

CALIFORNIA STATE AUDITOR

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Implementation of State Auditor's Recommendations

Audits Released in January 2010 Through December 2011

Special Report to
Assembly Budget Subcommittee #3—Resources and Transportation



March 2012 Report 2012-406 A3

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March 30, 2012

2012-406 A3

The Honorable Richard S. Gordon, Chair
Assembly Budget Subcommittee No. 3
State Capitol
Sacramento, California 95814

Dear Assemblymember Gordon:

The California State Auditor presents this special report for the Assembly Budget Subcommittee No. 3—Resources and Transportation. The report summarizes the audits and investigations we issued during the previous two years that are within this subcommittee's purview. Additionally, the report includes the major findings and recommendations, along with the corrective actions entities 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 entity's implementation efforts based on its most recent response.

This information is also available in a special report that is organized by policy area that summarizes all audits and investigations we issued from January 2010 through December 2011. The special policy area report includes a table that identifies monetary values that entities could realize if they implemented our recommendations, and is available on our Web site at www.bsa.ca.gov.

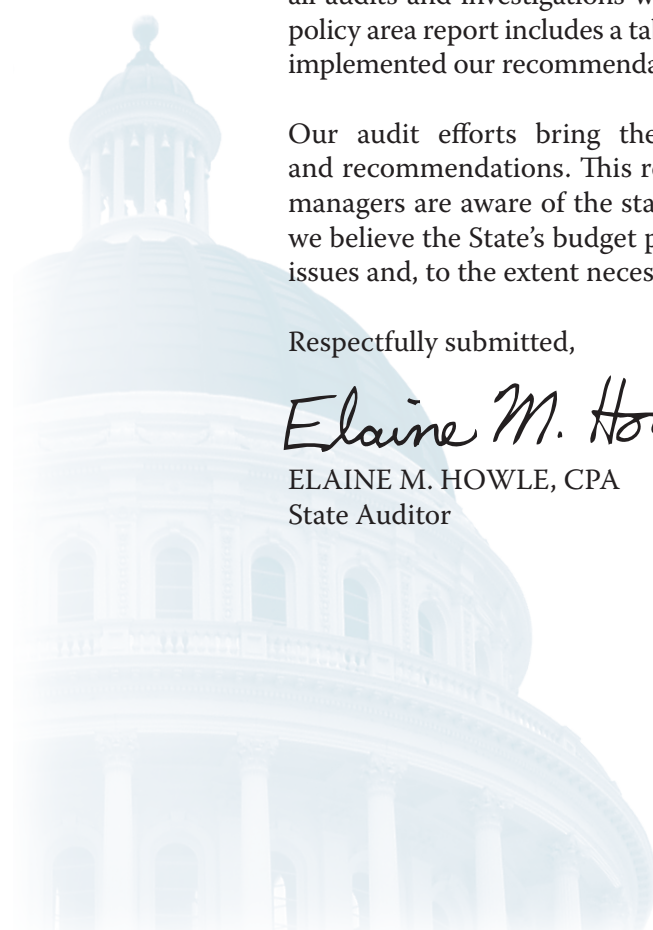
Our audit efforts bring the greatest returns when the entity acts upon our findings and recommendations. This report is one vehicle to ensure that the State's policy makers and managers are aware of the status of corrective action entities report they have taken. Further, we believe the State's budget 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 recommendations from audit and investigative reports we issued from January 2010 through December 2011¹, that relate to agencies and departments under the purview of the Assembly Budget Subcommittee No. 3—Resources and Transportation. The purpose of this report is to identify what actions, if any, these entities have taken in response to our findings and recommendations. We have placed this symbol ● in the margin of the entity’s action to identify areas of concern or issues that we believe have not been adequately addressed.

For this report, we have relied upon periodic written responses prepared by entities to determine whether corrective action has been taken. The California State Auditor’s (state auditor) policy requests that the entity provide 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 entities to provide updates on their implementation of audit recommendations. The state auditor requests these updates at 60 days, six months, and one year after the public release of the audit report. However, we may request an entity 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 entity for corrective action. These entities 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 entities. All corrective actions noted in this report were generally based on responses received by our office as of December 31, 2011. The table below summarizes the status of an entity’s implementation of our recommendations based on its most recent response received from each one. Because an audit or investigation may cross over several departments, it may be accounted for on this table more than one time. For instance, the Dymally-Alatorre Bilingual Services Act report, 2010-106, is reflected under the Department of Food and Agriculture, the Department of Motor Vehicles, and the Department of Toxic Substances Control.

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Recommendation Status Summary

AUDIT REPORTS	FOLLOW-UP RESPONSE				STATUS OF RECOMMENDATION				PAGE NUMBERS
	INITIAL RESPONSE	60-DAY	SIX-MONTH	ONE-YEAR	FULLY IMPLEMENTED	PARTIALLY IMPLEMENTED	PENDING	NO ACTION TAKEN	
California Energy Commission									
Intellectual Property Report 2011-106	●					1	1		5
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High-Speed Rail Authority Report 2009-106				●	5	1	4		11
Food and Agriculture, Department of									
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continued on next page...

¹ We have modified the format of this report from prior years’ reports. Specifically, in previous reports, we often grouped multiple recommendations under one finding and, when determining the total number of recommendations by status, we counted findings rather than recommendations. In this report, we have chosen to modify our calculations counting each individual recommendation by its status rather than findings. Thus, the total numbers by status are higher than those from previous reports and, therefore, are not comparable.

AUDIT REPORTS	FOLLOW-UP RESPONSE				STATUS OF RECOMMENDATION				PAGE NUMBERS	
	INITIAL RESPONSE	60-DAY	SIX-MONTH	ONE-YEAR	FULLY IMPLEMENTED	PARTIALLY IMPLEMENTED	PENDING	NO ACTION TAKEN		
Resources Recycling and Recovery, Department of										
Beverage Container Recycling Program Report 2010-101				●	14		5		25	
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Intellectual Property Report 2011-106	●						1		5	
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Inexcusable Neglect of Duty Investigations Report I2011-1, Allegation I2008-0731	December 2011				3		1		45	

California Conservation Corps

Failure to Follow State Contracting Laws (Case I2008-1021)

REPORT NUMBER I2010-2, CHAPTER 2, ISSUED JANUARY 2011

This report concludes that the California Conservation Corps (Conservation Corps) evaded competitive bidding requirements by splitting contracts to purchase uniforms costing \$64,666 from a single vendor. In addition, the Conservation Corps did not properly obtain price quotations when approving two other uniform purchases totaling \$19,812 from the same vendor.

In the report, the California State Auditor (state auditor) made the below recommendations to the Conservation Corps. The state auditor's determination regarding the current status of recommendations is based on the Conservation Corps' response to the state auditor as of April 2011.

Recommendation 1—See pages 15—17 of the investigative report for information on the related finding.

The Conservation Corps should take appropriate corrective action against the employees responsible for the improper purchases.

Conservation Corps' Action: Fully implemented.

The Conservation Corps reported in December 2010 that it had issued a corrective action memorandum to each employee responsible for the improper purchases.

Recommendation 2—See pages 15—17 of the investigative report for information on the related finding.

The Conservation Corps should implement controls to ensure that staff do not split contracts to evade competitive bidding requirements and that staff obtain and document in the procurement file the appropriate number of price quotations from certified small businesses prior to purchasing goods.

Conservation Corps' Action: Fully implemented.

The Conservation Corps created a new procedure in February 2011 that requires field staff to submit bid information with every purchase or service order to ensure that staff follow the proper procedures regarding bidding documents and price quotations. The procedure also requires business services staff to review the information to ensure compliance. The Conservation Corps also told us that it randomly had conducted reviews of purchase orders from fiscal years 2007–08 through 2010–11, but it did not keep documentation of the results of these reviews.

Recommendation 3—See pages 15—17 of the investigative report for information on the related finding.

The Conservation Corps should provide adequate training to staff responsible for preparing and approving purchases.

Conservation Corps' Action: Fully implemented.

The Conservation Corps stated that it holds quarterly meetings with its business services officers to discuss procurement matters, including new policies and procedures. In March 2011 it held training for business services officers that focused on proper bidding procedures and other procurement activities. Further, the Conservation Corps stated that it had provided procurement training to its staff in 2007, 2008, and 2009.

Recommendation 4—See pages 15—17 of the investigative report for information on the related finding.

The Conservation Corps should correct inconsistent accounting practices and require staff to associate expenditures directly with the purchase orders that authorized the expenditures.

Conservation Corps' Action: Fully implemented.

To correct inconsistent accounting practices, the Conservation Corps reported that it planned to provide additional training to supervisors who authorize purchasing documents to ensure consistency in basic accounting principles. In March 2011 it held training for business services officers that focused on proper bidding procedures and other procurement activities.

Intellectual Property

An Effective Policy Would Educate State Agencies and Take Into Account How Their Functions and Property Differ

REPORT NUMBER 2011-106, ISSUED NOVEMBER 2011

Intellectual property typically consists of copyrights, trademarks, patents, and trade secrets. In November 2000, the California State Auditor (state auditor) issued a report titled *State-Owned Intellectual Property: Opportunities Exist for the State to Improve Administration of its Copyrights, Trademarks, Patents, and Trade Secrets*—report number 2000-110 (2000 audit report). The 2000 audit report recommended the Legislature take steps to help state agencies manage and protect the State’s intellectual property.

This report concludes that the State has not enacted a statutory framework, nor has it implemented the recommendations made in the 2000 audit report or otherwise provided guidance to state agencies regarding the management and protection of intellectual property. The four state control agencies we spoke to—the Department of Finance, the Department of General Services, the State Controller’s Office, and the California Technology Agency—generally do not provide policies or guidance to other state agencies regarding the management and protection of intellectual property because they do not believe that they are responsible for providing this type of guidance. However, more than half of the state agencies that responded to our survey about intellectual property stated that the State should establish statewide guidance for managing and protecting intellectual property. Moreover, the four state agencies we visited—the Department of Transportation (Caltrans), Department of Food and Agriculture (Food and Agriculture), California Energy Commission (Energy Commission), and Department of Health Care Services (Health Care Services)—had only limited written policies and instead generally relied on informal practices to manage and protect their intellectual property. To move forward, the State will need to clearly articulate the goals of any policy related to intellectual property. We believe that an effective policy would educate state agencies on their intellectual property rights and would be flexible and take into account that state agencies perform different functions and work with different types of intellectual property.

In the report, the state auditor made the following recommendations to Caltrans, Food and Agriculture, Energy Commission, Health Care Services, the Legislature, and the governor. The state auditor’s determination regarding the current status of recommendations is based on the agencies’ responses to the state auditor as of November 2011.

Recommendation 1.1—See pages 19—21, 31—32, and 35—40 of the audit report for information on the related finding.

Caltrans, the Energy Commission, Food and Agriculture, and Health Care Services should put in writing those policies and procedures related to intellectual property that they believe are necessary and appropriate to enable their staff to identify, manage, and protect their intellectual property.

Caltrans’ Action: Pending.

Caltrans stated that it is in the process of implementing the recommendation by continuing its efforts to develop additional written policies and procedures related to all aspects of intellectual property and that it will complete its efforts by June 30, 2012.

Energy Commission’s Action: Pending.

The Energy Commission stated that it has started working on policies and procedures to educate staff about intellectual property and how to protect it and that it will complete its policy and procedures by January 1, 2012.

Food and Agriculture's Action: Pending.

Food and Agriculture stated that it will work with appropriate staff to have policies and procedures in writing by December 31, 2011.

Health Care Services' Action: Pending.

Health Care Services stated that it agreed with the recommendation.

Recommendation 1.2—See page 20 of the audit report for information on the related finding.

Food and Agriculture should ensure that it has developed intellectual property terms and conditions that are appropriate for the types of agreements into which its contracts office enters.

Food and Agriculture's Action: Pending.

Food and Agriculture stated that it will work with appropriate staff to have appropriate terms and conditions in contract agreements by December 31, 2011.

Recommendation 1.3—See pages 21 and 22 of the audit report for information on the related finding.

The Energy Commission should take the necessary steps to strengthen its royalty process to ensure that it receives the proper amounts from all contractors that owe it royalties.

Energy Commission's Action: Partially implemented.

The Energy Commission stated that it has modified its annual Public Interest Energy Research (PIER) royalty letter to require a response and added language to its PIER solicitations indicating that bidders who have not responded to the royalty repayment letter may be screened out from participating in future PIER funding opportunities. The Energy Commission also stated that it is amending a contract with the State Controller's Office to include review of PIER royalty payments and has deployed an internal auditor to conduct royalty payment reviews. The Energy Commission stated it has drafted new PIER terms and conditions, which require certification that the royalty amount paid is correct. Finally, the Energy Commission stated that it is hiring a contractor to follow up with PIER researchers who may have commercialized a product and not paid royalties.

Recommendation 1.4.a—See pages 25—28 of the audit report for information on the related finding.

The Legislature and the governor should consider developing a statewide intellectual property policy that educates state agencies on their intellectual property rights without creating an administrative burden. Specifically, this policy should provide guidance to agencies that will give them the understanding necessary to identify when potential intellectual property may exist, including when contractors' work may result in intellectual property, and that will provide them with specific information on intellectual property protections.

Legislative Action: Unknown.

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

Recommendation 1.4.b—See pages 25—28 of the audit report for information on the related finding.

The Legislature and the governor should consider developing a statewide intellectual property policy that educates state agencies on their intellectual property rights without creating an administrative burden. Specifically, this policy should recognize that not all agencies have the same needs and that a one-size-fits-all approach may not be feasible. An effective policy should provide agencies with flexibility regarding ownership of intellectual property rights.

Legislative Action: Unknown.

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

Recommendation 1.4.c—See pages 25—28 of the audit report for information on the related finding.

The Legislature and the governor should consider developing a statewide intellectual property policy that educates state agencies on their intellectual property rights without creating an administrative burden. Specifically, this policy should have as one of its primary goals the promotion of the greatest possible public benefit from intellectual property the State creates or funds.

Legislative Action: Unknown.

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

Recommendation 1.4.d—See pages 25—28 of the audit report for information on the related finding.

The Legislature and the governor should consider developing a statewide intellectual property policy that educates state agencies on their intellectual property rights without creating an administrative burden. Specifically, this policy should recognize that although additional revenue may be a potential benefit of the State's intellectual property, it is not the only benefit, nor should it be the driving force behind a state policy. However, the policy should provide guidance for identifying valuable intellectual property and how to commercialize it, if appropriate.

Legislative Action: Unknown.

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

Recommendation 1.4.e—See pages 25—28 of the audit report for information on the related finding.

The Legislature and the governor should consider developing a statewide intellectual property policy that educates state agencies on their intellectual property rights without creating an administrative burden. Specifically, this policy should establish the minimum rights agencies should obtain for intellectual property developed by its contractors.

Legislative Action: Unknown.

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

Recommendation 1.5—See pages 28 and 43—51 of the audit report for information on the related finding.

If the Legislature and governor believe it would be valuable to understand the amount of intellectual property the State holds on an ongoing basis, they should consider establishing a mechanism to track the State's intellectual property.

Legislative Action: Unknown.

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

California Energy Commission

Falsification of Time and Attendance Records (Case I2010-0844)

REPORT NUMBER I2011-1, CHAPTER 3, ISSUED AUGUST 2011

This investigation found that an employee and a personnel specialist at the California Energy Commission (Energy Commission) falsified time and attendance records to enable the employee—at the time of her retirement—to receive a payment for unused annual leave that was higher than the amount to which she was entitled, costing the State an estimated \$6,589.

In reporting on the investigation, the California State Auditor (state auditor) made the following recommendations to the Energy Commission. The state auditor's determination regarding the current status of recommendations is based on the Energy Commission's response to the state auditor as of November 2011.

Recommendation 1—See pages 23—25 of the investigative report for information on the related finding.

The Energy Commission should seek to recover the amount it improperly paid the retiring employee for unused annual leave hours. If it is unable to recover any or all of this reimbursement, the Energy Commission should explain and document its reasons for not obtaining recovery of the funds.

Energy Commission's Action: Partially implemented.

The Energy Commission reported that in November 2011 it requested reimbursement from the retired employee for leave hours used inappropriately. The Energy Commission stated that if the retired employee failed to respond to its requests for reimbursement, it would forward this information to the Franchise Tax Board to collect the overpayments from the retired employee's future tax returns.

Recommendation 2.a—See pages 24 and 25 of the investigative report for information on the related finding.

The Energy Commission should take appropriate disciplinary action against the personnel specialist for making unauthorized changes to the retiring employee's leave balances.

Energy Commission's Action: Fully implemented.

The Energy Commission reported that the personnel specialist retired in June 2011. Nevertheless, in October 2011 the Energy Commission reported it had placed a memorandum in the personnel specialist's personnel file describing her actions related to the falsification of the retiring employee's time sheets and the unauthorized changes she made to the employee's leave balances.

Recommendation 2.b—See page 22 of the investigative report for information on the related finding.

The Energy Commission should monitor the personnel specialist's payroll and leave balance transactions to ensure that she follows Energy Commission policies.

Energy Commission's Action: Fully implemented.

The Energy Commission reported that the personnel specialist retired in June 2011, before it learned of our recommendation. Nevertheless, as previously mentioned, it placed a memorandum in her personnel file describing her improper activities.

Recommendation 2.c—See page 22 of the investigative report for information on the related finding.

The Energy Commission should provide training to employees responsible for managing leave balance and time-sheet transactions to ensure that they understand the Energy Commission's policies for safeguarding their accuracy and respecting the limitations on the use of sick leave for family member illness as specified by the law and applicable collective bargaining agreements.

Energy Commission's Action: Fully implemented.

The Energy Commission stated that it provided training to its personnel specialists in September 2011. It stated that it stressed the importance of accuracy and thoroughness in processing leave usage, the limitations on the use of sick leave for family member illnesses as specified in various bargaining unit agreements, and obtaining supervisory approval on all amended time sheets.

High-Speed Rail Authority

It Risks Delays or an Incomplete System Because of Inadequate Planning, Weak Oversight, and Lax Contract Management

REPORT NUMBER 2009-106, ISSUED APRIL 2010

This report concludes that the High-Speed Rail Authority (Authority) has not adequately planned for the future development of the high-speed rail network (program). For example, in its 2009 business plan, the Authority outlined the sources from which it expected to receive the funds necessary to meet the estimated \$42.6 billion cost of the program. The Authority stated it would need \$17 billion to \$19 billion from the federal government; however, the Authority has received a federal commitment of only \$2.25 billion. In addition, the business plan does not make clear which government would be responsible for a revenue guarantee needed to attract private investors, or how much it might cost. The program risks significant delays without more well-developed plans for obtaining funds.

The Authority also needs to improve some administrative practices. State law requires the Authority to establish an independent peer review group (review group) to review the Authority's plans, but only five of the eight members have been appointed. Thus, the Authority cannot fully benefit from the expertise the review group would provide. Additionally, the Authority does not currently categorize and track expenditures for administration, which state law limits to 2.5 percent (\$225 million) of the \$9 billion in bond funds authorized. Unless it tracks these funds and develops long-range plans for spending them, it risks running out of them prematurely.

Finally, a primary tool for monitoring the program has been inadequate and the Authority has not implemented effective controls over invoice processing and in some cases has paid for work that was not part of contracts or work plans. Three recent monthly progress reports the contractor managing the program (program manager) submitted to the Authority contained inconsistent information and did not compare actions performed and products created to what contractors promised to complete in their work plans. Additionally, the Authority paid at least \$4 million of invoices for which it had no evidence from the program manager that the contractors had performed the work invoiced. The Authority also paid more than \$268,000 for work that was not included in contractors' work plans, impairing its ability to measure performance against those plans, and it misused public funds when it paid \$46,000 for furniture not covered in the contract with its program manager.

In the report, the California State Auditor (state auditor) made the following recommendations to the Authority. The state auditor's determination regarding the current status of recommendations is based on the Authority's response to the state auditor as of April 2011.

Recommendation 1.1—See pages 17—24 of the audit report for information on the related finding.

To ensure that it can respond adequately to funding levels that may vary from its business plan, the Authority should develop and publish alternative funding scenarios that reflect the possibility of reduced or delayed funding from the planned sources. These scenarios should detail the implications of variations in the level or timing of funding on the program and its schedule.

Authority's Action: Pending.

The Authority stated that it will release a funding plan and updated business plan in October 2011. To help develop the plan, it chose a financial services consultant but could not reach agreement on contract terms and conditions. According to the Authority, it released a revised request for proposal in April 2011 and expected to execute a contract for financial services in mid-May 2011.

Recommendation 1.2—See pages 22—24 of the audit report for information on the related finding.

In order to plan adequately for private investment, the Authority should further specify the potential costs of planned revenue guarantees and who would pay for them.

Authority's Action: Pending.

The Authority stated that it continues working with financial and legal consultants to provide a discussion of revenue guarantees. It expects that the issue of planned revenue guarantees will be addressed in the October 2011 funding and business plans.

Recommendation 1.3—See pages 24 and 25 of the audit report for information on the related finding.

In order to respond effectively to circumstances that could significantly delay or halt the program, the Authority should ensure that it implements planned actions related to managing risk.

Authority's Action: Pending.

The Authority stated that it needs, but cannot hire, a senior risk manager and management auditors due to an executive order freezing hiring. It says it is seeking an exemption from the freeze and is moving ahead with conducting interviews for a senior management auditor.

Recommendation 1.4—See pages 26 and 27 of the audit report for information on the related finding.

To avert possible legal challenges, the Authority should ensure that the review group adheres to the Meeting Act or seek a formal opinion from the Office of the Attorney General regarding whether the review group is subject to this act.

Authority's Action: Pending.

The Authority provided a letter from Assemblymember Galgiani stating that, as the author of Assembly Bill 3034, it was not her intent that the peer review group not be subject to open-meeting rules. However, the Authority has not sought a formal legal opinion on the matter.

Recommendation 1.5—See pages 28 and 29 of the audit report for information on the related finding.

To ensure that it does not run out of funds for administrative and preconstruction tasks prematurely, the Authority should track expenditures for these activities and develop a long-term spending plan for them. It also should develop procedures and systems to ensure that it complies with Recovery Act requirements.

Authority's Action: Partially implemented.

The Authority stated that system enhancements went online in May 2010. At present, the system contains data that allows for the output of expenditure data. Further, staff continues to enhance and refine system capabilities. Also, the Authority provided an expenditure report showing amounts expended for administration by category, by fiscal year, and in total. Travel, rent, and interagency services made up most of the costs. However, the Authority did not provide evidence of a long-term spending plan.

Recommendation 1.6—See pages 29—31 of the audit report for information on the related finding.

The Authority should participate in the development of key policy documents, such as its business and strategic plans. Further, Authority members should adhere to their policies and procedures, including those outlining how they may communicate with contractors.

Authority's Action: Fully implemented.

The Authority added language to its policies and procedures stating that the Authority—meaning the appointed members of the board—is responsible for developing key policy documents, including approving business plans and strategic plans. The Authority also added language to its policies and procedures requiring that board members communicate with contractors through the Authority's chief executive officer.

Recommendation 1.7—See pages 32—34 of the audit report for information on the related finding.

In order to ensure that staff receive relevant information on the program's status, the Authority should amend the oversight consultant's work plan to include a critical review of the progress reports for accuracy and consistency. Authority staff also should request that the program manager revise its progress reports to include information on the status of contract products and services in relationship to what was promised.

Authority's Action: Fully implemented.

The Authority's project management oversight consultant amended its work plan to include review of the program manager's progress reports. The Authority provided a March 2011 progress report from the program manager, which included a table of past-due deliverables and an analysis of the "earned value" of its work based on the deliverables.

Recommendation 1.8—See pages 35 and 36 of the audit report for information on the related finding.

To determine if it is paying invoices that accurately reflect work performed, the Authority should ensure that staff adhere to controls for processing invoices.

Authority's Action: Fully implemented.

The Authority developed an invoice review, verification, and approval process. Invoices now include cover sheets requiring signatures from both the program manager and the Authority. The Authority documented the process in its *Contract Administration Manual*, as discussed below in Recommendation 1.10.

Recommendation 1.9—See pages 37 and 38 of the audit report for information on the related finding.

To ensure that it does not misuse public funds and can hold contractors accountable, the Authority should adhere to the conditions of its contracts and work plans, and make any amendments and modifications in writing.

Authority's Action: Fully implemented.

The Authority amended its contract with a contractor to include work on an effort called "Vision California" that was originally under an oral agreement. Further, the Authority amended its contract with its program manager to require an audit-adjusted field rate for staff co-located with the Authority and using Authority facilities, also originally under an oral agreement. An "audit-adjusted field rate" is a discounted overhead rate used when consultants use client facilities.

Recommendation 1.10—See pages 38 and 39 of the audit report for information on the related finding.

To better determine if payment controls are implemented, the Authority should ensure that its written policies and procedures reflect intended controls over invoice processing and offer sufficient detail to guide staff. These procedures should include steps for documenting implementation of invoice controls.

Authority's Action: Fully implemented.

The Authority amended its *Contract Administration Manual* to include detailed procedures for implementation of invoice review and documentation of invoice controls.

Department of Fish and Game

Misuse of a State Vehicle, Improper Travel Reimbursements (Case I2009-0601)

REPORT NUMBER I2011-1, CHAPTER 5, ISSUED AUGUST 2011

This investigation found that a manager at the Department of Fish and Game (Fish and Game) improperly directed an employee under his supervision to use a state vehicle for commuting between her home and work locations at a cost to the State of \$8,282 during a nine-month period. In addition, the employee improperly requested—and the manager improperly approved—reimbursement for \$595 in lodging and meal expenses incurred by the employee near her headquarters.

In the report, the California State Auditor (state auditor) made the following recommendations to Fish and Game. The state auditor's determination regarding the current status of recommendations is based on Fish and Game's response to the state auditor as of October 2011.

Recommendation 1.a—See pages 35 and 36 of the investigative report for information on the related finding.

To recover the cost of the improper use of the state vehicle, Fish and Game should follow the guidelines established in state regulations and initiate repayment from the manager for the costs associated with the misuse of the state vehicle.

Fish and Game's Action: No action taken.

In June 2011 Fish and Game reported that it would follow the guidelines established in state regulations and allow the manager to respond to our findings; however, it has not provided us with an update regarding its actions.

Recommendation 1.b—See page 36 of the investigative report for information on the related finding.

To recover the cost of the improper travel reimbursements, Fish and Game should seek recovery of the \$595 in lodging and meal reimbursements that were paid to the employee.

Fish and Game's Action: No action taken.

Fish and Game reported in June 2011 that it would follow the appropriate process to collect the improper reimbursements made to the employee; however, it has not provided us with an update regarding its actions.

Recommendation 1.c—See pages 35 and 36 of the investigative report on the related finding.

Fish and Game should take appropriate disciplinary action against the manager for directing the misuse of a state vehicle.

Fish and Game's Action: No action taken.

Fish and Game stated in June 2011 that it planned to prepare a corrective counseling memorandum for the manager detailing the improper direction he provided to the employee; however, it has not provided us with any updated information regarding its actions.

Recommendation 1.d—See pages 33—36 of the investigative report for information about the related finding.

Fish and Game should provide training to the manager and the employee about state rules for the payment of employee travel expenses.

Fish and Game's Action: No action taken.

Fish and Game informed us that it would provide training to all senior staff in the manager's region. However, it did not indicate whether it intended to provide any training to the employee. Moreover, Fish and Game has not provided us with any updated information regarding its implementation of this recommendation since June 2011.



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

REPORT NUMBER 2010-106, ISSUED NOVEMBER 2010

This report concludes that the State Personnel Board (Personnel Board) is not meeting most of its responsibilities under the Dymally-Alatorre Bilingual Services Act (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.

In the report, the California State Auditor (state auditor) made the following recommendations to the Personnel Board and other state and local agencies. The state auditor's determination regarding the current status of recommendations is based on the 11 audited state agencies' and three local agencies' responses to the state auditor as of November 2011.

Recommendation 1.1—See page 17 of the audit report for information on the related finding.

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.

Personnel Board's Action: Fully implemented.

The Personnel Board used the Department of Finance's Uniform Codes Manual to create a comprehensive state agency listing and has developed procedures to ensure that all state agencies are properly notified of the Act's requirements.

Recommendation 1.2—See pages 17—19 of the audit report for information on the related finding.

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

Personnel Board's Action: Fully implemented.

The Personnel Board developed a system to track state agencies' participation in the language survey and implementation plan processes. The Personnel Board also incorporated accurate exemption language, as specified in the Act, into the forms for the language survey and implementation plan and instituted a tracking mechanism and review process for each exemption approval to reduce the risk of error.

Recommendation 1.3—See pages 19—20 of the audit report for information on the related finding.

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. In addition, 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 state agencies have not made reasonable progress toward complying with the Act, we recommended that it 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. Finally, we recommended that the Personnel Board seek enough additional staff to fulfill its obligations under the Act, or seek changes to the Act that would reduce its responsibilities and make them commensurate with its staffing levels.

Personnel Board's Action: Fully implemented.

The Personnel Board revised its forms to capture all of the information required by the Act. In addition, the Personnel Board has developed procedures to assess the adequacy of state agencies' language surveys and implementation plans, which includes evaluating the status of agencies' corrective action plans for addressing deficiencies in bilingual staffing and written materials. If it determines that agencies' corrective action plans do not adequately address deficiencies, the Personnel Board now requires such agencies to revise their plans accordingly. In addition, the Personnel Board requires deficient agencies to submit six-month progress reports. Further, the Personnel Board revised its procedures to invite nonexempt state agencies that do not submit language surveys or implementation plans to explain their noncompliance to its five-member board. Finally, the Personnel Board's bilingual services unit secured three student assistants to assist with its workload.

Legislative Action: Legislation introduced.

Assembly Bill 305 (as amended March 17, 2011) of the 2011-12 Regular Legislative Session would revise provisions relating to determining if there is a substantial number of non-English speaking people served by a state office and to expand the Personnel Board's reporting requirements under the Act.

Recommendation 1.4—See page 20 of the audit report for information on the related finding.

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

Personnel Board's Action: Fully implemented.

The Personnel Board revised its bilingual services program's procedures to incorporate additional fields to its tracking system to capture the date that a complaint was resolved and how it was resolved.

Recommendation 1.5—See pages 21 and 22 of the audit report for information on the related finding.

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.

Personnel Board's Action: Pending.

The Personnel Board's next biennial report is not scheduled for release until March 2012. However, it stated that it will revise the format and content of that report and all subsequent reports to reflect more comprehensive and meaningful data.

Recommendation 2.1—See pages 26—30 of the audit report for information on the related finding.

To ensure that they meet their constituents' language needs, state agencies should make certain that they accurately assess and report their clients' language needs to the Personnel Board. State agencies should also analyze formally their language survey results and consider other available bilingual resources to determine their true staffing deficiencies. Further, state agencies should 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. Finally, 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 their corrective action plans to the Personnel Board as part of the state agencies' overall implementation plans.

California Emergency Management Agency's Action: Fully implemented.

The California Emergency Management Agency (Emergency Management) developed procedures to help ensure the accuracy of its biennial language surveys. Emergency Management also participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011. Emergency Management's language survey indicated that it did not have any staffing or written materials deficiencies. In addition, Emergency Management's implementation plan described its procedures for identifying the written materials that the Act requires it to translate into other languages and how it ensures such materials are translated or made accessible to its LEP clients. Finally, Emergency Management also provides an option on its Web site that allows LEP clients to translate its Web site content into numerous other languages.

California Highway Patrol's Action: Fully implemented.

The California Highway Patrol (Highway Patrol) stated that it will continue to assess its clients' language needs and to report accurate information to the Personnel Board. Highway Patrol also participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011. Highway Patrol also formally analyzed its language survey results and determined that it had no true staffing deficiencies. In addition, it established procedures for identifying written materials that the Act requires it to translate into other languages and a process for monitoring its compliance with this requirement. Finally, Highway Patrol developed a detailed corrective action plan describing how and when it will address its written materials deficiencies.

Department of Corrections and Rehabilitation's Action: Pending.

The Department of Corrections and Rehabilitation (Corrections) reported that it has made progress in several areas to address our recommendations. For example, Corrections stated that it is developing a bilingual coordinator manual and a language services manual for its staff to use as a resource. Corrections indicated that it is also developing criteria and an evaluation tool which it will use to evaluate future language survey results. In addition, Corrections stated that it is developing a mechanism to monitor and report translated written materials and to ensure the accessibility of such materials. Corrections also participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011, reporting that it did not have any true staffing deficiencies or written materials deficiencies.

Department of Food and Agriculture's Action: Partially implemented.

The Department of Food and Agriculture (Food and Agriculture) participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011. Food and Agriculture reported that its bilingual services program coordinator reviewed all the tally sheets from every participating division to make sure that the information gathered and reported would yield accurate survey results. Food and Agriculture also formally analyzed its language survey results and its implementation plan included a corrective action plan describing how it will address its true staffing deficiencies. However, Food and Agriculture acknowledged that it is still in the process of developing standard procedures for identifying written materials that require translation.

Department of Housing and Community Development's Action: Fully implemented.

The Department of Housing and Community Development (Housing) reported that beginning with the 2010 biennial language survey, it assigned responsibility for the survey to its equal employment opportunity officer, who also serves as its bilingual services program coordinator. This individual is responsible for coordinating, implementing, and overseeing the language survey, analyzing completed survey tally sheets, reporting the results of the analysis to the Personnel Board, and maintaining sufficient documentation. Housing also participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011. In addition, Housing formally analyzed its language survey results and established procedures for identifying written materials that require translation. Finally, Housing's implementation plan included a corrective action plan describing how it will address its staffing and written materials deficiencies.

Department of Justice's Action: Fully implemented.

The Department of Justice (Justice) reported that it appointed a new bilingual services program coordinator to monitor the program, the biennial language survey, and the subsequent implementation plan. Justice also indicated that it 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. Justice also participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011. In addition, Justice formally analyzed its language survey results and determined that it had no true staffing deficiencies. Justice also established procedures for identifying written materials that require translation and its implementation plan included a corrective action plan describing how it will address its deficiencies in written materials. Finally, Justice also provides an option on its Web site that allows LEP clients to translate its Web site content into numerous other languages.

Department of Motor Vehicles' Action: Fully implemented.

The Department of Motor Vehicles (Motor Vehicles) participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011. Motor Vehicles reported that it implemented improved procedures and incorporated additional checks and balances for the 2010 language survey to ensure that it accurately assessed and reported its LEP clients' language needs to the Personnel Board. In addition, Motor Vehicles formally analyzed its language survey results

and established procedures for identifying written materials that require translation. Finally, Motor Vehicles' prepared a corrective action plan describing how and when it will address its staffing and written materials deficiencies.

Department of Public Health's Action: Fully implemented.

The Department of Public Health (Public Health) reported that it will continue to ensure that it accurately assesses and reports its clients' language needs to the Personnel Board. Public Health participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011. Public Health formally analyzed its language survey results and established procedures for identifying written materials that require translation. In addition, Public Health prepared a corrective action plan describing how and when it will address its staffing and written materials deficiencies.

Department of Toxic Substances Control's Action: Fully implemented.

The Department of Toxic Substances Control (Toxic Substances Control) reported that it would continue to accurately assess and report its clients' language needs to the Personnel Board. Toxic Substances Control participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011. In addition, it established procedures for identifying written materials that require translation and formally analyzed its language survey results, concluding that it did not have any staffing or written materials deficiencies.

Employment Development Department's Action: Partially implemented.

The Employment Development Department (Employment Development) participated in the 2010 language survey and submitted an implementation plan to the Personnel Board in 2011. Employment Development reported that it designed and implemented corrective actions for the 2010 language survey to ensure it collected all hard-copy documentation from all public contact employees so there would be no questions about the accuracy of data provided to the Personnel Board. In addition, Employment Development stated that it added controls over data collection, tabulation, and submission so that all information could be traced back to hard copy documentation. Employment Development also formally analyzed its language survey results and its implementation plan included a corrective action plan describing how it would address its true staffing deficiencies. However, Employment Development has not yet finalized a policy that contains provisions for ensuring that applicable written materials are translated into other languages as required by the Act.

Recommendation 2.2—See pages 31 and 32 of the audit report for information on the related finding.

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

Emergency Management's Action: Fully implemented.

Emergency Management reported that when it determines a need for translation and interpreter services which cannot be provided by one of its certified bilingual employees, it will utilize General Services' list of California Multiple Award Schedules (CMAS) vendors and consult with the Personnel Board.

Highway Patrol's Action: Fully implemented.

Highway Patrol reported that it complies with this recommendation and will continue to negotiate the lowest possible rates for bilingual services while ensuring quality deliverables.

Corrections' Action: Fully implemented.

Corrections indicated that it will routinely refer to General Services' and the Personnel Board's leveraged procurement agreements when bilingual service requests are within the ordering allowances for those contracts. In such instances, Corrections will utilize these agreements when they meet its specific business needs.

Food and Agriculture's Action: Fully implemented.

Food and Agriculture reported that it has explored General Services' CMAS and the Personnel Board's language service providers for cost effective translation, American Sign Language interpretation, and bilingual staff certification services.

Housing's Action: Fully implemented.

In an effort to achieve the best service at the lowest cost possible, Housing reported that its equal employment opportunity officer contacted the Personnel Board to obtain information and pricing on its bilingual services contracts, and compared those prices to the rates of the CMAS and other vendors that it currently uses for its bilingual services needs.

Justice's Action: Fully implemented.

Justice reported that it explored the state auditor's recommendation to leverage General Services' and the Personnel Board's contracts and found its current provider's services to be the most cost effective.

Motor Vehicles' Action: Fully implemented.

Motor Vehicles reported that it already complies with this recommendation, and therefore, no further action is required.

Public Health's Action: Fully implemented.

Public Health agrees that 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 reported that it developed seven, two-hour training classes to educate its staff on various elements of the contracting and procurement process. It indicated that the fifth class in this series provides information on available leveraged procurement agreements, including General Services' and the Personnel Board's contracts for bilingual services. Public Health reported that it held the initial fifth class in October 2011, and it will repeat this training every 14 weeks.

Toxic Substances Control's Action: Fully implemented.

Toxic Substances Control reported that it conducted a formal analysis of General Services' and the Personnel Board's contracts to potentially reduce its costs of providing bilingual services. Based on this analysis, it has decided to obtain a new contract for bilingual services through the CMAS process.

Employment Development's Action: Fully implemented.

Employment Development reported that it leverages all of General Services' master and statewide contracts, including CMAS contracts, when appropriate for use. However, Employment Development stated that before contracting out for personal services with a private vendor, as is available through CMAS, it first considers an agreement with another state agency.

Recommendation 2.3—See pages 33 and 34 of the audit report for information on the related finding.

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

Corrections' Action: Pending.

Corrections reported that it is in the process of developing policies, procedures, and training materials to detect and prevent contract splitting. In the interim, its office of business services will review all incoming service orders to determine if existing contracts can satisfy these requests or if there are multiple requests pending for the same services.

Public Health's Action: Fully implemented.

Public Health reported that it developed seven training classes to educate its staff on the elements of the state's procurement and contracting process. It indicated that the first class in this series covered general procurement and contracting policies, including those governing service orders and the limitations on their use. Public Health reported that it held the initial class in July 2011, and it will repeat this training every 14 weeks. Public Health believes that these classes will enhance its adherence to its service order policies and mitigate the risk of future contract splitting.

Recommendation 3.1—See pages 42 and 43 of the audit report for information on the related finding.

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

City of Fremont's Action: Fully implemented.

The City of Fremont developed a language access policy explaining how its clients can request language services and how they can complain if they feel these services are inadequate. The policy is available in multiple languages on the City's Web site.

City of Santa Ana's Action: Fully implemented.

The City of Santa Ana (Santa Ana) implemented a citywide bilingual complaint process. Santa Ana reported that each of its departments has a bilingual services representative available to respond to complaints or questions. It reported that information on the complaint process, along with bilingual services complaint forms, are available in several languages at all of its public counters and on the City's Web site.

City of Garden Grove's Action: Fully implemented.

The City of Garden Grove (Garden Grove) developed bilingual assessment and complaint procedures and a language barrier reporting form in November 2011. Garden Grove reported that this information will be made available to the public in all four of Garden Grove's major languages (English, Vietnamese, Spanish, and Korean) in all of its facilities and on its Web site.

Department of Resources Recycling and Recovery

Deficiencies in Forecasting and Ineffective Management Have Hindered the Beverage Container Recycling Program

REPORT NUMBER 2010-101, ISSUED JUNE 2010

This report concludes that because of forecasting deficiencies, the Department of Resources Recycling and Recovery (department) was not always able to reliably project the revenues and expenditures in the department's Beverage Container Recycling Fund (beverage fund). Moreover, ineffective supervision and errors hindered the department's forecasting reliability and more recently resulted in a \$158.1 million overstatement of the projected beverage fund balance in the 2009–10 Governor's Budget. Further, we found that the department could do more to effectively manage the Beverage Container Recycling Program (beverage program). For example, the department has not followed its plan to audit the top 100 beverage distributors that provided 90 percent of the revenues to the beverage fund, and when audits were conducted, a significant lag existed between the audit's completion and billing for identified underpayments, which increased its risk for failing to collect underpayments before the two-year statute of limitations. In fact, we noted three instances where the department exceeded the statute of limitations and lost the opportunity to collect up to \$755,000. Further, the department could improve its efforts to prevent fraud by better tracking fraud leads and having a systematic method for analyzing recycling data for potential fraud. In addition, the department is currently conducting enhanced efforts to prevent fraud before it occurs, but has not yet set specific goals to evaluate the success of these efforts. Our review also revealed that the department did not consistently oversee recycling grants and for six grants we reviewed it did not ensure that grantees met their commitments, which ultimately cost the State nearly \$2.2 million. Finally, although the department has a strategic plan, we believe it should consider establishing benchmarks or metrics that would allow it to more clearly measure the success of the beverage program.

In the report, the California State Auditor (state auditor) made the following recommendations to the department. The state auditor's determination regarding the current status of recommendations is based on the department's response to the state auditor as of December 2011.

Recommendation 1.1.a—See pages 13—22 of the audit report for information on the related finding.

To improve its forecasting of revenues and expenditures for the beverage fund, the department should implement a new forecasting model in time for it to be used for the fiscal year 2011–12 Governor's Budget.

Department's Action: Fully implemented.

The department redesigned its forecasting methodology, which it used for the October 2010 fund projection.

Recommendation 1.1.b—See pages 13—22 of the audit report for information on the related finding.

To improve its forecasting of revenues and expenditures for the beverage fund, the department should place appropriate controls over the forecast model, including having management review the reliability of forecasting results before they are used and monitoring the reliability of forecast results against actual figures on a monthly and yearly basis.

Department's Action: Fully implemented.

The department implemented review procedures, including a process to compare actual sales and return values with prior projections.

Recommendation 1.1.c—See pages 13—22 of the audit report for information on the related finding.

To improve its forecasting of revenues and expenditures for the beverage fund, the department should ensure that the contingency reserve for the beverage fund does not exceed the statutory limit specified in the Public Resources Code.

Department's Action: Fully implemented.

The department followed the Public Resources Code when calculating the contingency reserve and has implemented review procedures to evaluate the appropriateness of the contingency reserve.

Recommendation 1.1.d—See pages 13—22 of the audit report for information on the related finding.

To improve its forecasting of revenues and expenditures for the beverage fund, the department should continue with its efforts to hire an economist to lead its forecasting efforts.

Department's Action: Fully implemented.

Following the August 2010 hiring freeze, the department indicated that it suspended its process for hiring an economist to lead its forecasting efforts. Nevertheless, to mitigate this impact, it assigned a department employee to assist in reviewing and revising the forecasting model.

Recommendation 1.1.e—See pages 13—22 of the audit report for information on the related finding.

To improve its forecasting of revenues and expenditures for the beverage fund, the department should ensure that the actual fund balances of the beverage fund in future governor's budgets reflect actual revenues and expenditures from its accounting records.

Department's Action: Fully implemented.

The department developed a procedure to reconcile its records with the State Controller's Office data to ensure correct information is presented to the Department of Finance for preparing the governor's budget.

Recommendation 1.2—See pages 22—27 of the audit report for information on the related finding.

The department should better follow its three-year plan to audit beverage distributors. Steps to accomplish this goal could include performing an analysis of risks that could result in underpayment of redemption payments or implementing policies to terminate audits after the department's initial assessment of a beverage distributor concludes that it is unlikely that an underpayment exists.

Department's Action: Fully implemented.

The department has included a risk-based evaluation in its audit program to determine whether there is material harm to the fund and to terminate audits based on initial assessments. The department updated its current three-year audit plan to reflect this change, and its auditors received training on this risk-based process.

Recommendation 1.3—See pages 22—27 of the audit report for information on the related finding.

To avoid exceeding the statute of limitations for collecting underpayments, and to bill for collection sooner, the department should strive to complete the fieldwork for audits in a more timely fashion. Further, the department should implement policies to shorten the time needed to review completed audits before billings are made, and should also develop policies to expedite reviews when an audit identifies a significant underpayment.

Department's Action: Fully implemented.

The department indicated that its Division of Recycling Integrated Information System (DORIIS) tracks audit activity including the statute of limitations for each audit. The department provided statute of limitations training for audit staff in its investigations and audits units in December 2010.

Recommendation 1.4—See pages 27—29 of the audit report for information on the related finding.

The department should continue with its efforts to implement regulation changes that will require beverage distributors to register with the department and to notify the department if another entity has agreed to report and make payments on behalf of that beverage distributor.

Department's Action: Pending.

The department is pursuing regulatory changes to regulate reporting of agreements where an entity has agreed to make payments on behalf of that beverage distributor.

Recommendation 1.5.a—See pages 29—33 of the audit report for information on the related finding.

To improve management of its fraud investigations, the department should track all fraud leads that the investigations unit receives and track the disposition of those leads, as well as document the reasons for closing leads without an investigation.

Department's Action: Fully implemented.

The department adopted procedures for analyzing fraud tips and entering them into DORIIS for tracking and follow-up.

Recommendation 1.5.b—See pages 29—33 of the audit report for information on the related finding.

To improve management of its fraud investigations, the department should formalize the approach used to analyze recycling data for potential fraud and develop criteria for staff to use when deciding whether to refer anomalies for investigation. Because DORIIS will be a central data source for recycling activities once it is implemented, the department should continue with its plan to automate the review of recycling data within DORIIS to identify potential fraud.

Department's Action: Pending.

The department indicated that it has contracted with an outside vendor to develop statistical models for identifying patterns of program-related fraud. The department indicated that the project is scheduled to be completed in December 2011 and will be implemented thereafter.

Recommendation 1.5.c—See pages 29—33 of the audit report for information on the related finding.

To improve management of its fraud investigations, the department should continue to evaluate the effectiveness of the fraud prevention project and whether it is a cost-beneficial activity.

Department's Action: Fully implemented.

As a result of staffing constraints and implementation of DORIIS-based analytical tools to identify potential fraud, the department decided to gradually phase out the fraud prevention project as originally envisioned beginning in 2011. The department further indicated that it will continue to evaluate new procedures to improve management of its fraud investigations.

Recommendation 1.6.a—See pages 33—42 of the audit report for information on the related finding.

To improve oversight of grants and ensure that the intended value is received from the grant funds it awards, the department should perform site visits to ensure that grantees are progressing on projects as expected.

Department's Action: Fully implemented.

The department revised its grant management procedures manual regarding grantee site visit requirements and created site visit forms to document these visits.

Recommendation 1.6.b—See pages 33—42 of the audit report for information on the related finding.

To improve oversight of grants and ensure that the intended value is received from the grant funds it awards, the department should require that grantees provide regular status reports that sufficiently describe their progress toward meeting the goals of the grant.

Department's Action: Fully implemented.

The department's grant management procedures manual requires all grantees to submit periodic status reports, which includes withholding grantee payments when status reports are not current. The department also indicated that it will emphasize to staff that grantees are to submit status reports in a timely manner.

Recommendation 1.6.c—See pages 33—42 of the audit report for information on the related finding.

To improve oversight of grants and ensure that the intended value is received from the grant funds it awards, the department should more closely scrutinize the risks associated with proposed market development grants.

Department's Action: Fully implemented.

According to state law, the annual funding for market development and expansion grants will end on January 1, 2012, and the department indicated that no new funding is anticipated. Thus, the department indicated that any further review of new grants is suspended until new funding is reinstated.

Recommendation 1.6.d—See pages 33—42 of the audit report for information on the related finding.

To improve oversight of grants and ensure that the intended value is received from the grant funds it awards, the department should, for recipients of market development grants that are unable to meet the goals of their grants, maintain contact with grantees after the project is completed to determine if the goals may ultimately be achieved.

Department's Action: Pending.

The department indicated that it is committed to following up and maintaining contact with grantees that are unable to fulfill their goals. Specifically, the department developed a survey and indicated that it will be sent to grantees whose projects were closed, without the project being completed. This survey includes questions related to additional efforts to complete the project after the grant was closed, and whether or not the project goal was ultimately achieved.

Recommendation 1.6.e—See pages 33—42 of the audit report for information on the related finding.

To improve oversight of grants and ensure that the intended value is received from the grant funds it awards, the department should make determinations to approve grant extension requests in a timely manner.

Department's Action: Fully implemented.

The department implemented a review schedule to determine, at least three months prior to the end of a grant agreement, whether an extension is required.

Recommendation 1.6.f—See pages 33—42 of the audit report for information on the related finding.

To improve oversight of grants and ensure that the intended value is received from the grant funds it awards, the department should implement policies to ensure that cities and counties spend grant funds for recycling purposes by requiring periodic reporting of expenses or reporting of how funds were used after the grant ends.

Department's Action: Fully implemented.

The department developed a methodology to annually review a statistically valid sample of city and county payment programs recipients to ensure funds are appropriately utilized. Further, the department indicated it will complete this review by January 2013.

Recommendation 1.7—See pages 42—44 of the audit report for information on the related finding.

The department should weave benchmarks, coupled with metrics to measure the quality of its activities, into the strategic plan for the beverage program to allow it to better measure progress in meeting goals.

Department's Action: Pending.

The department stated that as it refines its strategic plan, relevant beverage program activities such as metrics to achieve audit plans, inspections, and enforcement objectives as well as other program activities will be incorporated along with the means to measure the quality of the outcomes.

Recommendation 1.8—See pages 42—44 of the audit report for information on the related finding.

The department should ensure that the strategic plan incorporates all relevant activities of the beverage program.

Department's Action: Pending.

The department stated that as it refines its strategic plan, relevant beverage program activities such as metrics to achieve audit plans, inspections, and enforcement objectives as well as other program activities will be incorporated along with the means to measure the quality of the outcomes.

State Lands Commission

Because It Has Not Managed Public Lands Effectively, the State Has Lost Millions in Revenue for the General Fund

REPORT NUMBER 2010-125, ISSUED AUGUST 2011

This report concludes the State Lands Commission (commission) has not always managed its more than 4,000 leases in the State's best interest with the result that it has missed opportunities to generate millions of dollars in revenues for the State's General Fund. For example, the commission has allowed lessees whose rent is past due to remain on state land for years without paying rent. In fact, we estimated losses totaling \$1.6 million for a sample of 10 delinquent leases we reviewed. Additionally, about 140 of the commission's 1,000 revenue-generating leases are currently expired. We estimate the commission has lost \$269,000 for 10 expired leases because lessees continue to pay the rent established by an old appraisal that may not be indicative of the property's current value. Further, although the commission has a mechanism in place to periodically review—and potentially increase—rental amounts, we found that it generally failed to promptly conduct rent reviews, causing it to lose \$6.3 million in increased rent it may have been able to collect. Moreover, the commission does not appraise its leased properties as frequently as the lease agreements allow, and when it does conduct appraisals, it sometimes undervalues its properties because it uses outdated methods, some of which were established more than 18 years ago.

We also found that the commission does not adequately monitor its leases. Specifically, the database used by the commission to store lease information is both inaccurate and incomplete, and is not used by staff to monitor the status of its leases. As a result, the commission is not appropriately tracking the status of some of its leases. For example, the commission apparently lost track of one of its leases, and as a result failed to bill the lessee for 12 years while the lessee remained on state property. Additionally, the commission does not regularly audit its revenue-generating leases, nor does it adequately oversee granted lands.

Finally, although the commission has undergone a series of staff reductions since 1990 and has made attempts to replace these lost positions, it has not taken sufficient steps to quantify its need for additional staff. Specifically, the commission has not developed any analyses to determine an appropriate workload and the number of staff needed to address such a workload.

In the report, the California State Auditor (state auditor) made the following recommendations to the commission. The state auditor's determination regarding the current status of recommendations is based on the commission's response to the state auditor as of October 2011.

Recommendation 1.1.a—See pages 16 and 17 of the audit report for information on the related finding.

To ensure that it manages delinquent leases in an effective and timely manner and collects all the amounts owed to it, the commission should determine the amount of past due rent that should be included in its accounts receivable account.

Commission's Action: Fully implemented.

The commission asserted that it identified the amount of past-due rent that should be included in its accounts receivable account and it provided us the list of accounts receivable that included those receivables identified as contingent receivables.

Recommendation 1.1.b—See page 18 of the audit report for information on the related finding.

To ensure that it manages delinquent leases in an effective and timely manner and collects all the amounts owed to it, the commission should develop and adhere to policies and procedures that incorporate the administrative manual's guidance, including the steps staff should take when a lessee is delinquent, time standards for performing those steps, and a process for consistently tracking the status of delinquent leases between divisions.

Commission's Action: Fully implemented.

The commission provided draft policies and procedures that specified the steps staff should take when a lessee is delinquent, including time standards and a process for tracking the status of delinquent leases between divisions. The commission also plans to convene a team of senior management that will meet at least quarterly to discuss delinquent leases. According to the commission, the new process will be in place by November 1, 2011.

Recommendation 1.1.c—See page 19 of the audit report for information on the related finding.

To ensure that it manages delinquent leases in an effective and timely manner and collects all the amounts owed to it, the commission should conduct and document cost-benefit analyses when it contemplates either referring a delinquent lessee to the attorney general or pursuing the delinquent lessee through other means.

Commission's Action: Fully implemented.

The commission's draft procedures regarding delinquent lessees specify that a management team will make a determination regarding pursuing a delinquent lessee after weighing available resources. According to the commission's chief counsel, while its draft procedures did not use the phrase "cost-benefit analysis," the analysis of whether to pursue a trespass or lease compliance issue includes the elements of a cost-benefit analysis in addition to policy and legal considerations.

Recommendation 1.2—See pages 19 and 20 of the audit report for information on the related finding.

When the commission determines that it will pursue delinquent lessees itself, it should use a collection agency or a program such as the Franchise Tax Board's Interagency Intercept Collections Program.

Commission's Action: Pending.

The commission stated that it is conducting an analysis to determine if it is currently authorized to use a collection agency or if it can participate in the Franchise Tax Board's Interagency Intercept Collections Program.

Recommendation 1.3.a—See page 22 of the audit report for information on the related finding.

To ensure that as few leases as possible go into holdover, the commission should continue to implement its newly established holdover reduction procedures and periodically evaluate whether its new procedures are having their intended effect of reducing the number of leases in holdover.

Commission's Action: Fully implemented.

The commission believes that its new holdover reduction procedures are effective with the result that the number of leases in holdover has decreased by 75 percent.

Recommendation 1.3.b—See pages 21 and 22 of the audit report for information on the related finding.

To ensure that as few leases as possible go into holdover, the commission should consistently assess the 25 percent penalty on expired leases.

Commission's Action: Fully implemented.

The commission stated that its new holdover reduction policies include a provision to assess the 25 percent penalty.

Recommendation 1.4.a—See pages 22 and 23 of the audit report for information on the related finding.

To complete its rent reviews promptly and obtain a fair rental amount for its leases, the commission should consistently notify lessees of impending rent reviews or rental increases within established timelines.

Commission's Action: Partially implemented.

The commission stated that it updated a rent review checklist and now requires staff to pull lease files one year in advance of the rent review date rather than nine months. Further, the commission requested additional staff to accommodate the rent review workload. According to the commission, these changes have helped staff to complete rent reviews in a timely manner.

Recommendation 1.4.b—See page 25 of the audit report for information on the related finding.

To complete its rent reviews promptly and obtain a fair rental amount for its leases, the commission should establish time standards for each step of the rent review process and ensure that all staff adhere to those time standards.

Commission's Action: Partially implemented.

The commission provided its rent review policies and procedures; however, none of these include time standards for each step in the rent review process, including appraisals.

Recommendation 1.4.c—See pages 25 and 26 of the audit report for information on the related finding.

To complete its rent reviews promptly and obtain a fair rental amount for its leases, the commission should develop a methodology for prioritizing its workload that focuses its staff on managing the higher revenue generating leases until such time as it addresses its workload needs.

Commission's Action: No action taken.

The commission provided policies and procedures that instructed staff to focus on significant leases—those with rent over \$10,000—to reduce the number of leases in holdover. Although the commission provided evidence that it requested additional staff to perform rent reviews, it did not provide a methodology for prioritizing its workload that focuses its staff on managing the higher revenue generating leases for rent reviews.

Recommendation 1.4.d—See page 26 of the audit report for information on the related finding.

To complete its rent reviews promptly and obtain a fair rental amount for its leases, the commission should conduct rent reviews on each fifth anniversary as specified in the lease agreements or consider including provisions in its leases that allow for the use of other strategies, such as adjusting rents annually using an inflation indicator.



Commission's Action: Pending.

The commission stated that it is exploring the use of an inflation indicator to streamline the rent review process. Additionally, as we indicated under recommendation 1.4.c, the commission is requesting additional staff to perform rent reviews.

Recommendation 1.5—See pages 26 and 27 of the audit report for information on the related finding.

To ensure that it receives rent from the lessee that reflects the approximate value for the State's property at those times when a lessee disputes a modification to the rental amount after the commission exercises its right to perform a rent review or because the lease expired, the commission should include in its lease agreements a provision that requires lessees to pay the commission's proposed increased rental amount, which would be deposited into an account within the Special Deposit Fund. The increased rental amounts deposited, plus the corresponding interest accrued in the account, should then be liquidated in accordance with the amount agreed to in the final lease agreement.

Commission's Action: Pending.

The commission stated that other strategies such as enforcing the 25 percent rental increase for holdover leases should negate the need to establish an account within the Special Deposit Fund. However, during our review we identified several circumstances in which a lessee disputed the rental amount after a rent review, rather than after a lease had expired. The commission does not address this situation and we believe the commission should still explore the use of the Special Deposit Fund when lessees dispute a modification to the rental amount after a rent review.

Recommendation 1.6.a—See page 28 of the audit report for information on the related finding.

To ensure that it is charging rent based on the most current value of its properties, the commission should appraise its properties as frequently as the lease provisions allow—generally every five years.

Commission's Action: Pending.

The commission stated that it requested additional staff to accommodate the appraisal workload. Additionally, the commission is exploring the use of an inflation indicator to appraise its properties.

Recommendation 1.6.b—See pages 28—31 of the audit report for information on the related finding.

To ensure that it is charging rent based on the most current value of its properties, the commission should use the sales comparison method when it establishes values for leases having the greatest revenue potential, and develop policies that specify when and how often it is appropriate to use the other methods of appraising properties. These policies should address the coordination of leasing staff with appraisal staff as part of the process for determining which appraisal method should be used.

Commission's Action: Partially implemented.

The commission indicated that Land Management has directed staff to request sales comparison appraisals for all high value leases. However, the commission did not address whether it has developed a policy that specifies when and how often it is appropriate to use the other methods of appraising properties, or coordinates leasing and appraisal staff.

Recommendation 1.7.a—See pages 31 and 32 of the audit report for information on the related finding.

To ensure that it does not undervalue certain types of leases, the commission should amend its regulations for establishing pipeline rents on state land as staff recommended in the 2010 survey of methods used by agencies in other states to establish pipeline rents.

Commission's Action: Pending.

The commission stated that it is moving forward with the regulatory process to revise and update the regulations regarding rents, including those for pipelines.

Recommendation 1.7.b—See pages 33 and 34 of the audit report for information on the related finding.

To ensure that it does not undervalue certain types of leases, the commission should implement and follow its plan to regularly update its benchmarks for determining rental amounts.

Commission's Action: Partially implemented.

The commission provided an updated benchmark for San Francisco County. The commission asserted that it is progressing on the scheduled periodic updates of the other benchmarks.

Recommendation 1.7.c—See page 34 of the audit report for information on the related finding.

To ensure that it does not undervalue certain types of leases, the commission should periodically analyze whether collecting oil royalties in cash or in kind would maximize revenues to the State, and use that method to collect its oil royalties.

Commission's Action: Fully implemented.

The commission requested the city of Long Beach to perform an analysis of the sale of oil from the Long Beach leases. The city of Long Beach determined that it will not collect royalties in kind as such sales would be detrimental to the State. Commission staff conducted an analysis of its non-Long Beach leases and made a similar determination.

Recommendation 2.1.a—See pages 38—40 of the audit report for information on the related finding.

To improve its monitoring of leases, the commission should create and implement a policy, including provisions for supervisory review, to ensure that the information in the Application Lease Information Database (ALID) is complete, accurate, and consistently entered to allow for the retrieval of reliable lease information. To do so, the commission should consult another public lands leasing entity, such as the Department of General Services, to obtain best practices for a lease tracking database.

Commission's Action: Partially implemented.

The commission asserts that all income-producing leases have been verified for data elements related to rent review dates, lease term, and expiration dates. Further, commission staff is developing management reports that, according to the commission, will allow access to data in a format that will be useful for decision making. Finally, the commission is pursuing an off-the-shelf software program that could potentially replace ALID. However, the commission has not implemented a policy that includes provisions for a supervisory review of the data entered into ALID. Further, the commission has not yet consulted with other public lands leasing agencies to obtain best practices for a lease tracking-database.

Recommendation 2.1.b—See page 39 of the audit report for information on the related finding.

To improve its monitoring of leases, the commission should require all of its divisions to use ALID as its one centralized lease-tracking database.

Commission's Action: Partially implemented.

The commission stated that the steps it has taken should reduce the need for staff to use multiple data sources.

Recommendation 2.2.a—See page 42 of the audit report for information on the related finding.

To adequately monitor its revenue generating oil and gas leases, the commission should track the recoveries and findings identified in its audits and use this information to develop an audit plan that would focus on leases that have historically generated the most revenue and recoveries for the State, as well as those that historically have had the most problems.

Commission's Action: Partially implemented.

The commission developed an audit plan for all mineral leases that considers a combination of factors, including risk and specifies that the commission will track the recoveries and findings identified in its audits. However, the commission does not believe that it can implement the plan without additional staff but has recently requested several staff to accommodate the workload.

Recommendation 2.2.b—See page 43 of the audit report for information on the related finding.

To adequately monitor its revenue generating oil and gas leases, the commission should work with lessees that entered into a lease with the commission before 1977 to put in place a reasonable time period within which lessees must resolve other types of deduction claims similar to the regulations already in place for dehydration costs.

Commission's Action: Partially implemented.

The commission stated that staff will continue to work with lessee when the opportunity arises to implement the recommendation where appropriate and when it is in the best interests of the State. However, we believe the commission should implement a policy that demonstrates that the commission intends to make this a regular practice.

Recommendation 2.2.c—See pages 43 and 44 of the audit report for information on the related finding.

To adequately monitor its revenue generating oil and gas leases, the commission should explore and take advantage of other approaches to fulfill its auditing responsibilities, such as contracting with an outside consulting firm that could conduct some of its audits on a contingency basis.

Commission's Action: Pending.

The commission is withholding consideration of this approach until after the completion of a project for which the commission is currently contracting with an outside consulting firm.

Recommendation 2.3—See pages 44 and 45 of the audit report for information on the related finding.

The commission should establish a monitoring program to ensure that the funds generated from granted lands are expended in accordance with the public trust.

Commission's Action: Pending.

The commission is requesting additional staff to establish this monitoring program.

Recommendation 2.4—See pages 46 and 47 of the audit report for information on the related finding.

To ensure that all of its oil and gas leases have current surety bonds and liability insurance, as required by law and certain lease agreements, the commission should require lessees to provide documentation of their surety bonds and liability insurance. If the commission believes that assessing a monetary penalty will be effective in encouraging lessees to obtain surety bonds or liability insurance, it should seek legislation to provide this authority. Finally, if it obtains this authority, the commission should enforce it.

Commission's Action: Partially implemented.

The commission is requesting additional staff to establish a lease compliance program that would ensure lessees maintain current surety bonds and liability insurance, and is exploring regulations that would give it authority to penalize non-compliance.

Legislative Action: Unknown.

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

Recommendation 3.1.a—See pages 52 and 53 of the audit report for information on the related finding.

To better demonstrate its need for additional staff, the commission should conduct a workload analysis to identify a reasonable workload for its staff and use this analysis to quantify the need for additional staff.

Commission's Action: Fully implemented.

The commission conducted workload analyses that it included as part of its request for additional staff.

Recommendation 3.1.b—See pages 53—55 of the audit report for information on the related finding.

To better demonstrate its need for additional staff, the commission should quantify the monetary benefits of its staff's duties other than processing lease applications, and consider billing lessees for those activities.

Commission's Action: Pending.

The commission asserts that it is incorporating management fees into larger leases and is exploring legislative and regulatory changes necessary to address this issue.

Recommendation 3.1.c—See page 55 of the audit report for information on the related finding.

To better demonstrate its need for additional staff, the commission should ensure that the workload analysis takes into consideration the additional responsibilities and staffing needs that the commission will receive if the section of the state law that provides for rent free leases is repealed.

Commission's Action: Fully implemented.

The section of the state law that provided for rent-free leases was repealed during this past legislative session. The commission stated that it identified additional staffing needs in its enrolled bill report.

Recommendation 3.2—See pages 55—57 of the audit report for information on the related finding.

To better address current and potential future staffing shortages, as well as the impending loss of institutional knowledge, the commission should create a succession plan.

Commission's Action: No action taken.

Although the commission agrees with this recommendation, it indicated that it does not plan to address this recommendation until it has sufficient staff to do so.

California Department of Transportation

Its Capital Outlay Support Program Should Strengthen Budgeting Practices, Refine Its Performance Measures, and Improve Internal Controls

REPORT NUMBER 2010-122, ISSUED APRIL 2011

This report concludes that, despite a stated goal to reduce overruns in its support project budgets, the California Department of Transportation (Caltrans) has performed little analysis to determine the frequency or magnitude of support cost budget overruns. Our review of projects that completed construction in fiscal years 2007–08 through 2009–10 indicates that 62 percent of the projects had support costs that exceeded their respective budgets. These overruns totaled more than \$305 million of the \$1.4 billion in total support cost expenditures for the projects that completed construction during these fiscal years. Our analysis found that the primary cause for support cost overruns was an increase in the hourly rate for support costs. For example, one project was approximately 14,600 hours under budget but exceeded its budgeted dollar amount by nearly \$6.8 million, representing a support cost overrun of 83 percent. The changes in the hourly rate for support costs were due, in part, to salary increases of more than 40 percent during fiscal years 2005–06 through 2008–09 for certain Caltrans employees, including engineers. We also found that project managers for 12 of the 40 projects we reviewed monitored their budgets based primarily on the hours charged and not dollars spent. If project managers do not pay attention to costs, escalations in the rate paid per hour could cause a support cost overrun, even if the project remains under its budgeted hours. Further, project managers for 10 of the 40 projects we reviewed did not use a detailed approach to develop a support budget when a project was ready for construction.

Moreover, although Caltrans has established a goal of reducing support costs to represent a ratio of 32 percent of the total capital costs (support-to-capital ratio), according to our assessment Caltrans generally did not meet its goal for fiscal years 2007–08 through 2009–10. In addition, Caltrans has failed historically to use a consistent method to calculate this ratio over time, thus decreasing the value of the ratio for assessing Caltrans' performance in managing the support program. Furthermore, the support-to-capital ratio has limitations and could be defined more precisely to better measure efficiency, given that support costs can vary greatly depending on a project's size and type.

We also noted that Caltrans' time-reporting system lacks strong internal controls, and better project monitoring and consistent use of performance metrics, such as earned value metrics, could help it minimize support cost overruns. Further, although Caltrans recently sought to hire consultants rather than permanent employees to address a temporary increase in workload, it was not successful in doing so because requests for consultants have historically been revised during the legislative budget process to align with a staffing ratio of 10 percent consultants to 90 percent state staff.

In the report, the California State Auditor (state auditor) made the following recommendations to Caltrans. The state auditor's determination regarding the current status of recommendations is based on Caltrans' response to the state auditor as of October 2011.

Recommendation 1.1.a—See pages 28—37 of the audit report for information on the related finding.

To improve accountability internally and with the public, Caltrans should create and incorporate an analysis of support cost budget variances in its quarterly report to the agency and in its annual report to the Legislature and the governor. The analysis should report on the number of completed projects with budget variances and on the number of open projects for which the estimates at completion predict budget variances. Further, the analysis should report on the overrun and underrun ratios for those projects, and the portions of the variances due to rates and hours. Also, Caltrans should include in its strategic plan a measurable goal for reducing variances.

Caltrans' Action: Partially implemented.

Caltrans established a performance measure that targets support expenditures that are within a specified range of the support budget. The performance measure is now in place and Caltrans stated that it is on track to incorporate it into the quarterly reports to the California Transportation Commission (CTC) and annual reports to the Legislature and governor by December 31, 2011.

Recommendation 1.1.b—See pages 32 and 33 of the audit report for information on the related finding.

To improve accountability internally and with the public, Caltrans should establish budgets for those State Transportation Improvement Program (STIP) projects programmed before the passage of Senate Bill 45 so that overruns may be reported in the quarterly report to the agency and in the annual report to the Legislature and the governor.

Caltrans' Action: Fully implemented.

Caltrans has established support budgets for the 24 projects it identified as having started (projects programmed) prior to the passage of Senate Bill 45.

Recommendation 1.1.c—See page 33 of the audit report for information on the related finding.

To improve accountability internally and with the public, Caltrans should develop a system to report on the total budgets of support program projects—including initial project support budgets—of projects that have been divided into multiple projects or combined into a larger project.

Caltrans' Action: Fully implemented.

Caltrans stated that it has developed improved business practices to allow for easier tracking of project budgets. Specifically, Caltrans provided a project management directive outlining a process for managing project funding and costs when projects are split or combined into one or more construction contracts. The process allows for tracking the origin of projects split into multiple projects or combined into one project. That directive took effect in August 2011.

Recommendation 1.2.a—See pages 41—43 of the audit report for information on the related finding.

To improve performance metrics related to the support program, Caltrans should devise, use, and publicize a consistent method for reporting the support-to-capital ratio on its Web site and in other reports to the public. Further, Caltrans should recalculate past support-to-capital ratios using the method devised to allow for comparison across years.

Caltrans' Action: Partially implemented.

Caltrans stated that it developed a consistent methodology for reporting the support-to-capital ratio and posted the methodology on its project management intranet site. Caltrans also recalculated past support to capital ratios consistent with this new methodology. However, it did not indicate that it has or will publish this information on its Web site or in other reports to the public. Further, Caltrans stated that it would incorporate these indicators into a quarterly report to the California Transportation Commission by December 31, 2011.

Recommendation 1.2.b—See pages 43—45 of the audit report for information on the related finding.

To improve performance metrics related to the support program, Caltrans should develop goals—and publicly report on the progress against those goals—for the support-to-capital ratio, based on project type—STIP or the State Highway Operation and Protection Program (SHOPP)—and project size.

Caltrans' Action: Pending.

Caltrans stated it is on track to have preliminary goals and a normalization methodology, which will be used to normalize data across years, for STIP and SHOPP projects by size and capital dollar amount by December 31, 2011.

Recommendation 1.2.c—See pages 45 and 46 of the audit report for information on the related finding.

To improve performance metrics related to the support program, Caltrans should continue to explore the use of additional metrics, such as a measure based on a productivity index as described in a March 2011 draft study by the University of California, Davis.

Caltrans' Action: Pending.

Caltrans stated that it has been moving away from using the support-to-capital ratio as a measure of performance but will continue to use it as an indicator. Caltrans stated that it is on track to develop an additional metric by July 2012.

Recommendation 1.3—See pages 37—39 of the audit report for information on the related finding.

To better develop and manage project budgets for support, Caltrans should instruct project managers to submit requests to update the budget when assumptions on which the budget was based are no longer valid, regardless of the phase of the project. Additionally, it should direct its project managers to use a detailed approach based on project tasks, such as those included in a project work plan, when finalizing project support budgets before construction.

Caltrans' Action: Fully implemented.

Caltrans issued a project management directive titled “Management of Capital Outlay Support,” in August 2011. The directive gives direction on updating budgets for construction on or before the date the project is voted on by the CTC and proceeds to the construction phase. Further, the directive includes instruction to update estimated hours in the project’s work plan when hours change and to review and update—if needed—resource estimates on an ongoing basis, and at least quarterly. Further, the directive requires that the project development team review and update support budgets at the completion of each major milestone.

Recommendation 1.4.a—See pages 38 and 39 of the audit report for information on the related finding.

To ensure that it monitors the status of projects, Caltrans should continue to implement the policies described in its February 2010 memorandum to the districts describing an approach Caltrans will take to monitor support costs within budget. Moreover, Caltrans should direct its project managers to monitor budgets for all projects according to both hours and costs.

Caltrans' Action: Fully implemented.

Caltrans issued a project management directive in August 2011 clarifying the responsibility of project managers in the development and maintenance of project workplans, including planned hours and support costs throughout the life of the project. Further, Caltrans stated that it has added a standing agenda item to a quarterly teleconference to discuss support budget corrective action plans.

Recommendation 1.4.b—See pages 48—50 of the audit report for information on the related finding.

To ensure that it monitors the status of projects, Caltrans should implement earned value management throughout its districts in a manner similar to the implementation in the Los Angeles district. To allow for performance evaluation of project work, Caltrans should ensure that these performance metrics are available at the task level for both active and completed projects. Caltrans should instruct districts to aggregate this information for all projects by task level, to better assess the effectiveness and efficiency of support costs by task level. Caltrans should also make available to project managers graphical displays of project cost and schedule performance.

Caltrans' Action: Pending.

In its 60-day response, Caltrans stated that it was reviewing policies, business processes, existing systems and data, to implement a statewide standard approach to earned value management in advance of the implementation of its Project Resource and Schedule Management (PRSM) system. In its six-month response, Caltrans stated that it is on track for having a standard approach to earned value management in place by December 31, 2011.

Recommendation 1.5.a—See pages 46—48 of the audit report for information on the related finding.

To better address costs associated with the support program, Caltrans should ensure that the PRSM system contains strong controls that ensure employees only charge time to projects and phases for which they are assigned.

Caltrans' Action: Pending.

Caltrans stated that when PRSM is fully implemented, only those employees with approved cost centers will be allowed to charge to projects.

Recommendation 1.5.b—See pages 50—52 of the audit report for information on the related finding.

To better address costs associated with the support program, Caltrans should commission an independent study of the costs and benefits of using consultants to address temporary increases in workload and, if the study reveals cost savings, use consultants. To the extent possible, Caltrans should also use temporary staff appointments for temporary increases in workload when consultants are unavailable.

Caltrans' Action: Partially implemented.

The Caltrans Division of Research and Innovation contracted with CTC and Associates LLC to compare in-house staff and consultant costs for highway design and construction. In July 2011 Caltrans received a preliminary report from the consultant, which aims to synthesize completed and in-process national- and state-related research that compares the cost of outsourcing highway design and construction activities with the cost of completing those tasks with in-house staff. Caltrans stated it is reviewing the recommendations to determine the next steps to be taken.

Recommendation 1.6—See pages 42 and 43 of the audit report for information on the related finding.

To ensure that it receives more complete information on the support program, the Legislature should require Caltrans to include in its annual report an expanded methodology for reporting support to capital ratios to include, in addition to a support-to-cost ratio analysis based on costs incurred up to the award of the construction contract of STIP projects, a separate support-to-capital ratio analysis for STIP projects that have completed construction. Further, the Legislature should require Caltrans to report on similar ratios for SHOPP projects based on costs incurred up to the award of the construction contract and for those projects that completed construction.

Legislative Action: Legislation enacted.

Chapter 6, Statutes 2011 (Assembly Bill 105), requires the department to submit to the Legislature information to substantiate the proposed capital outlay budget. In addition, Chapter 38, Statutes 2011 (Assembly Bill 115), requires the department to include in that submittal the capital-to-support ratio for all projects completed in the prior fiscal year.

Recommendation 1.7—See page 40 of the audit report for information on the related finding.

To increase accountability for budget overruns of support costs, the Legislature should consider legislation that would expressly require CTC to review and approve project construction support costs when they differ from the amount budgeted by 20 percent or more.

Legislative Action: Unknown.

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

Recommendation 1.8—See pages 50—52 of the audit report for information on the related finding.

To ensure that Caltrans does not hire permanent state staff beyond its need for such staff, the Legislature should consider appropriating funding for consultants to address temporary increases in Caltrans' workloads when Caltrans requests such funding.

Legislative Action: Unknown.

The state auditor is not aware of any action taken by the Legislature as of January 5, 2012.

California Department of Transportation

Inexcusable Neglect of Duty (Case I2008-0731)

REPORT NUMBER I2011-1, CHAPTER 4, ISSUED AUGUST 2011

This investigation found that for nearly three years, a transportation planning supervisor for the California Department of Transportation (Caltrans) neglected his duty to supervise the work of a subordinate transportation planner, resulting in the transportation planner receiving compensation, including overtime pay, for which the State lacked assurance that the transportation planner performed adequate work to justify the compensation.

In reporting on the investigation, the California State Auditor (state auditor) made the following recommendations to Caltrans. The state auditor's determination regarding the current status of recommendations is based on Caltrans' response to the state auditor as of December 2011.

Recommendation 1.a—See pages 28—31 of the investigative report for information on the related finding.

To address the inexcusable neglect of duty, Caltrans should take appropriate corrective action against the senior transportation planner for neglecting his duty to supervise the transportation planner.

Caltrans' Action: Fully implemented.

Caltrans reported that it issued a corrective memorandum to the supervisor and placed a copy in the supervisor's personnel file. However, it stated that the memorandum would be removed from the file after one year, provided that the supervisor does not engage in similar actions or otherwise fail in his duties.

Recommendation 1.b—See page 29 of the investigative report for information on the related finding.

To prevent similar improper acts from occurring, Caltrans should institute training to ensure that all Caltrans employees are aware of the requirement that all overtime work be preapproved.

Caltrans' Action: Pending.

Caltrans reported in December 2011 that it revised its overtime policy. However, Caltrans had not yet required its supervisors and managers to review the policy with all of their employees.

Recommendation 1.c—See pages 29 and 30 of the investigative report for information on the related finding.

Caltrans should establish controls to ensure that its telecommuting agreements are reviewed and renewed annually in order for an employee to be allowed to continue telecommuting.

Caltrans' Action: Fully implemented.

In July 2011 Caltrans revised its employee telework directive, which defines the responsibilities of managers and supervisors to ensure that telecommuting agreements are reviewed annually. It reported subsequently that its telework unit distributes notifications monthly to supervisors about the need to review telecommuting agreements nearing their expiration.

Recommendation 1.d—See pages 29—31 of the investigative report for information on the related finding.

Caltrans should revise its telecommuting policy to require that employees participating in the telecommuting program provide regular documentation of the work they perform away from the office.

Caltrans' Action: Fully implemented.

Caltrans reported that it had revised its Telework Program Policy and Procedures guidelines in March 2011. According to Caltrans, these guidelines require managers and supervisors to provide specific, measurable, and attainable performance expectations for their telecommuting employees. The agreements must define in writing detailed work tasks, corresponding deadlines, and expected work performance. The policy also requires managers and supervisors to review their expectations with their telecommuting employees at least quarterly.

General Obligation Bonds

The Departments of Water Resources and Finance Should Do More to Improve Their Oversight of Bond Expenditures

REPORT NUMBER 2010-117, ISSUED MAY 2011

This report concludes that the Department of Water Resources (Water Resources) demonstrated effective oversight of general obligation bonds, but it could improve in certain areas. During our review of a sample of 10 projects, we noted that Water Resources made appropriate decisions when awarding bond funds and making payments for project activities. However, for two of the 10 projects, Water Resources could not demonstrate that it performed site visits or took other steps to ensure the projects achieved their expected outcomes. We also found that Water Resources lacks a documented review process to ensure information posted to the Bond Accountability Web site is correct. Our review of the Web site revealed instances where Water Resources posted inaccurate award information for certain projects and in some cases did not post any information at all.

We also found that the Department of Finance (Finance) should do more to ensure transparency and accountability for bond spending related to the general obligation bonds approved by voters in November 2006 to fund the State's Strategic Growth Plan. The former governor's executive order from January 2007 required Finance to establish a Bond Accountability Web site that was to include information on the amounts spent on each bond-funded project. However, Finance's approach to establishing the Web site required departments to post information on the amounts awarded and not the amounts spent. By not providing the public with periodic information on the amounts spent for each project—to then compare against amounts awarded—the public lacks a way to measure each project's progress towards completion. In addition, Finance lacks a tracking process to ensure that state departments update the Bond Accountability Web site and describe the expected or realized benefits of bond-funded projects in terms the public can readily understand. Finally, we noted that the executive order requires state agencies to either contract with Finance for audits of bond expenditures or make alternative arrangements for audits with Finance's approval. However, as of late April 2011, Finance had issued audit reports on only three of the state agencies administering the general obligation bonds that support the State's Strategic Growth Plan, and none were of Water Resources.

In the report, the California State Auditor (state auditor) made the following recommendations to the Governor and the audited agencies. The state auditor's determination regarding the current status of recommendations is based on Water Resources' response as of November 2011 and Finance's response as of July 2011.

Recommendation 1.1—See pages 22—27 of the audit report for information on the related finding.

To ensure that its expenditures of bond funds achieve the intended purposes, Water Resources needs to strengthen its monitoring of project deliverables. For example, it should review the policies and practices of its various divisions, ensuring that periodic progress reports are obtained from grant recipients, and that final site visits document the results of the reviews performed.

Water Resources' Action: Partially implemented.

In its 60-day response to the audit, Water Resources stated that two of its divisions had developed procedure manuals for administering grant awards and meeting bond accountability reporting requirements. Water Resources also indicated that it completed all grant close-out procedures for one of the projects we reviewed during the audit that had highlighted some of Water Resources' monitoring weaknesses. Water Resources' six-month response generally stated that it had considered all of our recommendations and incorporated them into its business practices. However, neither Water Resources' 60-day update nor its six-month response clarified how its staff would ensure they obtain periodic progress reports from grant recipients. Similarly, Water Resources' responses did not discuss how it would ensure that its employees document the results of their site visits to bond-funded projects.

Recommendation 1.2—See pages 31—34 of the audit report for information on the related finding.

To provide the public with accurate and complete information on the bond-funded projects it administers, Water Resources should develop and consistently use a formalized, documented review process that will provide greater assurance that project information posted to the Bond Accountability Web site is regularly updated and contains accurate information.

Water Resources' Action: Partially implemented.

In its 60-day update to the audit, Water Resources indicated that each division is creating review guidelines in response to this recommendation, and that these guidelines will be under the authority of Water Resources' Bond Accountability Office. Water Resources' six-month response generally stated that it had considered all of our recommendations and incorporated them into its business practices. However, Water Resources did not provide examples of its new review guidelines to corroborate its response.

Recommendation 1.3—See pages 36—42 of the audit report for information on the related finding.

To enhance transparency and accountability regarding the State's use of general obligation bond funds, the governor should require administering agencies to report actual amounts spent on bond funded projects and update the expenditure information at least semiannually.

Governor's Action: Unknown.

We are unaware of any additional guidance issued by the Governor's Office.

Recommendation 1.4.a—See pages 36—42 of the audit report for information on the related finding.

To enhance the value of the Bond Accountability Web site, Finance should require administering agencies to provide information about the actual amounts of bond funds spent on posted projects at least semiannually.

Finance's Action: No action taken.

- Finance does not intend to implement this recommendation. In its 60-day update to the audit, Finance stated that its current practice requires state departments and agencies to post the amounts awarded for specific projects on the Bond Accountability Web site. Finance further explained its expectation that state departments and agencies update a project's awarded amount with actual expenditures if there is a difference once the project is complete. Finance maintains that its current policies comply with the former governor's executive order. Further, Finance questions the benefits of this recommendation and stated that it would be costly for many state departments and agencies to implement. Finance did not provide a six-month response to the audit.

Recommendation 1.4.b—See pages 42—45 of the audit report for information on the related finding.

To enhance the value of the Bond Accountability Web site, Finance should develop a tracking and review process to periodically assess the completeness of the project information posted to the Bond Accountability Web site. Such a process should include a review of whether state agencies are describing, in terms the public can easily understand, the expected or realized benefits of bond-funded projects.

Finance's Action: No action taken.

Finance does not intend to take any additional steps to implement this recommendation. In its 60-day update, Finance stated that it will continue to review state agencies compliance during department audits and during special project reporting compliance reviews. Finance explained that its audits include a review of whether state departments are appropriately reporting project information. Finance did not provide a six-month response to the audit.

Recommendation 1.5—See pages 45—47 of the audit report for information on the related finding.

To ensure that expenditures were consistent with bond laws and that the project achieved the intended benefits or outcomes agreed to when the project was originally awarded, Finance should conduct audits of, or approve and assure that, Water Resources and other agencies obtain audits of, Strategic Growth Plan (SGP) bond expenditures.

Finance's Action: Partially implemented.

In its 60-day update, Finance stated that since the audit was published, Finance has issued four additional audit reports, for a total of six SGP bond audit reports in fiscal year 2010–11. Additionally, Finance indicated that all state agencies administering SGP bonds have either entered into interagency agreements with Finance to conduct audits or have made arrangements with other entities, with the approval of Finance, to conduct the required audits. Accordingly, Finance intends to continue to conduct audits as required by the former governor's executive order. Finance's 60-day update did not provide any additional material to corroborate its assertions. Finance did not provide a six-month response to the audit.

