting the Energy Commission's ability to obligate Recovery Act funds before the September 30 deadline. Alternatively, the Energy Commission might try to award the funds to subrecipients without first establishing an adequate system of internal controls, increasing the possibility that Recovery Act funds will not be used appropriately and heightening the risk of fraud, waste, and abuse.

Our assessment of the Energy Commission's preparedness to administer the Recovery Act funds it received for the Energy Program showed that in some areas it appeared to be ready or almost ready, but we identified several areas in which the Energy Commission's controls are not adequate. For example, despite its assertions that its present internal control structure will enable it to properly administer the Recovery Act funds, the Energy Commission could not provide documentation to demonstrate that its existing controls are sufficient to mitigate and minimize the risks of fraud, waste, and abuse. In addition,

the Energy Commission could not show it has a process in place to effectively monitor subrecipients' use of the Recovery Act funds and noted that it did not have reporting mechanisms in place to collect and review the data required to meet the Recovery Act transparency requirements.

We recommended that the Energy Commission, as expeditiously as possible, take the necessary steps to implement a system of internal controls adequate to provide assurance that Recovery Act funds will be used to meet the purposes of the Recovery Act. These controls should include those necessary to mitigate the potential for fraud, waste, and abuse. Such steps should include quickly performing the actions already planned, such as assessing the Energy Commission's controls and the capacity of its existing resources and systems, and promptly implementing all needed improvements.

Energy Commission's Action: Partial corrective action taken.

The Energy Commission stated that it agrees that its internal controls can be strengthened to fully comply with Recovery Act guidelines and ensure the proper use of funds and collection of required data. It further stated that these controls will be developed and documented over the next several months with the assistance of contractors who will review existing processes and procedures and assist staff in developing adequate procedures and documentation. The Energy Commission released an RFP for the auditing services on November 24, 2009, and it released the monitoring, verification, and evaluation RFP on December 7, 2009.

The Energy Commission also stated that it recognizes that it would be preferable to have the support contracts in place to assist with the implementation of the Recovery Act funds. It believes the timing of its planned commencement of audit and monitoring, verification, and evaluation contracts will coincide with its planned awards of Recovery Act funds. Finally, the Energy Commission stated that a support contractor has been working closely with administrative and technology staff to develop a comprehensive reporting system that will capture data for federal Office of Management and Budget and the U.S. Department of Energy reporting requirements, as well as other data elements.

California Environmental Protection Agency

Investigations of Improper Activities by State Employees, January 2008 Through June 2008

ALLEGATION I2008-0678 (REPORT I2008-2), OCTOBER 2008

California Environmental Protection Agency's response as of March 2009

An employee of the California Environmental Protection Agency (Cal/EPA) failed to promptly submit time sheets that accurately reported her absences from work during the period August 2006 through June 2008. In addition, the officials responsible for managing her daily activities and for monitoring her time and attendance did not ensure that the employee documented her absences correctly and that Cal/EPA charged the absences against her leave balances. Consequently, Cal/EPA did not charge the employee's leave balances for the 768 hours that she was absent from work; instead, it paid her $23,320 for these hours.

Investigative Highlight . . .

An employee of the California Environmental Protection Agency (Cal/EPA) failed to promptly submit accurate time sheets during a 23-month period. As a result, Cal/EPA did not charge the employee's leave balances for 768 hours when she was absent, and it paid her $23,320 for those hours.

Finding #1: A Cal/EPA employee failed to promptly submit time sheets that accurately reported her absences from work during a 23-month period.

From August 2006 through June 2008, the employee did not submit monthly time sheets at the end of each pay period that accurately documented the time she spent working and the time she was absent. For the 23 pay periods we examined during the investigation, the employee never submitted time sheets for five pay periods, she submitted time sheets up to several months late for 12 pay periods, and she promptly submitted time sheets for just six pay periods. However, management declined to approve nearly all of the time sheets that the employee submitted late or on time because the time sheets either did not account for all absences or because the time sheets reported overtime work that had not received preapproval. Without the approved time sheets, Cal/EPA did not record the employee's absences or overtime in its leave accounting system. Consequently, Cal/EPA did not charge the employee's leave balances for the 768 hours that she was absent from work during the 23-month period; instead, it paid her $23,320 for these hours.

Cal/EPA's Action: Corrective action taken.

Cal/EPA approved the 23 timesheets in September 2008. In addition, it reported in September 2008 that it had recalculated, updated, and corrected the employee's leave balances to reflect her actual absences and overtime worked, based on the latest approved time sheets, for all pay periods through August 2008. Further, in December 2008 Cal/EPA notified us that it had established an accounts receivable for $616 the employee was docked pay in September 2006. In March 2009 Cal/EPA notified us that it began deductions in December 2008 and stated that it would continue the deductions until it collected the full amount owed to the State.

Finding #2: Cal/EPA officials failed to take sufficient actions to correct the employee's lax time reporting and because of their inaction, the employee's absences were not charged against her leave balances.

Not only did the employee fail to submit her time sheets accurately and promptly, but the Cal/EPA officials responsible for managing her day-to-day activities and monitoring her time and attendance also failed to ensure that the employee submitted monthly time sheets that correctly reported her absences and time worked. The employee worked for Official A, who assigned Official B and then Official C to monitor the employee's time and attendance and to approve her time sheets. In particular, the efforts made by Official A and Official C in 2007 and early 2008 did little to resolve the employee's failure to accurately report her absences and overtime, and to promptly complete her time sheets. Official A assigned Official C around March 2007 to monitor the employee's time and attendance and to approve her time sheets. In May 2007 Official A met with the employee to counsel her about her absenteeism. However, the meeting notes indicate that Official A did not discuss the employee's failure to submit her time sheets promptly and accurately. Furthermore, Official C offered evidence that she tried to pressure the employee to comply with the time-reporting requirements through some oral conversations and numerous e-mails but the employee did not comply. Yet, Official C took no action to enforce her requests for compliance.

Cal/EPA's Action: Corrective action taken.

In September 2008 Cal/EPA informed us that Official A had issued a counseling memorandum to the employee, which discussed the employee's failure to promptly submit time sheets that accurately accounted for her absences. Moreover, Cal/EPA notified us that Official C had issued another counseling memorandum to the employee, which described the implementation of administrative controls to ensure that the employee correctly accounts for her absences and promptly completes her time sheets and other time reporting documents. Furthermore, in October 2008 Cal/EPA reported that it had transferred the employee to another program within Cal/EPA where she is more closely monitored by a different supervisor. Cal/EPA also reported that the employee's new position did not require frequent overtime.

Office of Spill Prevention and Response

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

REPORT NUMBER 2008-102, AUGUST 2008

Office of Spill Prevention and Response's response as of August 2009

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

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

Finding #1: The spill office has fulfilled most of its oversight responsibilities related to contingency planning but coordination with local governments could improve.

The spill office has met most of its oversight responsibilities for contingency planning but could improve several aspects of its oversight role. Specifically, the California Oil Spill Contingency Plan (state plan), which the spill office maintains, has not been updated since 2001 and is missing elements required by state law. The state plan also lacks references to other plans or documents that would better integrate it into the overall planning system. In addition, the spill office has carried out its duties to review and approve local government contingency plans (local plans) and to provide grant funding. However, only six of the 22 local governments participating have revised their plans since 2004, and seven of the 16 remaining local plans have not been revised since 1995 or before. Further, the spill office reported that few local governments in the San Francisco Bay Area have regularly participated in other oil spill response planning activities.

The outdated state plan and local plans and weak participation by local governments in oil spill response planning activities may have led to problems with integrating state and local government activities into the Cosco Busan response.

Audit Highlights . . .

Our review of the Department of Fish and Game's Office of Spill Prevention and Response (spill office) found that:

- ***The spill office has met many of its oversight responsibilities; however, the California Oil Spill Contingency Plan is outdated and missing required elements.***
- ***Only six of 22 local government contingency plans were revised after 2003 and local participation in joint planning efforts has been low.***
- ***The spill office, the Governor's Office of Emergency Services, and private entities responding to the November 2007 Cosco Busan oil spill met their fundamental responsibilities.***
- ***The spill office's shortage of trained liaison officers and experienced public information officers led to communication problems during the Cosco Busan oil spill.***
- ***The spill office's lack of urgency in calculating the spill volume from the Cosco Busan may have delayed the mobilization of additional resources.***
- ***Reserves for the Oil Spill Prevention and Administration Fund (fund) totaled $17.6 million as of June 30, 2007, but are projected to drop by half over the next two years.***
- ***Payroll testing indicates the need to better assure that only oil spill prevention activities are charged to the fund.***

We recommended that the spill office regularly update the state plan and include references to sections of regional and area contingency plans that cover required elements. We also recommended that the spill office work with local governments to improve participation and should consider whether additional grant funding is needed.

Spill Office's Action: Partial corrective action taken.

The spill office said that it updated the state plan and shared it with external partners and the State Interagency Oil Spill Committee. The spill office indicated that it expects to adopt the plan by the end of 2009, after addressing external comments and revisions. In addition, the spill office said that in fiscal year 2008–09 it awarded 26 equipment and training grants totaling more than $650,000 to local government agencies. It noted that the contractor providing equipment and training had conducted three training sessions and would complete the remaining training sessions by October 31, 2009. Finally, language allowing for the inclusion of a local government representative in the unified command for spills in or near the San Francisco Bay has been added to the North Coast/San Francisco Bay and Delta/Central Area Contingency Plan.

Finding #2: The spill office is fulfilling most of its review and approval responsibilities for vessel contingency plans (vessel plans) and oil spill response organizations (response organizations).

The spill office has an established system for reviewing vessel plans and has ensured that vessel plans are approved before any vessel enters California waters. In addition, it has generally assured that annual tabletop exercises have been conducted for vessel plans, and has conducted drills to verify the rating and equipment information related to response organizations. However, the spill office has not always ensured that it receives and maintains documentation showing that annual tabletop exercises have been conducted for each vessel plan. In addition, the spill office does not require owners to submit reviews of their vessel plans after oil spills (postspill reviews) when applicable. The spill office's deputy administrator said that he believes the postspill review requirement is worthwhile, but that the spill office needs to consider whether it is reasonable to ask vessel owners to admit problems when the admissions may influence penalties.

We recommended that the spill office obtain and retain documentation related to completion of required tabletop exercises. We also recommended that the spill office determine whether postspill reviews are an effective means for identifying areas for plan improvement and then take steps to either ensure the reviews are submitted or eliminate them from its regulations.

Spill Office's Action: Partial corrective action taken.

The spill office said that it hired an additional drill coordinator who started in January 2009 and that its Drills and Exercises Unit is now fully staffed and trained on the need to retain documentation related to tabletop exercises, including keeping its database updated. The spill office also said that it has determined that its regulations requiring post-spill reviews are not effective. It believes that parties involved in an oil spill rarely share a candid review of their response actions because of pending legal actions. The spill office stated that it will seek to eliminate the requirements for post-spill reviews as part of a regulation package it expects to submit later this year and to be fully implemented during the first quarter of 2010.

Finding #3: State and private entities met their fundamental duties in the Cosco Busan response, but communication breakdowns caused problems.

The spill office, the Governor's Office of Emergency Services, and private contractors responding to the Cosco Busan incident performed the fundamental duties set forth in oil spill contingency plans. However, changes are needed in several areas to improve responses to future oil spills. We found that weaknesses in the spill office's handling of its liaison role during the initial days of the response, including a shortage of communications equipment and trained liaison officers, led to communication

problems with local governments. The counties we spoke with confirmed these problems and expressed dissatisfaction with the spill office's role as a liaison. In addition, the spill office's lack of urgency in reporting its measurement of the spill quantity, as well as the understated spill amounts reported by others, may have delayed the mobilization of additional response resources on the first day of the spill and contributed to the delayed notification of local governments.

We recommended that the spill office collaborate with area committees in California to identify potential command centers that are sized appropriately and possess all necessary communications equipment. Additionally, the spill office should continue with its plans to develop qualification standards for liaison officers and to train more staff for that role and should ensure that staff in its operations center provide all necessary support to liaison officers in the field. Moreover, the spill office should ensure that staff assigned as liaison officers participate in drills to gain experience.

We also recommended that the spill office collaborate with the Coast Guard to establish spill calculation protocols and establish procedures to ensure that staff promptly report spill calculations to the State on scene coordinator. Finally, the spill office should include spill calculations as part of its drills.

Spill Office's Action: Partial corrective action taken.

The area contingency plans for San Francisco and Los Angeles now contain a list of pre-identified incident command post locations, but the area contingency plan for San Diego does not. To improve the capabilities of liaison officers, the spill office also said that during calendar year 2008 it assigned liaison officers to 13 drills. In addition, the spill office stated that it updated its Operations Center Response Manual to reflect that the operation center is required to support liaison officers. Finally, the spill office said that it had established a protocol with the Coast Guard for oil spill quantification.

Finding #4: A lack of information officers with oil spill experience impaired the spill office's ability to assist with media relations and an insufficient number of trained responders may have hindered wildlife rescue efforts.

When the Cosco Busan spill occurred, an information officer experienced in oil spill response was not available to represent the State within the information center. This deficiency during the early days of the response appears to have hindered the dissemination of information about the role of volunteers in spill cleanups. Additional missteps by the Coast Guard, which managed the information center, and the spill office, appear to have contributed to the public's frustration with the clean-up effort and received widespread media attention. In addition, insufficient staffing may have hindered wildlife rescue efforts carried out by the spill office and the Oiled Wildlife Care Network (wildlife network) after the Cosco Busan spill. The number of staff mobilized for recovery and transportation of oiled wildlife remained lower than the general guidelines laid out in the California wildlife response plan for the first three days of the spill. Staffing increased only after the unified command loosened the requirements for hazardous waste training for volunteers participating in the response. The network director noted that the wildlife network has had difficulty maintaining trained personnel capable of serving on recovery teams because of the requirement to have 24 hours of hazardous waste training, supplemented by a yearly eight-hour refresher course.

We recommended that public relations staff in Fish and Game's communications office participate in nonresponsive spill drills, and that the spill office develop protocols to ensure that key information, such as the role of volunteers, is disseminated early in a spill response. We also recommended that the spill office ensure that the wildlife network identifies and trains a sufficient number of staff to carry out recovery activities. Furthermore, the spill office should continue to clarify with California Occupational Safety and Health Administration (Cal/OSHA) whether reduced requirements for hazardous waste training are acceptable for volunteers assisting on recovery teams, and should consider working with the wildlife network to ensure that this training is widely available to potential volunteers before a spill.

Spill Office's Action: Partial corrective action taken.

To improve the access and availability of information for specific spill incidents, the spill office said that it has developed an oil spill Web site that will launch when an incident occurs. The spill office also indicated that its volunteer coordinator and public information officer have created a volunteer outreach plan that includes pre-prepared press releases, fact sheets, improved application and information packages; a streamlined design of the Web page; and an improved brochure. In addition, the spill office noted that Assembly Bill 2911, approved by the governor in September 2008, adds proactive oiled wildlife search and collection rescue efforts as a primary focus of the wildlife network. This bill also requires the spill office administrator to ensure that the State has the ability to identify, collect, rescue, and treat oiled wildlife according to specified requirements, including training volunteers, stocking emergency equipment for rescue, and providing additional staffing. Funding for the wildlife network increased from $1.5 million for fiscal year 2008–09 to $2 million for fiscal year 2009–10. The wildlife network says that it has conducted a number of workshops, trainings, and refresher courses, and hired a wildlife field operations assistant to perform readiness activities during non-spill periods and support wildlife rescue efforts during oil spills. Finally, Cal/OSHA responded to the spill office's questions about the level of hazardous waste training necessary for wildlife rescue volunteers. Cal/OSHA indicated that the hazardous waste training could not be reduced from the level currently required, but that untrained volunteers could be used in support roles for wildlife rescue efforts.

Finding #5: The Oil Spill Prevention and Administration Fund (fund) has a high reserve balance and has paid for inappropriate personnel charges.

The amount of reserves in the Oil Spill Prevention and Administration Fund (fund) has increased significantly over the past several years, leading to a reserve of $17.6 million at June 30, 2007, or six months of budgeted expenditures for the next year. A fee increase without corresponding expenditure increases and failure of the spill office to annually assess the level of the reserve, as required by law, contributed to the high balance. A more reasonable reserve for a fund with a fairly stable level of expenditures would be about one and a half months, according to the spill office's deputy administrator.

Money in the fund can only be used for statutorily defined purposes relating to spill prevention activities. Based on our review of selected transactions and spending trends from fiscal years 2001–02 through 2006–07, we determined that expenditures charged to the fund generally appear to be consistent with the spill office's authorizing statute. However, our review of a sample of 30 employees' labor distribution reports (time sheets), as well as our interviews with spill office managers and employees, disclosed several instances in which employee salaries are being charged to the fund for time spent on general activities. These instances include spill office employees who sometimes perform general activities and, in one instance, an attorney who works for another Fish and Game unit and performs no spill prevention activities.

We recommended that the spill office annually assess the reasonableness of the reserve balance and the per-barrel fee on crude oil and petroleum products. Further, we recommended that the spill office and Fish and Game provide guidelines to employees concerning when to charge activities to the fund, take steps—such as performing a time study—to ensure that spill prevention wardens' time is charged appropriately, and discontinuing charges to the fund for the attorney we identified.

Spill Office's Action: Partial corrective action taken.

In January 2009 the spill office created a report projecting its fund balance through fiscal year 2012–13. At that time, the spill office said that it was making mid-year adjustments to offset decreased revenues from imported oil. Additionally, the spill office updated its time-reporting guidelines in February 2009 and stated that it has provided the guidelines to all employees. Finally, the spill office made adjustments so that the time of the attorney mentioned in the report is properly charged.

Finding #6: Restructuring of positions appears to have caused friction between the spill office and Fish and Game management.

Since 2000 Fish and Game has restructured 45.5 staff positions from the direct control of the spill office to other Fish and Game units. Although it does not appear to have affected the spill office's overall ability to carry out its mission related to the three largest restructured units, the limited problems we did identify, plus serious reservations by both the past administrator of the spill office and the current deputy administrator, suggested the need for a better understanding between Fish and Game management and the spill office on their roles and authority related to these employees.

We recommended that the spill office and other Fish and Game units discuss their respective authorities and better define the role of each in the management of spill prevention staff consistent with the administrator's statutory responsibilities and the other needs of Fish and Game.

Spill Office's Action: Pending.

The spill office said that it and Fish and Game have continued efforts to improve communications and cohesiveness on an internal level but offered no specifics on actions taken.

Department of Fish and Game

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

REPORT NUMBER 2008-115, OCTOBER 2008

Department of Fish and Game's response as of October 2009

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

Finding #1: The Department of Fish and Game has not fully used revenues from the fish stamp program.

The Department of Fish and Game (Fish and Game) has not identified or pursued a course of action to ensure the full use of the revenues that it generates through sales of the fish stamp. Since the inception of the fish stamp program, Fish and Game has sold nearly 1.5 million annual fish stamps, generating $8.6 million in revenue and interest; however, as of June 2008, it had approved only 17 projects representing $2.6 million in commitments to funding. In addition, during the first two fiscal years in which it collected the fish stamp fee, Fish and Game did not request any spending authority to use the revenue to fund fish stamp projects. Further, during this same period Fish and Game did not reallocate unused funding from other accounts within the Fish and Game Preservation Fund (preservation fund), which holds money collected under state laws governing the protection and preservation of birds, mammals, fish, reptiles, and amphibians.

Therefore, it did not have the authority to spend any of the revenues generated to pay either for projects or for related administrative expenses. Even though it did request spending authority in fiscal years 2005–06 through 2007–08, Fish and Game still did not actively identify and fund projects up to the level of spending authority obtained. As a result, the balance in the fish stamp account continues to increase, and individuals who pay for fish stamps are not receiving the full benefit from their purchases.

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

Audit Highlights . . .

Our review of the Department of Fish and Game's (Fish and Game) Administration of the Bay-Delta Sport Fishing Enhancement Stamp (fish stamp) program revealed the following:

- ***Fish and Game's use of the money collected from fish stamp sales has been limited.***
- ***Fish and Game and the fish stamp advisory committee (committee) have been slow in identifying and approving projects.***
- ***As of June 30, 2008, the fish stamp account had an unspent balance of over $7 million, although a portion of this amount was committed to approved projects that have not yet been funded.***
- ***Fish and Game does not have an accurate accounting of either its administrative expenditures or individual project expenditures for the fish stamp program.***
- ***Periodic reports Fish and Game provides to the committee do not include all the required information.***
- ***During fiscal years 2005–06 through 2007–08, Fish and Game spent an estimated $201,000 in fish stamp funds to pay for payroll costs and goods and services unrelated to fish stamp activities.***

Fish and Game's Action: Pending.

According to Fish and Game, the committee has received a spending plan for review and comment. The final spending plan is pending the director of Fish and Game's approval.

Finding #2: Weak controls limit Fish and Game's ability to monitor and report project activity.

Fish and Game does not have a sufficient system of internal or administrative controls to monitor fish stamp project activity. For example, the department's accounting system does not adequately track project expenditures. As a result, project expenditures are difficult to reconcile, and have been incorrectly charged to other funding sources. For example, in fiscal year 2005–06, Fish and Game approved using $50,000 in fish stamp funds to enhance its efforts to enforce laws against sturgeon poaching. However, Fish and Game actually charged the $50,000 to another of its funding sources. In another instance, the agreement for one fish stamp project required Fish and Game to pay a specified percentage of annual lease payments from the fish stamp account. However, according to a department official, Fish and Game paid this expenditure out of its general fund appropriation in fiscal year 2005–06 and 2006–07 rather than from the fish stamp account.

Additionally, information provided by Fish and Game to the committee both in periodic reports and in committee meetings is not always accurate or complete. Therefore, the committee is less able to make informed decisions on funding fish stamp projects.

To track and report project costs adequately, we recommended that Fish and Game improve the tracking of individual project expenditures by assigning each fish stamp project its own project cost account within the accounting system. Additionally, we recommended that Fish and Game require that project managers approve all expenditures directly related to their projects and periodically reconcile the records for their respective projects to accounting records and report expenditures to the staff responsible for preparing the advisory committee reports. We also recommended that Fish and Game reimburse its general fund appropriation for the lease payments that should have been paid from the fish stamp account.

Further, we recommended that Fish and Game should, at least annually, provide the committee with written reports of actual project expenditures and detailed information on project status as well as total administrative expenditures. Finally, we recommended that Fish and Game ensure that the information it communicates to the committee is accurate.

Fish and Game's Action: Corrective action taken.

Fish and Game reports that fish stamp staff now use appropriate index and PCA codes to identify fish stamp expenditures by project. Fish and Game also reported that project managers within the department now approve all expenditures and report to fish stamp staff.

Fish and Game told us that the appropriate adjustments have been made to reimburse the General Fund and charge the fish stamp account for the lease payments. Fish and Game stated that the advisory committee receives detailed financial overviews that include actual project and administrative expenditures, as well as project status. Lastly, Fish and Game reported that fish stamp staff are aware of the need to communicate accurately to the committee and are doing their utmost to provide accurate information.

Finding #3: Expenditures charged to the fish stamp account were inaccurate.

During fiscal years 2005–06 through 2007–08, Fish and Game charged expenditures totaling an estimated $201,000 to the fish stamp account that were unrelated to fish stamp activities. Although state law cites a broad definition of expenditures allowed under the fish stamp program, the expenditures we identified as inappropriate were payroll and invoice costs that were not related to any approved fish stamp project or administrative activity.

In addition, Fish and Game did not charge the account for certain administrative expenditures it incurred during the fish stamp program's first two fiscal years. Appropriate administrative expenditures would include costs for staff assigned to facilitate operating the program. These administrative expenditures also include indirect charges, which are department-wide costs proportionally distributed among all the department's funds or accounts. The manager of the program management branch stated that the administrative expenditures for these two years were charged to the nondedicated account within the preservation fund. Based on invoices provided by Fish and Game, we know that during fiscal years 2003–04 and 2004–05, Fish and Game incurred at least $18,000 in administrative expenditures for printing the fish stamps sold in 2004 and 2005. We also know that Fish and Game should have charged these costs to the fish stamp account but did not do so.

We recommended that Fish and Game provide guidelines to its employees to ensure that they appropriately charge their time to fish stamp projects. In addition, we recommended that Fish and Game discontinue the current practice of charging payroll costs to the fish stamp account for employee activities we identified as not pertaining to the program. Finally, we recommended that Fish and Game determine whether it inappropriately charged any other expenditures to the fish stamp account and make the necessary accounting adjustments.

Fish and Game's Action: Corrective action taken.

Fish and Game reports that fish stamp staff were provided with guidelines concerning when to charge activities to the fish stamp account. Additionally, Fish and Game also indicated that past inappropriate payroll charges to the fish stamp account have been corrected and that fish stamp staff currently review accounting reports for inappropriate charges. Fish and Game also stated it identified other inappropriate expenditures charged to the fish stamp account and made appropriate accounting adjustments.

Department of Fish and Game, Office of Spill Prevention and Response

Investigations of Improper Activities by State Employees, July 2008 Through December 2008

ALLEGATION I2006-1125 (REPORT NUMBER I2009-1), APRIL 2009

Department of Fish and Game's response as of October 2009

A high-level official formerly with the Office of Spill Prevention and Response (spill office) of the Department of Fish and Game (Fish and Game), incurred $71,747 in improper travel expenses she was not entitled to receive.

Finding #1: The official routinely claimed expenses to which she was not entitled, and other spill office officials allowed the official to receive reimbursements for travel expenses that violated state regulations.

From October 2003 through March 2008, Official A, a high-level official who subsequently left the spill office, improperly claimed $71,747 for commute and other expenses incurred near her home and headquarters. Specifically, for more than four years, Official A improperly claimed expenses associated with commuting between her residence and her headquarters, in violation of state regulations that disallow such expenses. Throughout the period we investigated, Official A resided in Southern California. Documents from Official A's personnel files and records from the State Controller's Office indicate that her official headquarters was in Sacramento. In addition, Official A was assigned office space in Sacramento and a state-issued cell phone with a Sacramento area code, and she regularly worked in the Sacramento spill office. However, Official A also claimed she worked from her residence—a practice that spill office officials apparently allowed—in an effort to legitimize expenses that otherwise she was not entitled to incur. Despite her claims, we found no legitimate business reason that required Official A to work from her home. The table summarizes the improper expenses that Official A claimed.

Table

Improper Travel Expenses Official A Claimed From October 2003 Through March 2008

TYPE OF IMPROPER EXPENSE	AMOUNT
Commute expenses for trips between residence and headquarters	$45,233
Commute-related parking and other expenses	7,608
Lodging within 50 miles of headquarters	10,286
Meals and incidentals incurred within 50 miles of headquarters	6,970
Lodging within 50 miles of residence	486
Meals and incidentals incurred within 50 miles of residence	236
Other improper expenses	928
Total	**$71,747**

Source: Bureau of State Audits' analysis of Official A's travel expense claims, vehicle logs, and flight records.

Investigative Highlights . . .

An official with the Department of Fish and Game (Fish and Game) claimed travel expenses to which she was not entitled:

- *The official improperly claimed travel expenses associated with commuting between her residence and headquarters for more than four years.*
- *The official contended that as a condition of her employment, another former high level official with the Office of Spill Prevention and Response allowed her to work from her home, identify it as her headquarters, and claim expenses when traveling to Sacramento.*
- *Fish and Game staff never questioned the official about the actual location of her headquarters even though for the vast majority of the travel expense claims submitted, the official listed her residential address and wrote "same" for her headquarters address.*

We determined that Official A improperly claimed $52,841 for expenses related to traveling between her home and headquarters (commute expenses). These expenses consisted of $45,233 for flights between Sacramento and Southern California, $6,922 in parking expenses, and $686 for other commute-related expenses.

State travel regulations allow employees to seek reimbursement for parking expenses when going on travel assignments as part of their state duties; however, the trips we identified were part of Official A's commute. In addition, violating prohibitions in a state regulation, Official A improperly claimed $17,978 in lodging and meal expenses incurred within 50 miles of her home or headquarters. Furthermore, for 21 months during the period we reviewed, Official A improperly claimed $928 for Internet services at her residence.

Official A contended that as a condition of her employment, a former high-level official with the spill office, Official B, allowed her to work from her home, identify it as her headquarters, and claim expenses when traveling to Sacramento. She therefore asserted that she was allowed to use state vehicles or state funded flights for commutes between her Southern California home and her Sacramento headquarters. In addition, Official A stated that she was allowed to claim lodging and per diem expenses in Sacramento, her official headquarters location. After Official B left state employment in 2003, other spill office officials, including officials C and D, approved Official A's travel claims. Officials C and D also allowed her to continue to commute at the State's expense and to receive reimbursements for expenses incurred near her official headquarters.

When we spoke with officials C and D, they indicated that they were aware that officials A and B had some form of informal agreement that allowed Official A to receive reimbursements for expenses incurred near her Sacramento headquarters. However, it appears that officials A and B never documented this arrangement. Even if the agreement had been formally documented, these actions violated state regulations, which do not allow state employees to receive payments for travel expenses incurred near their headquarters or for their commute between home and headquarters. We were unable to contact Official B to confirm his arrangement with Official A, but we believe that such an informal agreement likely existed. Nevertheless, Official B lacked the authority to make such an arrangement.

We recommended Fish and Game seek to recover the amount it reimbursed Official A for her improper travel expenses. If it is unable to recover all of the reimbursement, Fish and Game should explain and document its reasons for not seeking recovery.

Fish and Game's Action: Pending.

Fish and Game responded that it is investigating the activities related to this case and determining the appropriate legal and administrative actions warranted, including taking necessary corrective measures or disciplinary actions. In addition, after we provided Fish and Game with a draft copy of this report in April 2009, it produced a document signed by Official B in 2002 that requested Official A's position to be moved from Sacramento to a regional spill office location in Southern California. Fish and Game personnel approved this request; however, it appears this document was not forwarded to the Department of Personnel Administration as required for approval. Thus, the position change was never properly formalized. Further, Official B lacked the authority to allow Official A to receive payments for travel expenses incurred near her official headquarters in Sacramento or for her commute between home and headquarters.

Finding #2: Fish and Game should have been aware that Official A's travel expenses were improper.

Our investigation determined that Fish and Game should have been aware that Official A's travel expenses did not adhere to state regulations and were therefore improper. After Official A's travel claims were reviewed and approved by other high-ranking spill office officials, the spill office routed the travel claims to Fish and Game's accounting department for processing and reimbursement. For the vast majority of the travel expense claims that Official A submitted for reimbursement for the period

we reviewed, Official A listed on the claim forms her residential address and wrote "same" for her headquarters address. However, Fish and Game accounting staff never questioned Official A about the actual location of her headquarters. Nevertheless, we found eight examples among Official A's travel claims on which Fish and Game accounting employees asked Official A either to clarify the purpose of her trips or to provide other information. Although Fish and Game accounting staff did not question Official A specifically about the location of her headquarters, she responded at least twice to them that she had an office in Southern California and one in Sacramento. Because state regulations define headquarters as a single location, accounting staff should have elevated this issue to Fish and Game management to ensure that Official A's travel claims were appropriate.

We recommended that Fish and Game take specific actions to improve its review process for travel expense claims.

Fish and Game Action: Pending.

Fish and Game reported that it is reviewing the workpapers supporting our report and that it will provide a final response once it has completed its review.

Electronic Waste

Some State Agencies Have Discarded Their Electronic Waste Improperly, While State and Local Oversight Is Limited

REPORT NUMBER 2008-112, NOVEMBER 2008

Responses from eight audited state agencies as of December 2009

The Joint Legislative Audit Committee asked the Bureau of State Audits to review state agencies' compliance with laws and regulations governing the recycling and disposal of electronic waste (e-waste). The improper disposal of e-waste in the State may present health problems for its citizens. According to the U.S. Environmental Protection Agency (USEPA), computer monitors and older television picture tubes each contain an average of four pounds of lead and require special handling at the end of their useful lives. The USEPA states that human exposure to lead can present health problems ranging from developmental issues in unborn children to brain and kidney damage in adults. In addition to containing lead, electronic devices can contain other toxic materials such as chromium, cadmium, and mercury. Humans may be exposed to toxic materials from e-waste if its disposal results in the contamination of soil or drinking water.

Finding #1: State agencies appear to have improperly discarded some electronic devices.

In a sample of property survey reports we reviewed, two of the five state agencies in our audit sample—the Department of Motor Vehicles (Motor Vehicles) and the Employment Development Department (Employment Development)—collectively reported discarding 26 electronic devices in the trash. These 26 electronic devices included such items as fax machines, tape recorders, calculators, speakers, and a videocassette recorder that we believe could be considered e-waste. The property survey reports for the other three state agencies in our sample—the California Highway Patrol (CHP), the Department of Transportation (Caltrans), and the Department of Justice (Justice)—do not clearly identify how the agencies disposed of their electronic devices; however, all three indicated that their practices included placing a total of more than 350 of these items in the trash.

State regulations require waste generators to determine whether their waste, including e-waste, is hazardous before disposing of it. However, none of the five state agencies in our sample could demonstrate that they took steps to assess whether their e-waste was hazardous before placing that waste in the trash. Further the California Integrated Waste Management Board (Waste Management Board) has advised consumers, "Unless you are sure [the electronic device] is not hazardous, you should presume [that] these types of devices need to be recycled or disposed of as hazardous waste and that they may not be thrown in the trash."

Audit Highlights . . .

Our review of five state agencies' practices for handling electronic waste (e-waste) revealed that:

- ***The Department of Motor Vehicles and the Employment Development Department improperly disposed of electronic devices in the trash between January 2007 and July 2008.***
- ***The California Highway Patrol, Department of Transportation, and Department of Justice did not clearly indicate how they disposed of some of their e-waste; however, all indicated that they too have discarded some e-waste in the trash.***
- ***The lack of clear communication from oversight agencies, coupled with some state employees' lack of knowledge about e-waste, contributed to these instances of improper disposal.***
- ***State agencies do not consistently report the amount of e-waste they divert from municipal landfills. Further, reporting such information on e-waste is not required.***
- ***State and local oversight of e-waste generators is infrequent, and their reviews may not always identify instances when state agencies have improperly discarded e-waste.***

To avoid contaminating the environment through the inappropriate discarding of electronic devices, we recommended that state agencies ascertain whether the electronic devices that require disposal can go into the trash. Alternatively, state agencies could treat all electronic devices they wish to discard as universal waste and recycle them.

State Agencies' Actions: Partial corrective action taken.

According to their one-year responses to our audit report, four of the five state agencies we sampled have implemented our recommendation. The four state agencies are CHP, Motor Vehicles, Caltrans, and Employment Development. CHP stated that it developed an e-waste disposition process and updated desk procedures and a standard operating procedure. These procedures include indicating whether any e-waste items were disposed of in accordance with CHP's e-waste program and defining all electronic devices as universal waste that require disposal only by authorized e-waste recyclers. Motor Vehicles stated that as of August 1, 2008, it does not allow any electronic equipment to be disposed of in a landfill. It also stated that it donates operable equipment to public schools and equipment in poor condition is disposed of through an approved recycler or an e-waste event that will properly dispose of the electronic equipment. Caltrans stated that it established a recycling program and, as part of this program, all electronic waste will be treated as universal waste and recycled. Employment Development stated that all staff responsible for the disposition of surplus items have been trained on the proper disposition of electronic equipment and e-waste. It also stated that it identified and is using an accredited e-waste recycler.

The fifth state agency—Justice—stated that it continues to educate staff regarding the proper disposal of all waste and surplus items, including e-waste. It also stated that it is still in the process of revising its property control manual that will further emphasize the proper disposal and documentation of all assets. Justice indicated that conflicting priorities and staff shortages have delayed completion of this manual until February 2010.

Finding #2: Opportunities exist to efficiently and effectively inform state agencies about the e-waste responsibilities.

Because all five state agencies in our sample had either discarded some of their e-waste in the trash or staff asserted that the agencies had done so, we concluded that some staff members at these agencies may lack sufficient knowledge about how to dispose of this waste properly. We therefore examined what information oversight agencies, such as the Department of Toxic Substances Control (Toxic Substances Control), the Waste Management Board, and the Department of General Services (General Services) provided to state agencies and what steps state agencies took to learn about proper e-waste disposal. Staff members at the five state agencies we reviewed—including those in charge of e-waste disposal, recycling coordinators, and property survey board members who approve e-waste disposal—stated that they had received no information from Toxic Substances Control, the Waste Management Board, or General Services related to the recycling or disposal of e-waste.

Further, based on our review of these three oversight agencies, it appears they have not issued instructions specifically aimed at state agencies describing the process they must follow when disposing of their e-waste. At most, we saw evidence that General Services and the Waste Management Board collaborated to issue guidelines in 2003. These guidelines state: "For all damaged or nonworking electronic equipment, find a recycler who can handle that type of equipment." However, the Waste Management Board indicated that state agencies are not required to adhere to these guidelines; General Services deferred to the Waste Management Board's opinion.

Alternatively, some state agencies we spoke with learned about e-waste requirements through their own research. For example, the recycling coordinator at Justice conducted her own on-line research to identify legally acceptable methods for disposing of e-waste. Through her research of various Web sites

at the federal, state, and local government levels, she determined which electronic devices Justice would manage as e-waste and located e-waste collectors who would pick up or allow Justice to drop off its e-waste at no charge.

While Justice's initiative is laudable, we believe that it is neither effective nor efficient to expect staff at all state agencies to identify e-waste requirements on their own. Some state agencies may not be aware that it is illegal to discard certain types of electronic devices in the trash, and it may never occur to them to perform such research before throwing these devices away. Further, having staff at each of the more than 200 state agencies perform the same type of research is duplicative.

The State could use any of at least five approaches to convey to state agencies more efficiently and effectively the agencies' e-waste management responsibilities. One approach would be to have Toxic Substances Control, the Waste Management Board, or General Services, either alone or in collaboration with one or more of the others, directly contact by mail, e-mail, or other method the director or other appropriate official, such as the recycling coordinator or chief information officer, at each state agency conveying how each agency should dispose of its e-waste. Other approaches include:

- Having the Waste Management Board implement a recycling program for electronic devices owned by state agencies.
- Including e-waste as part of the training related to recycling provided by the Waste Management Board.
- Having General Services, Toxic Substances Control, and the Waste Management Board work together to amend applicable sections of the State Administrative Manual that pertain to recycling to specifically include electronic devices.
- Modifying an existing executive order or issuing a new one related to e-waste recycling that incorporates requirements aimed at e-waste disposal.

To help state agencies' efforts to prevent their e-waste from entering landfills, we recommended that Toxic Substances Control, the Waste Management Board, and General Services work together to identify and implement methods that will communicate clearly to state agencies their responsibilities for handling and disposing of e-waste properly and that will inform the agencies about the resources available to assist them.

State Agencies' Actions: Corrective action taken.

The three oversight agencies included in our audit—General Services, Toxic Substances Control, and the Waste Management Board—stated that they have worked collaboratively to implement solutions for ensuring that e-waste from state agencies is managed legally and safely. General Services stated that the three entities emphasized the need for proper e-waste management to department directors and jointly provided training about recycling and e-waste disposal to approximately 200 state employees. Further, General Services stated that after receiving input from the other two entities, it amended the State Administrative Manual to clearly require state entities to dispose of irreparable and unusable e-waste using the services of an authorized recycler. The California Environmental Protection Agency also stated that Toxic Substances Control and the Waste Management Board coordinated with General Services to create an informational poster about e-waste for mounting by state agencies in locations where e-waste items may be handled and disposed of by staff.

Finding #3: State agencies report inconsistently their data on e-waste diverted from municipal landfills.

Most of the five state agencies in our sample reported diverting e-waste from municipal landfills. Waste diversion includes activities such as source reduction or recycling waste. In 1999 the State enacted legislation requiring state agencies to divert at least 50 percent of their solid waste from landfill

disposal by January 1, 2004. State agencies annually describe their status on meeting this goal by submitting reports indicating the tons of various types of waste diverted. A component of the report pertains specifically to e-waste. Between 2004 and 2007, four of the five state agencies in our sample reported diverting a combined total of more than 250 tons of e-waste. The fifth state agency, Caltrans, explained that it reported its e-waste diversion statistics in other categories of its reports that were not specific to e-waste.

Several factors cause us to have concerns about the reliability and accuracy of the amounts that these state agencies reported as diverted e-waste. First, these state agencies were not always consistent in the way they calculated the amount of e-waste to report or in the way they reported it. For example, Employment Development's amount for 2007 include data only from its Northern California warehouse; the amount did not include information from its Southern California warehouse. Also for 2007, the CHP included its diverted e-waste in other categories, while Caltrans did so for all years reported. Further, although instructions call for reporting quantities in tons, for 2007 Justice reported 3,951 e-waste items diverted. Moreover, diversion of e-waste does not count toward compliance with the solid waste diversion mandate, so state agencies may not include it. The Waste Management Board explained that e-waste is not solid waste, and thus state agencies are not required to report how much they divert from municipal landfills.

The Waste Management Board also allows state agencies to use various methods to calculate the amounts that they report as diverted. For instance, rather than conduct on-site disposal and waste reduction audits to assess waste management practices at every facility, a state agency can estimate its diversion amounts from various sampling methods approved by the Waste Management Board.

If the Legislature believes that state agencies should track more accurately the amounts of e-waste they generate, recycle, and discard, we recommended it consider imposing a requirement that agencies do so.

Legislative Action: Unknown.

We are not aware of any legislative action at this time.

Finding #4: State agencies' compliance with e-waste requirements receives infrequent assessments that are simply components of other reviews.

A state agency's decision regarding how to dispose of e-waste is subject to review by local entities, such as cities and counties, as well as by General Services. We found that the Sacramento County program agency and General Services perform reviews infrequently, and these reviews may not always identify instances in which state agencies have disposed of e-waste improperly.

Local agencies certified by the California Environmental Protection Agency are given responsibility under state law to implement and enforce the State's hazardous waste laws and regulations, which include requirements pertaining to universal waste. These local agencies, referred to as program agencies, perform periodic inspections of hazardous waste generators. The inspections performed by the program agency for Sacramento County are infrequent and may fail to include certain state agencies that generate e-waste. According to this program agency, which has the responsibility to inspect state agencies within its jurisdiction, its policy is to inspect hazardous waste generators once every three years. For the five state agencies in our sample, we asked the Sacramento County program agency to provide us with the inspection reports that it completed under its hazardous waste generator program. The inspection reports we received were dated between 2005 and 2008. We focused on the hazardous waste generator program because Sacramento County's inspectors evaluate a generator's compliance with the State's universal waste requirements under this program (universal waste is a subset of hazardous waste, and it may include e-waste). In its response to our request, the Sacramento County program agency provided seven inspection reports that covered four of the five state agencies in our sample. The Sacramento County program agency provided three inspection reports for Caltrans, one report for Justice, one for the CHP, and two inspection reports for Motor Vehicles. The program

agency did not provide us with an inspection report for Employment Development, indicating that this department is not being regulated under the program agency's hazardous waste generator program. The Sacramento County program agency explained that it targets its inspections specifically toward hazardous waste generators and not generators that have universal waste only, although the program agency will inspect for violations related to universal waste during its inspections. As a result, the Sacramento County program agency may never inspect Employment Development if it generates only universal waste.

The State Administrative Manual establishes a state policy requiring state agencies to obtain General Services' approval before disposing of any state-owned surplus property, which could include obsolete or broken electronic devices. In addition to reviewing and approving these disposal requests, General Services periodically audits state agencies to ensure they are complying with the State Administrative Manual and other requirements. General Services' reviews of state agencies are infrequent and it is unclear whether these reviews would identify state agencies that have inappropriately disposed of their e-waste. According to its audit plan for January 2007 through June 2008, General Services conducts "external compliance audits" of other state agencies to determine whether they comply with requirements that are under the purview of certain divisions or offices within General Services. One such office is General Services' Office of Surplus Property and Reutilization, which reviews and approves the property survey reports that state agencies must submit before disposing of surplus property. According to its audit plan, General Services' auditors perform reviews to assess whether state agencies completed these reports properly and disposed of the surplus equipment promptly. General Services' audit plan indicates that it audited each of the five state agencies in our sample between 1999 through 2004, and that it plans to perform another review of these agencies within the next seven to eight years.

When General Services does perform its reviews, it is unclear whether General Services would identify instances in which state agencies improperly discarded e-waste by placing it in the trash. General Services' auditors focus on whether state agencies properly complete the property survey reports and not on how the agencies actually dispose of the surplus property. For example, according to its audit procedures, General Services' auditors will review property survey reports to ensure that they contain the proper signatures and that the state agencies disposed of the property "without unreasonable delay." After the end of our fieldwork, General Services revised its audit procedures to ensure that its auditors evaluate how state agencies are disposing of their e-waste. General Services provided us with its final revised audit guide and survey demonstrating that its auditors will now "verify that disposal of e-waste is [sent] to a local recycler/salvage company and not sent to a landfill."

If the Legislature believes that more targeted, frequent, or extensive oversight related to state agencies' recycling and disposal of e-waste is necessary, we recommended that the Legislature consider assigning this responsibility to a specific agency.

Legislative Action: Unknown.

We are not aware of any legislative action at this time.

Finding #5: Some state agencies use best practices to manage e-waste.

During our review we identified some state agencies that engage in activities that we consider best practices for managing e-waste. These practices went beyond the requirements found in state law and regulations, and they appeared to help ensure that e-waste does not end up in landfills. One best practice we observed was Justice's establishment of very thorough duty requirements for its recycling coordinator. These requirements provide clear guidelines and expectations, listing such duties as providing advice and direction to various managers about recycling requirements, legal mandates, goals, and objectives. The duties also include providing training to department staff regarding their duties and responsibilities as they pertain to recycling. In addition, the recycling coordinator maintains current knowledge of recycling laws and works with the Waste Management Board and

other external agencies in meeting state and departmental recycling goals and objectives. Three of the remaining four state agencies in our sample did not have detailed duty statements specifically for their recycling coordinators. These three state agencies—the CHP, Motor Vehicles, and Employment Development—briefly addressed recycling coordination in the duty statement for the respective individual's position. Caltrans, the remaining state agency in our sample, indicated that it did not have a duty statement for its recycling coordinator. The creation of a detailed duty statement similar to the one used by Justice would help state agencies ensure that they comply with mandated recycling requirements, that they maintain and distribute up-to-date information, and that agencies continue to divert e-waste from municipal landfills.

A second best practice we noted was state agencies' use of recycling vendors from General Services' master services agreement. General Services established this agreement to provide state agencies with the opportunity to obtain competitive prices from prequalified contractors that have the expertise to handle their e-waste. For a contractor to be listed on General Services' master services agreement, it must possess three years of experience in providing recycling services to universal waste generators, be registered with Toxic Substances Control as a hazardous waste handler, and ensure that all activities resulting in the disposition of e-waste are consistent with the Electronic Waste Recycling Act of 2003. The master services agreement also lists recycling vendors by geographic region, allowing state agencies to select vendors that will cover their area. Many recycling vendors under the agreement offer to pick up e-waste at no cost, although most require that state agencies meet minimum weight requirements. Based on a review of their property survey reports, we saw evidence that the CHP, Caltrans, Justice, and Employment Development all used vendors from this agreement to recycle some of their e-waste.

We recommended that state agencies consider implementing the two best practices we identified.

State Agencies' Actions: Corrective action taken.

Regarding a thorough duty statement for a recycling coordinator, we mentioned in our audit report that Justice already follows this best practice. In their follow-up responses to our audit report, the other four entities—CHP, Motor Vehicles, Caltrans, and Employment Development—stated that they had created or updated the duty statements for their recycling coordinators or updated other comparable documents such as desk procedures and standard operating procedures.

Regarding the use of recyclers from the master services agreement, we noted in our audit report that CHP, Caltrans, Justice, and Employment Development all used vendors from the master services agreement. In its follow-up response to our audit report, Motor Vehicles stated that it had developed guidelines on the use of the DGS master service agreement for e-waste disposal and procedures for handling e-waste.

Department of Parks and Recreation

Investigations of Improper Activities by State Employees, July 2008 Through December 2008

ALLEGATION I2008-0606 (REPORT I2009-1), APRIL 2009

Investigative Highlight . . .

The Department of Parks and Recreation paid at least $1,253 more than necessary on a $4,987 purchase without obtaining competitive price quotes.

Department of Parks and Recreation's response as of July 2009

We investigated and substantiated that a supervisor at the Department of Parks and Recreation (Parks and Recreation) failed to ensure that he paid a fair and reasonable price for goods costing $4,987 in violation of state law. Consequently, Parks and Recreation overpaid for the items by at least $1,253.

Finding: A supervisor did not solicit competitive bids from suppliers of goods and failed to pay a fair and reasonable price for goods he purchased.

The supervisor purchased a storage container in December 2007 to store supplies for several parks that he oversaw at the time. However, the supervisor did not obtain two price quotes using any of the five techniques described in the State Contracting Manual to ensure that the cost of the storage container was fair and reasonable, as required by state law. The supervisor later asserted to us that he contacted other suppliers but apparently did not document the price quotes he obtained. He also admitted to us that he had not obtained the "best possible price" for the storage container. As proof that the supervisor did not obtain a fair and reasonable price, just three weeks later another Parks and Recreation employee who worked for him obtained a price quote of $3,734 for a similar storage container. Thus, if the supervisor had obtained and documented fair and reasonable price quotes, Parks and Recreation could have avoided spending an additional $1,253 for the storage container.

The supervisor provided various reasons why he did not document other price quotes. According to the supervisor, he did not have sufficient staff and was overwhelmed by his workload. In addition, he stated that he had not received sufficient training at the time of the purchase. Parks and Recreation promoted the supervisor in January 2007. However, he indicated that he did not complete his three weeks of supervisor training until June 2008, six months after the purchase of the container.

We recommended that Parks and Recreation require its employees to adequately document their efforts to obtain price quotes to ensure that they obtain a fair and reasonable price for the purchase of goods under $5,000. We also recommended that Parks and Recreation provide timely training for new supervisors.

Parks and Recreation's Action: Corrective action taken.

In June 2009 Parks and Recreation reported that it gave the supervisor a letter of reprimand for failing to ensure that it paid a fair and reasonable price for the goods costing $4,987. In July 2009 Parks and Recreation provided a copy of its existing procurement

policy that addressed the requirement that its employees adequately document their efforts to obtain price quotes to ensure that they obtain a fair and reasonable price for the purchase of goods under $5,000. Parks and Recreation also stated that it provides courses on purchasing policies and procedures, which are required for all employees that make purchases, not just supervisors. Parks and Recreation noted that the supervisor received the training in April 2004 yet he still failed to ensure that he paid a fair and reasonable price for the goods previously cited.