

## Department of General Services

### The Division of the State Architect Lacks Enforcement Authority and Has Weak Oversight Procedures, Increasing the Risk That School Construction Projects May Be Unsafe

#### REPORT NUMBER 2011-116.1, ISSUED DECEMBER 2011

This report concludes that the Department of General Services' (General Services) Division of the State Architect (division) is unable to certify that a large number of completed school construction projects meet requirements in the Field Act, a law designed to protect the safety of pupils, teachers, and the public. The division reports that over 16,000 projects remain uncertified. Elements of the act hamper the division's ability to enforce the certification requirements. For example, the act allows school districts to occupy uncertified projects and does not give the division the express authority to penalize school districts that do not comply with certification requirements. Further, the division infrequently uses its authority to stop construction of projects when it determines there is a risk to public safety. In addition, the division lacks a clear system for classifying uncertified projects, increasing the risk that it will miscommunicate the true risks associated with uncertified projects and that efforts to strategically follow up on these projects will be impeded.

We also found that the division's oversight of project construction is not effective. The division lacks a process for planning oversight it will perform, and in some cases could not demonstrate that it provided adequate field oversight. We found examples of projects with an estimated cost of up to \$2.2 million that had no evidence of a visit by the division's field staff. Further, the division relies on project inspectors to ensure that projects are constructed according to approved plans, but these inspectors are employees or contractors of the school districts, which increases the risk of improper influence and the division has not implemented robust strategies to mitigate this risk. Additionally, the division is not always able to approve project inspectors for work before the beginning of construction as the Field Act requires. Also, the division does not complete field oversight of school construction in the areas of fire and life safety and accessibility, raising the risk that safety issues in these areas will go uncorrected. Finally, the division lacks performance measures that could help it to improve its field oversight and certification of efforts.

In the report, the California State Auditor (state auditor) made the following recommendations to General Services and the Legislature. The state auditor's determination regarding the current status of recommendations is based on General Services' response to the state auditor as of December 2012.

#### **Recommendation 1.1.a—See pages 16—18 of the audit report for information on the related finding.**

To ensure public safety and provide public assurance that school districts construct projects in accordance with approved plans, the department, in conjunction with the division, should pursue legislative changes to the Field Act that would prohibit occupancy in cases in which the division has identified significant safety concerns.

#### ***General Services' Action: Pending.***

According to General Services, the State Architect determined that the division could achieve the objective of this recommendation through an inspection card system similar to one used in municipalities throughout the State. It indicated that such a system would allow for the verification of structural integrity and fire and life safety at the completion of each phase of a project and should result in timely certification upon completion of project construction. The division expects to implement the inspection card system in April 2013.

**Recommendation 1.1.b—See pages 16—18 of the audit report for information on the related finding.**

To ensure public safety and provide public assurance that school districts construct projects in accordance with approved plans, the Legislature should consider implementing additional penalties for school districts that do not provide all required documents.

***Legislative Action: Legislation proposed.***

Senate Bill 1271 (as amended) of the 2011–12 Regular Legislative Session, if enacted, would have required General Services to convene a workgroup or continue to use an existing workgroup to develop and adopt standards regarding the seismic safety of schools, make recommendations to the Legislature on ways to amend the Field Act to make it more effective, and report the recommendations of the workgroup to the Senate Select Committee on Earthquake and Disaster Preparedness, Response and Recovery by July 1, 2013. The bill was held in the Assembly Committee on Appropriations.

**Recommendation 1.2—See pages 18—20 of the audit report for information on the related finding.**

To better use the enforcement tools at its disposal, the division should continue and expand its use of both orders to comply and stop work orders, as defined in its regulations. The division should also develop performance measures to assess the success of any efforts it makes to address safety concerns and reduce the number of uncertified projects.

***General Services' Action: Partially implemented.***

The division updated its policies for stop work orders and orders to comply and conducted trainings for staff on the new policies in the fall of 2012. According to General Services, the new policies will be effective January 1, 2013, and at that time the division's regional office managers will be required to record the issuance of stop work orders and their resolution, and the division's headquarters staff will be required to monitor regional office data entries and activities with respect to stop work orders.

**Recommendation 1.3—See pages 20—23 of the audit report for information on the related finding.**

To ensure that it clearly justifies the reasons a project's noted issues merit a particular classification, the division should either modify its current policies regarding classifying types of uncertified projects or develop new policies, including requiring documentation of the rationale behind project-specific classifications. It should use its classifications to prioritize its efforts to follow up on uncertified projects based on risk and to better inform the public regarding the reasons it has not certified projects.

***General Services' Action: Partially implemented.***

In December 2012 the division conducted training for staff on changes to its procedures for project certification letters, which will be effective January 2013. In that training, the division outlined three certification letters it will use: one to indicate certified projects, a second to indicate projects not receiving certification because the division needs additional documentation, and a third to indicate projects not receiving certification because the division has noted deficiencies in the project. General Services said that for projects that cannot be certified due to missing documentation, the division will specify in its letter the required documents and the steps required to obtain certification. In addition, the division will no longer close project files for projects with outstanding noncompliance issues and will monitor the projects until these noncompliant conditions are resolved. General Services' response did not outline how the division would use these new classifications to prioritize follow-up efforts or inform the public.

**Recommendation 1.4—See pages 23 and 24 of the audit report for information on the related finding.**

To reduce the number of uncertified projects, the division should implement initiatives to follow up with school districts on uncertified projects. Those initiatives should include, at a minimum, regularly sending each district a list of its uncertified projects and assessing the success of the division's follow-up efforts.

***General Services' Action: Partially implemented.***

General Services stated that the division has implemented an outreach plan that includes regular communication with school districts about uncertified projects. In April 2012 the State Architect sent school superintendents a letter that advised them of the outreach effort. According to that letter, the State Architect plans to send letters to all school districts with uncertified school construction projects. The letter also said that each notification will include the names of the uncertified projects and the original closing letters that state why the State Architect was unable to certify the projects. According to General Services, beginning on June 1, 2012, the division sent out copies of the original closing letters for more than 9,000 uncertified projects and will continue with outreach efforts for the remaining uncertified projects. The division also plans to develop correspondence procedures that ensure regular follow-up with districts that have uncertified projects. The division stated it would develop correspondence procedures by June 2013 and provide districts with original closing letters by September 2013. Finally, according to General Services, the division's outreach efforts have resulted in the reduction of uncertified projects from 16,386 to 14,334, and the division has conducted site visits of each uncertified project that has evidence of unresolved safety deficiencies.

**Recommendation 2.1.a—See page 28 of the audit report for information on the related finding.**

To ensure it is providing adequate oversight of school district construction projects, the division should develop robust procedures for monitoring inspectors' submission of semi-monthly reports. The division should also maintain all semi-monthly reports in its project files.

***General Services' Action: Partially implemented.***

The division updated its project-tracking system to record the date of the most recent semi-monthly report and conducted staff training on the procedures for receiving, reviewing, and documenting the filing of semi-monthly reports in November 2012. The division also issued revised guidance in December 2012 to inspectors on filing semi-monthly reports, including a list of who must receive the report and a report template. Finally, the division indicated that there will be additional training in January 2013 on monitoring the filing of semi-monthly reports.

**Recommendation 2.1.b—See pages 28 and 29 of the audit report for information on the related finding.**

To ensure it is providing adequate oversight of school district construction projects, the division should develop and document an overall strategy that establishes specific expectations for conducting site visits and monitoring construction. The division should then record and compare its actual visits and monitoring efforts to its planned actions. The division should document explanations for any deviations from its plans.

***General Services' Action: Partially implemented.***

The division conducted training in November 2012 on its objectives for conducting site visits based on project characteristics. For example, for new building construction the division expects to visit a project inspector every four to eight weeks. Additionally, the division has developed a monitoring tool in order to record actual site visits completed by its field engineers and to allow it to compare those visits to the number of site visits expected. According to General Services, the division is developing a two-phase staff training program that will include using the monitoring system to generate data on field activities and procedures for ensuring that site visit goals are met using the available data. The division expects to conduct the training in the first quarter of 2013.

**Recommendation 2.1.c—See pages 29 and 30 of the audit report for information on the related finding.**

To ensure it is providing adequate oversight of school district construction projects, the division should establish consistent criteria for entering data into its database on key aspects of projects, such as the dates for the start and end of construction.

***General Services' Action: Fully implemented.***

The division developed standard criteria for documenting the start and end dates of school construction projects and accordingly updated its guidelines for project inspectors in December 2012. The guidelines state, for example, that the inspector will use as the construction start date the date the contractor mobilizes on the project site to begin construction.

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

To mitigate risks arising from the relationship between inspectors, school districts, and project managers, the division should develop formal procedures and explicit directions for field engineers to ensure that they establish a presence on project sites and provide adequate oversight of inspectors during construction.

***General Services' Action: Partially implemented.***

In August 2012 the division conducted training on monitoring project inspector recordkeeping. A second training in November 2012 focused on documentation of field oversight activities, including site visit goals. According to General Services, additional training sessions will be completed by February 2013. These sessions will outline procedures for generating field status data to ensure adequate oversight of active construction projects.

**Recommendation 2.3—See pages 32 and 33 of the audit report for information on the related finding.**

To ensure that it approves inspectors prior to the start of project construction, the division should streamline its approval process by reviewing inspectors' workloads and past experience using the data it already maintains.

***General Services' Action: Partially implemented.***

General Services stated that the division has updated its electronic project-tracking system to report on inspector workloads and experience. According to General Services, the updates allow division field engineers to obtain data on an inspector's current workload and that information can inform decisions regarding inspector approval. General Services stated that the division is developing procedures for statewide staff training on this system update scheduled for the first quarter of 2013.

**Recommendation 2.4—See pages 33 and 34 of the audit report for information on the related finding.**

To ensure that certified inspectors are knowledgeable about current code requirements, the division should not excuse inspectors from required trainings and should improve its process for identifying expired certification exam scores. Further, the division should consistently follow and document its procedures for verifying the past employment of inspector applicants.

***General Services' Action: Fully implemented.***

In January 2012 the division updated its written policies regarding inspector certification. These policies directly state the specific training required for inspectors who are taking the certification exam and also state the number of years for which a partial exam score is valid. In addition, in January 2012 the division issued an updated policy regarding the verification and documentation

of an inspector candidate's past experience. The policy directs certification unit staff to verify a candidate's experience and indicates the way to document that experience. The division has developed experience verification forms that feature "Verified By" and "Date Verified" fields for completion by staff.

**Recommendation 2.5—See pages 35—37 of the audit report for information on the related finding.**

To ensure that it formally monitors inspectors' performance, the division should reestablish a process for evaluating inspectors that provides consistent documentation of performance. The division should make this information accessible to appropriate staff.

***General Services' Action: Partially implemented.***

General Services outlines a number of actions the division has taken to track inspector performance, including establishing a process for reviewing inspector recordkeeping, and enhancing its automated tracking system to allow field engineers to document project inspectors' completion of reporting duties throughout the duration of projects. Although these changes provide the division with additional information on inspector performance, General Services did not indicate when it would reestablish an inspector evaluation process.

**Recommendation 2.6—See pages 37 and 38 of the audit report for information on the related finding.**

To address areas in which its staff do not currently have expertise, the division should finalize its field pilot and take subsequent steps to ensure it has qualified staff to provide oversight of accessibility; fire and life safety; and the mechanical, electrical, and plumbing aspects of construction.

***General Services' Action: Partially implemented.***

General Services stated that the division revisited the results of the field pilot and determined that, based on the current statutory-based fee structure, sufficient resources are available only for oversight of structural safety, fire and life safety, and accessibility issues. General Services also said that to achieve the field pilot's objectives for enhanced oversight, the division is developing a training program that will increase the expertise of its field engineers in the fire and life safety elements of construction as well as accessibility compliance. Training is planned for the first quarter of 2013.

**Recommendation 2.7—See pages 38 and 39 of the audit report for information on the related finding.**

To better manage its construction oversight and close-out functions, the division should develop measures to assess those functions and it should periodically report the results to the public on its Web site.

***General Services' Action: Pending.***

General Services stated that the division has developed measurements and reporting for its field oversight program, including site visit activities and the rate of project certification. It also said, however, that the division is in the process of evaluating the data reported and correlating reporting procedures between offices to ensure consistent statewide reporting. Subsequently, the division will develop external reporting based on the results of this evaluation. General Services did not provide a timeline for completing these actions.

**Recommendation 2.8—See pages 40 and 41 of the audit report for information on the related finding.**

To address possible staffing problems, the division should use documented workload metrics to perform an assessment of its current staffing levels and determine its staffing needs. It should revisit the field pilot and make necessary changes to reflect its understanding of its current staffing situation.

***General Services' Action: Partially implemented.***

According to General Services, the division developed an automated statewide metric to measure its field oversight workload. The division used the metric to conduct an assessment of its staffing level which, according to General Services, is commensurate with the division's site visit goals. The division will conduct this review on a regular basis to reassess its staffing needs for oversight. Further, according to General Services, the division determined that, based on the current statutory-based fee structure, sufficient resources are available only for oversight of structural safety, fire and life safety, and accessibility issues. The division did not provide evidence of its staffing assessment.