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JOINT LEGISLATIVE AUDIT COMMITTEE:

1997 YEAR END REPORT

"RESTORING ACCOUNTABILITY IN GOVERNMENT."

Joint Legislative Audit Committee

1997 Year End Report

"Restoring Accountability in Government"

Chairman, Assemblyman Scott Wildman

Introduction

In the mid-1950's the California Legislature embarked on a bold policy to invest taxpayer dollars in a state infrastructure that would spur economic development and guarantee that future generations of Californians would enjoy the full promise of this Golden State - the best schools - the best hospitals - the best libraries. Freeways and aqueducts were built and improved from Eureka to San Diego. This was likely the most massive effort of its kind ever seen in America and perhaps in the world.

But with this policy came a great responsibility, a responsibility to ensure that government remained accountable to California taxpayers for the highest level of performance and for each and every tax dollar spent. The citizen legislators of the time saw the need to create by statute a watchdog Committee that would be free from political influence and the influence of special interests. To this end, they created the Joint Legislative Audit Committee (JLAC), a Committee like no other in the Legislature, a Committee charged with making government accountable to California taxpayers.

JLAC's Legislative Role

JLAC is unique in many ways. JLAC does not consider bills nor does it debate the merits of proposed legislation in the same manner as do standing committees of the Legislature. Independently, and through the Auditor General/State Auditor, JLAC investigates, studies, analyzes and assesses the financial practices and the performance of existing governmental and/or publicly created entities in California - in order to assist those entities in fulfilling the purpose for which they were created by the Legislature. If laws or regulations are determined to limit the effectiveness of government, JLAC may propose changes in law. If government does not produce the intended outcomes, JLAC may propose changes to maximize effectiveness or even recommend the elimination of ineffective public entities and laws altogether. To accomplish these ends, the Committee was granted broad authority. Historically, for every dollar spent on auditing and investigating, JLAC and the Auditor General/State Auditor have identified $11 in savings.

JLAC's Authority

JLAC derives its authority from statute, the Joint Rules of the Legislature and the California Constitution. In addition to directing the work of the State Auditor, JLAC enjoys the authority to examine the performance and the financial affairs of any and all existing public entities in the State and to conduct hearings at any time and at any place in the State without restrictions.

JLAC's Structure

JLAC was crafted to be non-partisan and continues to fiercely guard its non-partisan tradition. JLAC is composed of 7 Members of the Assembly and 7 Senators. By statute, the Chair of JLAC is elected and serves until the position becomes vacant. Committee vacancies occur upon the non-reelection to office of a Committee member. Legislators constructed a Committee that would not be subject to political whim or changing political agendas.

JLAC Today

Since its creation in 1955, the Joint Legislative Audit Committee, has saved California taxpayers billions of dollars by identifying fiscal deficiencies in public entities and providing needed direction to maximize the utilization of tax dollars. Furthermore, JLAC has assessed the structure and performance of hundreds of publicly created entities and provided the impetus and direction for significant changes within these entities whenever they failed to fully deliver the services to Californians that the Legislature intended and that taxpayers deserve and expect.

Over the past two decades, partisan agendas crystalized, and the Committee's significance began to wane. The results of insufficient oversight have become increasingly apparent in the crumbling infrastructure, the dismal decline in the quality of our educational system, and a revolt by California taxpayers demanding accountability in government.

In 1991, the citizens of California passed Proposition 140, term-limits, and returned citizen legislators to their government in Sacramento. But with the implementation of Proposition 140, a Legislature composed of pre-term limit professional politicians, decided to redirect resources away from oversight, drastically diminishing the Legislature's ability to ensure accountability in government. Though the authority of JLAC was preserved, due chiefly to the efforts of Committee Vice-Chair Senator Ken Maddy and then Committee Chair Assemblyman Bob Campbell, the exclusive control of the oversight budget was removed from the Committee. A substantial legislative oversight budget of the past was drastically reduced to a 1996/1997 Committee budget of only $200,000 and the "available resources" of the State Auditor. The results have been devastating. Since 1992, we have witnessed debacles such as:

* Bankruptcy in Orange County
* The shift of almost $15 billion dollars in local property taxes from cities and counties to the State's coffers
* The failure of grossly overpriced and ineffectual computer systems at a cost to taxpayers of hundreds of millions of dollars.

The list is too long to enumerate, but on a daily basis any California taxpayer can open a newspaper and find some new revelation of government mismanagement and waste.

Today, JLAC is again composed of citizen legislators and has aggressively set out to re-establish accountability in a government bureaucracy. JLAC has directed the California State Auditor to perform eighteen fiscal and performance audits since March 1997. Based on information brought before the Committee by Republican, Democratic and Independent Legislators most of the audits were commissioned by unanimous agreement among Committee members and all enjoyed bipartisan support. They include:

* Border Control of Illegal Immigration
* Los Angeles Unified School District
* Statewide Automated Child Support System
* South Coast Air Quality Management District
* State Contracts for Legal Services
* Community Redevelopment Agencies
* Health Services Genetic Disease Testing
* CALTRANS - Expert Witnesses
* Criminal Justice Facilities Construction Fund
* Office of Real Estate Appraisers
* Cerritos Community College
* Department of Mental Health Hospitals
* Kern County Child Protective Services

* Health Plan Division of the Department of Corporations
* UC Medical Center SF and Stanford Medical Center Merger
* Alcohol Beverage Control Department
* Cal-Mortgage
* Los Angeles County HIV/AIDS Programs

Numerous investigations have also been initiated since March 1997. They include:

* Metropolitan Transit Authority
* LAUSD Belmont Learning Complex
* Department of Motor Vehicles
* L.A. Care (Los Angeles County)
* CALTRANS - Performance and Administration
* Electrical Power Deregulation
* Department of Developmental Services
* School Facilities and Personnel
* Medicare/Medi-cal and Hospital Closures
* EPA/SCAQMD & Particulate Pollution
* Department of Insurance
* Exposure of Citizens to Airborne Toxins
* Veterans' War Memorial

According to one Committee member, in an August 1, 1997 correspondence;

"... It has been brought to my attention, that over the past 20 years, only 20 subpoenas total have been ordered by the Joint Rules Committee ... [Chairman Wildman] you have eclipsed that number in a single hearing during your first year of chairing the Committee..."

The JLAC Chair has vowed to continue this all out assault on government inefficiency and waste and to maintain the Joint Legislative Audit Committee's traditional nonpartisan objectivity, in the face of the most powerful entrenched government bureaucrats and the partisan agendas that protect government corruption and inefficiency from disclosure to the citizens of California.

California taxpayers deserve no less from their newly elected representatives.

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Actions of the Joint Legislative Audit Committee Pursuant to Government Code Section 8546.1, Joint Rule 37.3 & 37.4 (a), and the Rules of the Committee.

Government Code Section 8546.1 states in part "…The State Auditor shall conduct any audit of a state or local governmental agency or any other publicly created entity that is requested by the Joint Legislative Audit Committee to the extent that funding is available and in accordance with the priority established by the committee with respect to other audits requested by the committee. Members of the Legislature may submit requests for audits to the committee for its consideration and approval. Any audit request approved by the committee shall be forwarded to the State Auditor as a committee request…"

The Joint Legislative Audit Committee has the responsibility, in part, of directing and prioritizing all work of the independent California State Auditor. In 1993, JLAC directed the State Auditor to perform no discretionary audits at all. In 1994, only three audits were initiated by the Committee, and in 1995, nine audits were directed by JLAC. Due to the virtual inactivity of JLAC during this period, legislators turned away from JLAC and sought to enact legislation that mandated the State Auditor to perform audits - a lengthy and involved process which required concurrence from the Executive Branch of government, whose agencies were often the subject of proposed audits.

Fortunately for the citizens of California, JLAC has returned. The State Auditor has been directed by JLAC to perform no less than forty performance and fiscal audits during 1996-1997, and despite the Governor's unwillingness to adequately fund the work of the Bureau of State Audits, the pace of legislative oversight activities performed by the Committee and the State Auditor promises to increase significantly under the leadership of the current Chairman.

Under Government Code Section 8546.1, requests to direct the State Auditor to conduct an audit may be submitted to the Committee by any member of the legislature. The Committee then decides whether to direct the State Auditor or the Bureau of State Audits to conduct the requested audit, to conduct a modified audit at the direction of the Committee, to hold the audit request for future consideration or to deny the audit request.

Upon completion of an audit, the Committee may take action regarding issues related to the completed report.

96117 U.S. Border Patrol – It's Policies Cost San Diego Health Care Providers to Incur Millions of Dollars in Unreimbursed Medical Care, October 1997

Assemblymember Jan Goldsmith requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit to determine the impact of the U.S. Border Patrol's activities with regard to illegal aliens in need of emergency medical care in San Diego County. The concern was that the Border Patrol's failure to take into custody illegal aliens in need of emergency medical care shifts the financial burden for the costs of that care to California hospitals and citizens rather than the federal government.

Background

The Assembly Subcommittee on Border Crime has reportedly learned that the U.S. Border Patrol may be failing to take custody of illegal aliens in need of emergency medical treatment. As a result, the federal government does not have to assume the financial responsibility for medical treatment given to illegal aliens. The health care provider must then recover costs of emergency medical services provided to illegal aliens through higher fees paid by private insurers and ultimately, California citizens.

According to the Chief Border Patrol agent for the San Diego sector, the Border Patrol accepts financial responsibility for any medical services provided to a sick or injured alien in Border Patrol Custody. However, the policy of the U.S. Department of Justice's Immigration and Naturalization Service (INS) is that the Border Patrol shall not take into custody any injured alien who is not likely to escape. Border Patrol agents encountering injured persons, whether aliens or citizens, summon emergency providers, and may transport injured persons to a medical facility. However, these actions do not constitute custody nor do they trigger financial responsibility for payment by the Border Patrol.

According to the Director of Congressional Relations for the INS, the INS will not incur an obligation for the federal government unnecessarily. The director stated that the INS does not receive funding to cover the medical expenses of aliens in the United States that are not in INS custody. The INS will provide medical assistance and assist in transportation of parties in need of medical assistance to treatment facilities without ascertaining the immigration status of the individual(s).

However, the INS does not indicate whether or when it will take into custody suspected illegal aliens after they have received the necessary medical treatment. Moreover, the INS does not indicate whether or when it will accept financial responsibility for medical services provided to suspected illegal aliens who are transported or assisted by the Border Patrol and taken into custody after they receive the necessary medical treatment.

Audit Results

The audit determined that health care providers are adversely affected by the Border Patrol's policy to pay the emergency care charges only for those unauthorized immigrants already in its custody at the time of treatment.

The audit identified 199 incidents between January 1996 and May 1997 involving unauthorized immigrants and Border Patrol agents who either arrived at the scene of the injuries at the time, or soon after the injuries were discovered. In all instances, Border Patrol agents had an opportunity to determine whether the injured were unauthorized immigrants and whether to take them into custody - either immediately or following medical treatment. The Bureau of State Audits (BSA) estimates the total charges in these incidents at approximately $3.1 million, of which the Border Patrol paid approximately $153,100. After deducting these reimbursements plus $8,600 paid from other sources, the BSA estimates that at least $2.9 million in costs went unreimbursed.

The Border Patrol refused to provide the auditors with a list of incidents requiring medical intervention, therefore, the true number of these incidents could not determined. However, the auditors believe that the number of incidents is significantly higher than the 199 cases identified. The report estimates that the medical charges for these additional incidents could total between $2.0 million and $5.2 million.

Despite its mission to prevent unauthorized immigrants from entering the United States, the BSA found that the Border Patrol's policies may also allow some injured unauthorized immigrants to avoid custody. Because of the Border Patrol's policy that generally provides that it not take the injured into custody, it appears that some individuals who would likely have been taken into custody immediately had they have been injured, avoid custody as a result of their injuries.

A law effective January 1, 1997, authorizes the federal government to pay for emergency medical services for unauthorized immigrants, whether or not they are in custody at the time of injury. Congress provided $25 million for such payments beginning October 1, 1997. However, the State Department of Health Services did not know, as of September 24, 1997, the portion of the $25 million that California will receive or how much, if any, of that portion it would make available to San Diego County health care providers.

Bureau of State Audits Recommendation

The California Legislature should memorialize to the United State Congress its belief that the federal government must pay the full costs of emergency medical services when unauthorized immigrants are injured and would have been taken into custody by the Border Patrol were it not for their injuries. Further, if the $25 million allocated by Congress is insufficient to assure California is fully reimbursed for its costs, Congress should increase the appropriation.

Upon receipt of the above referenced audit report, the Joint Legislative Audit Committee directed correspondence to President Bill Clinton and requesting that the identified INS procedure of "patient dumping" immediately cease and that reimbursement be provided for all State and Local jurisdictions that have been affected (a copy of this letter follows).

Additionally, in response to the results of this JLAC ordered audit, U.S. Senator Dianne Feinstein introduced the "Illegal Alien Emergency Medical Services Reimbursement Act of 1997" on November 7, 1997.

This legislation:

- *Authorizes full reimbursement for emergency medical costs, including ambulatory services for illegal aliens who are injured during illegal crossings at land and sea ports, or during a pursuit by border patrol, or while in custody of federal, state, or local authorities;*

- *Authorizes up $18 million per year for the next 4 years from a separate account under the Attorney General to reimburse states and localities for emergency medical services provided to illegal aliens.*

- *Requires the Attorney General to submit a written report to Senate and House Judiciary Committees on the policy and practice, including custody practice, of the border patrol by March 1, 1998.*

Requires an annual report by the Attorney General to the Senate and House Judiciary Committees and Appropriations Committees on the implementation of this bill.

Correspondence from JLAC to President Clinton

October 17, 1997

The Honorable William J. Clinton
President of the United States of America
1600 Pennsylvania Avenue N.W.
Washington, D.C. 20502

Dear President Clinton:

At the direction of the California State Legislature's Joint Legislative Audit Committee, the California State Auditor has just released an audit report entitled "U.S. Border Patrol: Its Policies Cause San Diego County Health Care Providers To Incur Millions of Dollars in Unreimbursed Medical Care."

The report concludes that San Diego County health care providers incurred unreimbursed charges for emergency medical treatment to unauthorized immigrants as a result of the United States Border Patrol's policy to pay medical charges only for injured suspects in its custody. In 199 incidents identified between January 1996 and May 1997 involving injured unauthorized immigrants and Border Patrol Agents, the Bureau of State Audits estimates the total charges in these incidents at approximately $3.1 million of which the Border patrol paid approximately $153,100.

These findings provide conclusive evidence that a specific policy of the United States Border Patrol is resulting in millions of dollars in costs to local communities in California. While this policy is clearly intended to absolve the Border Patrol of financial responsibility for injured suspects, it may also be allowing some unauthorized immigrants to avoid custody as a result of their injuries.

The people of California cannot continue to pay the bill for this type of policy. As agents of the federal government, the Border Patrol must assume full responsibility for the costs of emergency medical services when unauthorized immigrants are injured and would have been taken into custody were it not for their injuries. Mr. President, I respectfully ask that California's communities be fully reimbursed for the costs they have incurred as a result of this policy.

Sincerely,

SCOTT WILDMAN, Chair
Joint Legislative Audit Committee

cc:

96118 Cerritos Community College District: Improvements Needed in Aspects of Operating the District and Its Auxiliary Organization, October 1997

Assemblymember Grace Napolitano requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an in-depth fiscal and programmatic audit of the Cerritos Community College District. Specific concerns included allegations regarding violations of state policies and procedures in the budgeting, planning, expenditures for programs and projects, contracting, and potential conflicts of interest.

Background

The Cerritos Community College District is a single campus district located in the city of Norwalk. Founded in 1955, the college serves an area of 52 square miles in Los Angeles County. Cerritos College has semester enrollment of approximately 20,000 students.

The district is governed by a seven member board of trustees who are elected by the voters of the district. The board has a variety of responsibilities including selecting and negotiating a contract with the president-superintendent of the district. The board holds at least two regularly scheduled meetings each month to carry out its responsibilities. The president-superintendent of the district is responsible for executing all decisions of the board and operating the district in accordance with the board's policies.

The Cerritos College Foundation (foundation) was formed as a nonprofit organization in 1979 to provide a private support system for the college. According to the foundation's mission statement, the foundation's principal area of financial support to the college is for improvements or upgrades to campus venues or facilities and providing short-term assistance and awards to deserving students.

Audit Results

The audit examined the following areas:

- Enterprise Fund (focus on the management of the bookstore)
- Cerritos College Foundation's conflict-of-interest policies
- Budgetary Controls
- Shared governance

- Compliance with Section 58050 of the California Code of the Regulations in claiming general state apportionment

- Utilization of basic skills, matriculation and Title III grant funds

For many of the activities reviewed in this audit, no evidence of gross mismanagement was identified.

For example, a $1 million item that was allegedly included in the president's budget was actually $675,000 and was included in a budget area designated for planning priorities. Furthermore, this amount was subsequently allocated for the support of other campus activities, including computer labs for Instructional Services, and to pay hourly employees filling vacancies in Student Services and Business Services. Similarly, the audit found that the district generally followed the Chancellor's Office guidelines outlining the concepts of shared governance.

The auditors reviewed a previous audit conducted of the district's process for claiming its state apportionment, and they again found no evidence of impropriety. Finally, the audit concluded that the funds for matriculation, basic skills, and Title III grant were also used appropriately.

However, the audit did find certain fundamental weaknesses related to the district's enterprise fund, college foundation, and the filing of annual statements of economic interest. The findings are outlined below:

- District's enterprise cash flow has problems stemming from the way the bookstore is operated. For example, the bookstore ineffectively managed thousands of dollars owed from book publishers. In addition, the bookstore has compounded its cash flow problems with several questionable donations and sponsorships.

- The bookstore's management of its "book buyback" is ineffective and results in reduced profits and higher book costs for students.

- The foundation's structure allows the president of the college to exert greater influence over foundation operations than presidents of other community colleges that were surveyed.

- The foundation does not adhere to its own bylaws for electing new directors to the board. Rather than electing new directors by formal vote, the foundation uses an informal method of selection.

- Contrary to state regulations and its bylaws, the foundation has not reimbursed the district for the payroll costs of district personnel that perform foundation work.

- Some employees are required by the district's conflict-of-interest code to file annual statements of economic interest; however, better disclosure is needed from individuals required to file these statements in reporting outside income and business interests.

Recommendations

Bookstore

- Reduce the amount paid to book publishers by the amount of receivables (debit and credit memos) owed from those publishers.

- Obtain further book requisitions from instructors during the prior semester to better forecast the bookstore's needs for new books and effectively manage its "book buyback" program.

College Foundation

- Revise the bylaws so that no one person, including the college president, has the authority to select directors without a vote or make the final decision over foundation activities.

- Follow its policies regarding admitting new directors to the board. As specified in the foundation by laws, the membership committee should submit names of potential directors to the full board for a vote of approval.

- Repay the district for payroll costs incurred by the district during fiscal years 1994-95 and 1995-96 as a result of district personnel performing work for the foundation. In addition, the district should maintain accurate records of all work performed by district personnel on foundation business and periodically seek reimbursement from the foundation. To guard against potential conflicts, the district should take the following step:

- Provide adequate instructions to those individuals holding district positions designated as required to file an annual economic interest statement.

District Comments

In its response, the district agrees with all but four of our recommendations. Specifically, the district disagrees with two of the audit recommendations regarding its use of district employees for foundation activities without seeking reimbursement. Also, the district doesn't agree that the bylaws for the operations of its foundation should conform with the State Auditor's interpretation of existing law. Finally, the district agrees with our recommendation that the foundation's board approve and monitor all foundation events and projects. The district contends that the event in question was really a college event and not a foundation event.

The Committee is currently examining the differences in interpretation of existing law that exist between Cerritos Community College and the State Auditor.

96121 Los Angeles Unified School District: The District Can Improve Its Handling of Employees Accused of Child Abuse as Well as Its School Financial Accounts, October 1997

Assemblymembers Steve Baldwin and Jan Goldsmith requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit of alleged inappropriate practices within the Los Angeles Unified School District including allegations of fraud and abuse of public funds.

Background

Los Angeles Unified School District (district) is the largest in the State with over 900 schools within 708 square miles in Los Angeles County. The district has K-12 enrollment of approximately 636,000 students taught by 32,000 certificated employees and supported by 24,000 classified non-teaching employees and 25,000 part-time substitute and relief employees. The district's budget for 1995-96 was $4.2 billion, 84.6 percent of which came from the State's general fund. Federal funds accounted for 12.1 percent and other local income accounted for 3.3 percent of the budget.

The district is governed by a seven member board elected by the voters of the district. The board has overall responsibility for making policy, establishing and reviewing educational programs, and deciding budget matters for the district as a whole.

Audit Results

The Los Angeles Unified School District can improve its handling of employees accused of child abuse. Specifically, in some isolated instances, administrators have not complied with written district policy when dealing with employees accused of child abuse. As a result, the district may be jeopardizing the rights of its employees and exposing itself to potential legal liabilities. The district has provided training to its administrators to clarify their role in these situations. Nevertheless, the district does not require its employees to consult with legal counsel before taking action such as reassigning accused employees. However, the BSA was unable to conclude that the district retaliated against employees.

The review of alleged child abuse cases revealed the following shortcomings in the district's dealings with employees accused of child abuse:

- When handling child abuse allegations, it appears that at least two administrators did not adhere to written district policies requiring them to consult and obtain the approval of investigating child protective agencies before taking action such as investigating reported allegations or temporarily reassigning accused employees.

- The district does not consult legal counsel prior to taking actions such as reassigning accused employees.

- In one case, an administrator exceeded her authority by investigating an allegation rather than simply making inquiries to determine whether an allegation constituted a reportable offense.

Because of the above, the district has been open to charges that it takes retaliatory measures, violates employees' basic rights, treats employees unfairly, and harasses accused employees. As a result, the district has also exposed itself to potential legal liabilities.

The BSA found that the district and its schools can improve controls over certain financial accounts. In part because the district does not have adequate policies concerning school checking and imprest accounts, five schools that were visited did not properly manage these accounts. These accounts contain funds advanced to each school by the district, which requires schools to maintain account records for five years. However, in some cases the district audits those accounts only once every ten or more years, thus creating the potential for misappropriation of funds during the years not covered by the district's audits. During the BSA's review of five schools, the BSA found that three schools failed to obtain receipts to support expenditures, and four schools did not require appropriate approvals for purchases. Furthermore, some of the schools do not reconcile their school checking and imprest accounts with bank statements. Consequently, neither the district nor the taxpayer can be sure that the schools are spending these public funds appropriately.

Bureau of State Audits Recommendations

To ensure equitable, appropriate treatment of employees accused of child abuse, the district should take the following steps:

- Clarify its policy requiring the district to consult with, and gain the approval of, designated child protective agencies before it investigates or reassigns accused employees.

- Include information in its written policies that explains the distinction between inquiry and investigation.

- Attempt to further define the circumstances under which all employees accused of child abuse will be temporarily reassigned.

- Ask its legal counsel whether any proposed action related to child abuse allegations may have legal consequences.

Finally, to confirm that its schools are spending school checking and imprest accounts legitimately, the district and its schools should do the following:

- Require that schools obtain original receipts from individuals requesting reimbursement.

- Ensure that all reimbursement requests include proper approvals.

- Ensure that schools reconcile on a monthly basis their imprest and school checking accounts to bank statements.

- Improve separation of duties related to the accounting process.

- Establish a risk-based approach for monitoring imprest and school checking accounts, audit high-risk school accounts no less than once every five years and ensure that documents are retained between audits at other schools.

- Require schools to comply with district policies and procedure, and educate employees responsible for school funds about the proper methods in which to maintain school checking and imprest accounts.

Agency Comments

While the district disagrees with some of our conclusions, it agrees that it will comprehensively review its written policies and its practices to make clarifications in the areas identified in the report. The district believes it has maintained a consistent policy and practice with regard to child abuse reporting and that neither the policy nor practice has jeopardized employee rights or increased the district's legal liability.

In regard to the school financial accounts, the district generally agrees with the BSA's conclusions and has agreed to revise and strengthen its policies regarding documentation required for reimbursement, reconciliations, and auditing of school accounts.

Upon receipt of the audit findings, members of the LAUSD Board of Education began investigating the possibility of retaining an Inspector General to monitor expenditures of District funds, and to assure, in part, that the State Auditor's recommendations are implemented.

97105 Department of Health Services: The Genetic Disease Branch's Fee Setting, Billing, and Collection Processes Need Improvement, and Its Regulations Do Not Warrant Emergency Status, September 1997

Senator Ken Maddy requested that the Joint Legislative Audit Committee direct the State Auditor to conduct a comprehensive audit of the Genetic Disease Branch (branch) located within the Department of Health Services (DHS). The specific concern involved the direction of the branch, the various programs it administers at the DHS, and the branch's unlimited authority to issue emergency regulations.

Background

The DHS administers genetic services programs through its branch. The goal of the branch is to reduce the burden of disability and death caused by inherited or genetically determined disorders and congenital malformations. The branch uses a statewide system of contracts with private providers and vendors to provide prenatal and neonatal public health screening for the prevention of genetic or congenital disorders and defects. Through integrated laboratory and testing procedures, the branch is able to diagnose certain genetic disease disorders.

For example, one of the tests the branch utilizes to reduce the burden of disability and death is the MSAFP Screening Program used on pregnant women. Part of the branch's birth defect prevention program involves administering a simple blood test to pregnant women. Laboratories test the blood samples using the MSAFP Screening Program to detect neural tube defects and other fetal abnormalities, such as Downs Syndrome. In addition to genetic disorders, the MSAFP tests can identify other obstetrical problems such as risk of fetal loss, twins, and low-birth weight.

California's MSAFP Screening Program began in 1986 and consists of patient education, informed consent, a blood test (MSAFP), and coordinated follow-up. Follow-up services may include repeated MSAFP tests, genetic counseling, extensive ultrasound, and amniocentesis when appropriate. The program is administered by 26 state-trained regional coordinators at 29 state-approved prenatal diagnosis centers and 76 satellite sites. Between 1987 and 1994, DHS performed over 2.3 million MSAFP tests. In addition, the branch provides educational and blood collection supplies to approximately 9,600 prenatal care providers.

Women utilizing the MSAFP Screening Program are charged a single fee of $57 for all program services. This fee is collected from the women themselves or from their health insurer.

The branch is entirely supported by fees deposited into the Genetic Disease Testing (GDT) Fund. In fiscal year 1994-95, the GDT fund had a budget of approximately $54 million.

The GDT program was granted emergency regulation authority in 1986 to expedite the development of the program. According to Senator Maddy, because the statutory language was "open-ended," the DHS has been able to adopt all subsequent regulations on an emergency basis for over ten years with no public hearing or comment."

Audit Results

The Department of Health Services' Genetic Disease Branch, which provides a valuable public service by screening for genetic disorders, has displayed serious weakness in the methods it uses to establish fees for its prenatal and newborn screening programs. The branch also uses faulty procedures to bill and collect fees from patients who take prenatal tests. In fact, because fees have significantly exceeded costs for the prenatal testing program, the public may be paying more than necessary for program services. In addition, the branch has written-off $9.7 million in prenatal testing fees since 1993, and it may not be able to collect from patients an additional $6.5 million. Finally, branch regulations adopted by the Department of Health Services no longer need emergency status because most involve administrative changes and do not address emergencies.

Focusing on the structure and administration of these two programs, the BSA audit revealed the following shortcomings at the branch:

- During fiscal year 1995-96, the branch charged fees that exceeded costs by 13 and 12 percent for the prenatal and newborn testing programs, respectively. Some excess fees resulted from branch assumptions that did not materialize.

- Because it has an ineffective process for billing and collecting prenatal testing fees from patients, the branch has written off $9.7 million in uncollectable fees since July 1993, and it may soon add an additional $6.5 million to this figure.

- Branch staff were unaware that they had not billed the California Medical Assistance Program (Medi-Cal) $1.1 million for prenatal tests provided between July and November 1995, and these fees may now be uncollectable. Even if Medi-Cal pays the fees, the branch has lost an estimated $65,000 in interest earnings.

- Because it returns overpayments only when requested, the branch is holding approximately $775,000 in overpaid fees for prenatal screening tests.

- The branch generally complies with state laws and regulations on contracting, but it has not always followed good business practices. From 1990-1996, the branch did not seek competitive bids for the laboratory testing contracts that it awarded.

Besides examining fees and contracting at the branch, the Bureau of State Audits assessed whether the department uses its emergency regulatory powers appropriately when it adopts branch regulations. The analysis showed that the department's emergency regulatory authority is unnecessary. Even though the Health and Safety Code designates as emergencies all branch regulations affecting the prenatal and newborn screening programs, many branch regulations that

the department has adopted concern administrative issues rather than true emergencies. Also, the Administrative Procedures Act enables the department to adopt emergency regulations when emergencies arise.

Furthermore, the department has not benefited from oversight by the Office of Administrative Law, which makes certain that agencies complete the regulatory process promptly and also repeals regulations when necessary. Because the Health and Safety Code exempts from repeal any regulations governing the newborn and prenatal screening programs, the department could misuse its regulatory powers.

Without supervision by the Office of Administrative Law, the department in one instance failed to complete the regulatory process on time. The department also violated the Administrative Procedures Act by increasing fees for programs and modifying its prenatal screening tests without first adopting regulations to authorize these changes.

Bureau of State Audits Recommendations

To improve its fee setting, billing, and collection processes for the prenatal and newborn screening programs, the branch needs to do the following:

- Establish procedures for monitoring and analyzing separately the revenues and costs for each program.
- Examine fees for each program at least once a year and then adjust patient's fees if the difference between costs and fees is significant.
- Reduce prenatal fees so that they more closely reflect the costs of the program.
- Offer each prenatal screening patient alternative ways to make payments. The branch should also require the patient to select a payment option and to make a payment at the time of testing.
- Bill more health plans directly for prenatal testing fees.
- Include on patient invoices language that highlights overdue balances, and continue to bill patients who fail to pay.
- Establish a process for attaching a patient's tax refund for the amount due if the patient does not pay her bill for the prenatal screening test.
- Continue trying to obtain the $1.1 million in prenatal fees due from Medi-Cal.
- Develop procedures to refund the overpayments of prenatal testing fees that it currently holds, and promptly refund any overpayments it receives in the future.

Further, the branch needs to ensure that it receives the highest-quality services at the most reasonable prices and makes the best use of public resources. To achieve these goals, the branch should continue to use a competitive bidding process to award contracts for laboratory testing services.

Finally to make certain that the department adopts emergency regulations only when necessary and that it complies with the Administrative Procedures Act, the following changes need to occur:

- The Legislature should remove the language from the Health and Safety Code that designates as emergencies all regulations related to the prenatal and newborn screening programs.

- The Legislature should also delete language in the Health and Safety Code that requires the department to file branch regulations directly with the Secretary of State and that exempts the regulations from possible repeal by the Office of Administrative Law.

- Before implementing program changes, the department should comply with Administrative Procedures Act by adopting regulations that cover those changes.

Agency Comments

In its response, the department provides additional information regarding the branch's fee setting and collection efforts. Although it generally concurs with our recommendations, it does not agree that the Office of Administrative Law should review branch regulations.

Staff is now drafting legislation to address these issues. This legislation will be brought before the Committee for consideration as "Committee Bills" in late Winter 1998.

97106 California Department of Transportation: Some Internal Audit Recommendations Have Been Implemented, but Inconsistencies Exist in Its Contracting for Expert Witness Services, July 1997

Senator Hilda L. Solis requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit of Department of Transportation (CALTRANS) contracts for expert witness service with the firm Boster, Kobayashi & Associates (Boster). The specific concern involved potential abuse of the contracting process when the services of outside expert witnesses are used in administrative hearings and in court litigation.

Background

State agencies sometimes contract for expert witnesses to assist in litigation efforts. The Public Contract Code, Section 10356, exempts from the competitive bidding requirements, "contracts solely for the purpose of obtaining expert witnesses for litigation." Caltrans has at least one such contract with the firm of Boster, Kobayashi & Associates. According to Senator Solis, CALTRANS has contracted with the same firm for the past several years. For example, the contract between CALTRANS and the contractor for the year between July 1993 and July 1994 was not to exceed $3,450,000 during which time approximately $590,000 was charged against the contract.

In March 1995, CALTRANS Audits and Security Division completed an interim audit of a contract between CALTRANS and Boster. The audit identified the following issues:

- The billing rates of $150 and $175 for lower level associates were excessive. The billing rates were fixed regardless of the level of expertise, services provided, and/or the underlying actual costs.

- The contract did not include a clause for travel time compensation. Compensation for time spent by the consultant traveling to the contractor's office, client offices, or to other locations associated with this contract was excessive.

- The contract did not include the appropriate clause for equipment purchases. This is not in accordance with the contractual language as prescribed in the Department of Transportation Service Contract Manual Chapter 6, Section 6.4, Equipment Purchases (by Boster).

Audit Results

CALTRANS has implemented two and not implemented one of the interim audit recommendations for its subsequent contract with Boster. Specifically, for the two recommendations that have been implemented, the Bureau of State Audits (BSA) found that Boster has modified its rate structure to include rates more reasonably tied to the level of expertise, the services to be provided, and the underlying costs. In addition, the contracts contained a clause regarding equipment purchased by contractors as required by the Service Contracts Manual. However, CALTRANS chose not to implement the recommendation requiring a clause to restrict compensation for travel time. According to CALTRANS, for contractors who provide accident reconstruction and investigative expert witness services, it is both "normal and customary" in their industry to bill for travel time from door to door.

Furthermore, CALTRANS has not formally adopted procedures to assist staff in selecting expert witness contractors and was unable to provide evidence of the process it uses to choose an effective contractor at the best terms and rates. As a result, the BSA was unable to assess the adequacy of CALTRANS' process for selecting these contractors and negotiating their contracts.

For the contracts that were reviewed, the BSA found that the rates charged to CALTRANS on its contracts appear reasonable in comparison to those charged in the private sector, and that all of those contracts entered into after September 1995 contained the clause regarding equipment purchased by contractors as recommended by its internal auditors' report for Boster. However, the contracts did not comply with the 1996 revision of the State Contracting Manual.

Finally, the audit discovered that CALTRANS did not demonstrate a consistent policy for compensating travel time for expert witness contractors providing accident reconstruction and investigation services similar to Boster's as well as for other services. Specifically for 19 of the 26 contracts that were reviewed, CALTRANS did not incorporate a clause to address travel time as recommended by its auditors' report for Boster.

Recommendations

- To ensure that CALTRANS employs consistent policies in selecting contractors for expert witness services and negotiating the rates and terms of their contracts, it should formalize its selection criteria and provide guidelines to its regional offices. In addition, the regions should document the factors they use evaluate when selecting a specific contractor. Finally, in addition to selecting contractors based on expertise and rate structure, CALTRANS should employ a database of these contractors based on their location. By using contractors local to the job site, CALTRANS may eliminate or reduce some costs associated with the projects.

- To ensure that there is proper accountability for equipment purchased by contractors, CALTRANS should modify its existing clause to comply with the provisions of State Contracting Manual, Section 7.29(c).

- To protect the State's interests, CALTRANS should incorporate a clause addressing compensation for travel time in all its expert witness contracts. In addition, the clause

should address the “normal and customary” practice for accident reconstruction and investigative expert witness contractors. Specifically, CALTRANS should negotiate whether it will compensate travel time from door to door or one way, for example, and specify the billing rate.

Agency Response

The agency is in concurrence with the findings and has implemented the recommendations.

The following correspondence has been forwarded to CALTRANS regarding the recommendations of the State Auditor and in light of CALTRANS concurrence with the recommendations.

JLAC Letter to CALTRANS

January 5, 1998

TO: CALTRANS Director

From: Joint Legislative Audit Committee, Chairman, Scott Wildman

Dear Mr. Director,

Under the direction of the Joint Legislative Audit Committee, the California State Auditor issued report #97106, California Department of Transportation: Some Internal Audit Recommendations Have Been Implemented, but Inconsistencies Exist in Its Contracting for Expert Witness Services in July 1997. At that time, your agency affirmed concurrence with the findings of Report #97106 and indicated that CALTRANS has implemented the State Auditor's recommendations.

Those recommendations included:

- To ensure that CALTRANS employs consistent policies in selecting contractors for expert witness services and negotiating the rates and terms of their contracts, it should formalize its selection criteria and provide guidelines to its regional offices. In addition, the regions should document the factors they use evaluate when selecting a specific contractor. Finally, in addition to selecting contractors based on expertise and rate structure, CALTRANS should employ a database of these contractors based on their location. By using contractors local to the job site, CALTRANS may eliminate or reduce some costs associated with the projects.

- To ensure that there is proper accountability for equipment purchased by contractors, CALTRANS should modify its existing clause to comply with the provisions of State Contracting Manual, Section 7.29(c).

- To protect the State's interests, CALTRANS should incorporate a clause addressing compensation for travel time in all its expert witness contracts. In addition, the clause should address the "normal and customary" practice for accident reconstruction and investigative expert witness contractors. Specifically, CALTRANS should negotiate whether it will compensate travel time from door to door or one way, for example, and specify the billing rate.

Please forward to the Committee by February 1, 1998, the following information:

A written copy of the formalized selection criteria now being used in contracting for expert witness services, along with the guidelines which have been provided to regional offices.

A description of the database and and/or system being utilized to realize cost savings by retaining the services of local contractors. Has this practice reduced costs associated with expert witness services.

A copy of the modified language regarding equipment purchased by contractors in accordance with the provisions of State Contracting Manual, Section 7.29(c).

A copy of the clause which was incorporated to address compensation for travel time in all expert witness contracts.

Your cooperation is greatly appreciated.

Sincerely,

Scott Wildman
Chair, Joint Legislative Audit Committee

97122 The UCSF and Stanford Health Services: Proposed Merger Should Make the Partners Financially Stronger, Although the Extent of the Financial Benefits is Potentially Overstated, Sept. 1997

Senator Tom Hayden and Senator Quentin Kopp requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit related to the proposed merger between the University of California Medical Center at San Francisco (UCSF) and the Stanford Medical Center. The specific concern was the feasibility and fiscal ramifications of the proposed merger.

Background

The UC Board of Regents is considering the transfer of the UCSF Medical Center and its assets to form with Stanford Health Services a new private, nonprofit entity. This new private nonprofit public benefit corporation will merge UCSF Medical Center and its affiliated properties, UC/Mount Zion and Langley Porter Psychiatric Hospital with Stanford Health Services, which is comprised of Stanford University Hospital and Lucile Salter Packard Children's Hospital at Stanford. The merger will also combine the clinical services and programs of UCSF and Stanford Health Services, including the clinical practices of the faculty members of the UCSF School of Medicine and the Stanford Medical School.

The proponents of the merger have asserted that merger is the best way for both of the institutions to survive the increasingly competitive healthcare market. Proponents contend that by combining the two entities, overhead costs can be reduced, while the delivery of high quality healthcare can be improved. However, the need, legality, and feasibility of the proposed merger has been questioned by a number of parties. Opponents are concerned that a merger may not be permissible under the California Constitution, that it provides uncertain benefits to the University of California, and that teaching, research, and healthcare for the needy may suffer under any merger agreement.

Audit Results

In fiscal year 1995-96, the UCSF and Stanford medical schools received support from their medical programs of $22.7 million and $21.2 million, respectively, from medical center earnings. In addition to these payments, the UCSF and Stanford medical schools received $6.2 million and $8.2 million, respectively, from an assessed tax on the revenues of the faculty practice programs.

In response to marketplace changes, the proposed merger is intended to enable the two universities to maintain financial support for their academic missions, including recruitment and retention of the best faculty, students and residents. The intent is also to sustain an adequate patient base and to significantly improve graduate education, continuing medical education, and public education. Lastly, the universities anticipate that the proposed merger will create

opportunities that will, "ensure vibrant clinical research and winning collaborations among scientists, and between universities and the private sector, especially the pharmaceutical industries."

The proposed consolidation agreement provides UCSF and Stanford specific protections. For example, while UCSF and Stanford will transfer equipment and personal property to UCSF – Stanford Health Care (USHC) at no cost, each entity will retain title to its buildings and land that will be leased to USHC. Also, either UCSF or Stanford can initiate dissolution proceedings if USHC does not meet the objectives of the merger.

The financial analysis of the proposed merger is based on information currently available. However, significant provisions of the consolidation agreement, such as the specific assets to be transferred to UCSF and formulas to distribute earnings to the medical schools, are still being negotiated. The Bureau of State Audits reviewed the changes occurring in the Bay Area health services marketplace to determine whether a merger was a reasonable response to those changes. Also, the auditors performed a variety of analyses on the financial health and results of operations of the two medical centers to determine the extent to which they were equal partners. In addition, the auditors evaluated the analyses performed in previous studies commissioned by UCSF and Stanford to determine if they correctly stated the financial benefits of the merger.

The auditors do not believe that the fiscal viability of either medical center is immediately threatened. However, in order to survive in the long run, the two medical centers need to enhance the perceived value of their services through ongoing, aggressive cost reductions, improved consistency of results from medical treatment, and improved ability to document the quality of their medical care regardless of whether or not they merge.

While the merger should result in reduced costs and some additional revenues, the extent of the financial benefits of the merger have been potentially overstated. For example, the UCSF and Stanford's latest estimate of the four-year net financial benefits derived from the merger as shown in the Third-Party Review of $152 million is potentially overstated by nearly $32 million.

Survey of Health Care Marketplace:

- The proposed merger is an understandable response to the changing health care services market. Managed care in the Bay Area has dramatically changed the economic structure of health care through price declines and hospital-usage reductions in order to contain costs. As health maintenance organizations (HMOs) and physicians have increasingly consolidated to gain bargaining power, hospitals have sought to merge and affiliate with one another to gain leverage with these large HMOs and physician groups.

- Teaching hospitals such as UCSF and Stanford face particular challenges because they are traditionally the highest-cost, highest-price type of hospitals, and they have relied on hospital and clinical income to subsidize teaching and research. Hospital mergers are often an integral part of strategies to raise revenues and reduce costs. Some studies have

found evidence that mergers result in lower cost per admission and operating efficiency; others found that mergers do not result in lower patient care costs or administrative costs.

Results of Historical Financial and Operational Analysis:

- The two medical centers are approximately financially equal in the merger. For comparability purposes, the BSA's analyses includes an adjustment to audited financial statement data because Stanford's accounting policies are different from UCSF's. The adjustment was to allow for comparisons under similar accounting policies. Stanford's contribution to the $869 million equity (assets less liabilities) of the combined entity will be $483 million (56 percent) and UCSF's contribution will be $386 million (44 percent). While Stanford will be contributing more in liquid assets, UCSF will be contributing a greater amount of liquid assets (cash, stocks, and bonds) in relation to its long-term debt.

- For the five-year period between 1992 and 1996, the BSA found that UCSF's net income (income after expenses from all activities), when adjusted for nonrecurring revenues and expenses and the distribution of earnings to the medical school, totaled $251 million while Stanford's totaled $215 million. Similarly, UCSF's income from hospital operations over the five-year period was $186 million while Stanford's was $150 million.

- Based on the analysis of data between 1991 and 1996, the BSA found that each merger partner brought certain operating strengths to the merger based on such operating characteristics as number of inpatient days, occupancy rates on available beds, revenue per inpatient day and other measures of operating performance. However, UCSF's lower operating expenses per patient day could make it relatively stronger than Stanford as the health care services market becomes increasingly sensitive to hospital costs.

Analysis of Financial Benefits from the Merger:

- Proposed revenue increases, even at 50 percent of the business analysis estimates currently being used by UCSF and Stanford, are too optimistic based on the declining demand for hospital services and continued pressure from payers for price reductions.

- The Bureau of State Audits estimated that the net benefit from the additional number of specialty care cases is likely to equal $28 million over the first four years of joint operation rather than $84 million presented by the Third-Party Review which results in a difference of $56 million.

- For most large operating expense reductions it proposed, the USHC appears to have a fairly clear and executable plan to achieve the cost savings identified in the business analysis for the merger. The auditors analyzed the potential financial benefits of the merger assuming that various percentages of the projected new revenues and cost savings were achieved. In addition, the auditors reduced the merger costs related to pension and severance payments by $25 million, because pension costs are lower than originally estimated and severance costs are now unlikely to occur. If USHC does not succeed in

increasing its number of complex patient cases above pre-merger levels, it would have to achieve 84.2 percent of its projected cost reductions for the merger to be at a break-even proposition after a four-year period.

- The estimated increased income from the merger is likely to help ensure the present level of funding being transferred from the medical centers to the medical schools will continue in the future. Also, it may allow for increased funding that could be transferred to the medical schools if the merger is very successful. Further, the estimated increased income is likely to allow for funding of short-term (within three to five years) capital needs. However, the income is unlikely to reach the 5 percent of estimated net revenue that is recommended to meet long-term capital requirements.

Agency Comments

Generally, the University of California and Stanford University agree with our conclusions.

JLAC Authorized Audits Not Yet Released

97101 Community Redevelopment Agencies' Compliance with State Law Regarding the Spending Deadlines for "Excess Surplus" Low and Moderate Income Housing Funds

Senator Barbara Lee and Senator Byron Sher requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit of community redevelopment agencies' compliance with state law regarding the spending deadlines for "excess surplus" Low and Moderate Income Housing Funds, and specifically, to review the compliance with the spending deadlines of 21 redevelopment agencies that reported balances of $500,000 or more in "excess surplus" Low and Moderate Income Housing Funds in fiscal year 1994-95. The audit request was approved and Audit Report #97101 is scheduled for release in late January 1998.

Background

Under the Community Redevelopment Law, the Health and Safety Code, Section 33000 et seq., the Legislature created a mechanism for communities to form redevelopment agencies. Each redevelopment agency is empowered to prepare a plan and carry out redevelopment projects intended to eliminate blighted areas in the community. There are currently over 700 redevelopment projects that have been established in over 350 communities statewide.

Legislation passed in 1976 amended the Health and Safety Code to require redevelopment agencies to set-aside 20 percent of their annual property tax increment revenues in a Low and Moderate Income Housing Fund (L&M Fund) to increase, improve, and preserve affordable housing. This law was amended in 1988 under the so-called "Use-It-Or-Lose-It" law. This law requires redevelopment agencies to identify the "excess surplus" in their L&M funds and promptly spent it on affordable housing. Excess surplus is defined as unexpended or unencumbered L&M greater than $1 million or the total amount of property tax increment revenues placed in the L&M Fund in the preceding four years.

The deadline for spending excess surplus funds is dependent on a number of factors. However, the first deadlines that affect most of the redevelopment agencies are January 1, 1997, July 1, 1998, and each July 1 thereafter. Failure to spend excess surplus funds by the prescribed deadlines will result in forfeiture of the funds to the county housing authority. Moreover, redevelopment agencies failing to comply with these provisions are subject to further sanctions such as a prohibition from encumbering or spending any more money until they spend their excess surplus.

The Bureau of State Audits issued an audit report on redevelopment agencies in November 1996. The purpose of that audit was to take a broad view of redevelopment agencies statewide to determine whether they were effective in removing blight and spending taxpayers' dollars appropriately. The BSA concluded that the effectiveness of these agencies is difficult to measure because the definition of blight is broad and redevelopment agencies are not required to report on their effectiveness. It should also be noted that no single state department has oversight responsibility for redevelopment.

Audit Scope and Objectives

This audit was approved by the Joint Legislative Audit Committee in April 1997. It has not yet been completed, but will provide independently developed and verified information relative to local redevelopment agencies and would do the following:

1. Review the laws, rules, regulations, and other documents related to the issues;

2. Select for review all redevelopment agencies with excess surplus fund balances from fiscal year 1993-94 greater than $500,000 as of June 30,1995;

3. Determine whether excess surplus funds from fiscal year 1993-94 were properly calculated and reported as of June 30, 1995 and 1996;

4. Determine whether any excess surplus funds from fiscal year 1993-94 remained unspent as of January 1, 1997; and

5. Determine how the excess surplus funds were spent and whether such expenditures are in accordance with the applicable laws and regulations.

97102 State Contracts with Private Counsel for Legal Services

Assemblymember Howard Wayne requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit on state contracts with private counsel for legal services. Of specific concern is the propriety of contracts and the cost effectiveness of contracting with private counsel for legal services rather than providing legal services with existing State employed legal professionals. An additional concern involves the propriety and consistency of the methods used to review and evaluate invoices from private counsel, the sufficiency of legal staffing in the Department of Justice (DOJ) and other state agencies, and how the State can improve its delivery of legal services. This audit was approved by the Joint Legislative Audit Committee in April 1997 and is due to be released on December 23, 1997.

Background

Legal services for the State are provided by three primary sources; the DOJ, in-house counsel of state agencies, and private outside counsel. Under the direction of the Attorney General, the DOJ enforces state laws, provides legal services to state and local agencies, and provides support services to local law enforcement agencies. The DOJ's budgets for 1996-97 and 1997-98 totaled approximately $391 million and $387 million, respectively.

In general, the law requires that agencies use the attorney general as their legal counsel; however, with written consent by the attorney general, agencies may contract with private counsel for legal services. Additionally, 14 state entities are not required to obtain consent from the attorney general for contracts with private counsel for legal services. Three other state entities that do not receive legal services from the attorney general and operate accordingly with the consent by the attorney general.

For the General Fund agencies that the attorney general provides legal services, the budget amounts are included in the DOJ's annual budget and not the budgets of the individual agencies. For special funded agencies, the attorney general is reimbursed at $98 per hour for attorney services and $52 per hour for paralegal services (fiscal year 1996-97) rates. The attorney general can also enter contractual agreements with general fund agencies to provide legal services.

The attorney general grants agencies permission to employ outside counsel for several reasons. The 1996 Budget Act required the DOJ, by September 1, 1996, to report to the legislature the amount of money expended by state agencies for outside counsel for the fiscal year 1995-96 and identify the amount expended which resulted from lack of resources in the DOJ. In its September 1996 report to the three legislative committees, the DOJ reported that state agencies spent approximately $30.7 million for private counsel.

The DOJ is also required to report by March 1, 1997 on reductions realized in the use of outside counsel due to the restoration of general salary increase funding. Agencies obtaining written consent from the attorney general for private legal services are also required to obtain approval

from the Department of General Services' Office of Legal Services. Legal services contracts are not subject to competitive bidding or advertising

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Audit Scope and Objectives

It has not yet been completed, but will provide independently developed and verified information relative to the State's contracts with private counsel for legal services and would do the following:

1. Review and evaluate the laws, rules, and regulations relevant to contracting for legal services with private counsel;

2. Review and assess the nature and amount of the State's expenditures for legal services from private counsel;

3. Select a judgmental sample of state agencies contracting with private counsel for legal services and review and assess whether:

    A. State agencies complied with laws and regulations, and obtained appropriate approvals for legal services contracts with private counsel; and

    B. State agencies current methods for evaluating invoices from private counsel are consistent with generally accepted practices including adequate internal controls to ensure that expenditures are legal, appropriate, and consistent with contract terms.

97103 Kern County Child Protective Services

Senator Costa requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit involving the Kern County Child Protective Services and related public agencies charged with the responsibility of protecting children. Specific concerns arose over events surrounding the deaths of eight children from suspected child abuse over the past 15 months.

Background

The Family Preservation Bureau (bureau) within the Kern County Department of Human Services (department) is responsible for providing services for the prevention, intervention, and reunification of children who are abused neglected, or exploited.

According to information obtained from Kern County, the bureau has a 24-hour response system designed to receive, investigate, and evaluate reports of child abuse and neglect. The emergency response services provide the initial intake for referrals. Emergency response workers evaluate the referrals and determine if an immediate in-person response is necessary. If a child is placed in protective custody, the bureau's court intake unit prepares all petitions, documentation and evidence for presentation at juvenile court hearings. As part of its programs to protect children and strengthen families, the bureau provides family maintenance, family reunification, and permanent placement services described below:

Family maintenance services are provided in order to maintain the child in his or her own home. These services are provided to certain families such as those under the supervision of the department pursuant to a court order, families who are willing to participate in corrective efforts, and where it is safe for the child to remain in the child's home with the provision of services.

Family reunification services are provided to reunite a child separated from his parent because of abuse, neglect, or exploitation. These services are provided when a child has been placed in out-of-home care or foster care.

Permanent placement services are provided for children who cannot safely live with their parents and are not likely to return to their own homes.

In 1995, Kern County opened a child assessment center to provide additional services to victims of child abuse. The county's department assumed the lead role in developing this program. The services provided at the center range from abuse investigations, forensic interviews, medical evidentiary examinations, and social and mental health services.

During the period January to December 1996, the county reported that it received 16, 379 reports of child abuse and neglect.

Audit Scope and Objectives

This audit was approved by the Joint Legislative Audit Committee in April 1997, and is due to be released in mid-January 1998. It will provide independently developed and verified information relative to the child protective services provided by the Kern County department and will involve the following:

1. Review and evaluate the laws, rules, and regulations relevant to the issues;

2. Review and assess the department's internal policies and operating procedures regarding its emergency response, family maintenance, family reunification and permanent placement services;

3. Determine the critical attributes related to child safety issues;

4. Review the case files for child death cases that involved the department and determine whether the department complied with the critical attributes identified in objective #3;

5. Review a sample of the case files for other children who had been referred to the department and for which the department investigated allegations of abuse, neglect or exploitation;

6. Determine whether the department complied with laws, regulations, and its own policies and operating procedures in investigating the allegations;

7. Review the laws and regulations and the policies and procedures under which the juvenile court system operates and takes action;

8. Determine the nature and extent of the remedies sought by the department when the juvenile court disagrees with the department's recommendations;

9. Review and assess the level of judicial performance in the juvenile court, including the oversight role of the supervising judge;

10. Determine the role of other agencies and organizations involved in seeking and enforcing child protection.

97108 Administration of the Cal-Mortgage Program

Assemblyman Tom Torlakson requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit of the administration of the Cal-Mortgage Program as it relates to the Los Medanos Hospital District. The specific concern is that the program may not be adequately managed to protect the taxpayers' investments in health facilities. The Audit is scheduled to be completed during Spring 1998.

Background

The Cal-Mortgage Program (Cal-Mortgage) was authorized by amendment to the California Constitution in 1968. Cal-Mortgage is administered by the Office of Statewide Health Planning and Development (OSHPD), and was modeled after federal home mortgage programs. The purpose of Cal-Mortgage is to provide a loan insurance program for health facility construction, improvement, and expansion projects, thus stimulating the flow of private capital into health facilities. Under Cal-Mortgage, health facilities borrow money for capital needs from long term lenders, and the OSHPD guarantees the loan using the "full-faith and credit" of the State of California. This guarantee may permit access to the tax-exempt financing markets and permits these borrowers to obtain low-interest rates comparable to those available to the State of California.

The California Health and Safety Code, Section 129173, authorizes the OSHPD to assume or direct managerial or financial control of a Cal-Mortgage borrower upon determining that the borrower's financial status may jeopardize its ability to fulfill its obligations under any insured loan transaction or jeopardize its ability to continue to provide needed health care services in its community. Among other specific actions, the Health and Safety Code authorizes the OSHPD to appoint a receiver for the borrower or the borrower's assets in the superior court in and for the county in which the assets or a substantial portion of the assets are located.

According to Assemblymember Torlakson, Cal-Mortgage auditors had clear indications of financial trouble in the case of Los Medanos Hospital District a year before bankruptcy occurred, yet took no proactive steps to protect the taxpayer dollars invested in the district. In addition, although the OSHPD did recommend a receiver to the bankruptcy court in April 1994, the hospital is still closed and attorney, consultant, and receiver fees now exceed $2 million.

Audit Scope and Objectives

This audit was approved by the Joint Legislative Audit Committee in August 1997. It has not yet been completed, but will provide independently developed and verified information relative to the Cal-Mortgage oversight of the Los Medanos Hospital District Bankruptcy and would do the following:

Review and evaluate the laws, rules, and regulations relevant to the issues;

1. Review and assess the policies and procedures used by the OSHPD to oversee Cal-Mortgage loans, including procedures related to the default and/or bankruptcy of insured borrowers;

2. Review the Cal-Mortgage program's history of loans and the corresponding default rate. Determine whether the default on the Los Medanos loan was an isolated instance or a typical occurrence for the program.

3. Determine whether the State is likely to recover any of the funds loaned to the Los Medanos hospital district. Review the health care market in the area and assess the likelihood of the hospital re-opening and/or being operated by another health care provider.

97110 Attorney General's Card Club Registration Unit

Assemblymember Richard E. Floyd requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit of the Attorney General's Card Club Registration Unit. Specific concerns had arisen regarding the unit's solicitation, use and storage of confidential statements regarding card club owners. This audit was approved by the Joint Legislative Audit Committee in April 1997 and is due to be released in February 1998.

Background

Chapter 721, the Statutes of 1983, enacted the "Gaming Registration Act." The intent of this act is to provide uniform minimum regulation of the operation of gaming establishments through registration by the Attorney General of those who own or manage gaming clubs. The Attorney General can deny an application for registration for a variety of reasons including making a false statement on the application or having a financial interest in any business or organization outside the State of California, which is engaged in any form of gambling or gaming not authorized by the laws of this state. In order to enforce the provisions of the act, the act provides the Attorney General with broad authority to, "… examine any books and records of any registrant or other person."

Audit Scope and Objectives

This audit will provide independently developed and verified information relative to the Attorney General's Card Club Registration Unit (unit) and would do the following:

1. Review and evaluate the laws, rules, and regulations relevant to the issues;

2. Evaluate the unit's written policies and guidelines for requesting, reviewing, and maintaining sensitive personal and financial information from applicants and registrants;

3. Review and assess the unit's physical and procedural controls over the access and maintenance of sensitive personal and financial information on applicants and registrants;

4. Determine whether, based upon our review and observations, the unit provides adequate controls over sensitive personal and financial information to prevent access to this information by unauthorized persons or for purposes beyond those intended in the act.

97111 Department of Alcoholic Beverage Control

Senator Richard G. Polanco requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit of the Department of Alcoholic Beverage Control (ABC). The specific concern involved allegations of selective and discriminatory enforcement activities by the department. This audit was approved by the Joint Legislative Audit Committee in April 1997 and the Audit Report is due to be released in March 1998.

Background

The mission of the department is to administer the provisions of the Alcoholic Beverage Control Act, which provides for the licensing and regulation of the manufacture, sale, purchase, possession, and transportation of alcoholic beverages within the State. The department is divided into northern and southern divisions with a total of 24 field offices throughout the State. These offices are staffed with investigators and licensing representatives.

Sworn personnel investigate applications for licenses to sell alcoholic beverages, report on the moral character and fitness of applicants and on the suitability of the premises where sales are to be conducted. Department investigators are peace officers and are empowered to investigate and make arrests for violations of the Business and Professions Code that occur on or about licensed premises. Investigators are further empowered to enforce any penal provisions of the law anywhere in the state. Licensees who violate state laws or local ordinances are subject to disciplinary action and may have their licenses suspended or revoked.

In order to carry out its licensing and enforcement responsibilities, the department also operates several special programs such as the IMPAC, Minor Decoy, and the Special Operations Units. Informed Merchants Preventing Alcohol Related Crimes and Tendencies (IMPAC) is designed to educate licensees about various ways they can participate in reducing alcohol-related crimes such as sales to underage individuals and to obviously intoxicated persons. The Minor Decoy Program allows local law enforcement to use persons under 20 years of age as decoys to purchase alcoholic beverages from licensed premises. The Special Operations Unit is made up of a team of 32 investigators assigned to assist department field offices and their investigators in conducting undercover work involving disorderly premises, illegal narcotics, stolen property, and other investigations that involve vice and criminal activities."

Audit Scope and Objectives

This audit will provide independently developed and verified information relative to the Department of Alcoholic Beverage Control and would do the following:

1. Review and evaluate the laws, rules, and regulations relevant to the issues;

2. Determine the department's procedures and activities designed to ensure its investigators or employees are not practicing selective or discriminatory enforcement.

3. Evaluate the department's process for investigating alleged cases of selective or discriminatory enforcement including the disciplinary process;

4. Determine at selected field offices whether departmental processes are followed regarding enforcement actions;

5. Review and assess the department's licensee training program; and

6. Assess the department's policies, procedures, and activities regarding complaints against the department or its agents by licensees or the public.

97112 Office of Real Estate Appraisers

Assemblymember Roderick Wright requested that the Joint Legislative Audit Committee direct the State Auditor to Conduct an audit of the Office of Real Estate Appraisers (OREA). The specific concern was over reports of a large backlog of complaints that have not been investigated and numerous allegations of mismanagement.

Background

In the wake of the savings and loan failures of the 1980s, Congress enacted the Federal Financial Institutions Reform, Recovery and Enforcement Act in 1989 which, among other things, mandated that all states license and certify real estate appraisers who appraise property for federally related transactions. In response, the California Legislature passed the Real Estate Appraisers' Licensing and Certification Law in 1990. OREA was established and became operational in November 1992 as a separate entity from the Department of Real Estate, as required by federal law.

OREA's two primary functions -- licensing and compliance -- are entirely funded with fees paid by applicants and licensees. Its licensing activities ensure that only qualified individuals are licensed to conduct appraisals. The compliance division is OREA's investigative and enforcement arm. Its primary objective is to provide consumers and businesses with protection against unlawful and fraudulent conduct through the examination of past activities and criminal records of applicants for licensure. In addition, it investigates complaints, and, where appropriate, initiates proceedings to deny licenses or impose disciplinary sanctions. The division may seek to deny, restrict, suspend, or revoke a license and/or impose educational requirements and a fine of up to $10,000 per violation of law applicable to appraisers.

Audit Scope and Objectives

This audit was approved by the Joint Legislative Audit Committee in May 1997 and is due to be released in February 1998. It will provide independently developed and verified information relative to the OREA and will do the following:

1. Review and evaluate the laws, rules, and regulations relevant to the issues;

2. Determining whether the OREA has a backlog of investigations and if so, how it is addressing that backlog;

3. Review a representative sample of complaints to determine whether they are properly investigated in a timely manner;

4. Review a representative sample of license applications to determine whether they are properly issued or denied in a timely manner;

5. Determine whether the fees collected from applicants and licensees are properly accounted for and safeguarded against waste and abuse;

6. Determine whether the OREA is operating in accordance with the appropriate state and federal laws and regulations; and

7. Determine whether the OREA is managed in an efficient and effective manner.

97114 South Coast Air Quality Management District

Assemblymember Grace Napolitano requested that the Joint Legislative Audit Committee direct the State Auditor to conduct a management and fiscal audit of the South Coast Air Quality Management District (SCAQMD). The specific concern involved the impact of SCAQMD regulatory activities on local businesses, schools, and governments.

Background

The SCAQMD is the regional governmental agency mandated to manage the quality of air in the four-county region including Los Angeles and Orange counties and parts of Riverside and San Bernardino counties. By law, SCAQMD has jurisdiction over businesses and other stationary sources, while the California Air Resources Board is responsible for reducing emissions from mobile sources, such as cars and trucks. The SCAQMD regulates an area of 12,000 square miles that is home to more than 14 million people – about half the population of the State of California.

Direct oversight of the SCAQMD is the responsibility of a governing board composed of 12 members, including 4 members appointed by the boards of supervisors of the 4 counties in SCAQMD's jurisdiction; 5 members appointed by cities in the SCAQMD's jurisdiction; and 3 members appointed by the governor, the speaker of the State Assembly, and the Rules Committee of the State Senate, respectively. The members appointed by the various boards of supervisors and cities consist of 1 member of the board of supervisors of Los Angeles, Orange, Riverside, and San Bernardino counties, respectively, and a mayor or member of the city council of a city within Orange, Riverside, and San Bernardino counties. Los Angeles County cities have two representatives, one each from the western and eastern portions of the city.

The SCAQMD's annual operating budget is $97 million. It generates 70 percent of its revenue through evaluation, annual operating, emission, and hearing board fees, contracts, penalties/settlements, and investments. The remaining 30 percent of its revenue comes from an Environmental Protection Agency grant, Air Resources Board subvention, and California Clean Air Act Motor Vehicle fees.

Assemblymember Napolitano authored AB 1114, mandating the same type of audit of the SCAQMD as is specified in this request. The analysis of this bill noted that SCAQMD is the subject of several different audits mandated by the State and federal governments. For example, the SCAQMD is required by the State to contract with an independent auditor to conduct a performance audit every three years to assess the effectiveness of the various programs and determine whether the objectives of these programs are being met. In addition, the SCAQMD is required to contract with an independent auditor every two years to perform an audit of each program or project funded by fees collected to implement the California Clean Air Act. Also, as a condition of receiving federal funds, the SCAQMD must obtain an annual audit for all federal grants in excess of $100,000. The SCAQMD states that it spends more than $72,000 annually complying with the various audit requirements. Notwithstanding the audits previously cited,

some of the "audits" cited by the SCAQMD and the bill analyses appear to be reporting requirements rather than actual audits.

Audit Scope and Objectives

This audit was approved by the Joint Legislative Audit Committee in July 1997 and will provide independently developed and verified information relative to the management and fiscal affairs of the SCAQMD and would do the following:

1. Review and evaluate the laws, rules, and regulations relevant to the issues.

2. Review any financial and managerial audits of the SCAQMD completed in the last three years to determine if the findings are relevant to the objectives of this audit.

3. Review and assess the policies and procedures used by the SCAQMD to ensure equal opportunity with respect to contracting and employment.

4. Evaluate the revenue programs managed by the SCAQMD. Determine if the relationship between the magnitude of emissions from various sources and the revenue collected from those sources is reasonable.

5. Assess the SCAQMD's allocation of grants and other funding to research projects or demonstration projects. Determine the extent to which such projects relate to the SCAQMD's regulatory program or assist regulated emission sources within the district.

6. Evaluate the function and management of the district office of public affairs. Determine whether that office promotes or stigmatizes certain products or services in a manner that limits or reduces competition between regulated emission sources within the district.

Upon learning of the introduction of AB 1114, the JLAC contacted Assemblymember Napolitano and apprised the Assemblywoman of the appropriate procedures to be utilized pursuant to statute and the Rules of the Legislature, by members of the legislature when requesting work to be performed by the State Auditor. Assemblymember Napolitano subsequently presented this audit request to the JLAC. The request was approved by JLAC in accordance with the Rules of the Legislature after two public hearings.

97115 LA County's HIV/AIDS Programs

Senator Richard Polanco requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit of Los Angeles County's HIV and AIDS programs. The audit of this program is intended to help maximize the resources available for essential and life-sustaining services. Since the State Auditor is required to perform semi-annual reports on the Los Angeles County's fiscal condition as well as recommendations for improving the efficiency and effectiveness of the county's operations, JLAC approved this request and, pursuant to its authority to prioritize the work of the State Auditor, determined that the audit would be performed under the terms of the semi-annual audit mandated by Chapter 518, Statutes 1995. The Audit Report is due to be released in March 1998.

Background

The California Department of Health Services, Office of AIDS, collaborates with local health jurisdictions, including Los Angeles County (county), to develop and implement focused HIV prevention programs. The primary goals for these programs are to: prevent HIV transmission, change individual attitudes about HIV and risk behaviors, promote the development of risk reductions skills, and change community norms.

The Los Angeles County AIDS Office plans, develops, and coordinates HIV/AIDS-related activities within the Department of Health Services (department) through subcontracted community-based agencies, hospitals, health organizations, and through the department's inpatient and outpatient facilities. The office has an annual budget of approximately $95 million and a staff of approximately 235.

Direct services are provided by a network of hospitals, clinics, and nonprofit organizations, and various service providers under contract with the office. These services include the following:

- AIDS risk reduction and prevention programs;
- HIV/AIDS medical outpatient, mental health, case management, and other HIV/AIDS services;
- Liaison with providers, state, federal, and private sector medicine on HIV/AIDS issues;
- Strategies and implementation plan development for HIV/AIDS programs in Cooperation with the community; grants an contracts development, Administration, and monitoring; and
- Collection, analysis, and release of HIV/AIDS data.

Audit Scope and Objectives

This audit was approved by the Joint Legislative Audit Committee in July 1997. When completed it will provide independently developed and verified information relative to the Los Angeles County AIDS Office (office) and would do the following:

1. Review and evaluate the laws, rules, and regulations relevant to the issues.

2. Review any audits of the office or its programs completed in the three years prior to this audit and determine if any previous audit findings are relevant to the objectives of this audit;

3. Perform an assessment of all major functions and activities of the office to determine where focused audit effort is most likely to identify potential inefficiencies, unnecessary duplication of effort, or ineffective functions or activities. Conduct an in-depth review of those functions or activities identified during the assessment;

4. Review and assess the efficiency and effectiveness of the office's systems and organization structure for carrying out its mission including staffing, use of service providers, and contracting and granting activities;

5. Review and assess the method in which the office allocates its resources to various functions and service providers and how it monitors the use of those resources;

6. Review and assess any specific guidelines and goals provided by the California Department of Health Services (DHS) to the office. Determine if the office has complied with these guidelines and met the goals developed by DHS: and

7. Review and assess existing performance measures and determine if the County's AIDS Office is efficiently using available funds to provide the greatest number of patients with the highest level of care.

97116 Statewide Automated Child Support System

The Assembly Committee on Televising the Assembly and Information Technology including Assemblymembers Elaine Alquist, Chair, Jim Morrissey, Vice-Chair, Sheila Kuehl, Howard Wayne, and Tom Woods requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit of the Statewide Automated Child Support System (SACCS). The specific concern was with the technical and financial viability of the system, the unanticpated additional cost to taxpayers, and the procedures utilized in contracting for the SACCS system. This audit was approved by the Joint Legislative Audit Committee in May 1997. It is scheduled to be released in February 1998.

Background

Provisions of the federal Social Security Act and the California Welfare and Institutions Code authorize state and county governments to establish a Child Support Enforcement Program. The state and federal governments have an interest in child support enforcement programs because children who do not receive financial support from non-custodial parents often end up receiving some type of public assistance funding. In California, the Child Support Enforcement Program is administered by the 58 elected District Attorneys through family support divisions in each county. The counties are responsible for locating absent parents, establishing paternity for children born out of wedlock, establishing and enforcing court orders for child support, and collecting and distributing child support payments.

Statewide automation of the child support program was made mandatory with the passage of the federal Family Support Act of 1988. While enacting sweeping new duties and performance requirements for state child support enforcement programs, Congress also recognized that compliance would be impossible without a comprehensive automated child support system. The goal of California's SACSS is to improve the quality of child support enforcement services to the public through automation, improve the efficiency and effectiveness of the child support program, and ensure compliance with federal and state child support program requirements.

The SACSS project management responsibility was originally vested with the Department of Social Services. In April 1995, the Bureau of State Audits issued a report on a similar project managed by the Department of Social Services -- the Statewide Automated Welfare System (SAWS). This audit report was critical of the Department of Social Service's management of the SAWS project and raised serious concerns about the project's viability. In May 1995, responsibility for SACSS project management, as well as SAWS and the Child Welfare Services Case Management System, was removed from the Department of Social Services and placed with the Health and Welfare Data Center by the Secretary of the Health and Welfare Agency.

Planning for SACSS began in 1989 and a contract for development of the system was awarded to Lockheed in December 1992. As an incentive to implement, successful automation projects in a timely manner, the federal government offered enhanced funding to states to cover 90 percent of

the projects' costs provided the system was operational by October 1995. The federal government later extended that deadline to October 1, 1997. SACSS was originally estimated to cost approximately $142 million, of which approximately $75 million was attributable to Lockheed's contract. The estimates and the contract have been revised numerous times over the years with the latest estimate at a total of approximately $305 million, of which approximately $141 million is attributable to Lockheed's contract. At the same time, the implementation dates were continuously delayed and it now appears that California will not meet the October 1, 1997 deadline for enhanced funding.

The SACSS has been implemented in 22 counties to date. However, the counties, the federal government, and the HWDC have serious concerns about problems with the system. One of the 22 counties implementing SACSS, San Francisco, shut down the SACSS in its county and returned to using its old system. The HWDC's Independent Verification & Validation (IV&V) contractor -- Logicon -- stated in a report dated February 28, 1997, that SACSS does not meet the quality and performance requirements for the system. Counties using the system report numerous problems with incorrect or inaccurate functions, insufficient system capacity to handle the workload, hardware, and configuration problems, and a lack of support and adequate training.

The many problems with SACSS prompted the HWDC to send Lockheed a "Notice of Material Failure to Meet Contract Obligations" in February 1997. In addition to documenting some of the more serious failures of SACSS, the letter set forth a set of conditions for continuing the project with Lockheed. According to the HWDC, Lockheed has committed to meeting those conditions and has developed a corrective action plan. The HWDC plans to assess Lockheed's progress towards meeting its corrective action plan during this and next month. In addition, the HWDC plans to evaluate all of its alternatives for meeting the State's need for automating child support enforcement programs and hopes to have a recommendation for a course of action by late June of this year.

Audit Scope and Objectives

This audit will provide independently developed and verified information relative to the SACSS and will do the following:

1. Review and evaluate the laws, rules, and regulations relevant to the issues;

2. Review and assess the history of SACSS development to determine whether the system was planned, procured, and developed in accordance with generally accepted industry standards;

3. Review the history of changes to the budget and the contract for SACSS over the life of the project. Determine the reasonability of the changes, the costs of those changes, and whether the increased costs were properly allocated to the contractor or the State;

4. Review and assess the original contract and all subsequent amendments between the State and Lockheed to determine whether the State's interests were properly protected and whether:

A. The contract and its amendments were negotiated by individuals experienced in contracting for major systems development procurements;

B. The contract clearly set forth project deliverable, milestone dates, and consequences for the failure to comply with the terms of the contract; and

C. The contractor assumed an appropriate share of the risk and responsibility for the success of the system;

5. Review and assess the problems with SACSS identified by the HWDC, Logicon, and the counties, the prospects for solving those problems in a timely and cost-effective manner, and determine which entity will likely incur the costs of solving those problems.

6. Review and assess the HWDC's analysis of the alternatives and recommendation for the future of SACSS and statewide child support automation; and

7. Based upon our analysis of SACSS and the state auditor's experience with other major systems development projects, develop a list of lessons learned that can be applied to future state systems development projects.

97118 Health Plan Division of the Department of Corporations

Assemblymember Susan Davis requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit of the Department of Corporations (DOC) administration and enforcement of Health Care Service Plan Law. The specific concern involves DOC's ability to adequately oversee California health maintenance organizations.

Background

The Knox-Keene Health Care Service Plan Act of 1975 (California Health and Safety Code Sections 1349, et. Seq.) created a comprehensive set of requirements for health care service plans (health plans), also known as health maintenance organizations or HMOs. The purpose of the act is to promote the delivery of health and medical care to the people of California who enroll in or subscribe for services rendered by a full-service health plan or a specialized health plan. A full-service health plan provides a full range of medical services; a specialized health plan provides specific services, such as vision care, dental care, or mental health care.

The act assigned the responsibility for regulating and licensing health plans to the commissioner of corporations of the DOC. To ensure that health plans provide quality medical care, the DOC performs various activities including on-site medical surveys and assisting members in resolving complaints against their health plans. According to the DOC, there are 108 active health plans licensed in California as of March 31, 1997.

The 1997-98 proposed budget for the Health Care Program is $8.9 million, including $3.2 million in estimated salaries and wages for 63 employees in three field offices (Sacramento, San Francisco, and Los Angeles).

Audit Scope and Objectives

This audit was approved by the Joint Legislative Audit Committee in June 1997. The Bureau of State Audits will conduct an initial evaluation, consult with the Department of Corporations, and present an initial audit report to the Committee. A final Audit Report will be completed in March 1999 in accordance with standard Committee procedures. The audit will provide independently developed and verified information relative to the DOC's administration and enforcement of Health Care Service Plan Law and would do the following:

1. Review and evaluate the laws, rules, and regulations relevant to the issues;

2. Review and assess the effectiveness of the DOC's enforcement program, including the processing, investigation, and resolution of consumer complaints;

3. Review and assess the efficiency of the DOC's general licensing program. Determine whether the DOC meets statutory performance standards relating to the review of licensing applications;

4. Determine whether the DOC meets statutory performance standards, including requirements for conducting routine medical surveys and financial examinations;

5. Prepare a workload analysis to determine the appropriate staffing levels to respond to established goals and objectives, statutory requirements, and consumer complaints;

6. Determine in the DOC has the institutional capacity to regulate health plans as required in statute and in a manner that promotes consumer protection as a top priority; and

7. Review and compare the responsibilities of the DOC with other state departments, such as the Department of Consumer Affairs, Department of Health Services, or the Department of Insurance. Determine if one or more departments could administer and enforce the Health Care Service Plan Law more efficiently than the DOC.

In addition, the Committee directed the State Auditor to work with the Department of Corporations is developing policies and procedures necessary to fulfill its role pursuant to the provisions of the Knox-Keene Act.

97119 Los Angeles County Courthouse Construction Fund/ Los Angeles County Criminal Justice Facilities Construction Fund

Assemblymember George Runner requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit of courthouse construction activities in Los Angeles County. The specific concern was over allegations of misuse of public funds and inefficiency that may be adversely affecting efforts to build new courtrooms in Los Angeles County and in Antelope Valley in particular. This audit was approved by the Joint Legislative Audit Committee in July 1997.

Background

Existing law establishes a Courthouse Construction Fund in Los Angeles County and provides that court construction in Los Angeles County must be completed in a priority established in statute. Specifically, Government Code, Section 76219, establishes the Robbins Courthouse Construction Fund. This section, which was enacted in 1991, specifies a priority for any monies expended in other areas. The priorities established by this code section require the funds to be spend within certain geographical areas of Los Angeles County before they can be expended in other areas. For example, the first $43 million are required to be spent within the San Fernando Valley before any funds are expended in other areas. This code section defines three distinct tiers of geographic areas and corresponding dollar amounts that must be spent on the first two tiers before any funds can be expended on the third tier. Antelope Valley is one of the communities in Los Angeles County that are a part of the third tier.

Audit Scope and Objectives

The audit will provide independently developed and verified information relative to courthouse construction in Los Angeles County and will:

1. Review and evaluate the laws, rules, and regulations relevant to the issues;

2. Determine the sources and uses of funds for courthouse planning and construction in Los Angeles County;

3. Review and assess the progress since 1991 in the planning and construction of courthouses in Los Angeles County utilizing the Robbins Courthouse Construction Fund or any other source of funds;

4. Review and assess Los Angeles County's process for planning and constructing courthouses. Compare this process with comparable construction projects to determine whether the costs and timelines involved are reasonable;

5. Review the contracting process for planning, architectural, and construction services for courthouse construction projects in the Los Angeles County. Determine whether the contract award process complied with applicable laws and regulations and encouraged competition; and

6. Evaluate the effect of the state mandated tiered system of courthouse construction funding on Los Angeles County's planning and construction of courthouse facilities. Determine whether these mandates could contribute to inefficiencies in the planning and construction of Los Angeles County courthouse facilities.

97121 Department of Mental Health Hospitals

Assemblymember Bill Leonard requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit of patient and facility security measures at California Department of Mental Health (DMH) hospitals. Specific concern involved security procedures at the four DMH facilities, in particular, as they related to patients housed under penal code provisions. The Joint Legislative Audit Committee approved this audit in July 1997. A completed report is due to be issued in Spring 1998.

Background

The DMH operates the Atascadero, Metropolitan, Napa, and Patton State Hospitals. These hospitals provide inpatient services for mentally disabled patients, including mentally disordered offenders who are incompetent to stand trial, offenders found not guilty by reason of insanity, inmates transferred from the California Department of Corrections (CDC), wards transferred from the Youth Authority, and convicted felons classified as "sexually violent predators." Those committed as forensic patients at the hospitals has grown in recent years. For example, at the end of fiscal year 1990-91, 2,240 (48 percent) of the four hospitals total population of 4,687 were classified as forensic patients. The Governor's Budget projects that the population of forensic patients will grow to 3,023 (74 percent) of the four hospitals total population of 4,093 at the end of fiscal year 1997-98.

One of the factors contributing to the growth in the forensic population is AB 888 (Chapter 763, Statutes of 1995), dealing with sexually violent predators. This statute commits to a state mental hospital individuals who have previously been convicted of specified sex offenses and have a diagnosed mental disorder that makes it likely they will engage in sexually violent criminal behavior upon release from the CDC. Rather than being released from the CDC, the sexually violent predators are committed to a state mental hospital for treatment. There are other factors that are causing an increase in the forensic population as well. In response to this change in patient populations, the DMH has been upgrading its measures by adding perimeter fencing and security cameras. Patton Hospital is the only one of the four hospitals to utilize CDC officers to secure the perimeter of the hospital grounds.

Audit Scope and Objectives

The audit will provide independently developed and verified information relative to security measures at DMH facilities that house patients pursuant to violations of the California penal code and would do the following:

1. Review and evaluate the laws, rules and regulations relevant to the issues;

2. Analyze the patient populations since 1990-91 to determine growth patterns and the reasons for which these patients are committed;

3. Compare and contrast staff to patient ratios since 1990-91. Determine whether the staffing ratios are adjusted as the population changes. Also determine whether the types of staff employed are adjusted as the types of patients treated at the facility changes.

4. Review and assess the security measures employed by the DMH and the CDC at each facility. Compare and contrast the staffing, physical, and procedural security measures employed at the DMH facilities to other comparable facilities in California, other states, and the federal government.

5. Develop recommendations and/or alternatives to address any potential deficiencies noted during this assessment that may adversely affect the safety of the staff, patients, or public, such as post certification; and

6. Estimate the costs of any improvements or changes recommended as a result of this assessment.

Audit Requests Placed on Hold

96110 Reading Recovery Program

In 1996, Senator Bill Leonard and Assemblymember Brooks Firestone requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit of the Reading Recovery program. The specific interest is in determining the costs and benefits of the program compared to other reading programs. In its February 1997 meeting, the JLAC requested the State Auditor to analyze the program in greater detail and provide an expanded analysis for the Committee's consideration. This request was placed on hold at the March 5, 1997.

Background and Expanded Analysis

The Reading Recovery program is an early intervention program for first graders who are experiencing difficulty in their classroom reading instruction. The program was developed in New Zealand in the mid-1970's, by Dr. Marie Clay, an educator and psychologist. New Zealand adopted the Reading Recovery program nationwide in the early 1980's. In the 1985-86 school year, Ohio became the first state in the United States to implement the Reading Recovery program.

Reading Recovery is based on a philosophy of early intervention with students who are reading below their grade level. First grade classes are given a battery of tests to identify those students that fall in the lowest 20 percent of their class. Reading Recovery teachers provide one-on-one tutoring to these students in daily one-half hour sessions. Lessons include a variety of reading and writing experiences designed to help children develop strategies for reading more effectively. Reading Recovery is supplemental to classroom instruction and lasts an average of 12 to 20 weeks, depending on the progress of the student. The objective of Reading Recovery is to provide the necessary instruction and guidance that allows the child to be able to read at or above the class average and continue to develop skills without future remedial assistance.

California first became involved with the Reading Recovery program in the 1991-1992 school year. During that year, program administrators at California State University, San Bernardino started a regional training center on campus and employed a Reading Recovery teacher leader from Ohio to initiate teacher training. In subsequent years, additional regional training centers were established at California State University, Fresno and Saint Mary's College. These regional training centers facilitate the training of teacher leaders. Teacher leaders, in turn, provide training to faculty within their respective school districts.

Scope and Methodology

In response to the Joint Legislative Audit Committee's request, the Bureau of State Audits (BSA) performed an expanded analysis of the Reading Recovery Program. This expanded analysis was accomplished through limited procedures intended to provide additional background information to members of the committee. Specifically, the BSA reviewed reports, analyses, and

documentation regarding the Reading Recovery Program. The BSA also interviewed the project director of Reading Recover in California at California State University, San Bernardino. Finally, the BSA visited one school district and mailed questionnaires and conducted telephone surveys of five other school districts in California that participate, or have participated in the Reading Recovery Program.

Delivery of Training

As discussed above, CSU San Bernardino, CSU Fresno, and St. Mary's College independently operate as regional training centers. The centers have agreed to offer their services to all school districts in the State that request teacher leader training, depending on the location of the districts. The primary role of the centers is the training of teacher leaders. Teacher leaders participate in a full-time intensive training program taking an entire year. The teacher leader program includes five components:

1. A graduate-level curriculum consisting of a clinical practicum, a seminar in theory and current research, and supervised fieldwork;

2. The daily teaching of four Reading Recovery students;

3. Field requirements, including assisting with training of Reading Recovery teachers, conducting colleague visits to observe other class members teaching a Reading Recovery lesson, and visiting other Reading Recovery sites;

4. Preparation for implementing Reading Recovery in their district;

5. Attendance at a number of professional development activities including the West Coast Reading Recovery Conference.

Teacher leaders then return to their respective school districts to train the teachers who will actually provide the Reading Recovery instruction to the children. Following their training year, teacher leaders have ongoing requirements to participate in national conferences and training seminars. Many school districts that have teacher leaders also serve as training centers for other school districts in the surrounding area that do not have teacher trainers.

Teachers being trained to provide Reading Recovery instruction to children participate in a year long academic course taught by a certified teacher leader. This course is offered for graduate credit through one of the Regional Training Centers. Teachers-in-training continue to work full-time in their school districts as they receive instruction in Reading Recovery Procedures. According to Reading Recovery in California, the most common arrangement during the training year and subsequent years is for the teacher to spend half a day teaching Reading Recovery and half a day in other teaching duties.

According to Reading Recovery in California, over 300 school districts in California participate in the Reading Recovery program. Over 100 teacher leaders and approximately 2,500 teachers statewide provide Reading Recovery instruction to an estimated 18,500 students.

Costs of Reading Recovery

The training for teacher leaders costs approximately $18,300 plus the costs of conferences, travel, and the teacher's salary for the year that they are out of services from their district. Training for the teachers who are taught at the local level by certified teacher leaders costs more than $8,000 including instructional materials and a starter set of children's books. In addition, to these one-time costs, the costs of any additional teachers' salaries and benefits must be factored into the equation to determine the total cost per student.

Four of the districts the BSA surveyed reported costs per student ranging from approximately $690 to $7,000 per student during the 1995-96 school year. This wide range can be attributed to the fact that school districts have different interpretations of what are considered costs associated with Reading Recovery. Some school districts only report teacher training costs that are in addition to the normal costs the district incurs. Other districts include the cost of teacher salaries as part of the program if the teachers were specifically hired to fill the additional need. For example, San Bernardino Unified School District, which reported costs of $7,000 per student, included teacher salaries in the overall cost calculation because it had to hire additional faculty to replace those classroom teachers that became Reading Recovery teachers. This figure does not include the $112,000 paid to the foundation at CSU San Bernardino for the teacher training.

In contrast, the Yucaipa-Calimesa Joint Unified School District reported costs of only $690 per student because it only included the costs of stipends provided existing teachers and does not include any of the costs of training or materials. Specifically, the district used kindergarten teachers, who teach half-day classes, to teach reading recovery in the afternoons. The school district paid overtime wages to these teachers to compensate them for the longer work day that resulted because of the additional preparation and teaching time spent on Reading Recovery.

Books and Materials

The Reading Recovery Council of North America prepares a list of suggested books to be used in the Reading Recovery program. These books are from a wide variety of publishers and writers. Reading Recovery in California has developed their own smaller list of suggested books for California schools in the program. School districts participating in the program purchase the books directly from the publisher or distributor. Teachers in training at CSU San Bernardino do receive a starter set of books at a cost of $1,500 per set. The district will need to add new titles at various levels and replace lost or damaged books after the first year.

In prior years, California school districts could purchase their Reading Recovery books through the CSU San Bernardino foundation. According to the Reading Recovery Project Director, the foundation could buy the books in bulk and pass the savings on to the school districts. However,

the foundation no longer offers this services due to the administrative burdens of such an arrangement.

Some of the books recommended for the Reading Recovery program are written by advocates of the program. For example, the Reading Recovery Project Director at CSU San Bernardino has written some books used in the program. According to the project director, any proceeds or royalties generated by his books are contributed to the foundation to further the Reading Recovery program in California.

Effectiveness of Reading Recovery

All of the districts the Bureau of State Audits contacted indicated that they thought that the Reading Recovery program was effective. Many school districts commented that the benefits of Reading Recovery extend beyond the one-on-one instruction. These districts indicated that their Reading Recovery teachers have been able to share the knowledge and techniques obtained through their experiences with reading specialists and classroom teachers. These teachers have been able to apply some of these techniques in their environments.

The effectiveness of the Reading Recovery program has been the subject of numerous academic studies. The consensus from these studies is that the program generally works in schools. However, the studies differ in their evaluations of the degree to which the program is effective and whether the benefits outweigh the costs of the program. For example, the Ohio Department of Education contracted for a four-year longitudinal study of Reading Recovery in Ohio. This study by the Battelle Institute concluded that Reading Recovery children do make greater progress than comparable children receiving other remedial services. However, those gains were not sustained by those students in the second, third, and fourth grades. This study did not adequately address the question of the cost effectiveness of Reading Recovery but noted that the costs of the program average about 150 percent of the costs of other programs.

Another study was initiated by the North Central Regional Education Laboratory. The researchers noted that Reading Recovery students make greater than expected gains in reading with results comparable to those accomplished by the most effective educational interventions. However, Reading Recover is less effective and more costly than has been claimed by its proponents, and does not lead to systematic changes in classroom instruction, making it difficult to maintain learning gains. The authors note that this is discouraging given the proponent's claims and the program's great expense. Nevertheless, the researchers state that Reading Recovery, like other interventions merit continued support.

97107 Los Angeles Community College District

Senator Richard G. Polanco requested that the Joint Legislative Audit Committee direct the State Auditor to conduct a performance audit of Los Angeles Community College District (district). The specific concern was about district budget shortfalls and the equity of district resource allocation practices. This request was placed on hold at the May 20, 1997 hearing and may be brought before the JLAC for reconsideration by the requester at his discretion during the 1998 session.

Background

The district, consisting of nine campuses in the Los Angeles area, is the largest community college system in the United States. The colleges offer a wide variety of Associate of Arts and Science degrees as well as a multitude of Occupational Certificate programs. Semester enrollment for the nine colleges exceeds 100,000 students.

The district is governed by a locally elected Board of Trustees (board). The board consists of seven members from the local community and one student member. Community college district boards are typically responsible for selecting the high level district administrators such as the chancellor and the presidents of the colleges. The district administration is responsible for carrying out the decisions and policies set by the board.

97113 Proposition 172

Assemblymember Sally Havice requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit of Local Public Safety Funds (Proposition 172) expended by local governments in fiscal year 1996-97. Specifically, Assemblymember Havice is concerned that these funds may not be spent appropriately.

Background

Proposition 172 was approved by the voters in November 1993 and provided for a permanent ½ cent sales tax statewide designated for local public safety. The uses include, but are not limited to, funding for sheriffs, police, fire protection, county district attorneys, county corrections, and ocean lifeguards. These sales tax revenues are collected and deposited into the state's Local Public Safety Fund and allocated to each county. The county auditor allocates the funds to the county and various cities within the county according to formulas established in statute.

In addition to this request to the Joint Legislative Audit Committee, Assemblymember Havice is the author of AB 146, which would mandate this audit by the Bureau of State Audits. AB 146 was turned into a two-year bill by Assemblymember Havice.

On two separate occasions, Assemblymember Havice's request was heard before the Committee. Pursuant to statutory authority and the Rules of the Committee, the Committee staff began working with Ms. Havice in developing a JLAC Committee study regarding this issue. The results of the study are scheduled for release in April 1998.

97124 Cajon Valley Union School District

Senator Steve Peace and Assemblymember Steve Baldwin requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an operational, fiscal and administrative audit of the Cajon Valley Union School District. This request was placed on hold at the August 27, 1997 meeting.

Background

Cajon Valley School District (district) is located in San Diego County and serves more than 16,000 students in 21 elementary schools, five middle schools, and one special education center. District oversight is provided by a five member governing board. The district received approximately $63 million in state funding for the 1996-97 fiscal year.

Audit Requests Withdrawn or Denied

96120 School Site Councils in the State's Public Schools

Assemblymember Steve Baldwin requested an audit of school site councils in the state's public schools. The specific concern was with alleged inappropriate practices with respect to school site councils. The initial request was heard at the March 5, 1997 hearing and an expanded analysis was requested by the Committee.

Background and Expanded Analysis

The Legislature created the School Improvement Program (SIP) to help ensure that public schools can respond to the needs of the pupils in a timely and effective manner. Schools participating in the SIP must have a school site council to oversee the program as well as budget and authorize disbursement of funds. State law specifies the size, composition, selection process, and responsibilities of school site councils. Each participating school is required to have a three-year school site plan. The plan must be based on an assessment of the school's capability to meet the educational needs of each pupil, and specify improvement objectives and steps necessary to achieve those objectives including intended outcomes. The school site plan must be approved by the school site council and the governing district's school board.

SIP funds are provided annually on a per pupil basis and may be used for any purpose set forth in the school site plan and allowed by law. Typically, these funds are used to purchase teaching aids and supplies, hire tutors and support staff, purchase library books, and computer software and hardware. Each participating district's governing board and the Superintendent of Public Instruction are required to conduct certain planning and oversight activities with regard to the SIP within their districts and statewide.

Scope and Methodology

In response to JLAC's request, the BSA performed an expanded analysis of school site councils. Specifically, the BSA analyzed oversight procedures related to school site councils, examined independent audit reports and district reviews, identified common issues or areas of noncompliance related to school site councils, and reviewed procedures to ensure corrective action on issues noted. The auditors also interviewed departmental staff that review school site council compliance, resolve school site council complaints, and oversee programs under the jurisdiction of school site councils.

School Site Council Intent and Membership

The intent behind the Legislature's establishment of school site councils appears to be twofold. First, school site councils could ensure that schools respond timely and effectively to the needs of each student. Second, through the use of school site councils, schools could ensure that those individuals who are most affected by the operation of their school could have a major role in the decisions regarding school operations.

To ensure that school site councils consist of those individuals most affected by school operations, state law specifies the size and composition of school councils. For example, in elementary schools, half of the members of a council are the principal, classroom teachers, and other school personnel, while the second half are parents or other community members. In secondary schools, half of the members are the principal, classroom teachers, and other school personnel, while the remaining half are students and parents.

Of the approximate 7,900 statewide, the California Department of Education (CDE) estimates that more than 7,000, or 89 percent, have established school site councils. In addition, approximately 570 of the 660 schools (86 percent) within the Los Angeles Unified School District have established school site councils.

Funding Sources Under School Site Council Oversight

State law requires that school site council be established at each school as a condition for receiving and expending certain supplemental funds. Specifically, a school site council must be established before a school may receive supplemental funds from the school improvement program, motivation and maintenance program, or school-based coordinated program. CDE provides these supplemental funds to schools in addition to the money distributed from the State's General Fund to support a school's base educational programs, known as core curriculum. The school councils are required by law to oversee the supplemental programs as well as budget and authorize disbursement of funds.

The largest program under school site council oversight is the school improvement program. Although the improvement program began in 1972 as an early childhood education program for students in Kindergarten through grade three, the program expanded in 1977 to also include students in grades four through twelve. The intent of the school improvement program is to provide supplemental funds to foster school-wide improvement to meet the educational, career, and personal needs of each student. CDE distributes school improvement program funds to districts annually on a per pupil basis and the districts typically use these funds to purchase teaching aids and supplies, hire tutors and support staff, purchase library books, and purchase computer equipment. For fiscal year 1995-96, the CDE distributed more than $320 million in school improvement funds to 993 of the 999 school districts statewide. Of the $320 million distributed, Los Angeles Unified School District received more than $38 million, or 12 percent, of the total funds.

Another program under school council oversight is the motivation and maintenance program. This program is part of the Dropout Prevention and Recovery Act (Senate Bill 65) passed by the

Legislature in 1985. Under the motivation and maintenance program, CDE provides funds to hire dropout prevention specialists in an effort to curtail high school drop out rates.

CDE allocates funds based on a competitive application method where the applications are graded using certain criteria, such as how successful a school's educational programs are performing and how well its school site councils are functioning. For fiscal year 1995-96, the CDE distributed approximately $8.5 million in motivation and maintenance funds to nearly 200 schools in 47 school districts statewide. In addition, 30 schools in the Los Angeles Unified School district received approximately $1.3 million, or 15 percent, of the total funds distributed.

The third program which requires the establishment of a school site council is the school-based coordinated program. This program began in 1981 to provide schools flexibility in administering educational programs by allowing schools to coordinate and integrate individual supplemental programs, such as the school improvement program. However, the school-based coordinated program does not provide districts with supplemental funding. Instead, the coordinated program provides a vehicle to combine various supplemental programs into one coordinated program. Through this coordinated process, teachers are able to better coordinate with other teachers and specialists to ensure that learning activities are not repetitious or fragmented, and that all lessons and assignments are related to the essential learning of the core curriculum. Thus, the school-based coordinated program is designed to help ensure that all students acquire the necessary knowledge and skills as well as ensure schools better utilize staff, materials, and equipment.

School Site Council Roles and Responsibilities

One major responsibility of a school site council is to develop a three-year school site plan as prescribed by state law. According to the CDE handbook, site councils may fulfill this responsibility in a number of ways. For instance, the council may conduct all aspects in the development of the site plan itself or delegate some of the actual development tasks to individuals outside of the council. Regardless of who actually develops the plan, it must be based on an assessment of the school's capability to meet the educational needs of each pupil, and specify improvement objectives and steps necessary to achieve those objectives including intended outcomes. Although there is no specific format for a school site plan, state law requires plans to include certain elements such as a description of instructional strategies and staff development programs for teachers. Further, the CDE recommends that a school site plan should include the following:

- A clear statement of a school's goals;
- An analysis of the effectiveness of a school's current program in improving student achievement;
- A description of strategies including an allocation of funds to support the plan;

- A detailed description of a school's monitoring process that will ensure that the improvement strategies are implemented as planned; and

- A description of how a school will determine if its program improvement efforts have been successful in achieving its goals.

Once the plan is developed, both the school site council and the governing district's school board must approve the school site plan. However, a school council's responsibility is not fulfilled once the plan is approved. School councils must annually review and/or update the plan and related budget to adjust for changing needs and priorities within the school. According to a CDE handbook entitled "*School Site Councils: Their Composition, Role, and Responsibilities,*" CDE believes that effective decisions on the use of the school plan resources requires a thorough understanding of core educational curriculum. For this reason, CDE's handbook states that school site council's members should have access to training in the state curriculum frameworks. Further, the handbook emphasizes that school districts should provide training on a regular basis to school site members to assist them in carrying out their responsibilities. However, it is not mandatory that school site councils comply with the CDE handbook and current legislation does not require districts to provide training for school site council members.

The State Controller's Office and CDE's Involvement in Annual Independent Audits

The state provides varying levels of oversight of school site councils. For instance, state law requires school districts to obtain annual independent financial and compliance audits. The schools must submit the resulting audit reports, including non-compliance issues, to the State Controller's Office (SCO) and CDE for review. State law allows school districts six months after the end of a fiscal year to submit these reports. Once received, the SCO reviews the audit reports and determines whether the reports conform with SCO reporting provisions.

In addition to their review of the final audit reports, the SCO is responsible for developing an audit guide to assist independent auditors in conducting their audits. The SCO's guide, entitled "*Standards and Procedures for Audits of California K-12 Local Educational Agencies,*" provides suggested audit procedures related to both financial and state compliance areas. Based on our review, the BSA found that the SCO guide did not suggest any compliance procedures specifically related to school site councils. However, the SCO does suggest some procedures related to the state improvement program that is under the school site council's jurisdiction. Specifically, the SCO suggests that independent auditors verify that state improvement program expenditures are for allowable costs as described in the school site plan, state laws, or other regulations. However, it should be noted that the independent auditors are not required to follow the SCO guide-the SCO only suggests that they follow the procedures in their guide.

As mentioned previously, the CDE also reviews a copy of each district's annual audit. The CDE is required to track all noncompliance issues and ensure that non-compliant school districts take corrective action. The BSA reviewed CDE's listing of noncompliance issues for fiscal year 1994-95 and identified issues relating to school site councils or to programs under school site council control. Typically, the most common issue was that schools did not prepare their school site

plans. However, according to the SCO's *Annual Financial Report of California K-12 Schools* submitted to the Legislature in August 1996, independent auditors do not always include noncompliance issues in their audit reports. Some noncompliance issues are reported directly to the school district in a separate management letter.

If a noncompliance issue is noted in the auditor's report, CDE puts the issue on its listing for follow-up. Specifically, CDE notifies the non-compliant district of the audit findings that require corrective action. Further, CDE typically requires districts to submit corrective action plans for CDE approval within 30 days of CDE's notification. If the corrective action plans are not received within 30 days, the CDE will follow-up with phone calls. In addition to reviewing CDE's listing of noncompliance issues, the BSA selected seven audit reports for review. Specifically, the BSA determined whether the independent auditors noted any instances of noncompliance related to school site councils and whether the CDE has adequately resolved the issues. In each instance, the BSA found that CDE had resolved the issues or was in the process of obtaining corrective action plans from the school districts.

CDE's Coordinated Compliance Reviews

In addition to the independent auditor reviewing portions of school site council activity, the CDE performs coordinated compliance reviews. The purpose of these compliance reviews is to coordinate compliance monitoring of specially funded programs, including the state improvement program and state based coordinated program. CDE conducts coordinated reviews at the following five different types of local education agencies: school districts, consolidated program cooperatives, county offices, special education local plan areas, and migrant education regional offices. Currently, CDE conducts a coordinated compliance review at each entity on a four-year cyclical basis.

Through its compliance reviews, CDE monitors school districts' compliance with specially funded program mandates. For example, CDE monitors many different state and federal programs such as child development, vocational education, and state improvement programs. To assist them in conducting their reviews, CDE follows its Coordinated Compliance Review Training Guide. The BSA reviewed the department's training guide and identified the following review procedures that specifically relate to school site councils:

- Determine whether the composition and selection of the school site council is in accordance with state law;

- Determine whether the annual school site plans were approved by the local governing board; and

- Review school site plans for compliance with state law.

Once CDE completes its reviews, the department issues a report which consists of any issues of noncompliance as well as commendations describing exemplary practices. CDE utilizes a compliance tracking system in order to monitor the status of a district's corrective action. For

those school districts with noncompliance issues, CDE instructs the entities to resolve the issues within 45 calendar days in most cases. If the entities do not respond within the stated timelines, CDE may contact the local superintendents or the local district board to assist the school in their compliance efforts. If the entity continues to have outstanding noncompliance issues, CDE may threaten to withhold future funding until the issues are addressed and resolved.

We reviewed CDE's schedule of non-compliance issues related to school site councils for fiscal year 1995-96. Of the 248 school districts reviewed, CDE identified 115 compliance issues related to school site councils. Specifically, CDE found that some districts' did not meet their membership requirements, and several councils did not perform their required functions. As of April 1997, CDE has approved corrective action plans to resolve 86 of 115, or 75 percent, of the noncompliance issues. The remaining 29 issues, or 25 percent of the total, remain unresolved.

CDE's last coordinated compliance review at the Los Angeles Unified School District was for fiscal year 1992-93. The BSA examined the department's review and noted that CDE found several instances of noncompliance related to school site council as follows:

- In the executive summary section of their compliance review report, CDE reported that each of the nine schools reviewed by CDE that participated in the motivation and maintenance program had noncompliance issues related to school site councils. Specifically, the report stated that "the councils were not properly constituted, received little input, and in one case, were non-existent." Further, the report stated that, in general, "site councils seem subservient to other school-based management councils."

- The CDE also found 13 noncompliance issues at the approximately 50 schools reviewed that participate in consolidated programs such as the state improvement program. For instance, CDE found that school site member ship did not comply with the law and the school council did not fulfill its responsibilities.

CDE's Uniform Complaint Process

Another oversight function performed by the CDE is its uniform complaint process. Through this process, CDE will respond to and investigate any specific complaints relating to school site councils or programs under school site council jurisdiction. These complaints are filed under procedures developed by school districts, as required by law, that apply to the filing, investigation, and resolution of complaints related to alleged violations of federal or state law by a local agency. A single complaint may contain multiple issues relating to not just one, but several, different areas or programs.

Typically, a complaint is first sent to the relevant local educational agency for review and comment. If the complainant is not satisfied with the agency's decision or the agency does not complete an investigation within 60 days, the complainant can appeal and have the complaint forwarded to the CDE. If CDE investigates and upholds the local educational agency's conclusions, the investigation is closed. In other instances, the CDE may attempt to mediate the

complaint or conduct its own investigation. If the complainant is not satisfied with any of the above avenues, he or she may file a final appeal with the Sate Office of Administrative Hearings.

During fiscal year 1995-96, the department received 23 complaints through the uniform complaint process. Of these 23, eight complaints contained issues that were directly or indirectly related to school site councils. These complaints covered topics such as improper composition or performance problems of school site councils. As of April 9, 1997, only one of the eight complaints has been resolved.

Detailed Areas of Law are Monitored, While Broad Areas Do Not Appear to Be Reviewed

Overall, state laws relating to school site councils provide detail in a few areas, but are general in other areas. Specifically, the requirements pertaining to council size, composition, and selection process are fairly detailed. Also, the law provides specifics on the components of a school site plan that must be developed by school councils. However, some of the requirements relating to responsibilities of school councils are more general in nature.

For the requirements that are detailed in law, the state appears to provide sufficient levels of oversight of school site councils. One level of oversight is provided by CDE's coordinated compliance reviews. On a four-year cyclical basis, the CDE monitors a school's compliance with detailed state laws relating to the size, composition, and selection of school site councils. In addition, CDE determines whether the council prepares its school site plan in accordance with state requirements. Another level of oversight is provided through annual financial and compliance audits conducted by independent auditors and CDE's review of the audit reports. CDE reviews all issues of noncompliance noted in auditor reports and has procedures in place to ensure corrective action. To assist the auditors in their tests of compliance, the SCO issued an audit guide detailing suggested procedures that are indirectly related to the school councils. However, the SCO only suggests, not requires, that the independent auditors follow the SCO suggested procedures, the independent auditor's actual work papers would have to be reviewed. Moreover, even if the auditors follow the SCO procedures, they might report noncompliance issues directly to the school district in a separate management letter instead of reporting the noncompliance issues to the CDE in an audit report.

Although no specifically required by law, the CDE has attempted to provide detail to broad laws guiding council responsibilities by encouraging schools to develop and issue bylaws that would govern school site council activities. Specifically, a CDE school site council handbook provides sample bylaws that schools should adopt to address the frequency of school council meetings and the number of members that must be present to make council decisions. However, it does not appear that an oversight entity determines which councils have adopted bylaws or monitors a council's adherence with its own bylaws.

In another attempt to interpret details from broad legal guidelines, the CDE handbook also encourages schools to provide school site council members with training on core educational curriculum to assist the council in making effective decisions on the use of school plan resources. Although state law requires training for other school councils, such as bilingual advisory

committee, the law does not require schools to provide training for school site councils. Further, it does not appear that an oversight entity reviews whether council members possess adequate knowledge to make effective decisions on the use of school plan resources.

97109 Caltrans M/W/DVBE

Assemblymember Kevin Murray requested that the Joint Legislative Audit Committee direct the State Auditor to conduct an audit of the Department of Transportation's (CALTRANS) compliance with state and federal programs to include minority- and women-owned business enterprises in contracts awarded by the department. This audit request was withdrawn by Assemblymember Murray.

Background

Chapter 61, Statutes of 1988, revised the Public Contract Code to require state agencies that award contracts for construction, professional services, materials, supplies, or equipment to have statewide participation goals of at least 15 percent for minority businesses and at least 5 percent for women. Focusing on minority business enterprises, women business enterprises and (later) disabled veteran business enterprises, the program is known by the acronym MBE/WBE/DVBE. State departments have the responsibility of ensuring that contractors meet the participation goals through subcontracting or that the contractors document that they have made a good faith effort the meet the goals.

In August 1991, the Auditor General issued a report entitled, "California's Efforts to meet Participation Goals for Minorities' and Women's Businesses in State Contracts." This audit reviewed the contracts at five agencies, including CALTRANS, to determine their compliance with participation goals. The Auditor General determined at that time that although CALTRANS was complying with the requirements for ensuring that bidders either meet the statewide participation goals or demonstrate that they made a good faith effort to contract with minorities' and women's businesses, it did not begin implementing the law (effective January 1, 1989) until October 1990.

The federal government also has requirements for the use of Disadvantaged Business Enterprises (DBEs). For example, under the program funded by the Federal Highway Administration (FHWA), the states are required to set goals and award contracts so that not less that 10 percent of their federal aid highway funds goes to firms in the program. In August 1994, the General Accounting Office issued a report entitled "Highway Contracting: Disadvantaged Business Programs Meets Contract Goal, but Refinements Are Needed." This report found that CALTRANS missed its federal participation goal twice in the five-year period between 1989 and 1993.

More recently, testimony before Assembly Transportation Committee indicated that CALTRANS is not in compliance with either state or federal requirements to make good faith efforts to include these small businesses in CALTRANS contracts. However, information provided by the department was inadequate for a conclusive determination.

Activities Pursuant to Government Code Section 10501, Joint Rule 37.3, and the Rules of the Committee

Committee Preliminary Investigations

Prior to the initial meeting of JLAC for the 1997 Legislative session, the Chair discussed reinstituting the statutory role of JLAC in conducting preliminary and other types of investigations. By mutual agreement, it was determined that no rules of the Committee were in need of modification to accomplish this end as statute, Joint Rules, and the Rules of the Committee allowed for these options.

One aspect of this reinstituted policy, under the current Chair involved the conduct of preliminary investigations by Committee staff. It was found that often, audit requests lacked clear definition, and, in an effort to protect the valuable and limited resources of the State Auditor, a policy whereby the Committee would conduct a preliminary investigation into the issue at hand was promulgated. These preliminary investigations have been conducted only in cases where the Legislators who initially requested an audit agreed to a preliminary Committee investigation.

CALTRANS and the "Hartgen Report"

On May 22, 1997, the JLAC Chair received a request from Joint Rules Committee Chairman Don Perata. Included with the request was a document entitled "Resources vs. Results: Comparative Performance of State Highway Systems: 1984-1995, Sixth Annual Report," which highlighted significant performance concerns regarding the California Department of Transportation (CALTRANS). On the surface, the report was troubling, ranking CALTRANS near the bottom in performance compared to other State transportation systems in the United States. After discussions between Assemblymember Perata and JLAC Chair Scott Wildman, it was mutually determined that a preliminary investigation of the report findings was warranted. With the concurrence of Assemblymember Perata, and pursuant to the policy of the Committee, the Chair initiated the investigation. The investigation involved personal interviews with involved parties and correspondence concerning issues raised in the study (Copies of materials included). Upon the completion of the investigation and a report to the Committee members, Assemblymember Perata decided not to pursue his initial audit request.

Note: Enclosed are copies of correspondence sent by the Committee to CALTRANS regarding the Hartgen study. Responses to these inquiries are on file in the JLAC Office.

Letter to JLAC from Assemblyman Perata Re: Caltrans

June 5, 1997 Letter David Hartgen to JLAC

June 17, 1997 JLAC Inquiry to CALTRANS

June 17, 1997

James W. van Loben Sels
Director, Caltrans
State Department of Transportation
MS #49
1120 N Street
Sacramento, CA 95814

Dear Director van Loben Sels,

As Chair of the Joint Legislative Audit Committee (JLAC), I recently received a request, from a member of the Legislature, to direct the State Auditor to perform a performance audit of your Department's operations. This request was precipitated after review by the requestor of two University of North Carolina - Charlotte studies; "Resources Versus Results: Comparative Performance Of State Highway Systems: 1984-1995, Sixth Annual Report," completed by David T. Hartgen, Professor and Coordinator of Transportation Studies and issued on March 31, 1997, and "Baseline Market Forecasts for State Highway Construction, Engineering, Maintenance and Administration Programs 1997-2001," issued March 12, 1997.

As you are aware, these studies indicate that California's Transportation System, and CalTrans performance compare dismally with other State Transportation systems, and further, that projections of future performance are equally dismal. In fact, the studies rank California 49th in the number of employees per state highway mile, 44th in capital road and bridge spending per state controlled mile, dead last in the number of congested urban interstates, 45th in overall performance, and at the top of the list in overall administrative costs.

For your information, the Joint Legislative Audit Committee (JLAC) is a continuous committee that was created to ensure accountability in publicly created entities, to assess performance of agencies and programs, and to assure that Legislative actions result in the outcomes that the California Legislature intended. We are committed to assuring that each taxpayer dollar allocated is effectively and efficiently spent in accordance with the law and the Legislature's intent.

The JLAC derives its authority as defined in the California Constitution, the Joint Rules of the Legislature, Government Code Section 10500 et seq., and various other provisions of the California Codes, and is empowered, in part, to study, to investigate, and/or direct the State Auditor to audit the performance of any publicly created entity, and to initiate any corrective legislative actions it deems appropriate.

Please forward to my office by July 15, 1997 any comments you may have in response to the March 1997 "Hartgen" Reports. The JLAC meets monthly and audit requests are required to be processed in a timely manner.

As Chair of JLAC, I take the Committee's charge very seriously. Consistent with the practice of the JLAC under my Chairmanship, and in order to safeguard the limited resources available to the State Auditor, my office has initiated an initial inquiry in order to evaluate the veracity of the comparative data presented, the methodology used in determining comparative rankings, and to assess whether conclusions have a sound scientific and/or statistical basis or are subject to significant misinterpretation.

During the beginning stages of the inquiry, Professor Hartgen was contacted and apprised my office of several matters related to previous comparative reports issued by the University of North Carolina - Charlotte, Center for Interdisciplinary Transportation Studies and CalTrans responses. I have enclosed several documents obtained by my office during our initial inquiries which require both your comments and certain specific information.

Issue #1:

Enclosed please find a copy of a September 17, 1996 letter sent to David Hartgen, Professor and Coordinator of Transportation Studies, University of North Carolina at Charlotte, by Ms. Martha Glass, Program Manager, Transportation System Information Program (with enclosure) regarding the 1996 "Hartgen" report.

> 1) Please elaborate on the five bulleted assertions and comment on the meaning of Ms. Glass's opening paragraph that concludes, "...The following concerns are meant to point out the differences in using performance measures 'across the board' regardless of other factors such as congestion, population, and lane miles."
>
> 2) Is the Hartgen data incorrect? Are CalTrans responses scientific or interpretive.
>
> 3) Please elaborate on each of the minor errors, the serious errors, and the fatal errors alluded to in the enclosed "Response to Hartgen's North Carolina Report."
>
> 4) Was a thorough analysis done by the Economic Analysis Branch? If so, please provide my office with a copy of that analysis.
>
> 5) What are the "findings" of the CalTrans staff resulting from the "careful examination of data and methods?" Is there a complete report of findings? If so, please provide my office with a copy of that report.

6) How did the CalTrans staff or the Economic Analysis Branch arrive at a resultant final ranking of 7 overall as asserted at the conclusion of the "Response..." Please provide my office with a copy of this completed comparative analysis that ranks California 7th in performance as opposed to 44th.

7) Please provide my office with a detailed response to Professor Hartgen's enclosed September 26, 1996 critique of the CalTrans "Response to Hartgen's North Carolina Report."

Issue #2:

Enclosed please find a copy of a form letter (presumably forwarded to all states) sent to your office on December 13, 1994 to the attention of "The Director of Policy, Department of Transportation," by David Spears, Research Analyst and David T. Hartgen, Professor, University of North Carolina at Charlotte. Enclosed please find also a copy of a rather terse January 3, 1995 response to Mr. Spears under the signature of California Department of Transportation, Deputy Director - Planning, Allan Hendrix.

1) Please explain fully the CalTans refusal to participate and the request that California be omitted from any further consideration in the UNC at Charlotte research (January 3, 1995 letter).

2) Please enumerate the "grave concerns" regarding methodology, and explain the vehement assertion that "... it cannot under any conceivable circumstance provide reliable and statistically valid comparisons of states' highway system performance [January 3, 1995 letter]"

3) Please explain the assumptions evidenced and the substantive basis for the assertions in paragraph two (January 3, 1995 letter).

4) Please provide comments regarding the enclosed letter addressed to Assemblyman Katz and Senator Kopp by Professor David Hartgen on February 2, 1995.

5) Did CalTrans participate or provide data for either the 1996 or 1997 report by Professor Hartgen?

6) Please provide my office with copies of all correspondence, memos, and reports either received by CalTrans regarding any of the six UNC at Charlotte "Annual Reports" or sent by CalTrans to UNC at Charlotte or any other entity or individual referencing or directly related to the above referenced reports.

Finally, in order to complete the initial inquiry, please provide my office with:

1) Copies of FHWA 531 & 532 Receipts and Expenditures Reports for each agency sorted by jurisdiction for each of the last five years.

2) Distribution of Condition Ratings sorted by jurisdiction for each of the last five years.

The Joint Legislative Audit Committee requests this information pursuant to its authority as defined by the California Constitution, the Joint Rules of the Legislature, Government Code Sections 10500 et seq., and other related statutory authorities.

Your cooperation is greatly appreciated. Please feel free to call if you have any questions or require clarification.

Sincerely,

Assemblyman Scott Wildman
Chair, Joint Legislative Audit Committee

Enclosure

July 25, 1997 Letter from JLAC to CALTRANS

July 25, 1997

James W. Van Loben Sels, Director
Department of Transportation
P.O. Box 942873
Sacramento, CA 94273-0001

Dear Director Van Loben Sels:

Thank you for your prompt response to our inquiry of June 17, 1997. I appreciate your attention and your consideration.

As the Chair of the Joint Legislative Audit Committee (JLAC), I believe that one of my primary roles, in conjunction with the Constitutional role of the JLAC, is to thoroughly and objectively analyze any and all requests to the JLAC in order to assure that State resources, and in this case, the limited performance auditing resources of the Legislature, are expended on truly meritorious and/or substantive Legislative concerns. The State, it's subdivisions, departments, agencies, and employees are often criticized, even condemned, based on incomplete or misleading information. The victims are the taxpayers of California. The result can be a gradual erosion of public confidence in State government, in general, and in dedicated public servants, in particular. The Department of Transportation's (DOT) recent responses will hopefully serve to clarify your perspective on the "Hartgen" study, and to expand the necessary dialog between the DOT and the Legislature.

I must admit, that in my initial review of the "Hartgen" study, I could not help but entertain serious concerns about the methodology used in the study and the "relative rankings" that were generated from the various statistical constructions. I was troubled by the thought that Legislative decisions could conceivably be precipitated by an overly hasty application of the study's conclusions. I might add that, although a certain level of contentiousness arguably prevailed, the documentary record of DOT correspondence (prior to your July 15, 1997) relative to the various "Hartgen" studies appeared to demonstrate little willingness on the part of the DOT to promote constructive dialog among the involved parties. It was in this context that the June 17, 1997 questions to the DOT were posed.

For your information, the Joint Legislative Audit Committee is required by statute to consider all audit requests submitted by any member of the Legislature, and to forward such requests to the State Auditor for analysis.

In this case, my office initiated our preliminary inquiry with the concurrence of the requester. Consequently, the requester will be provided with the evidence we have accumulated and will make the final decision as to whether a final audit request is submitted to the JLAC for consideration. If the requester decides to proceed with the audit request, my office will forward that request to the State Auditor for analysis and will subsequently calendar JLAC consideration of the request at a future JLAC hearing.

In addition to providing these documents to the requester, my office will forward forthwith a copy of this letter, a copy of the text of the initial audit request (requester's name deleted), a copy of the questions submitted to the DOT on June 17, 1997, and a copy of the DOT's responses, dated July 15, 1997 to the six other Assembly members and to the seven Senators who comprise the JLAC membership. The Chair of the Assembly Transportation Committee, Assemblymember Kevin Murray and the Chair of the Senate Transportation Committee, Senator Quentin Kopp will also receive copies of the above referenced information.

My office reserves the right to request additional information from the DOT at any time should it become necessary.

If a request to direct the State Auditor to audit issues germane to the "Hartgen" study is made to the JLAC, committee staff will prepare an analysis to be presented, along with the proscribed analysis of the State Auditor, to the JLAC members at the time of the hearing. The DOT will be apprised prior to any JLAC consideration and will be permitted to testify at the time of any hearing should such a hearing occur.

Again, I appreciate your expeditious response to our questions and would welcome the submission to the JLAC of any additional relevant information you may wish to provide.

Thank you for your consideration.

Sincerely,

SCOTT WILDMAN
Chair, Joint Legislative Audit Committee

cc: Senator Ken Maddy, Vice-Chair, Joint Legislative Audit Committee
Joint Legislative Audit Committee Members
Senator Quentin Kopp, Chair, Senate Transportation Committee
Assemblymember Kevin Murray, Chair, Assembly Transportation Committee

Belmont Learning Complex – Los Angeles Unified School District

After discussions with Members of the Legislature and Members of the Board of Education of the Los Angeles Unified School District, Committee Chair Wildman drafted an initial inquiry into issues related to the construction of the Belmont Learning Complex on May 3, 1997. On May 20, 1997, Senator Polanco formalized his request to the Committee for an audit. This request was followed by a similar request from Senator Tom Hayden. Pursuant to the policy of the Committee and with the concurrence of Senators Polanco and Hayden, Chairman Wildman began a preliminary investigation in June 1997. An investigative report will be issued to the Senators and to the Committee in January 1998. At that time, a formal request for the Committee to direct the State Auditor to conduct an audit may be considered by the Committee.

Note: Enclosed is a September 3, 1997 Committee preliminary report. A full report will be available to Committee members in mid-January 1998.

Joint Legislative Audit Committee

The LAUSD's Belmont Learning Complex: Update on a JLAC Inquiry

September 4, 1997

I. Introduction

This report will serve as an update on the JLAC's on-going inquiry into LAUSD's Belmont Learning Complex (Belmont) project.

As you know, this inquiry was prompted by expressions of concern from members of the State Legislature, as well as by the level of public controversy surrounding the project.

The Committee's inquiry has taken on added significance in the context of a widening debate in Sacramento and elsewhere over the use of design-build delivery systems and negotiated contracts for state and other public construction awards.

The Committee believes there is much to be learned from an inquiry into the Belmont project, not only for the future of school facilities construction, but for public contracting generally.

II. Issues

On the basis of a preliminary review of documents already obtained by the Committee, I am providing the following summary of areas where we believe our inquiry is valuable and necessary.

A. Implications for school facility construction and public contracting.

The Belmont project has implications for many areas of school facility construction and public contracting. For example:

1. The project was conceived as a public-private joint venture in which a private developer would provide finance for school construction and the district would purchase or lease the facility at completion. While the developer's offer to provide financing was a significant factor in the district's selection of the developer, the private finance has not materialized.

2. The project was to be a model of the "design-build" method of delivering a project, as distinct from the more widely used "design-bid-build" approach. Among the claims for design-build are savings in time and costs.

3. The project was to incorporate a contract awarded not to the lowest responsible bidder but to a developer selected on non-cost criteria who would, in turn, provide a guaranteed maximum price for building the school. Documentary evidence and newspaper reports indicate that the developer selected to construct the school proposed to do so for approximately $30 million more than a qualified competitor, based on a consistent design.

4. The project was to be a "mixed use" project, combining an educational facility with revenue-producing non-school uses on a single site. Contractual documents approved by the district's Board of Education in April, 1997, do not contain terms for non-school developments, nor are any guaranteed or contingent revenues to the district identified in the contracts.

5. The project's conduct and implementation were to be based on new legislation, AB 844 (vetoed in 1994) and later, AB 481 (effective as of January 1996), specifically crafted to facilitate such projects. However, the selection of the developer was complete prior to the passage of AB 481 and the law has not been implemented.

The Committee is reviewing the facts of the Belmont project to determine, among other things, the lessons for future school facility construction based on the Belmont approach. Looking at the Belmont case, the Committee is asking questions such as: Is private finance a viable alternative? Has the design-build approach demonstrated time and/or money savings? What are the risks of not calling out price as a factor in selecting a contractor or developer? How "guaranteed" is the guaranteed maximum price? What are the costs and benefits of combining public and private development on a single site? Is additional or remedial legislation necessary to enable projects like Belmont to go forward?

B. Control and oversight.

The Belmont project is significant because of the broader questions it raises about control of school facilities construction. For example:

1. Design-build may permit only an indirect relationship between the district and the architect, one in which the district has less control than under customary design-bid-build arrangements. Among the consequences of such a relationship may be difficulty in controlling fees.

2. Initial projections of the architect's fees for the Belmont project, in which the architect's contract is with the developer rather than the district, are approximately $6 million. This may exceed state standards for a project of this scale by more than $1.7 million, according to an LAUSD analysis. It is not clear who has been exercising day to day oversight of the architect on the Belmont project.

3. The role of the Division of State Architect may be affected by the Belmont project, as, according to the district, elements of the design are intended to be approved in stages as construction is taking place. It is not clear whether the SAB, or any state agency, has authority to permit phased submission of plans after construction has begun. Nevertheless, according to reports, the developer has begun construction on the site.

4. The contractual basis of the relationship between the district and the developer may also affect control; in the Belmont case, the district negotiated both a Memorandum of Understanding (MOU) and a Disposition and Development Agreement (DDA) with the developer, apparently using a framework provided by the developer rather than the district. The district's voluntary Belmont Oversight Committee expressed concern in January, 1996, that "the writing of the MOU is too much in the hands of the developer," according to a confidential LAUSD report.

The Committee is looking very closely at issues of control, to insure that design build, joint venture projects do not result in a reduction or loss of district control or the circumvention of statutory requirements over the design and construction of school facilities or the use of public funds.

C. Costs.

The Belmont project is significant because of the costs associated with it.

1. The Belmont high school is widely believed to be the most expensive in the state's history. Approximately $61 million of state funds has been spent to acquire the 31-acre site for the project. Estimates of the costs of actually building the school vary from approximately $88 million to over $100 million. Thus the school's total cost is unclear and will likely exceed $150 million.

2. The cost of building the new high school, as reported to the State Allocation Board by LAUSD, has risen from approximately $36 million to close to $90 million since 1994.

3. The new Belmont high school is essentially a replacement for the existing Belmont High School, which in turn is to be converted, at least in part, into a middle school. It is not clear what additional high school capacity will be created in the Belmont high school area by the new school.

4. There is apparently no independent assessment of the appropriateness of the Belmont costs in relation to the design documents. Similarly, there is apparently no independent assessment of the appropriateness of the design documents to the district's programmatic objectives. (The Committee understands that LAUSD is seeking the services of a qualified construction management firm to provide these independent assessments.)

5. Many significant cost factors, such as environmental mitigation, have yet to be quantified as to costs, could significantly increase the cost of school construction, and may not ascribe to statutory requirements.

6. The Disposition and Development Agreement (DDA) provides for a questionable incentive that would allow the developer to receive public monies saved pursuant to cost control measures employed during the project, that arguably may provide payment for services not rendered.

The Committee is examining the reasons for the increase in cost of the Belmont project, and gather information on the relationship between design build, joint venture projects like Belmont and school facility construction costs.

D. Mixed use development and the proper use of public funds.

The Belmont project was to combine a public component - a high school - with private developments - a retail center and housing. The combination of public and private uses on the same site has given rise to questions about the use of public funds to subsidize private benefit, whether directly or indirectly.

1. It is not clear to what extent, if any, publicly financed consultants' and architects' time and expenses, LAUSD staff time, developer fees, construction costs, and other factors are actually employed for the benefit of the private components of the mixed use project. There is evidence that unspecified and possibly unjustified transfers of public funds to private benefit may occur as a result of the intermingled purposes of the development.

2. There is evidence that independent consultants expressed strong reservations to the district regarding the financial viability of the proposed retail component of the project, as early as 1994. These concerns were apparently ignored at the time. The concerns were echoed in confidential meetings and reports of the volunteer Belmont Oversight Committee throughout the latter part of 1995 and throughout 1996 and 1997. Yet it appears the district continued to expend consultant and staff time, and to absorb expenses, to facilitate the retail developer's private commercial objectives.

3. The district's Belmont Oversight Committee expressed concern on several occasions that the retail development was not bearing its fair share of construction costs. The Committee proposed a formula for allocating costs between the school (public) and the retail (private) construction. The disposition of these and related issues is not yet clear.

The Committee will be examining the relationship between public and private purposes, and the use of public funds, in the Belmont project, and the implications for other mixed use school facility projects.

E. Consultants and potential conflicts of interest.

The Belmont project is significant because it has relied almost exclusively on consultants and outside counsel for planning, developer selection, and negotiation.

1. Consultant fees have been estimated at over $1 million since 1994.

2. There have been allegations of conflict of interest concerning several of the non-staff participants in the Belmont project. For example, the law firm of O'Melveny & Myers represents both Kajima International, the managing member of the developer team of Temple/Beaudry Partners, and LAUSD. Two O'Melveny attorneys, one of whom is a partner in the firm, participated in the selection of the Kajima-led team during the district's RFQ/RFP process from March 1994 to September 1995; the O'Melveny partner was the lead negotiator for the district between October 1995 and April 1997.

3. There is also evidence of a "revolving door" syndrome in which a former district staff member associated with plans for earlier joint venture, mixed use LAUSD projects may have participated as a paid consultant on the Belmont project.

The Committee is looking closely at the relationship between design build, joint venture projects and the use of outside consultants, both from a cost and conflict of interest perspective.

F. Legislation.

The Belmont project is significant because it has been so closely linked with legislation to facilitate such projects.

1. In 1994, AB 844 (Moore), and then in 1995, AB 481 (Goldsmith) were both designed to provide a legal basis for projects such as the Belmont Learning Complex. While AB 844 was vetoed by the Governor, AB 481 became law on January 1, 1996. Although legislative and other state staff and officials expended considerable time seeking to develop regulations to implement AB 481 it has not been possible to do so. The State Allocation Board recently determined it would not consider projects under AB 481 until certain constitutional questions were clarified and implementing regulations are created.

2. There is evidence LAUSD intended to rely upon AB 481 as the basis for developer selection and contracting for the Belmont project, and as justification for requesting state reimbursement for 100% of the state-allowable costs of Belmont's construction.

3. There is evidence that at least one district consultant who has benefited from the Belmont project was directly involved in drafting and promoting the legislation to enable it.

4. It appears that LAUSD, perhaps with the assistance of the same consultant, was involved in efforts prior to AB 844 to modify the public contracting code to allow awarding of contracts other than to the lowest responsible bidder.

The Committee is examining the district's activity and expenditure on legislative matters relating to school facility construction and the need for such legislation in light of existing law.

G. School facility planning in Los Angeles: The Belmont Middle School and the Ambassador.

The Belmont project is significant because of its place in a consistent program within LAUSD aimed at similar projects. In pursuit of this program, two proposed schools, both of which absorbed substantial amounts of public funds in the planning stages, were apparently abandoned.

1. Belmont appears to be the culmination of nearly a decade of efforts on the part of LAUSD staff and consultants to create joint venture projects that permit private development teams to win contracts without meeting the general contracting code requirement of being the lowest responsible bidder.

2. These joint venture projects have been justified, in part, as vehicles for generating revenue to the district through mixed-use development on district-owned or district-controlled land. Thus, the district's interest in acquiring the site of the Ambassador Hotel was linked to plans to develop not just a high school, but to participate in the development of office buildings and retail uses on the Wilshire Boulevard frontage.

3. Several of the same parties currently involved in the Belmont project as consultants, staff, and development team members, were working together toward a similar goal with regard to the Ambassador Hotel site in 1987-90. The Ambassador project's failure to go forward resulted not only in substantial costs to the District but in the loss to the community of a badly needed high school.

4. The Belmont Middle School, planned for an 11-acre site acquired with approximately $31 million in state bond funds, was in the planning stages in 1993 and 1994. In order to create a site on which the Belmont Learning Complex could be developed, including the retail and housing components, LAUSD terminated design work on the Belmont Middle School in March, 1994. Approximately $700,000 in fees were paid to the architects. A middle school in the Belmont cluster, for which there was apparently a great need, has not yet been constructed.

The Committee will continue to examine closely the relationship between the failed Ambassador initiative and the subsequent Belmont project. After several years of targeting the Ambassador site, LAUSD representatives made an extremely strong case for SAB funding to acquire it in 1990, with the intention, apparently, of creating a mixed use, public private development there. Since 1993, a similar project appears to have been pursued at the Belmont site, while the need for a high school in the area of the Ambassador site apparently remains acute and unmet.

The Committee is also examining the results of LAUSD's sizable investment in fees and expenses during the last decade in pursuit of public-private, joint venture, mixed-use projects. The Committee is examining the costs and results of these efforts, and the lessons for LAUSD and other districts seeking to manage assets in a rational and productive manner.

Activities Pursuant to Joint Rule 37.4, Joint Rule 36, and Committee Rules 17 & 18

Committee Investigations:

The Joint Legislative Audit Committee is granted broad authority to investigate the performance of publicly created entities. A critical component of JLAC's statutory charge lies in assuring that the intent of Legislation enacted by the Legislature is reflected in the programs and policies of State, Local, and other public entities. Again, in the past two decades, JLAC has not exercised this statutory responsibility to an extent that would ensure accountability in California government.

In an effort to re-institutionalize the Committee's traditional role in ensuring government accountability, the Committee has recently begun using its investigative authority to identify problems of waste and/or misuse of taxpayer dollars by public entities, and in identifying areas in which government may have been unable or unwilling to provide the quality or level of services that the Legislature has promised to Californians.

The Committee frequently receives correspondence or phone calls regarding issues within the purview of JLAC's responsibilities. Often those requests for the Committee to investigate emanate from agencies and/or subdivisions of government. Examples of these Committee investigations follow.

LA CARE – Los Angeles County Two-Plan Model

In late April 1997, JLAC was contacted by certain stakeholders involved in the Los Angeles County effort to transfer Medi-Cal recipients from traditional "fee-for-service" arrangements to the Medi-Cal managed care "two-plan model" for Los Angeles County. These stakeholders had serious concerns about the State of California's commitment to expedite an efficient transition process. In a May 7, 1997 letter, the public component of the two-plan model, requested the intervention of JLAC (copy enclosed).

Health Committee hearings in Sacramento had clearly demonstrated that consumer choice, a fundamental cornerstone of the two-plan strategy, had been virtually non-existent in Los Angeles due to an apparent lack of attention to critical elements of the outreach and enrollment process and a perceived lack of involvement in the process by the California State Department of Health Services.

The difficulties with the transition process were further highlighted when in April 1997, the federal Health Care Financing Administration (HCFA) suspended the "default" enrollment process being utilized until certain criteria were met by the Department of Health Services and the plan participants in the two-plan implementation strategy. JLAC has worked with the principals involved in this Medi-Cal transition process since May 1997. Enclosed please find copies of selected Committee correspondence exchanged with the various entities. Responses to JLAC inquiries are available through the JLAC Chairman. A report will be issued by the Committee in early spring 1998.

May 7, 1997 Letter: LA CARE to JLAC Requesting Intervention

L.A.Care
Health Plan

May 7, 1997

The Honorable Scott Wildman
California State Assembly
District Office
300 W. Glenoaks Blvd., #202
Glendale, CA 91202

Dear Assemblyman Wildman:

Thank you for your support of L.A. Care's efforts to move forward with the roll out of Medi-Cal managed care in Los Angeles County. As I mentioned to you in our meeting, it would be very helpful if your office in your capacity as Chair, Joint Legislative Audit Committee could request from the Department of Health Services information as it relates to the monitoring and managing the performance of Maximus in Los Angeles County.

I have attached some questions for your consideration and excerpts from the Maximus bid proposal *tO* SDHS. I have also included a copy of the Maxirnus contract. I will follow up and call you.

Sincerely

Anthony D. Rodgers
Chief Exlecutive Officer

ADR:bk

June 2, 1997 Letter from JLAC to Department of Health Services

June 2, 1997

Ms. S. Kimberly Belshe
Director, Department of Health Services
P.O. Box 942732
Sacramento, CA 94234-7320

Dear Ms. Belshe:

Questions have been raised to the Joint Legislative Audit Committee concerning the implementation of the Los Angeles County two-plan model and the performance of MAXIMUS in this regard.

I am requesting responses to the following questions as part of an initial investigation. Please submit the responses to my office no later than June 25, 1997.

A. Beneficiary pre-enrollment education and outreach for Los Angeles County:

1. Does the Department of Health Services (DHS) have a specific level of funding in the MAXIMUS contract for Los Angeles County during the transition period prior to the mandatory enrollment of Medi-Cal beneficiaries?
   a. What is that level?
   b. What are the specific contractual criteria used to assess the performance of MAXIMUS in this regard?

2. Does DHS have a specific level of funding for Los Angeles County for ongoing education and outreach in Los Angeles after the mandate is implemented?
   a. What is that level?
   b. What are the specific contractual criteria used to assess the performance of MAXIMUS in this regard?

3. Agreed upon level of MAXIMUS staffing and expenditures.
   a. What is the agreed upon level for Los Angeles County?
   b. What is the agreed upon level in all other counties?

4. How does DHS monitor the MAXIMUS expenditure and staffing levels by county?

5. Has DHS made adjustments in the MAXIMUS contract to increase expenditures or staffing due to unforseen issues with rollout on Los Angeles County?
   a. What have been those adjustments?
   b. If adjustments have increased or decreased expenditures please include original cost and current cost by individual adjustment.

6. What are the performance standards DHS uses to monitor MAXIMUS performance in Los Angeles County?
   a. How are they monitored?
   b. What have been the specific findings?
   c. Do performance standards include a requirement to achieve a certain level of beneficiary choice vs. default?

B. Call center performance:

1. Monitoring tools.
   a. What are the monitoring tools DHS utilizes to verify that calls are handled in a timely fashion?
   b. That information provided is accurate and up to date?
   c. That complaints are handled expeditiously by MAXIMUS and are reported to DHS?

2. What are the specific standards DHS has for MAXIMUS call center?

3. How is performance related to standards monitored by DHS?
   a. Please provide copies of all monitoring reports.

4. Please provide a report on performance and call volume and call category (i.e., enrollment, disenrollment, complaints, outreach contacts and requests for information).

5. Please provide a report on call center operator assignments by county and by language.

6. How is the adequacy of staff monitored and adjusted as volume increases?

7. What are the specific standards for skills and training of call center staff, and how are they monitored by DHS?

C. Community Outreach:

1. What is the number of outreach sites that MAXIMUS is required to provide?
   a. Locations?

2. What is the number of outreach sessions that MAXIMUS is required to provide?

3. Does the contract allow MAXIMUS to utilize community based organizations to educate and orient beneficiaries to Medi-Cal managed care?
   a. If so, what is the criteria to be used, and what are the specific organizations?

4. What are the standards to determine outreach effectiveness and how are those standards monitored?

The Joint Legislative Audit Committee, which I Chair, requests this information pursuant to its authority as defined by the California Constitution, the Joint Rules of the Legislature, Government Code Sections 10500 et seq., provisions of the Welfare & Institutions Code 14000 et seq., and other related statutory authorities.

Your cooperation is greatly appreciated.

Sincerely,

Scott Wildman
Chair, Joint Legislative Audit Committee

June 20, 1997 Letter JLAC to HCFA

June 20, 1997

Elizabeth C. Abbott
Regional Administrator
Health Care Financing Administration
75 Hawthorne Street, Suite 401
San Francisco, CA 94105

Dear Ms. Abbott:

As Chair of the Joint Legislative Audit Committee (JLAC), I am asking you to forward me a detailed report regarding the Health Care Financing Administration's (HCFA) concerns which led to the order issued to the California Department of Health Services on March 26, 1997 to halt the automatic assignment of Medi-Cal patients to managed care plans in Los Angeles County.

Additionally, the JLAC requires information concerning the status of the March 26, 1997 order and any subsequent actions you have taken regarding the suspension of the default process. We are currently investigating issues related to the transition to managed care in Los Angeles County and require a response to this correspondence by July 14, 1997.

The JLAC requests this information pursuant to its authority as defined by the California Constitution, the Joint Rules of the Legislature, Government Code Sections 10500 et seq., provisions of the Welfare & Institutions Code 14000 et seq., and other related statutory authorities.

Your cooperation is greatly appreciated. If you have any questions please feel free to call my office at (916) 445-8364.

Sincerely,

SCOTT WILDMAN
Chair, Joint Legislative Audit Committee

July 11, 1997 DHS Response to JLAC

STATE OF CALIFORNIA HEALTH AND WELFARE AGENCY PETE WILSON, *Governor*

DEPARTMENT OF HEALTH SERVICES

714 P STREET. Room 1253
P.O.BOX 942732
SACRAMENTO, CA 94234-7320
(916) 654~0391

July 11, 1997

The Honorable Scott Wildman
Member of the Assembly
Chair, Joint Legislative Audit Committee
State Capitol
Sacramento, CA 95814

Dear Assembly Member Wildman:

Thank you for your letter dated June 2, 1997, in which the Joint Legislative Audit Committee requested information regarding the implementation of the Los Angeles County two-plan model and the performance of Maximus, the Department of Health Services Health Care Options' (HCO) enrollment contractor. Please excuse the lateness of our response, your questions required extensive research. The responses to your inquiries are in the order in which they were submitted.

A. Beneficiary Pre-enrollment Education and Outreach for Los Angeles County

1. Does the Department have a specific level of funding the Maximus contract for Los Angeles County during the transition period prior to the mandatory enrollment of Medi-Cal beneficiaries?

a. What is that level?

The Department does not allocate funding for the HCO program for individual counties, including Los Angeles County. The contract with Maximus is for the statewide operation of the HCO program.

b. What are the specific contractual criteria used to assess the performance of Maximus in this regard?

As specified in the HCO contract, Maximus is reimbursed for the fulfillment of their contractual obligations based on three operational areas, as well as other specified cost reimbursable areas. The three operational areas are: 1) enrollment/disenrollment transactions; 2) beneficiary direct assistance (based on a per minute basis for the toll-free telephone lines); and 3) Enrollment Services Representatives (based on a full-time equivalent per month basis). Cost reimbursable items include: postage, printing, special training, data center access, expenses related to expansion activities, office furniture, facilities, ad hoc reports, travel, and special projects and requests.

Maximus invoices the State separately for the three operational areas and submits reports to the State's Contract Officer upon completion of the prescribed work. All invoices are submitted in arrears by the tenth working day of the month following the month of service. This invoicing method allows the Department time to verify that monthly reports have been received and cycle time requirements have been met prior to authorizing payment. The Department also reserves the right to assess a penalty for failure to adhere to the specified time schedule.

2. Does the Department have a specific level of funding for Los Angeles County for ongoing education and outreach in Los Angeles after the mandate is implemented?

a. What is that level?

The Department does not have a specified level of funding for Los Angeles County for ongoing education and outreach after the two-plan model is implemented. In fact, when Los Angeles County is fully implemented and those Medi-Cal and Aid to Families with Dependent Children (AFDC) beneficiaries required to join a Medi-Cal health plan are enrolled into a Medi-Cal health plan, it is anticipated that the operational requirements for Los Angeles County will need to be reevaluated.

b. What are the specified contractual criteria used to assess the performance of Maximus in this regard?

As stated in the Request for Proposal, Scope of Work Section, the HCO Contractor will:

- Coordinate arrangements with County Department of Public Social Services (DPSS) and/or other approved public or nonpublic facilities for HCO presentations to applicants and beneficiaries adapted to each DPSS intake and redetermination operation.
- Schedule group or individual HCO presentations at regular intervals and at various locations to allow applicants/beneficiaries access during the eligibility determination process.
- Develop necessary forms and procedures for DPSS referrals.
- Identify and monitor those applicants and beneficiaries who are required to attend HCO presentations.
- Develop presentations according to the Department's specifications. Document the attendance of all applicants and beneficiaries at HCO presentations.

- Provide, as directed by the Department, linguistic services to a population group of mandatory eligibles residing in the service area who indicate their primary language as other than English.
- Ensure non- or limited English speaking applicants and beneficiaries understand their options and rights.
- Assign personnel to conduct HCO presentations, at each site, to inform applicants/beneficiaries of their options of receiving Medi-Cal benefits according to standards developed by the Department.
- Ensure back-up personnel is provided in the event of employee absence to ensure their is no disruption in HCO presentations. Consistently and effectively conduct HCO presentations.
- Develop and implement a method of evaluating applicant/beneficiary satisfaction with the HCO presentations.

The call center is another component of the ongoing education and outreach activity conducted by the HCO contractor. For the specified contractual criteria used to assess the performance of the HCO Contractor in this area, please see Section B. 2., below.

3. Agree upon level of Maximus staffing and expenditures.

a. What is the agreed upon level for Los Angeles County?

The Department has approved a staffing allocation of 50 Enrollment Services Representatives (ESRs), and five regional managers for Los Angeles County. In addition, the HCO Contractor has assigned one regional director for the Southern California HCO operation.

b. What is the agreed upon level in all other counties?

The Department has approved a staffing allocation of 67 full time equivalent ESRs, and five regional managers for all other counties in which HCO presentations are performed. As in Southern California, the HCO Contractor has one regional director assigned to the Northern California HCO operation.

4. How does the Department monitor the Maximus expenditure and staffing levels by county?

As stated above in the response to question number 1, ESRs are one of the three reimbursable operations areas. The HCO contract requires the State to reimburse the HCO Contractor for ESRs based on a full time equivalent per month. The reimbursement methodology consists of monthly attendance reports submitted by the HCO Contractor, the number of approved positions, and the invoices for services performed.

5. Has the Department made adjustments in the Maximus contract to increase expenditures or staffing due to unforeseen issues with rollout in Los Angeles County?

a. What have been those adjustments?

The Department has authorized the expansion of the HCO operation in Los Angeles County based on anticipated activities associated with the implementation of the two-plan model in Los Angeles County and the subsequent conversion of those beneficiaries required to enroll in a Medi-Cal health plan. as experienced in other fully implemented counties. Maximus has been authorized to hire additional ESRs to expand the current education and outreach activities performed in permanent locations in Los Angeles County.

In addition, the Department has authorized the HCO Contractor to solicit subcontracts from Community Based Organizations throughout Los Angeles County in an effort to expand diversify, and compliment current education and outreach activities.

b. If adjustments have increased or decreased expenditures, please include original cost and current cost by individual adjustment.

As the subcontracts with the Community Based Organizations have not yet been executed, there have been no actual increases in the expenditures for the current monthly operational costs. When the subcontracts are executed, the Department will continue to reimburse the HCO Contractor at the same rate. However, there will be additional costs associated with increased staffing and additional transactions.

6. What are the performance standards the Department uses to monitor Maximus' performance in Los Angeles County?

a. How are they monitored?

The Department utilizes the monthly ESR Activity Report to evaluate the number of presentations given, the number of beneficiaries represented at those presentations, and the enrollment selection (either fee-for-service or a Medi-Cal health plan). In addition, the Department HCO county liaison staff perform ongoing monitoring of the ESR performance on a site-by-site basis.

b. What have been the specific findings?

As observed by the Department staff and representatives from the Federal Health Care Financing Administration, the ESR staff in Los Angeles County have demonstrated a very high level of knowledge about the choices available for receiving Medi-Cal benefits, the available plans, the ability to answer all questions related to Medi-Cal managed care, in a linguistically appropriate manner.

c. Do performance standards include a requirement to achieve a certain level of beneficiary choice vs. default?

There is currently no performance standard in the HCO contract to achieve a certain level of beneficiary choice verses default of assignment, as this is not within the control of the HCO contractor.

B. Call Center Performance

1. Monitoring tools

a. What are the monitoring tools the Department utilizes to verify that calls are handled in a timely fashion?

The Department utilizes the Automatic Call Distribution (ACD) System "Daily Report" which indicates the "average answer delay" per call center queue.

b. That information provided is accurate and up to date?

The Department performs periodic call monitoring of the ACD System. Two-call monitoring telephones were recently installed in the HCO on-site office to ensure compliance. The Department is currently setting up additional procedures to review the monthly bills to ensure the daily report is being accurately reported.

c. That complaints are handled expeditiously by Maximus and are reported to the Department?

Complaints are handled through the "incident report" which is assigned a control number and faxed to the Department. Complaints are reported to the Department via the problem log and weekly narrative.

2. What are the specific standards the Department has for Maximus Call Center?

Per the Request For Proposal Cite 9.7.1, the minimum standards for the call center are:

- · All calls must be answered within three rings.
- No more than one call per operator should be in queue at any time.
- Telephone calls should be of sufficient length to assure adequate information is gained from and/or imparted to the caller.
- The average hold time should be 60 seconds.
- The average abandon rate should be 5 percent.
- The average referral to voice mail should be 2 percent.
- This does not include referral resulting from ACD options.
- All voice mail calls should be returned within 24 hours.
- The average number of blocked calls should be no more than 5 percent.

3. How is performance related to standards monitored by the Department?

The Department has assigned staff permanently on-site at the HCO Contractor s Call Center. This staff has direct access to the HCO Contractor's computer system. This direct access allows the on-site staff to generate a variety of ad hoc reports to evaluate various components of the Contractor's performance (e.g., available plans by county, carved-out zip codes, available enrollment capacity by plan, etc.). Currently, the Department relies on limited system generated daily reports to ensure certain standards are met.

In addition, the on-site staff have access to dedicated telephone lines which are utilized to monitor the Customer Services Representatives (CSRs) daily activity. These direct telephone lines allow on-site staff to perform Quality Assurance reviews of the responses and information the CSRs provide to Medi-Cal beneficiaries and other interested parties. This function is performed daily by the on-site staff.

The Department hired a private consulting firm, "Logicon" to perform an in-depth analysis of the call center. Logicon has recommended that Maximus provide additional reports to the Department, which will enable the Department to thoroughly monitor the minimum standards.

a. Please provide copies of all monitoring reports.

Copies of the daily monitoring reports are enclosed (Enclosure A).

4. Please provide a report on performance and call volume and call category (i.e., enrollment,disenrollment, complaints, outreach contacts and requests for information).

See Enclosure B.

5. Please provide a report on call center operator assignments by county and by language.

Currently. maintaining figures for call center operator by county or language is not a contract requirement, thus Maximus does not track totals. However, Maximus is planning to form a specialized "Los Angeles County" Unit which would answer only Los Angeles County calls.

6. How is the adequacy of staff monitored and adjusted as volume increases?

The language associated with each incoming call is indicated by the queue that the call center operator is logged on to. The following languages are identified by the queue number:

4850 - English
4851 - Spanish
4852 - Vietnamese
4853- English

For all other threshold languages, the call center operator logs into the 4850 queue and incoming calls in the operator's language are transferred as necessary. The Department has approved a staffing level up to 250 for the Call Center facility. As the need for more staff or specific languages arises, the Department informs Maxirnus' Human Resource Department and Maximus begins the recruitment process to accommodate the increase in volume. The Call Center staff have also been cross-trained to perform key data entry functions if the need arises.

7. What are the specific standards for skills and training of call center staff, and how are they monitored by the Department?

The specific standards for call center staff are as follows: strong organizational skills; excellent communication skills; ability to interact courteously and effectively with diverse populations; professional telephone comportment; ability to perform data entry; computer literacy; ability to follow directions and work independently; and the ability

to handle pressure and perform multiple tasks. The initial training for call center staff is one week. On a weekly basis, the supervisor reports their unit's training needs and submits them to the QA/Training team. Callers with complaints against a call center operator are assisted by a Maximus supervisor. Supervisors record each complaint into the MAXSTAR database and file an incident report. The Department has access to both the database and the incident reports.

C. Community Outreach:

1. What is the number of outreach sites that Maximus is required to provide?

Maximus has been authorized to maintain outreach presentation sites in 24 Los Angeles DPSS offices and 11 Women and infant Children locations.

a. Locations?

Please see enclosed list (Enclosure C) of site locations and hours of operation for Los Angeles County.

2. What is the number of outreach sessions that Maximus is required to provide?

Maximus is not required to provide a specified number of outreach sessions; however, tropically the presentations are scheduled hourly. This generally provides the ESR 45 minutes to provide the presentation, answer questions, and provide assistance to complete the enrollment form. The remaining time is utilized to meet required reporting requirements.

3. Does the contract allow Maximus to utilize community based organizations to educate and orient beneficiaries to Medi-Cal manage care?

Yes.

4. What are the standards to determine outreach effectiveness and how are those standards monitored?

As specified in Request for Proposals, Scope of Work, the HCO Contractor will provide presentations according to the Department's specifications.
The HCO presentation will include, but is not limited to:

- · Information designed to help applicants/beneficiaries understand how to complete an enrollment form and to assist applicants/beneficiaries with completion of an enrollment form.

- Alternatives for beneficiaries to receive Medi-Cal benefits, with an emphasis on the managed care method.
- A description of the services covered under the Medi-Cal Program.
- A description of all available managed care plans in areas where applicants/beneficiaries reside.
- The zip codes served by each managed care plan in each county.
- Information in response to managed care plan related questions which arise during the HCO presentation from applicants/beneficiaries.
- Distribution of Department approved health care plan-related marketing materials (e.g., brochures, pamphlets, etc.) received from the plans.
- A description of the beneficiaries enrollment/disenrollment rights.

If you or your staff have additional questions or comments related to the above responses, please contact Ms. Pamela Rich, Chief, Payment Systems Division at (916) 322-7598.

Sincerely.

J. Douglas Porter
Deputy Director
Medical Care Services

Enclosures

July 25, 1997 Letter JLAC to HCFA

July 25, 1997

Elizabeth C. Abbott
Regional Administrator
Health Care Financing Administration
75 Hawthorne Street, 4th Floor
San Francisco, CA 94105-3903

Dear Ms. Abbott:

Thank you for your response received in my office on July 11, 1997 to my June 20, 1997 inquiry. The copies of correspondence related to the LA Managed Care transition were very helpful in providing the legislature with an historical perspective on your actions related to the transition process. My office shares your concerns and appreciates the role you have played in ensuring that a workable process for this transition is implemented. We would appreciate a periodic update on your communications, your findings, and your decisions regarding this matter.

Concurrent with our inquiry to your office, we forwarded inquiries to the Department of Health Services (DHS) related to the implementation of the two-plan model in Los Angeles, and specifically related to contractor performance measures, DHS oversight, outreach plans, the default process, and the impact on current Medi-Cal recipients.

The bulk of the information we received as a result of this inquiry related to short-term projections and to prospective implementation plans. We are continuing our efforts to determine what is actually taking place in quantifiable and practical terms. We were concerned that the draft "Education & Outreach Plan for Los Angeles County" (both your office and DHS sent us this plan) articulated an implementation timeline that may have been overly optimistic. Further, though we were apprised of some performance criteria and performance measures related to the current contractor, Maximus, the responses we received likewise seemed prospective and, in part, appeared of limited scope and application, particularly in light of the magnitude and the complexity of the transition process. We are continuing our inquiry in order to sustain our confidence in the process.

I would like to meet with you, and/or your representatives, in early August (schedule permitting) to more fully discuss the above referenced issues and to enlist your expertise in assisting the Joint Legislative Audit Committee in assessing the status and the viability of the two-plan transition process in Los Angeles County.

Thank you for your consideration and assistance.

Sincerely,

SCOTT WILDMAN
Chair, Joint Legislative Audit Committee

cc: Senator Ken Maddy, Vice-Chair, Joint Legislative Audit Committee
Assemblymember Martin Gallegos, Chair, Assembly Health Committee
Senator Diane Watson, Chair, Senate Health and Human Services Committee

July 25, 1997 Letter JLAC to DHS

July 25, 1997

J. Douglas Porter
Deputy Director, Medical Care Services
Department of Health Services
P.O. Box 942732
Sacramento, CA 94234-7320

Dear Mr. Porter:

Thank you for your efforts in responding to our inquiry of June 2, 1997. Your response arrived in my office by courier on July 11, 1997. I appreciate your assertion that extensive research was required in answering our inquiries. We do, however, require substantially more information regarding several of our inquiries. Please forward your responses to my office no later than Friday, August 29, 1997.

1. Is it correct to assume that no specific level of funding Maximus exists?

2. If so, as a component of the contract with Maximus for statewide operation of the HCO program, what percentage of the statewide total do you project will be and/or currently is devoted to LA County?

3. What is the dollar amount of the statewide Maximus contract? What is the projected dollar amount of the LA portion?

4. Please forward to our office a copy of the complete statewide operation HCO contract with Maximus, along with any LA specific contractual agreements or contractual arrangements.

5. What are the specific contractual obligations in each of the three operational areas you cite? What are the specific performance criteria used to determine Maximus has met each of its enumerated contractual obligations in each of these areas? What are the contractually agreed upon costs related to each of the above, and how are they calculated? What additional costs are reimbursable and how are these costs monitored and verified?

6. As of July 10, 1997, in each of these areas, what costs (reimbursable and contractual) have been billed by Maximus? What costs have been paid and when? Has Maximus been advanced any funds prior to completion of any of its contractual obligations, and if so, how much and in which specific areas?

7. What is the proposed process to be used in reevaluating the costs associated with post transitional operational requirements? Is this provided for in the current Maximus contract or will a new contract be necessary and/or be negotiated?

8. Please provide my office with a copy of the entire RFP, a description of the RFP process, and a copy of all bids received?

9. What factors were considered by DHS in approving the staffing allocation in LA County?

10. Please quantify the expansion plans alluded to in your response to Question 5a of our June 2, 1997 letter.

11. Please detail the contractor Community Based Organization solicitation process, including documentation of efforts. Is this process included in the original contractual agreement with Maximus? If so, what are the associated costs? If not, what are the actual and the anticipated additional costs? What is the current status of the effort? Please list all the CBO's that have responded to the RFP process and the current status of their relationship with Maximus and/or their role in the transition process.

12. Please provide updated reports regarding call center activity and monitoring?

13. Please provide my office with a copy of the entire RFP, a description of the RFP process, and a copy of all responses received in relation to the Community Outreach effort.

14. What is the current status of the 5/29/97 "Education & Outreach Plan for Los Angeles County"?

15. Please forward to my office copies of all correspondence exchanged with HCFA regarding the implementation of the two-plan model in Los Angeles County, including all correspondence related to the default process.

Thank you for your attention.

Sincerely,

SCOTT WILDMAN
Chair, Joint Legislative Audit Committee

cc: Senator Ken Maddy, Vice-Chair, Joint Legislative Audit Committee
Assemblymember Martin Gallegos, Chair, Assembly Health Committee
Senator Diane Watson, Chair, Senate Health and Human Services Committee

Interstate Compact for the Placement of Children

Pursuant to an inquiry by a member of the Superior Court Bench, JLAC initiated inquiries into the procedures and the performance of the State of California in implementing and executing the Interstate Compact for the Placement of Children (ICPC). The inquiry has involved meetings and interviews with Department of Social Services Personnel and correspondence between the Committee and the various principals. Examples of correspondence are included. A report will be issued by March 1998.

July 1, 1997 Letter JLAC to Department of Social Services

July 1, 1997

Marjorie Kelly, Deputy Director
Children and Family Services Division
California Department of Social Services
744 P Street, Mail Station 17-18
Sacramento,CA 95814

Dear Deputy Director Kelly:

As the Chair of the Joint Legislative Audit Committee (JLAC), I have received several inquiries regarding the implementation of the Interstate Compact on the Placement of Children (ICPC), of which California is a signatory.

In order to conduct a proper review of the inquiries raised, the JLAC requests certain information pursuant to its authority as defined by the California Constitution, the Joint Rules of the Legislature, Government Code Sections 10500 et seq., provisions of the Welfare & Institutions Code 14000 et seq., and other related statutory authorities.

Please deliver to my office by Friday, July 25, 1997 the following information:

I. History

A. What is the history of California's involvement in the ICPC, including Departments and individuals involved in any negotiations prior to implementation and subsequent to California's signing of the ICPC?

B. What is the current status of the ICPC?

II. Placing a Child in Another State: Process and Procedures (State)

A. What is the process utilized when placing a child in another state?

B. What are the costs to the State of California of administering the ICPC, including estimated dollar amounts and staff time utilized by the Department of Social Services?

C. Who pays these costs? For placement? For Administration? For maintenance and support? For any additional costs?

III. Placing a Child in Another State: Process and Procedures (County)

A. What are the processes utilized by each county when placing a child in another state?

B. What are the costs to each county of administering the ICPC, including estimated dollar amounts and staff time utilized by the county department?

C. Who pays these costs? For placement? For Administration? For maintenance and support? For any additional costs?

D. What is the method of payment and or reimbursement?

E. What is the actual number of children placed pursuant to the ICPC in other states by each county?

F. What are the recoverable costs by type and by amount?

G. What is the amount recovered and the amount not recovered by the State of California and/or by each county to which they may be entitled?

H. Where are these recovered costs, if any, deposited, and to whom or what are they disbursed?

IV. When a Child is Placed from Another State: Process and Procedures (State)

A. What is the process utilized when a child is placed in California from another state?

B. What are the costs to the State of California of administering the ICPC, including estimated dollar amounts and staff time utilized by department?

C. Who pays these costs? For placement? For Administration? For maintenance and support? For any additional costs?

V. When a Child is Placed from Another State: Process and Procedures (County)

A. What are the processes utilized by each county when a child is placed from another state?

B. What are the costs to each county of administering the ICPC, including estimated dollar amounts and staff time utilized by the county department?

C. Who pays these costs? For placement? For Administration? For maintenance and support? For any additional costs?

D. What is the method of payment and or reimbursement?

E. What is the actual number of children placed pursuant to the ICPC in other states by each county?

F. What are the recoverable costs by type and by amount?

G. What is the amount recovered and the amount not recovered by the State of California and/or by each county to which they may be entitled?

H. Where are these recovered costs, if any, deposited, and to whom or what are they disbursed?

I look forward to hearing from you. Your cooperation is greatly appreciated.

Sincerely,

SCOTT WILDMAN
Chair, Joint Legislative Audit Committee

cc: Senator Ken Maddy, Vice-Chair, Joint Legislative Audit Committee

August 5, 1997 Response DSS to JLAC

STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY
DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, **CA 95814 MS 19-74**

August 5, 1997

The Honorable Scott Wildman, Chair
Joint Legislative Audit Committee
State Capitol
Sacramento, California 95814

Dear Assembly Member Wildman:

Pursuant to your meeting last week with James W. Brown, Chief of the Adoptions Branch, my staff and Jackie Rodriguez of our Legislative Office, and in response to your letter of July 1, 1997 regarding implementation of the Interstate Compact on the Placement of Children (ICPC) in California, we are providing the following information. It is my understanding that your inquiry is directed at the general operation of the Compact in California, the magnitude of children being placed into and out of California, the costs associated with those placements, how they are funded, and court costs. As discussed at that meeting, in those areas where the information you request is not readily available, we will develop a plan to gather that data. Our plan will be made available to you by August 7, 1997.

California became a signatory to the ICPC on January 1, 1975 and continues to be a member state to date. The ICPC is found in Family Code Section 7900 et seq. The California Department of Social Services (CDSS) is responsible for statewide administration of the ICPC. In 1991, CDSS delegated the case processing function of ICPC to county social service departments, county probation departments, CDSS District Offices and public and private adoption agencies throughout California The CDSS redirected one position to administer statewide ICPC policy, maintain program uniformity, provide administrative services to designated California ICPC liaisons and to represent California on the national level. The total estimated costs incurred by CDSS for ICPC for FY 95-96 are $98,169, consisting of $91,886 staff and overhead, $4,000 subscription membership, and $2,283 travel expenses. These costs are shared by federal Child Welfare Services (COOS) and state General funds.

A description of the ICPC processes for both incoming and outgoing placements is enclosed.

County administrative costs are claimed as part of county CWS caseload allocations and are not separately identified on county administrative claims. Therefore, county ICPC costs could only be determined at the county level, if such data is identified and maintained. Maintenance and support costs for ICPC placements may be paid from Title IV-E foster care funds, if the child is eligible, or through California AFDC-FG funds, if the family in the receiving state is not eligible for Aid to Dependent Children in that state. Compact member states do not bill for service or supervision costs they incur as a result of placements made through the ICPC. The ICPC operates on a reciprocity basis.

Caseload figures for placements made into California are not available on a statewide basis at this time. Caseload figures for children placed by California counties into other states can be compiled from the Foster Care Information System (FCIS), California's payment system for out-of--home placement costs.

The Association of Administrators of the Interstate Compact on the Placement of Children two years ago began the task of addressing nationwide problems with the ICPC, by bringing together a committee representing the three national organizations who, in concert, could improve the system. For your information I am enclosing a copy of the Final Report of that committee. Both Ernestine Barbieri, California Deputy Compact Administrator, and I were members of that committee and would be available to advise you of the progress being made as a result of the committee's efforts.

If you have any questions, please do not hesitate to call me at 657-2614, or your staff may contact Ernestine Barbieri, at 445-2807. She will be developing the plan you discussed to provide as much statistical data as is available.

Sincerely,

MARJORIE KELLY
Deputy Director
Children and Family Services Division

Enclosure

August 15, 1997 Response DSS to JLAC

STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY
DEPARTMENT Of SOCIAL SERVICES
744 P Street, Sacramento, CA 95814

AUG 15 1997

The Honorable Scott Wildman, Chair
Joint Legislative Audit Committee
State Capitol
Sacramento, California 95814

Dear Assembly Member Wildman:

This letter is in follow-up to our letter of August 5, 1997, regarding your request for information regarding implementation of the Interstate Compact on the Placement of Children (ICPC) in California. In our letter, we agreed to provide you with a plan to obtain statistical data regarding the number of children involved in the Interstate Compact placement process in California

We have obtained and enclosed a Data Report from the Foster Care Information System (FCIS), California's tracking system for out-of-home placements. As indicated at the top of the Report, these figures reflect reporting by the counties as of mid-July 1997. The FCIS reflects cases reported by each county, and therefore is only as accurate as counties accurately report. In addition, these figures do not reflect incoming ICPC cases, which do not require the involvement of California courts, but are services caseload for county social services departments.

In order to obtain a best estimate on the numbers of ICPC cases coming into California, we will conduct an informal telephone survey of county ICPC liaisons for counties reporting over 50 out-of-state placements pursuant to the enclosed report. However, as we advised in our meeting, California counties report to us that they place more children out-of-state than are placed into their jurisdictions, therefore, if these preliminary figures are less than you anticipated, please advise if you do not wish us to pursue our research. Otherwise, we will provide you with that information as soon as we obtain the information from county staff and compile those responses.

Ernestine Barbieri, Deputy Compact Administrator, is available to assist your staff regarding these issues and can be reached at (916) 445-2807.

Sincerely,

MARJORIE KELLY
Deputy Director
Children and Family Services Division

Enclosure

FOSTER CARE INFORMATION SYSTEM -- #97fc24
OUT-OF-STATE PLACED FOSTER CARE CHILDREN, FUNDING/PLCMT
BASED ON REPORTING BY MIDDLE OF JULY 1997

COUNTY	TOTAL OUT OF STATE	RLTV FCFUND	RLTV OTHER	GRP HM FCFUND	GRP HM OTHER	OTHER FCFUND	OTHER PLCMT/ FCFUND
STATEWIDE	2,684	1,035	575	665	7	328	74
ALAMEDA	25	0	0	24	0	1	0
ALPINE	1	0	0	1	0	0	0
AMADOR	1	0	0	1	0	0	0
BUTTE	29	10	2	9	0	8	0
CALAVERAS	2	0	0	2	0	0	0
CONTRA COSTA	50	27	11	0	0	6	6
DEL NORTE	7	2	0	1	0	3	1
EL DORADO	17	10	0	4	0	3	0
FRESNO	48	22	0	16	0	10	0
GLENN	6	1	0	1	0	4	0
HUMBOLDT	9	7	1	0	0	1	0
IMPERIAL	15	5	0	10	0	0	0
INYO	2	0	0	2	0	0	0
KERN	52	32	10	1	0	5	4
KINGS	4	o	O	O	o	4	0
LAKE	9	2	1	5	0	1	0
LARSEN	2	0	0	0	0	2	0
LOS ANGELES	890	350	367	34	3	100	36
MARIN	12	0	0	12	0	0	0
MARIPOSA	1	O	0	0	0	1	0
MENDOCINO	7	2	0	3	0	1	1
MERCED	1	0	0	0	0	0	1
MONTEREY	12	0	0	11	0	1	0
NAPA	2	1	0	0	0	1	0
ORANGE	110	43	36	4	0	20	7
PLACER	12	0	0	10	1	1	0
SACRAMENTO	123	59	9	46	0	9	0
SAN BENITO	2	0	0	2	0	0	0
SAN BERNARDINO	322	115	29	157	2	19	0
SAN DIEGO	501	264	100	59	0	69	9
BAN FRANCISCO	123	57	8	14	0	40	4
SAN JOAQUIN	83	0	0	83	0	0	0
SAN LUIS OBISBO	4	0	0	4	0	0	0
SAN MATEO	26	0	0	26	0	0	0
BANTA BARBARA	12	1	1	2	0	6	2
SANTA CLARA	60	0	0	59	0	1	0
SANTA CRUZ	1	0	0	1	0	0	0
SISKIYOU	7	4	0	O	0	3	0
SOLANO	14	O	0	13	0	1	0
SONOMA	25	8	0	12	1	2	2
STANISLAU8	8	7	0	0	0	0	1
SUTTER	7	3	0	4	0	0	0
TEHAMA	3	0	0	3	0	0	0
TRINITY	1	0	0	1	0	0	0
TULARE	17	1	0	15	0	1	0
TUOLUMNE	2	0	0	2	0	0	0
VENTURA	6	0	0	6	0	0	0
YOLO	11	2	0	5	0	4	0

Department of Developmental Disabilities – Regional Center of Orange County

Citing a lack of cooperation on the part of the Regional Center of Orange Count (RCOC) and the unavailability of information necessary to discharge their function, the Area XI Developmental Disabilities Board formally requested JLAC to investigate the RCOC allocation of approximately $2.7 million in "surplus" funds at the close of the 1996-1997 fiscal year(see enclosed letter). Some examples of JLAC correspondence regarding this issue are also included. A report is being prepared and should be delivered to the Committee in winter 1998.

Letter to JLAC from Area XI Board

AREA XI Developmental Disabilities Board
250 El Camino Real. #110, Tustin, CA 92780-3655 (714) 731-4787 FAX 558-4293
E-Mail ABXI@IX.NETCOM.COM ATSS 657-4605

June 16,1997

The Honorable Scott Wildman
Chair, Joint Legislative Audit Committee
State Capitol, Room 4158
Sacramento, CA 95814

Dear Assemblyman Wildman,

The reason for this letter is to request that the Joint Legislative Audit Committee review the process used by the Regional Center of Orange County to identify projects and spend approximately $2,755,000. of their unexpended "purchase of service" FY 1996-97 state budget allocation. Regional Center of Orange County is one of twenty-one non-profit agencies that contracts with the State Department of Developmental Services.

During April of this year, Area Board Xl became aware that Regional Center of Orange County planned to disburse $2,755,000. of their unspent purchase of service budget allocation prior to June 30,1997. In an April 22,1997, letter to Regional Center of Orange County, Area Board Xl inquired with regard to how the Center's expenditure plans would correspond with previously identified unmet consumer needs. On April 28,1997, community forums to present proposed resource allocations were conducted by Regional Center of Orange County. Having received only bits and pieces of information in response to our April 22,1997 inquiry Area Board Xl, again, made further inquires of the Regional Center in our letter dated May 14,1997, enclosed.

During our June 10,1997 Area Xl Board meeting, the Board took action to seek an unbiased entity that would review the process used to identify projects that Regional Center of Orange County will allocate unspent FY 1996-97 public dollars toward; the methods used to solicit and select project applicants and, the methods that will be used to ensure strict fiscal accountability for these projects.

Area Board Xl believes that any agency spending public dollars has a responsibility to ensure that such tax dollars are expended in a fashion that is procedurally correct, strictly legal and accountable. We seek your assistance to review this matter and will be grateful for any assistance the Joint Legislative Audit Committee is able to give.

Sincerely,
Rhys Burchill, Executive Director

June 25, 1997 Letter JLAC to RCOC

June 23, 1997

Kurt Yeager, President
Board of Directors
Regional Center of Orange County
530 South Main Street
Orange, CA 92868

VIA FAX: (714) 547-4365
Original sent by mail

Dear Mr. Yeager:

The Joint Legislative Audit Committee (JLAC) has been apprised by the AREA XI Development Disabilities Board (Board) of concerns related to the recent allocation of approximately $2,755,000 of the unexpended "purchase for service" allocations appropriated for FY 1996-1997. Our information indicates that the Board has not been provided with sufficient requested information to allow an objective analysis of the process involved in selecting applicants to implement funded projects, the actual nature of the projects, and the methods used to ensure fiscal and performance accountability.

The JLAC is a continuous committee that was created to ensure accountability in publicly created entities, to assess performance of agencies and programs, and to assure that Legislative actions result in the outcomes that the California Legislature intended. We are committed to assuring that each taxpayer dollar allocated is effectively and efficiently spent in accordance with the law and the Legislature's intent.

The JLAC derives its authority as defined in the California Constitution, the Joint Rules of the Legislature, Government Code Section 10500 et seq., and various other provisions of the California Codes, and is empowered, in part, to study, to investigate, and/or direct the State Auditor to audit the performance of any publicly created entity, and to initiate any corrective legislative actions it deems appropriate.

I am requesting that the following information be delivered to my office no later than Thursday, July 10, 1997:

I. Request for Proposal (RFP) - FY 1996-97 Unmet Needs

A. Explain in detail the RFP process utilized by the Regional Center of Orange County (RCOC).

B. List all announcements involving any and all RFPs issued to address unmet needs with regard to the 1996-97 budget allocation, including text, publication name or type and date of advertisement or announcement.

C. If applicable, a list of any and all entities to whom a RFP was provided, including date and name of contact person.

D. List all respondents to the above referenced announcements, i.e., all parties inquiring about the RFP process.

E. List all parties submitting a response to the RFP, including date submitted, name of the contractor, agency, or organization, and contact person. Include all information submitted in response to the RFP by respondent.

F. Provide all documents pertaining to the RCOC evaluation and selection of contractors or subcontractors, including timelines and persons participating.

II. Additional Records

A. Copies of all contracts related to projects identified in Section I above.

B. Established performance evaluation criteria, oversight mechanism utilized, and other related accountability or contract compliance measures employed (including individuals responsible for particular areas of compliance and accountability).

C. List all consultants engaged at any time on any of the above referenced FY 1996-97 projects, including specific details of service provided, and dates services rendered.

D. Any and all work product records, billing and payment records.

III. Attachments

A. Please provide my office with detailed responses to each question posed in the enclosed April 22, 1997 letter from AREA XI Board Chair Polly Musch to RCOC President Kurt Yeager (Attachment 1).

B. Please provide my office with detailed responses to each question posed in the enclosed May 14, 1997 letter from AREA XI Board Chair Polly Musch to RCOC President Kurt Yeager (Attachment 2).

IV. FY 1996-97 Allocation Requests (Attachment 3)

A. Provide a detailed accounting, including any contracts for service, implementation timelines, services and/or programs proposed or provided, and individuals responsible foe each of the following Allocation requests:

1. "Family Vacation" Respite	$350,000
2. Life Enhancement Fund	$500,000
3. Medication Reviews	$100,000
4. Behavioral Review Team	$100,000
5. Family Support Activities	$105,000
6. Service Enhancement	$500,000
7. Autism Collaborative "Diagnostic Center"	$350,000
8. Clubhouses	$350,000
9. Housing	$350,000
10. Transportation	$ 50,000
11. Other	$

B. Which, if any, of the above allocation requests were approved?

C. Provide a detailed accounting of proposed expenditure related to the $2,775,000 unexpended "purchase for service" FY 1996-97 state budget allocation.

Your cooperation is greatly appreciated. Please feel free to call if you have any questions or require clarification.

Sincerely,

SCOTT WILDMAN
Chair, Joint Legislative Audit Committee

Attachments

cc: Senator Ken Maddy, Vice-Chair, Joint Legislative Audit Committee

Hospital Closures – Thompson Memorial Medical Center

In April 1997, Thompson Memorial Medical Center(TMMC) in Burbank, California was closed by the Department of Health Services. Concern from local officials as well as a direct request by the management of TMMC, precipitated this JLAC inquiry. A report will be released in January 1998 related to the closure of this facility.

May 15, 1997 JLAC Letter to CMAC

May 15, 1997

Mr. Byron Chell
Director, California Medical Assistance Commission
1300 I Street, Suite #1040
Sacramento, CA 95814

Dear Mr. Chell:

I read the CA Medical Assistance Commission's January 1997 report to the Legislature with great interest. As Chair of the Joint Legislative Audit Committee (JLAC) I applaud your significant efforts in controlling the costs associated with the delivery of health care to California's citizens, and although I entertain a certain discomfort regarding the inability to provide a precise and quantifiable determination of actual taxpayer savings, you have clearly demonstrated the overall effectiveness of the State's cost control measures.

It has come to my attention that recently, Thompson Memorial Medical Center (FCL ID #114) of Burbank was closed due to various concerns of the Department of Health Services.

The Joint Legislative Audit Committee also entertains concerns. I am requesting the following information be forwarded to my office by June 1, 1997.

* All data utilized in determining the Selective Provider Contracting Program (SPCP) annualized savings estimate for Thompson Memorial Medical Center for each fiscal year 1983/1984 to present.

* SCPC annualized savings estimate for Thompson Memorial Medical Center 1985/1986 to present.

* Amount and source of Emergency Services and Supplemental Payment Fund (ESSP) distributions to Thompson Memorial Medical Center for each fiscal year 1985/1986 to present.

* Amount and utilization by project and contractor of Construction and Renovation Reimbursement Program (CRRP) payments to Thompson Memorial Medical Center beginning fiscal year 1985/1986 to present.

* Applicability and amount of savings/payments realized through the Section 1115 Medicaid waiver, if any, for fiscal years 1995/1996 and 1996/1997.

* Payment rates (daily reimbursement rate) applied to Thompson Memorial Medical Center for each fiscal year 1985/1986 to present.

* Aggregate yearly total of daily reimbursements received by Thompson Memorial Medical Center for each year 1985/1986 to present (daily rate x utilization).

* Number of licensed hospital beds each year 1985/1986 to present at Thompson Memorial Medical Center.

* Additional revenues received by Thompson Memorial Medical Center due to volume-related contractual provisions, if applicable, annually 1985/1986 to present.

* Revenues received as the result of any separate discharge rate structure, if applicable, annually 1985/1986 to present.

* Revenues received from all-inclusive per discharge rate structure, if applicable, annually 1985/1986 to present.

* Revenue related to SB 855 and SB 1255 programs by source and amount, if applicable, annually 1985/1986 to present.

The Joint Legislative Audit Committee requests this information pursuant to its authority as defined by the California Constitution, the Joint Rules of the Legislature, Government Code Sections 10500 et. Seq., provisions of the Welfare & Institutions Code 14000 et. Seq, and other related statutory authorities.

Your cooperation is greatly appreciated.

Sincerely,

Scott Wildman
Chair, Joint Legislative Audit Committee

cc: Kurt Sjoberg

May 15, 1997 JLAC Letter to DHS

May 15, 1997

Ms. S. Kimberly Belshe
Director Department Health Services
P.O. Box 942732
Sacramento, CA 94234-7320

Dear Ms. Belshe:

My office has received numerous inquiries regarding concerns over the closure of the Thompson Memorial Medical Center in Burbank. I greatly appreciate the Department of Health Services' (DHS) efforts to ensure the delivery of quality health care to the residents of the area, and your decisive actions in this regard.

In my capacity as Chair of the Joint Legislative Audit Committee (JLAC), I am compelled to further investigate the history, service delivery record, and performance of the Thompson Memorial Medical Center. To assist the Legislature in this inquiry, I request the following information be provided to JLAC relative to this facility:

* Data related to Medi-Cal allowable costs and utilization for each fiscal year 1985/1986 to present, as compiled by the Audits and Investigations Branch of DHS for this facility.
* A chronology of Health and Safety violations reported to or investigated by the Department of Health Services at Thompson Memorial, and an enumeration of specific complaints received for each fiscal year 1985/1986 to present.
* An analysis of any identified recurring difficulties regarding health, safety and or service delivery at the facility, including steps taken by the Department or the facility to mitigate or rectify those difficulties.
* Any identified service delivery or fiscal impacts precipitated by the changes in ownership which have occurred over the last ten years at the Thompson facility.
* Annual changes in staffing levels by classification, annually 1985/1986 to present.
* Current conditions leading to the closure of the facility, and a projection of current management's ability to adequately address those issues.

Please forward this information to my office by June 1, 1997.

For your information, the Joint Legislative Audit Committee requests this information pursuant to its authority as defined by the California Constitution, the Joint Rules of the Legislature, Government Code Sections 10500 et. Seq., provisions of the Welfare & Institutions Code 14000 et. Seq, and other related statutory authorities.

Your cooperation is greatly appreciated.

Sincerely,

Scott Wildman
Chair, Joint Legislative Audit Committee

May 23, 1997 Letter TMMC to JLAC

May 23, 1997

The Honorable Scott Wildman
California State Assemblyman
District Office
300 N. Glenoaks Boulevard, Suite 202
Glendale, CA 91202

Dear Assemblyman Wildman:

On Wednesday, I was informed by the news media that you had announced your intention to launch an investigation into the crisis that has forced Thompson Memorial Medical Center to close down a major portion of its health services and programs.

Naturally, I am very pleased to lear of this investigation. When I met with you on April 25, 1997 to acquaint you with the crisis, it was my fervent hope that you would research the situation as soon as possible and take appropriate action. An investigation is exactly what is needed.

Please let me stress at this time that the staff and I at Thompson Memorial Medical Center stand ready to cooperate fully with you in this investigation. Please inform us how we can be of assistance and we will act promptly to meet your needs.

As a footnote to this continuing crisis, I might point out that the Department of Health Services, despite several indications of prompt action, is "dragging its feet" in conducting another inspection so we might be on the "fast track" to have our certification for Medicare reinstated. This is an excellent example of the problems being caused by bureaucratic uncooperativeness that is a primary contributor to this crisis. We trust your investigation might be a catalyst to stimulate more cooperation and fair treatment from some of the health agencies involved.

Once again, we commend you on the investigation and offer our total commitment to cooperate with it fully.

Sincerely,

Jerry E. Gillman
President and Chief Executive Officer

May 28, 1997 Letter JLAC to TMMC

May 28, 1997

Jerry Gillman, President/CEO
Thompson Memorial Medical Center
466 East Olive Avenue
Burbank, CA 91501

Dear Mr. Gillman:

As part of our continuing investigation of the closure of Thompson Memorial Medical Center (Center), the Joint Legislative Audit Committee (JLAC) requires the following information regarding each patient whose treatment triggered any Medi-Cal or Medi-Care reimbursements to the Medical Center for the period July 1, 1990 to the present. The JLAC requires this information by June 20, 1997. Each record should include:

A. Patient Name
B. Admit Date or Date of Treatment (if not admitted)
C. Discharge Date
D. Disposition
   1. the facility patient moved to (if to another facility)
   2. release date
E. Treating Physician
F. Procedures Performed
   1. date
   2. procedure
   3. physician performing procedure
   4. amount billed to patient by the Center
      a. amount of Medi-Cal or Medicare reimbursement requested and date of request
      b. amount of Medi-Cal or Medicare Reimbursement received and date received
      c. amount still owed by patient or patient representative
G. Total Charges for Treatment
   1. date billed
   2. amount billed
   3. amount of Medi-Cal or Medicare reimbursement received by the Center and date received
   4. amount billed to other sources and date billed
   5. amount received from other sources and date received
   6. outstanding balance

The Joint Legislative Audit Committee requests this information pursuant to its authority as defined by the California Constitution, the Joint Rules of the California Legislature, Government Code Sections 10500 et seq., provisions of the Welfare & Institutions Code 14000 et seq., and other related statutory authorities.

Your cooperation is greatly appreciated. If you have any questions, please don't hesitate to contact me at (916) 445-8364.

Sincerely,

Scott Wildman
Chair, Joint Legislative Audit Committee

June 4, 1997 Letter DHS to JLAC

STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY
PETE WILSON, Gammon
DEPARTMENT OF HEALTH SERVICES
LICENSING AND CERTIFICATION
1800 THIRD STREET, SUITE 210
P.O. BOX 942732
SACRAMENTO, CA 94234 7320

June 4, 1997

The Honorable Scott Wildman
Member of the Assembly
State Capitol
Sacramento, CA 95814

Dear Assembly Member Wildman:

Thank you for your letter of May 15, 1997, requesting information related to the Thompson Memorial Medical Center in Burbank, California. The Licensing and Certification (L&C) Program, Medical Care Services (MCS), and Audits and investigations (A&I), within the Department of Health Services (DHS), have reviewed your letter and provided information to assist the Joint Legislative Audit Committee in its investigation of the history, service delivery record, and performance of this health facility.

It should first be clarified that Thompson Memorial Medical Center has not been closed. The health facility is still licensed and open for business; however, it has been decertified by the Health Care Financing Administration (HCFA), which means there is no Medicare or Medi-Cal reimbursement available for services provided to patients within the facility.

The Recertification action was the result of a complaint validation survey conducted by L&C in November 1996. Deficiencies were found which constituted non-compliance with Medicare Conditions of Participation (Enclosure I - HCFA Deficiency Form 2567 for 11/5/96 survey). Two additional federal monitoring or follow-up surveys were conducted on February 12, 1997 (Enclosure H), and on March 31, 1997 (Enclosure II). L&C continued to find Conditions Not Met during both of these follow-up surveys. The letters from HCFA and from DHS, notifying the provider of termination of its Medicare agreement and its Medi-Cal agreement, are included as Enclosure IV.

Enclosure V is a copy of the Facility Profile for Thompson Memorial Medical Center. The Profile lists Facility, License, Ownership, Certification, Complaint/Special Incident, and Deficiency Information from 1/1/85 through 5/27/97.

Enclosure VI provides a table of Medi-Cal allowable costs and utilization for each fiscal year, 1985 to present. This provider has been paid a California Medical Assistance Commission (CMAC) contract rate since 1985.

MCS staff reviewed the provider's file for the specified period and found no contract amendment or CHOW (Change of Ownership) activity out of the ordinary. The hospital contract was originally approved, effective 4/1/83, at a per diem basis. A chronology of contract activities is listed below

- Amendment #01, effective 5/19/89,+7=0 rate increase;
- Amendment #09, effective 5/15/90, 2 year contract, 4.5% and 4.3% rate increases, also exclude MRI;
- Amendment #03, effective 4/9/91, CHOW from Burbank Community Hospital to Thompson Memorial Medical Center, no rate increase;
- Amendment #04, effective 2/05/92, no rate increase, allows Hospital Based Physicians to bill separately;
- Amendment #05, effective 5/28/92, 7.5% rate increase;
- Amendment #06, effective 11/9/93, 2.3% rate increase;
- Contract terminated effective: 4/1/97.

The information you requested regarding annual changes in staffing levels by classification, annually 1985/86 to present, is available through the Office of Statewide Health Planning and Development (OSHPD). The information OSHPD provided is included as Enclosure VII.

If, after reviewing this information, you require specific documents which are identified in the Facility Profile, the Department will be happy to provide them. L&C District Offices generally keep copies of deficiency statements for seven years. DHS staff also can provide additional information on any areas in which you have questions. Please feel free to contact me, or Ms. Brenda Klutz, Acting Deputy Director of L&C, at (916) 445-7184.

Sincerely,

S. Kimberly Belshe
Director

Enclosures

cc: See next page.

cc: Mr. Douglas J. Porter
Deputy Director
Medical Care Services Division
Department of Health Services
714 P Street, Room 1253
P.O. Box 942732
Sacramento, CA 94234-7320

Mr. Stephen W. Kessler
Deputy Director
Audits and Investigation Program
Department of Health Services
591 North 7th Street, First Floor
P.O. Box 942732
Sacramento, CA 94234-7320

Mr. Kurt Schaefer
Deputy Director
Office of Statewide Health Planning
and Development
1600 9th Street
Sacramento, CA 95814

June 13, 1997 Letter TMMC to JLAC

June 13, 1997

Assemblyman Scott Wildman
Chair
Joint Legislative Audit Committee
State Capitol
Sacramento, CA 95814

RE: Thompson Memorial Medical Center

Dear Assemblyman Wildman:

This letter is in reference to your May 28, 1997 correspondence to our facility wherein you requested information regarding any and all patients seen at Thompson Memorial Medical Center whose treatment triggered any Medical and Medicare reimbursement.

In essence, you have requested every medical record for every patient seen at our facility since inception. While our staff is anxious to cooperated with your investigation, the number of documents necessary for a complete response is voluminous.

These documents would have to be pulled, copied, and collated from the business records wherein they are normally kept. Such a request would be unduly burdensome, disruptive to the normal course of business and costly to produce.

We would like to suggest that our records be made available to our facility for your review at a mutually convenient time. We would be happy to assist you here at Thompson Memorial Medical Center with both space and appropriate staff to answer your questions.

Once again we are eager to assist in anyway possible. Please let me know if an on sight facility review is agreeable. Your time and consideration are greatly appreciated.

Sincerely,

Joan Rose, RN, JD
Vice President of Patient Care Services

Committee Studies:

Educational Facilities and Personnel Survey

A survey of the facilities needs and the personnel needs of Public School Districts was initiated by the Committee in May 1997. Below please find a copy of the survey questions. A report will be issued in January 1998.

Educational Facilities and Personnel Survey

District:_____

PERSONNEL

1. Assuming that an adequate number of certificated personnel were readily available:

a. How many additional administrators and teachers would be needed in order to continue your 1996-1997 educational program **or** in order to implement any planned changes for the 1997-1998 school year, to cover staffing needs? Please consider retirements, terminations, and any other separations from service of 1996-1997 certificated personnel.

Administrators_____
Estimated Cost_____
Teachers _____
Estimated Cost_____

b. How many teaching positions are currently filled by individuals possessing only an "emergency permit" as defined in Education Code Section 44300?

_____

c. How many teaching positions in grades K-3 are currently filled by individuals possessing only an "emergency permit" as defined in Education Code Section 44300?

_____

2. If funding was available to fill all classified positions in your district in accordance with statutory requirements and the requirements of existing collective bargaining agreements, how many additional FTE's would you need to add in order to:

d. Maintain the 1996-1997 level of services?

_____

e. Implement any planned changes in the level of services for 1997-1998 school year?

_____

f. What would be the estimated cost to the district of (d) and (e) as listed above?

(d) _____
(e) _____

FACILITIES

3. In order to achieve class size reduction goals (if applicable) and/or implement your planned 1997-1998 educational program without displacing any program or regular activity that utilized district facilities during the 1996-1997 school year or that currently utilizes district facilities:

g. How many new classrooms would you need?

_____

h. Were any programs (adult education, child care, etc.) or any regular activities that utilized district facilities displaced to accommodate class size reduction in the 1996-1997 school year in your district?
(Y)_____ (N)____

If you checked "yes," please identify the programs:

i. Will any programs (adult education, child care, etc.) or any regular activities that utilize district facilities be displaced to accommodate class size reduction in the 1997-1998 school year in your district? (Y)_____
(N)____

If you checked "yes," please identify the programs:

j. Can class size reduction goals be accomplished and/or your projected growth in enrollment be accommodated with existing district facilities without compromising non-classroom space such as playgrounds, libraries, computer labs, cafeterias, etc.?
(Y)_____ (N)____

k. Will class size reduction requirements or growth in enrollment projections require the construction of new school sites in your district before the year 2000?
(Y)_____ (N)____

If you checked "yes," how many and at what level?

l. Does your district have access to adequate physical sites for new construction if funding is available?
(Y)_____ (N)____

m. Is your district currently utilizing or considering any "joint-use" facilities with local government entities?

(Y)_____ (N)____

If you checked "yes," please describe.

n. What would be the estimated cost to the district of (g), (k), or (m) as listed above?

(g)_____

(k)_____

(m)_____

OTHER (Optional)

4. Please list all sections of the Education Code and any other factors which you believe restrict or diminish your district's ability to maximize the delivery of quality instructional services to your students.

MTBE and Toxic Substance Monitoring

Water Districts in the State were surveyed as to their water storage capacity, testing procedures for toxic substances (including MTBE), and the number of facilities closed due to toxic contamination. A report will be issued in January 1998. Below please find a copy of survey questions.

Sample Copy of Water Survey

June 16, 1997

City of Beverly Hills
Public Works Department
9298 W. Third Street
Beverly Hills, CA 90210

Dear Members:

Concerns have been raised to the Joint Legislative Audit Committee (JLAC) regarding groundwater contamination and potentially hazardous contamination that may be present in water storage facilities.

The JLAC is a continuous committee that was created to ensure accountability in publicly created entities, to assess performance of agencies and programs, and to assure that Legislative actions result in the outcomes that the California Legislature intended. We are committed to assuring that each taxpayer dollar allocated is effectively and efficiently spent in accordance the law and the Legislative intent.

The JLAC derives its authority as defined in the California Constitution, the Joint Rules of the Legislature, Government Code Section 10500 et seq., and various other provisions of the California Codes, and is empowered, in part, to study, to investigate, and/or direct the State Auditor to audit the performance of any publicly created entity, and to initiate any corrective legislative actions it deems appropriate.

Please forward to my office the following information by September 15, 1997:

1. Location (by local jurisdiction) of all wells and potable water storage facilities within your jurisdiction, including maximum capacity and average annual % of capacity utilized.

2. Hazardous contaminants identified annually since January 1, 1977, by contaminant and level.

3. Date of closure of any well or potable water storage facility, listing location, date of closure (or date excluded as a potable water source) and reason for closure (include specific problematic contaminant levels and/or other factors), since January 1, 1977.

4. Current program in place to identify levels of methyl tertiary butyl ether (MTBE).

5. Identified levels of MTBE by well and potable water storage facility, including date tested.

6. Number of untested sources and location.

7. Please list end users for each potable water source.

The JLAC requests this information pursuant to its authority as defined by the California Constitution, the Joint Rules of the Legislature, Government Code Sections 10500 et seq., and other related statutory authorities.

Your cooperation is greatly appreciated.

Sincerely,

Scott Wildman
Chair, Joint Legislative Audit Committee

Affect of AB 1890 Implementation on Municipal Utility Districts

A survey of Municipal Utility Districts was distributed by JLAC in order to ascertain the level of stranded costs, projected job loss, and available assets of public utilities in the wake of AB 1890. The survey is copied below. A report will be issued in February 1998.

Deregulation Survey

July 21, 1997

Robert Walker
General Manager - Electrical Ops
City of Needles
817 Third Street
Needles, CA 923263

Dear Mr. Walker:

After meeting with municipal utility representatives in my office on June 24, I am sending this letter to help clarify and focus my earlier (May 29) letter. As I explained at that meeting, my principle interest, at least initially, is in potentially developable real estate that utilities may own, and in the potential employment impacts associated with electric restructuring. I am also confirming that the target date for responses is extended to September 30, 1997.

Please respond by September 30 with a listing and description of your utility's real estate holdings that you consider may have development potential. If you have a ready means of establishing a value for a parcel, such as book value or acquisition price, please provide that information. I would also like an explanation of the basis for your determination that a parcel has development potential; e.g., size, location, existing use (or non-use), restrictions or constraints on the use, etc. Provide your best available information on recent levels and trends in employment. I am particularly interested in employment changes by job classification during the past several years and projected for the next five years, or for whatever period you have projections available. Annual payroll for the corresponding years, including projections if available, should also be provided.

Finally, please provide a brief description and status of existing significant contracts and agreements with investors owned utilities such as "strategic partnerships," interconnection and power sales/purchase agreements.

I hope this letter proves helpful in clarifying my interest and in facilitating your response. Thank you for your cooperation.

Sincerely,

SCOTT WILDMAN
Chair, Joint Legislative Audit Committee

Particle Pollution and Toxic Monitoring of Airborne Pollutants

Concern regarding the high concentration of particulate pollution in the vicinity of schools precipitated a JLAC study of toxic monitoring procedures and concentrations of airborne toxins in certain areas. Enclosed please find examples of Committee correspondence. A report is due to be issued before February 1998.

June 9, 1997 Letter JLAC to SCAQMD

June 9, 1997

Mr. James Lents
Executive Officer
South Coast Air Quality Management District
21865 E. Copley Drive
Diamond Bar, CA 91765-4182

Dear Mr. Lents:

The Joint Legislative Audit Committee has recently been apprised of significant health & safety concerns regarding the exposure of school children to fine particulate air pollution. Specifically, a report, issued by the Environmental Working Group, involved a computer analysis of all air pollution monitors in the state where levels of airborne particles exceeded proposed Environmental Protection Agency (EPA) annual exposure standards of PM-2.5 particles of no more than 15 micrograms per cubic meter of air. Enclosed, please find a list of identified school sites located within one mile of an air pollution monitor where the proposed EPA fine particle standards is exceeded.

Our information indicates that the California Air Resources Board has recommended standards more stringent than current EPA proposals.

In relation to the Environmental Working Group report, please provide my office with any and all information regarding:

* The location of air monitors in the jurisdictions cited in the report.

* The pollutants monitored by these monitors.

* The frequency reported data is compiled.

* The data accumulated (annual report) since 1985 by pollutant type, concentration, and likely source.

* Any instances in which monitored pollutants exceeded existing standards.

In addition, please provide my office with any and all information regarding the composition, probable source and any other factors which may account for the particularly high levels of fine particle pollution in the geographical areas cited by the study. We require the information by July 15, 1997.

For your information, the Joint Legislative Audit Committee requests this information pursuant to its authority as defined by the California Constitution, the Joint Rules of the Legislature, Government Code Sections 10500 et. Seq., and other related statutory authorities.

Your cooperation is greatly appreciated.

Sincerely,

Scott Wildman
Chair, Joint Legislative Audit Committee

(Enclosure)

June 9, 1997 Letter JLAC to CALEPA

June 9, 1997

Mr. James Strock
Secretary for Environmental Protection
California Environmental Protection Agency
555 Capitol Mall, Suite 235 & 525
Sacramento, CA 95814

Dear Mr. Strock:

The Joint Legislative Audit Committee has recently been apprised of significant health & safety concerns regarding the exposure of school children to fine particulate air pollution. Specifically, a report, issued by the Environmental Working Group, involved a computer analysis of all air pollution monitors in the state where levels of airborne particles exceeded proposed Environmental Protection Agency (EPA) annual exposure standards of PM-2.5 particles of no more than 15 micrograms per cubic meter of air. Enclosed, please find a list of identified school sites located within one mile of an air pollution monitor where the proposed EPA fine particle standards is exceeded.

The Environmental Working Group has indicated that the California Air Resources Board has recommended standards more stringent than current EPA proposals.

Please forward to my office the relevant recommended standards, the proposed implementation time lines, and the evidence CAL/EPA utilized to determine the health hazard which warrant this recommendation. In addition, please forward the aggregate number of all air pollution monitors in California and the location by jurisdiction. We require this information by July 15, 1997.

For your information, the Joint Legislative Audit Committee requests this information pursuant to its authority as defined by the California Constitution, the Joint Rules of the Legislature, Government Code Sections 10500 et. Seq., and other related statutory authorities.
Your cooperation is greatly appreciated.

Sincerely,

Scott Wildman
Chair, Joint Legislative Audit Committee

August 22, 1997 Letter JLAC to SCAQMD

August 22, 1997

Mr. Barry Wallerstein
Deputy Executive Director
South Coast Air Quality Management District
21865 E. Copley Drive
Diamond Bar, CA 91765-4182

Dear Mr. Wallerstein:

I am in receipt of your Department's response to my inquiry dated July 10, 1997, regarding particulate pollution. Thank you for the information you have provided. I applaud your efforts to ensure the health and safety of all California families.

In order to further our investigation into the nature and extent of airborne pollutants, I request that you forward to my office the following information by October 1, 1997. In an effort to minimize the amount of staff time necessary to assemble the information, I am restricting my request, to data from 7 monitoring stations within your jurisdiction.

You have already provided my office with criteria pollutant data regarding gaseous and particulate pollution over the last ten years, from these monitoring stations. If available, please provide detailed information for the years 1989, 1992, 1995, 1996, and 1997 regarding Particulate Matter Monitoring Data and other noncriteria pollutant monitoring data accumulated at these stations. Specifically:

1) Gaseous Monitoring Data

Data related to the composition and concentration of gaseous compounds identified in addition to CO, O_2, NO_2, and SO_2, including the probable source of the individual pollutant at:

Central LA-	Station #087
S Coast LA Co-	Station #072
E Sn Fernando V-	Station #069
W Sn Gabriel V-	Station #088
Saddleback V-	Station #3186
NW SB V-	Station #5175
Cent SB V1-	Station #5197

2) Particulate Matter Monitoring Data

Data related to the composition and concentration of particulate matter identified, including the probable source of the individual pollutant at:

Central LA-	Station #087
S Coast LA Co-	Station #072
E Sn Fernando V-	Station #069
W Sn Gabriel V-	Station #088
Saddleback V-	Station #3186
NW SB V-	Station #5175
Cent SB V1-	Station #5197

3) Toxic Monitoring Data

Data related to the composition and concentration of toxins identified, including the probable source of the individual pollutant at:

Central LA-	Station #087
S Coast LA Co-	Station #072
E Sn Fernando V-	Station #069
NW SB V-	Station #5175

4) Acid Deposition Sampling Data

Data related to the composition, concentration and location of identified Acid deposition, including the probable source of the individual pollutant at:

Central LA-	Station #087
S Coast LA Co-	Station #072
W Sn Gabriel V-	Station #088

In addition, please apprise us of those considerations which led to the suspension of lead, TSP, SO_4, and NO_3 monitoring at Station # 069.

Thank you for your kind consideration.

Sincerely,

SCOTT WILDMAN
Chair, Joint Legislative Audit Committee

cc: Members, Joint Legislative Audit Committee
California EPA

Statutory Responsibilities:

California State University System

JLAC Letter to CSU Re: Education Code 89761 & 89045

June 9, 1997

Barry Munitz, Chancellor
The California State University
400 Golden Shore
Long Beach, CA 90802-4275

Dear Chancellor Munitz:

I received a copy of the "Delegations of Authority Audit, Report Number 96-01, February 6, 1997," as required by Education Code Sections 89761 and 89045. As Education Code Section 89761 requires the completion of the above referenced audit at the end of the 1993-1994 fiscal year, I am somewhat puzzled as to its tardiness. Notwithstanding this assertion, I am at a loss to understand why the subject audit, issued February 6, 1997, was not received by the Joint Legislative Audit Committee (JLAC) until late May 1997, thereby precluding budget or legislative action to address concerns the Legislature may have during this legislative session.

The audit report itself raises numerous systemwide concerns and serious questions relating to the individual campuses reviewed that appear to require further legislative investigation. As Chair of the JLAC, I find the Management responses to the audit findings vague and overly simplistic, particularly in light of the recurrent statement in the audit report, "... This is a repeat finding from our 1991 review of this area...."

In addition, California State Auditor Report 95015, issued in August 1996, highlights numerous related concerns.

The JLAC is a continuous committee that was created to ensure accountability in publicly created entities, to assess performance of agencies and programs, and to assure that legislative actions result in the outcomes that the legislature intended. We are committed to assuring that each taxpayer dollar allocated is effectively and efficiently spent in accordance the law and the legislative intent.

The JLAC derives its authority as defined in the California Constitution, the Joint Rules of the Legislature, Government Code Section 10500 et seq., and various other provisions of the California Codes, and is empowered, in part, to study, to investigate, and/or direct the State Auditor to audit the performance of any publicly created entity, and to initiate any corrective legislative actions it deems appropriate.

Please forward to my office by July 7, 1997 detailed responses to each and every deficiency noted in Report # 96-01 as related to systemwide concerns and concerns raised in California State Auditor Report #95015. This response is to include, not only a statement of concurrence, but a detailed implementation plan to ensure accountability and compliance with audit recommendations, including timelines, to address each of these performance, compliance and fiscal matters.

Numerous references are also made by the Auditor in the Audit Report to " ... evidence of ," 'newly established procedures,' and 'strengthened procedures.' The JLAC requires that you provide definitive and quantifiable reports regarding this "evidence," in each and every case. We also request a copy of the John Brandon and Associates working draft (March 1996) referenced in the report, the contractually agreed upon date of completion of the report and any subsequent related publications, drafts or reports.

Each of the individually named campuses assessed in Audit Report #96-01 will receive a similar request for information.

I'd like to thank you in advance for your cooperation and your consideration. Should you have any questions or concerns, please don't hesitate to contact me at (916) 445-8364.

Sincerely,

Scott Wildman
Chair, Joint Legislative Audit Committee

July 2, 1997 Response CSU to JLAC

July 2, 1997

The Honorable Scott Wildman
Chair, Joint Legislative Audit Committee
California State Legislature
State Capitol
Sacramento, CA 95814

Dear Assemblyman Wildman:

Thank you for your letter of June 9, 1997 acknowledging receipt of a copy of the "Delegations of Authority Audit, Report Number 96-01, February 6, 1997." In your letter, you refer to California State Auditor Report #95015 entitled "State Contracting: Reforms Are Needed To Protect the Public Interest." California State University, Northridge (CSUN) has now obtained a copy of Report #95015, dated August 1996.

The CSUN Controller has reviewed Report #95015 in conjunction with Report #96-01. Information contained in both audit reports has been used to prepare the CSUN response. Because your inquiry was made of several campuses in the California State University System, we have been asked to forward the CSUN detailed response to each deficiency to the Office of the Chancellor. It is our understanding that the Chancellor will issue a consolidated system response to your inquiry. If you have any further questions, please contact Larry Mandel in the Office of the Chancellor at (562) 985-2627.

The operating management of CSUN appreciates the concerns expressed in the audit reports. We view audit comments as helpful guidance to achieve responsible management of campus operations. Audit advice leads to improved practices and procedures at CSUN and, therefore, to better service to the public.

Sincerely,

Blenda J. Wilson
President

BJW/rk

cc: A.J. Elbert, Vice President
R.J. Kiddoo, Interim Controller
L. Mandel, System Auditor

July 3, 1997 Response CSU to JLAC

THE CALIFORNIA STATE UNIVERSITY

The Honorable Scott Wildman
Chair, Joint Legislative Audit Committee
Member of the Assembly
State Capitol, Room 4158
Sacramento, California 95814

July 3, 1997

Dear Assemblyman Wildman:

Chancellor Barry Munitz has asked me to respond to your June 9, 1997, letter which raised concerns related to the "Delegations of Authority Audit, Report Number 96-01", dated February 6, 1997. Your letter also addressed concerns regarding the California State University's responsiveness to Education Code Sections 89045 and 89761, and California State Auditor Report 95015. Similar letters were sent to the campus presidents whose campuses were included in the "Delegations of Authority Audit". I am responding on behalf of the chancellor and the campus presidents.

The "Delegations of Authority Audit" that you received a copy of is in response to Education Code Section 89045 which sets forth the requirements to perform audits of areas that have been delegated by the Legislature to the Trustees of the California State University. As requested in your letter, I have enclosed a follow-up on the recommendations in this audit for the campuses included in the audit. The recommendations on the Systemwide issues will be completed and sent to you by July 31, 1997.

Another concern indicated in your letter is the recurrent use of the statement that occurs in the audit report "This is a repeat finding from our 1991 review of this area". The Trustees had a similar concern and implemented follow-up requirements for these audits at their May 1996 meeting. These requirements are:

> The president or chancellor will communicate to the university auditor in writing the progress made towards implementing the plan of corrective action noted in the response to the audit six months after the close of the audit. The university auditor will review the responsiveness of the corrective action taken and determine whether additional action may be required. In certain instances, it may be necessary to revisit the campus to ascertain whether the corrective action taken is achieving the desired results. Some corrective action may require more than six months to implement. All findings will be tracked until corrective action is taken. Reports of follow-up activity will be made semi-annually to the Trustees' Committee on Audit.

Your letter also raised issues regarding the CSU's requirement to complete an audit at the end of fiscal year 1993/94 as stipulated in Education Code Section 89761. Education Code Section

89761 which was added by statute during the 1993 Legislative session, Chapter 779 has a number of components. This legislation required the following

> (a) The California State University shall adhere to uniform accounting standards in accordance with Generally Accepted Accounting Principles (GAAP) for institutions of higher education.
> (b) In the 1993/94 fiscal year, the California State University on five campuses representing the diversity of the system in both size of student body and campus budget shall have an independent audit of all funds performed and an independent audit report prepared.
> (c) The independent audit report prepared pursuant to this section and audits performed pursuant to Section 89045 shall be submitted to the Joint Legislative Audit Committee, the Joint Legislative Budget Committee, the Department of Finance, the appropriate legislative fiscal and policy committees, the Trustees, and each campus of the California State University. In addition, a copy of the audit reports shall be available for public inspection in the library of each campus of the university. The California State University shall report to the Legislature and the Governor, following the completion of the independent audit pursuant to this section, on the results of the audit and on the need to fund future audits through the Budget Act on an annual basis systemwide.
> (d) The costs associated with the annual independent audit and audits performed pursuant to Section 89045 shall be funded from existing resources.

The audit referenced in paragraph (b) of this section addresses a five campus financial statement audit that was conducted for fiscal year 1993/94. Paragraph (b) does not reference the "Delegations of Authority Audit". The financial statement audit that was required by paragraph (b) was completed in April 1995 and distributed as required by paragraph (c) of this section in May 1995. Enclosed is a copy of the lever distributing this financial statement audit. Paragraph (c) further specified how all audits pursuant to Section 89045 were to be distributed. It is Section 89045 that requires the "Delegations of Authority Audit" and it is not limited to fiscal year 1993/94. Instead, "Delegations of Authority Audits" are required at least once every five years.

Another concern raised pertained to California State Auditor Report 95015, issued in August 1996. This report was an audit of contracting practices of several state departments, not the California State University. As such, the CSU was never required to respond directly to this audit report. Since some of the findings related to interagency agreements that state departments had with the CSU, we are working with the State's Department of General Services to assist in the resolution of the relevant findings.

Mr. George Pardon, Accounting Director, and Mr. Larry Mandel, University Auditor, both at the chancellor's office, discussed in your letter with Mr. Chios Holquin in your office prior to the development of this response to ensure that we had a good understanding of your concerns. The Trustees and the chancellor take our audit responsibilities very seriously. The Trustees have spent a significant amount of time over the past two years reviewing the audit processes in the CSU. In addition to increasing the staff in the University Auditor's Office, the Trustees also pursued and were granted the authority by the Legislature to have annual financial statement audits conducted by an independent external audit firm. The CSU is undergoing

its first such audit for fiscal year 1996/97 which will be conducted by KPMG Peat Marwick. We believe our revised audit program is responsive to the accountability concerns you have raised pertaining to the custodianship of public funds. We will continue to provide your office with all audits conducted which will provide you with the information necessary for you to perform your oversight function.

If you or your staff have further questions regarding these issues, please contact Mr. Pardon at (562) 985-2900, Mr. Mandel at (562) 985-2620, or me at (562) 985-2734.

Sincerely,

Richard P. West
Senior Vice Chancellor
Business and Finance

Enclosures

c: Dr. Barry Munitz, Chancellor
Dr. Tomas A. Arciniega, President, CSU Bakersfield
Dr. Ruben Arminana, President, Sonoma State University
Dr. Robert C. Detweiler, President, CSU Dominguez Hills
Dr. Anthony Evans, President, CSU San Bernardino
Dr. Robert C. Maxson, President, CSU Long Beach
Dr. John D. Welty, President, CSU Fresno
Dr; Blenda J. Wilson, President, CSU Northridge

July 22, 1997 Response CSU to JLAC

THE CALIFORNIA STATE UNIVERSITY

The Honorable Scott Wildman
Chair, Joint Legislative Audit Committee
Member of the Assembly
State Capitol, Room 4158
Sacramento, California 95814

July 22, 1997

Dear Assemblyman Wildman:

On July 3, 1997, I sent a response to your June 9, 1997, letter related to the "Delegations of Authority Audit", dated February 6, 1997. In this response, I indicated that a status report on the recommendations for the systemwide issues included in this audit report would be completed and sent to you by July 31, 1997. Enclosed is the current status of all the systemwide issues. Five of the six recommendations have been fully complied with and the resolution to recommendation number 6 will be finalized by August 31, 1997.

If you or your staff have further questions regarding this update or the information included in my July 3, 1997 response, please contact Mr. George Pardon at (562) 985-2900, Mr. Larry Mandel at (562) 985-2620, or me at (562) 985-2734.

Sincerely,

Richard P. West
Senior Vice Chancellor
Business and Finance

Enclosure

c: Dr. Barry Munitz, Chancellor

Delegations of Authority Audit #96-01 Systemwide
Follow-up Status as of July 18, 1997
Recommendations, Initial Responses, and Current Status

PURCHASING AND CONTRACTS

NOTICE OF CONTRACT AWARDS

Recommendation 1

We recommend that the Chancellor's Office:

a) remind the campuses of the Department of Fair Employment and Housing (DFEH) reporting requirement; and

b) incorporate the recently obtained agreement with DFEH in the California State University Policy Manual for Contracting and Procurement.

Management's Response

We concur with both recommendations. The new CSU Contract and Procurement Policy manual will address the revised procedures for compliance with this item.

Current Status

Compliance is accomplished. The new CSU Contract and Procurement Policy manual was officially released, both in hard copy and electronic form (internet) on April 7, 1997 via Coded Memo BE 9701. The new policy is stated under Section 404 of the Manual. Form SF 16 applies only to the procurement of services, as earlier determined by the DFEH. The internet web address for the Policy Manual is http://130.150.205.100/csp/crl/crl.html.

DIRECT PAYMENTS

Recommendation 2

We recommend that the California State University Policy Manual for Contracting and Procurement include general guidelines regarding the issue of direct payments. As a minimum, each campus should be advised to establish a policy regarding the types of transactions authorized to be handled as a direct payment including a procedure for approving exceptions. Each campus should also establish a maximum amount for which a direct payment can be processed without additional local approval.

Management's Response

We concur. The new policy manual directs that campuses are to establish local policies and procedures governing direct payment programs consistent with the audit recommendations.

Current Status

Compliance is accomplished. The new CSU Contract and Procurement Policy manual was officially released, both in hard copy and electronic form (internet) on April 7, 1997 via Coded Memo BE 9701. The new policy is stated under Section 227 of the Manual. Campuses are now responsible for establishing local policies which identify types and dollar thresholds for transactions authorized for direct payments. The interact web address for the Policy Manual is http://130. 150.205. 100/csp/crl/crl.html.

Delegations of Authority Audit #96-01/Systemside
Follow-up Status as of July 18, 1997
Recommendations, Initial Responses, and Current Status

AGREEMENTS, LEASES AND LICENSES

CHANCELLOR'S OFFICE REVIEW AND APPROVAL

Recommendation 3

We recommend that the Chancellor's Office remind the campuses of the review process for agreements, leases, and licenses.

Management's Response

We concur. Concurrently with this audit, we have been reviewing procedures that are intended to achieve a better balance for realignment of responsibility, authority and accountability in the CSU with regard to the review of leasing activities. We agree to determine where such reviews are best handled and will communicate and emphasize our findings throughout the system when these determinations are made.

Current Status

This recommendation has been brought to closure. In April, 1997, as part of the continuing effort to better align responsibility and authority in the CSU, the Chancellor issued Executive Order 669 which delegated broad leasing approval to campuses. Campus presidents are now responsible to review all leases for appropriate clauses and to make the business decisions necessary to execute leases in general. There are some exceptions to the general leasing authority, so that campuses are required to obtain approval from the Senior Vice Chancellor, Business and Finance for some higher level transactions.

As part of the ongoing effort to support campus leasing activity, the Office of the Chancellor will continue to maintain model leasing documents. In addition, the Office of the Chancellor, from time to time, will provide information and training to campuses through such mediums as written correspondence, seminars and conferences directed at persons responsible for the campus procurement and risk management processes.

SHORT TERM FACILITY RENTALS

Recommendation 4

We recommend that the Chancellor's Office:

a) remind the campuses of the requirements involving short term rental/licensing of campus facilities; and

b) ensure that the pending review of the SUAM section on short term facility leases addresses the issues noted in the above finding.

Management's Response

a) We concur and will remind campuses of the requirement involving short term leasing and licensing of facilities

b) We concur with the objective of this recommendation and consistent with our response to the audit finding regarding auxiliary leases and agreements, we will work to review procedures and methods of which address the proper protection and revenue potential for short term use of CSU facilities within our general program for realignment of responsibility, authority and accountability in the CSU.

Delegations of Authority Audit #96-01/Systemside
Follow~upStatus as of July 18, 1997
Recommendations, Initial Responses, and Current Status

Current Status

Compliance is accomplished. The release of Executive Order 409 on April 21, 1997 provided appropriate direction and revised guidelines to the campuses on all property leasing activities, including those of short term facility rentals. This Order also delegated to the campus presidents the authority to execute all lease agreements with limited (four specific) exceptions.

Concomitant with the release of E.O. 409 which describes the new leasing policies, the sections in the State University Administrative Manual (SWAM) that formerly described Trustees' policies that relate to the leasing of CSU facilities were removed along with the issuance of the new CSU Contract and Procurement Policy manual. Both this manual and the remaining sections of SUAM (which no longer include procurement policy) are available on Chancellor's Office websites. The internet web address for the Policy Manual is http://130.150.205.100/csp/crVcrl.html. This web site can also be reached through http://www.co.calstate.edu. This website also contains current leasing models that can be downloaded and used by campuses to fit particular leasing needs, including those for short-term (president's) facility leasing.

LIABILITY INSURANCE

Recommendation 5

We recommend that the Chancellor's Office:

a) remind the campuses of the need for certificates of insurance to be in effect for the full length of contracts, leases, licenses, and short term rental agreements;

b) ensure that the California State University Policy Manual for Contracting and Procurement be revised to include references to auxiliary organization insurance requirements; and

c) suggest to the campuses that they consolidate insurance coverage monitoring practices.

Management's Response

a) We concur. This item is part of a presentation "Insurance Requirements in Contracts" that is to be delivered at the procurement official's conference on March 5, 1997, by the systemwide risk manager. A copy of the presentation material will be included in the final response.

b) We concur. The new Policy Manual for Contracting and Procurement will be revised to include references to auxiliary organizations. Additionally, auxiliary organizations have been offered copies of the Insurance Requirements in the Contracts manual for incorporation into their procurement process.

c) We concur. The procurement officer's conference session on Insurance and Risk Management will cover how to manage compliance and monitor receipt of appropriate insurance coverage documentation.

Current Status

This recommendation has been brought to closure.

a) The Systemwide Risk Manager delivered a presentation entitled "Insurance Requirements in Contracts" at the March 1997 procurement officer's conference. A copy of the presentation material is on file at the Chancellor's Office and will be provided upon request.

b) The new Policy Manual for Contracting and Procurement was revised to include references to auxiliary organizations. The interact web address for the Policy Manual is http://l30.150.205.100/csp/crl/crl.html.

c) The procurement officer's conference session on Insurance and Risk Management covered how to manage compliance and monitor receipt of appropriate insurance coverage documentation. A copy of the presentation material is on file at the Chancellor's Office and will be provided upon request.

MOTOR VEHICLE INSPECTIONS

Recommendation 6

We recommend that the Chancellor's Office ensure that the existing vehicle inspection program contained within SUAM Section 2700 be reviewed with the intent of establishing a more streamlined inspection program which provides reasonable protection to all entities.

Management's Response

We concur and will comply.

Current Status

Staff is continuing to work on this recommendation. Meetings are being held in July and August with a target date of August 31, 1997 to have a streamlined vehicle inspection program in place.

California Community Colleges

JLAC to California Community Colleges Re: Education Code Section 84040.6

July 10, 1997

Alice Petrossian, President
California Community Colleges, Board of Governors
1107 - Ninth Street, Suite 600
Sacramento, CA 95814

Dear President Petrossian:

The Joint Legislative Audit Committee (JLAC) has yet to receive the annual report from your office required pursuant to California Education Code Section 84040.6. Please forward the required report to my office immediately.

Additionally, as Chair of the JLAC, I have been apprised that reports required by statute relating to years 1991-1996 inclusive, are not present within our files. I respectfully request that you please forward copies of those reports to my office by Tuesday, July 29, 1997.

I look forward to assisting you in identifying and eliminating any misuse or waste of taxpayer dollars, if any has been found, and to assist you in strengthening and improving any performance deficiencies within the Community College system.

Your cooperation is greatly appreciated.

Sincerely,

SCOTT WILDMAN
Chair, Joint Legislative Audit Committee

September 17, 1997 Letter JLAC to California Community Colleges

September 17, 1997

Alice Petrossian, President
California Community Colleges, Board of Governors
1107 Ninth Street, Suite 600
Sacramento, CA 95814

Dear President Petrossian,

Enclosed please find a copy of a letter sent to you on July 10, 1997, requesting that the Board of Governors of the California Community Colleges comply with Education Code 84040.6 and forward specified information to the Committee. I have also enclosed a copy of the relevant statutory provisions in this regard for your information.

We have no record of receiving any response to our July 10, 1997 letter. I'm certain that your lack of response is merely an oversight, and I am requesting that you respond immediately.

If, in fact, your lack of response is not due to an oversight, please apprise me of the reasons for non-compliance with this statutory requirement to forward the requested information to the Joint Legislative Audit Committee before July 1, 1997.

Your response is required by September 25, 1997. Should our office fail to receive the required information by this date, we will consider further action in this regard.

Thank you,

SCOTT WILDMAN, Chairman
Joint Legislative Audit Committee

cc: Members, Joint Legislative Audit Committee

w/enclosures

September 25, 1997 Response California Community Colleges to JLAC

CALIFORNIA COMMUNITY COLLEGES
1107 NINTH STREET
SACRAMENTO, CA 95814-3607
http://www.cccco.edu
916} 445-8752

September 25, 1997

The Honorable Scott Wildman
Chair, Joint Legislative Audit Committee
State Capitol
Sacramento, CA 95814

Dear Chair Wildman:

This is in response to your letter of September 17,1997, to Alice Petrossian, President of the Board of Governors, regarding this agency's lack of response to a statutory reporting requirement.

I apologize for the lack of response and would like to explain the reasons. First, neither President Petrossian nor this office has any record of receiving your original letter of July 10, 1997. The first I became aware of this issue is when President Petrossian telephoned me earlier this week, the very day she received your letter of September 17th.

Second, the reason we didn't provide the annual report by June 30th, as required by the statute, should also be explained. As you may not know, the requirement of Section 84040.6 of the Education Code was superseded by legislation by Assemblymember Jackie Speier 1992 (AB 2824, Chapter 710, Statutes of 1992). Assemblymember Speier's legislation was scheduled to sunset on January 1, 1995, but it was extended until January 1, 1999 (see the current version of Government Code Section 7550.5).

Third, during the State's recession, the Chancellor's Office budget of $21 million and 243 staff was downsized by some 60 positions and $7 million. Losing almost one-fourth of our staff and one-third of our budget forced reductions in every area of our functioning. Thus, our capacity to respond to legitimate expectations of the Legislature has been greatly hampered. I would like to have been able to continue this function of reporting, even without the law; but resource limitations make it virtually impossible.

Finally, lid like to request that you copy me on any formal correspondence you or your committee sends to the Board President. Under the Boards Standing Orders, the

Chancellor has been delegated the authority and responsibility to respond to the Legislature regarding most statutory reporting requirements.

Please let me know if this response is not satisfactory, or if there is anything else I can do to be responsive.

Sincerely,

Thomas .Nussbaum
Chancellor

cc: Members, Joint Legislative Audit Committee
Alice Petrossian, President, Board of Governors
Patrick Lenz, Vice Chancellor for Fiscal Policy

.:

<u>Activities with other Committees:</u>

Department of Motor Vehicles

In response to a request by Committee member, Senator Steve Peace, JLAC chair Scott Wildman, co-signed an information request with Privacy Task Force Chairman, Budget and Fiscal Review #4, Senator Peace and Senate Budget and Fiscal Review Committee Chair, Senator Thompson. The Chair acted pursuant to the Rules of the Committee in co-signing the information request.

During a subsequent July 7, 1997 hearing on the matter, convened by Senator Peace, JLAC chairman Wildman directed numerous questions to witnesses regarding BSA report #96116 , entitled "Department of Motor Vehicles: Overstated Costs for Registration Information Have Resulted in Inequitable Charges to Customers." JLAC has continued its inquiries of the DMV based on testimony delivered during that hearing. A copy of an information request to DMV is enclosed.

April 3, 1997 Letter JTFPIP to DOF Re: DMV

Joint Task Force on Personal Information & Privacy

April 3, 1997

Craig L. Brown, Director
Department of Finance
State of California
State Capitol, Room 1145
Sacramento, CA 95814

Dear Mr. Brown:

We respectfully request that by May 5. 1997 you provide the undersigned with details on information that is sold by all state agencies. Specifically, I would like to know the following:

1. A description of information that is sold, the citation to the statute or other authority that permits the sale of the information;

2. A determination as to whether the initial purchaser may resell the information and, if so, the citation to the authority that permits the resale;

3. A list of purchasers of the information and their intended use for the information. Where there are a large number of purchasers, the list may be divided into categories, such as the type of industry or business. The list should contain the number of purchasers in each category and the total number of purchasers;

4. A description of how the information for sale is delivered to the buyer (hard copy, tape, disk, etc.);

5. The agency's cost of selling the information and the amount of revenue generated by the sale of the information for each of the last three fiscal years, including a statement identifying where those revenues are deposited;

6. A description of actions that are taken to prevent misuse of purchased information, including results of audits and other investigations. If information sold is not directly monitored for misuse by the agency, please state such fact;

If an agency does not sell any information, a statement to that fact shall be made as that agency's response to this request.

By way of example, state agencies sell information on vehicle ownership, birth defects, lists of professional licensees, etc.

July 17, 1997 JLAC to DMV

July 17, 1997

Sally Reed, Director
Department of Motor Vehicles
2415 First Avenue
Sacramento, CA 95818-2698

Dear Ms. Reed:

I want to be certain that the Legislature properly analyzes the driver's license/Social Security number issue discussed at the 7/7/97 hearing of the Joint Task Force on Personal Information and Privacy. Therefore, I respectfully request that the following questions be answered:

1. I would like a copy of any report on the Social Security number run which you cited in your testimony of 7/9/97. Specifically, you mentioned a check of 40,000 records.
a. When was the check made?
b. What zip codes were covered?
c. How many records were for first-time applicants?
d. Did DMV do a non-match run for first time applicants over the age of 25, or at same age level other than just an all inclusive category?

2.a. What was done with the licenses that had Social Security numbers that did not match in the DMV's one-time data run?
b. If there was a follow-up on non-matched numbers, was any check done to determine if the drivers owed child support? (I am working on a " tip " that some bogus numbers are supplied by people attempting to avoid paying child support.)

3. Staff has suggested that the percentage of non-matches on Social Security numbers will be highest in those offices in which DMV employees have been implicated in the illegal processing of California driver's licenses.
a. Have you done a match run on licenses processed in these specific DMV offices?
b. If so, what were the rates of unmatched numbers?

4. I would like an accounting by fiscal year of all costs associated with linking DMV data with the Social Security Administration(SSA) for purposes of verifying numbers.
a. When was this project started? I would like copies of all contracts associated with any firms/consultants hired to help DMV make this link.
b. When does DMV expect this link to be completed?

5.a. If DMV does obtain the ability to verify Social Security numbers electronically, when will it verify numbers on existing California driver license records?
b. What will DMV do with the holders of existing driver's licenses who have supplied DMV with a bogus Social Security number?

6. While DMV is attempting to hook-up electronically with the SSA, why doesn't the department use other means of verifying of Social Security numbers of first-time applicants?

I am committed to helping DMV solve its internal problems just as I am deeply concerned about protecting the integrity of California's key legal document.

I would appreciate receiving a response to this request for information by Monday, August 4, 1997.

Sincerely,

SCOTT WILDMAN
Chair, Joint Legislative Audit Committee

cc: Senator Ken Maddy, Vice-Chair, Joint Legislative Audit Committee
Bill Cather, Legislative Director, Department of Motor Vehicles

August 11, 1997 Response DMV to JLAC

DEPARTMENT OF MOTOR VEHICLES
P. O. BOX 93232e
SACRAMENTO, CA 94232~280

August 11, 1997

The Honorable Scott Wildman
Chair, Joint Legislative Audit Committee
State Capitol
Sacramento, California 95814

Dear Mr. Wildman:

This is in response to your letter of July 17, 1997, regarding the driver license and social security number issues discussed at the Joint Task Force on Personal Information and Privacy. I will respond to your questions in the same order in which they were stated.

1. In late 1995, the department submitted 60,000 randomly selected driver license and identification card records to the Social Security Administration (SSA) for verification of the accuracy of the social security numbers (SSN) contained on the records. The resultant information indicated an accuracy rate of from 93% to 97%. Because the purpose of the verification was to determine the percentage of valid SSNs on the database, the records were selected randomly and not broken down by specific categories, such as zip codes, first-time applicants, age of applicants, etc. Enclosed is a breakdown of the information which resulted from this verification process.

2. At that-time, no action was taken to resolve the SSNs that did not validate with SSA. However, the department is currently in the final development stages to verity SSNs with SSA both on an ongoing basis as well as for those SSNs already stored on our database. When implemented, persons whose SSNs are not validated will be contacted and provided an opportunity to submit a better number. If a better number cannot be supplied and the applicant has a pending application, a driver license or identification card will not be issued. Drivers who have already been issued a license or identification card will be notified that before any subsequent document can be renewed or reissued a valid SSN must be provided.

Current law (AB 1394, AB 923 and AB 257) requires the department to withhold issuance of a driver license or suspend the driving privilege of a person who is delinquent in the payment of child support. The Department of Social Services (DSS) provides the names and SSNs by magnetic tape. This information is compared to the department's Automated Name Index files and, if a match is found, it is then compared to the master database to

search for a matching SSN. If no match is found during either check, no further action is taken. We have repeatedly requested that DSS add either the driver license number or the birth date of the delinquent parent to the information provided by the counties to DSS. We expect this additional match criteria would substantially increase the successful match rate.

3. The SSN data was initially used in our fraud investigation. However, some computer program problems were identified which must be corrected before the data can be valuable for investigative purposes. Applications and driver licenses that were illegally processed in those offices implicated in the fraud investigation have been voided or canceled. Reapplication will require submission of an SSN, which will be verified when the electronic verification process is implemented in early 1998.

While it may be logical to assume that in the geographical areas where fraudulent activity has been identified a greater number of invalid SSNs may have been provided to the department, there has been no survey or study conducted to validate that possibility. Instead, our resources have been directed to expedite the implementation of the electronic verification process.

4. In September 1994, SSA announced that states would be authorized to routinely verify SSNs with SSA. The department has evaluated alternatives to determine the most cost effective method to accomplish that task. At this time, it appears that verification after application (batch verification) is the most cost effective alternative. Verification would be processed through the Department of Health Services (DHS) who is currently the state conduit to SSA. This process would provide verification information within 48 hours of request, thus allowing sufficient time to place a hold on the issuance of a driver license or identification card in the event the SSN is not validated. Additionally, the American Association of Motor Vehicle Administrators (AAMVA) is attempting to establish a process to provide on-line access to SSA for all states through AAMVANet. They anticipate piloting this process with Tennessee beginning within the next six months. If successful, on-line verification will be evaluated to determine if it is more efficient and/or cost effective than the batch verification process.

The department has not contracted with any firm or consultant. To date, all department costs have been development costs. Implementation costs are estimated to be approximately $215,000. After initial verification of SSNs now contained on the department's master file, ongoing costs are estimated at $5,000 annually. Implementation is expected on or before March 1, 1998.

5. As indicated in previous responses, as soon as verification capability is established, the department will begin verifying SSNs collected on an ongoing basis, as well as for those SSNs currently stored on the master file. Individuals who currently hold a valid driver license and/or identification card, and whose SSN is not validated by SSA, will be contacted for a better number. If a validated SSN cannot be provided, no further documents will be issued to these individuals.

6. Due to the volume of applications processed annually (approximately 5 million original and renewal applications), electronic verification is the only feasible method of verification. Neither this department nor SSA would have the resources necessary to accommodate a telephone or paper process which would ensure that verification is completed before a driver license or identification card application is processed and a document issued. Instead, available resources are being-directed to the development and implementation of electronic verification.

Current law (SB 395 and AB 1297) requires the collection of SSNs on all of our applications to facilitate the collection of fines, penalties and unpaid child support judgments. Duplicate SSNs have been erroneously issued by SSA, and SSA does not proactively correct the error unless requested by the individual possessing the duplicate number. Because we are aware that legitimate duplicate SSNs reside on our master file, we require more than one point of identification, e.g., driver license number, date of birth, SSN, when matching individuals and taking actions against their licenses related to fines and child support.

I hope this information will assist the Legislature to successfully analyze the driver license and social security number issues. If you have further questions, please contact me at (916) 657-6940 or Bill Cather, Assistant Director of Legislation, at (916) 445-9492.

Sincerely,

SALLY R. REED
Director

Enclosure

cc: Senator Ken Maddy
Bill Cather

State Auditor Report Followup Activities:

Metropolitan Transit Authority

JLAC has exchanged correspondence and engaged in discussions with the Metropolitan Transit Authority (MTA) regarding measures being taken by the MTA to address problems identified by the State Auditor in reports issued in 1995, 1996, and 1997. JLAC has also requested and received additional information regarding MTA financial and performance concerns. The Committee wil continue to work with the MTA to identify and to rectify performance and financial difficulties which compromise the delivery of service and arguably have resulted in significant unaccounted for spending of taxpayer monies. The Committee, at some future date, may conduct hearings and may propose Committee legislation addressing persistent systemic inadequacies evident within MTA.

May 15, 1997 JLAC Letter to MTA

May 15, 1997

Mr. Larry Zarian
Director
Metropolitan Transportation Authority
1 Gateway Plaza
Los Angeles, CA 90012

Dear Director Zarian:

The Joint Legislative Audit Committee (JLAC) has been apprised of several concerns relating to the performance and fiscal practices of the Metropolitan Transportation Authority (MTA). As you are aware, the JLAC was created by the legislature to comprehensively assess the performance of publicly created entities in the State of California. A constitutionally created legislative oversight body, the JLAC directs the activities of the California State Auditor, whose Department, the Bureau of State Audits, additionally is responsible for compliance audits related to federal funding requirements.

I am requesting that you provide the JLAC with a comprehensive report on the performance measures that have been implemented by the MTA in accordance with the findings of the Bureau of State Audits Report #96114, issued August 1996 and entitled "Los Angeles Metropolitan Transportation Authority: Planning and Budgeting of Its Operations and Bus Plan Need Improvement."

We are concerned about performance considerations related to the closure of Long Beach Division 12, the reported elimination of the MTA Transit Police, and the pending labor difficulties that you apprised us of late last month.

Please provide the JLAC with the information requested, in order for the JLAC to determine if legislative action is necessary to ensure that the transit needs of Los Angeles continue to be addressed. In addition, questions have arisen concerning MTA's financial, governance, contractual and oversight relationship to Foothill Transit and the Los Angeles Department of Transportation (LADOT) Transit Section, and the actual private or public nature of these respective entities. Please provide the Committee with any and all information regarding these issues and the involvement of MTA with those entities.

Thank you in advance for your cooperation. We are confident that working together will assure that the MTA will effectively and efficiently perform its charge, and continue to provide the transportation services to the Los Angeles metropolitan area that both the MTA and the Legislature intended.

Please provide the JLAC with the requested information by June 10, 1997. If you have any questions or need additional clarification, please do not hesitate to contact me at (916) 445-8364.

Sincerely,

Scott Wildman
Chair, Joint Legislative Audit Committee

<u>July 10, 1997 MTA Response to JLAC</u>
June 10, 1997

Honorable Scott Wildman
Chair, Joint Legislative Audit Committee
California State Legislature
State Capitol
Room 4158
Sacramento, CA 95814

PERFORMANCI: MEASURES IMPLEMENTED
IN RESPONSE TO STATE AUDIT REPORT #96114
Los Angeles Metropolitan Transportation Authority: Planning and Budgeting of Its Operations and Bus Plan Needs Improvement

Dear Assemblyman Wildman:

We have received your request for a comprehensive report on the findings contained in *Bureau of State Audits Report #96114 - Los Angeles* : *Metropolitan Transportation Authority: Planning and Budgeting of Its Operations and Bus Plan Needs Improvement.* Because of our desire to provide you with a complete and comprehensive response to your inquiry, we would like to request a one week extension for our response, from June 10 to June 17, 1997.
As you are aware, we are in the midst of a major reevaluation of program delivery and revisions to our financial forecasting processes, and want to provide you with the most current materials.

Thank you for your continued interest in the progress the MTA is making on providing improved mobility.

Sincerely.

LARRY ZARIAN
Chairman

July 16, 1997 MTA Response to JLAC

June 16, 1997

Honorable Scott Wildman
Chair, Joint Legislative Audit Committee
California State Legislature
State Capitol
Room 4158
Sacramento, CA 95814

UPDATE ON MTA ACTIONS TAKEN THAT RESPOND TO CONCERNS RAISED IN STATS: AUDIT REPORT # 96114 ON MTA PERFORMANCE AND FISCAL PRACTICES

Dear Assemblyman Wildman:

On behalf of the As Angeles County Metropolitan Transportation Authority (MTA), I am responding to your request for a comprehensive report on the findings contained in *State Audit Report #96114 - Los Angeles Metropolitan Transportation Authority: Planning and Budgeting of Its Operations and Bus Plan Need Improvement.* The audit report described four key findings or concerns and several other issues. The four key findings involved the MTA's Long Range Transportation Plan, budget process, debt management, and bus system improvements. Enclosure I of this update summarizes our actions and responses regarding the concerns and issues identified in the audit report.

In addition to the issues raised in the audit report, you specifically requested information on the closure of MTA Division 12 in Long Beach, the MTA Transit Police merger, our pending labor negotiations, and our relationship to the Foothill Transit Authority and the City of Los Angeles Department of Transportation (LADOT). Enclosure 2 and its attachments also provide information regarding those issues.

Thank you for your continued interest and concern in the progress that the MTA is making on improving mobility in Los Angeles County. Please call on me or the MTA staff to provide you with any additional information.

Sincerely,

LARRY ZARIAN

Department of Insurance

A preliminary report was issued by JLAC prior to the delayed August 5, 1997 hearing regarding the Department of Insurance (DOI), and in particular, performance concerns related to the Fraud Division. Copies of that report are available from the Committee. The Joint Legislative Audit Committee continues to work with the DOI to accumulate relevant information regarding the practices and procedures within the DOI. A report will be issued by JLAC after the completion of the hearing process during the upcoming year.

Government Waste Updates

January 5, 1998 -	**Legal Contracts for Outside Counsel Poorly Managed**
January 2, 1998 -	**Insufficient DOJ Staff Result in Hiring Outside Attorneys at the Cost of $12.3million**
December 1, 1997 –	**Almost Two Years Later, The Chancellor's Office Has Still Not Determined if the Amounts Paid for the Needs Assessment and the State Plan for Vocational Education Were Appropriate**
November 25, 1997 -	**Fair Competition Is Questioned For Unspent Economic Development Funds**
November 20, 1997 -	**The Chancellor's Office Has Not Reimbursed the State for Costs of an Interjurisdictional Exchange Contract**
November 20, 1997 -	**Chancellor's Office Procedures Do Not Always Assure Proper Use of Grants and Contracts**
November 17, 1997 -	**Travel Expenses Still Above State Rates: The Chancellor's Office Should Set Limits On Travel Costs And Ensure That Districts Comply With Those Limits**
November 14, 1997 -	**The California Public Utilities Commission Cannot Ensure Its Transportation Fees Cover Its Costs**
November 10, 1997 -	**District Costs on Behalf of the Foundation Are Reimbursed Nor Reflected in the Foundation's Financial Statements**
November 4, 1997 -	**Foundation Bylaws Give Cerritos College President Greater Authority Than Other Community Colleges**
November 3, 1997 -	**The Los Angeles Unified School District Should Strengthen Controls Over School Checking and Imprest Accounts**
October 31, 1997 -	**Los Angeles Unified School District: Schools Failed to Appropriately Manage Accounts**

October 30, 1997 - **The Los Angeles Unified School District Has Inadequate Policies for Imprest and School Checking Accounts**

October 27, 1997 - **Cerritos Community College Audit Conducted At The Direction Of The Joint Legislative Audit Committee**

October 24, 1997 - **Some Individuals May Avoid U.S. Border Patrol Custody as a Result of their Injuries**

October 23, 1997 - **U.S. Border Patrol Policies Limit Medical Payments and May Allow Some Injured Unauthorized Immigrants to Avoid Custody**

October 22, 1997 - **U.S. Border Patrol: Analysis Indicates More Costs For Incidents Not Identified**

October 21, 1997 - **U.S. Border Patrol: Analysis Identifies Border Patrol-related Incidents**

October 20, 1997 - **U.S. Border Patrol: Its Policies Cause Unreimbursed Medical Care to be in the Millions of Dollars**

October 17, 1997 - **The Department of Insurance Does Not Comply With the Code's Requirements for Several Reasons**

October 16, 1997 - **The Department of Insurance Does Not Meet Requirements to Examine the Practices of All Insurance Companies**

October 15, 1997 - **The Department of Insurance Has Not Promptly Accounted for the Results of its Proposition 103 Activities**

October 14, 1997 - **The Department of Insurance Does Not Create Accounts Receivable When It Bills Insurance Companies**

October 13, 1997 - **Sexual Harassment Costs State Millions of Tax Payer Dollars**

October 7, 1997 - **The Department of Insurance May Have a Shortfall in Examination Fee Revenues**

October 6, 1997 - **The Department of Insurance Does Not Bill Insurance Companies for All Costs It Incurs**

September 24, 1997 - **Limited Operational Efficiency Seen in the Department of Real**

	Estate
September 22, 1997 -	**The Department of Housing and Community Development Needs to Improve Accounting Information Being Submitted to State Policy Makers**
September 19, 1997 -	**Department of Transportation: Misuse of State Computers, Telephones, and Employees for Personal Benefit**
September 18, 1997 -	**Department's Contract Planning Is Inadequate**
September 17, 1997 -	**Overstated Costs for Department of Motor Vehicles Registration Information have Resulted in Inequitable Charges to Customers**
September 16, 1997 -	**The Department of Health Services May Not Prevent Overpayments for Inaccurate Claim Amounts**
September 15, 1997 -	**The Department of Insurance Has A Weak System for Distributing Automobile Fraud Revenues**
September 11, 1997 -	**The Department of Insurance Has Used Revenue Inappropriately**
September 10, 1997-	**The Department of General Services Does Not Always Provide Appropriate or Sufficient Guidance in Purchasing Conservation Lands**
September 9, 1997 -	**Savings Dollars At Risk**
September 8, 1997 -	**State Controller's Office Needs To Improve Its Relations With and Value to the Lottery**
September 5, 1997 -	**Poor Lottery Decisions on Scratcher Automation Led to Unnecessarily Incurring at Least $7.5 Million in Contract Dispute Costs**
September 4, 1997 -	**Serious Weaknesses Within the Department of Health Services Genetic Disease Branch Have Led to the Loss of Millions of Taxpayer Dollars**
September 4, 1997 -	**The State Paid Millions of Dollars to Community Colleges for Questionable Training Agreements**
September 3, 1997 -	**Auditors Say $104 Million Was Misspent**

September 2, 1997 -	**Department of General Services Contract Coordination Wastes Taxpayer Dollars**
August 29, 1997 -	**Inaccurate Estimates and Advertising of a Contract for the California Department of Corrections May Have Limited Competition**
August 28, 1997 -	**The Department of Forestry and Fire Protection Awarded Contracts Before Sufficient Funding Was Available**
August 26, 1997 -	**The Prison Industry Authority Has Wasted Over $30 million of Taxpayer Money in the Past 3 Years**
August 25, 1997 -	**The Department of Developmental Services Awarded a Contract Without Competition**
August 11, 1997 -	**$312.5 Million Down The Drain?**

Text of Government Waste Updates

August 25, 1997

GOVERNMENT WASTE UPDATE #2

The Department of Developmental Services Awarded a Contract Without Competition

"In one of the ten poorly planned contracts, the Department of Developmental Services (DDS) restricted competition on a contract for a workers' compensation cost-containment project so only one contractor could provide the services. Specifically, the DDS awarded a $3.3 million contract to Industrial Management Services, Inc. (IMS), after issuing a request for proposal (RFP). One of the purposes of an RFP is to obtain complex services in which professional expertise is needed and to examine different methods and approaches that may be applied to solve a problem. Contrary to this objective, the DDS required all respondents to the RFP to base their proposals on a specific approach to workers' compensation called the Total Employee and Management Commitment, Accountability, Responsibility, and Empowerment (TEAM CARE) model. This model had been developed specifically for the DDS with the help of IMS through an earlier pilot project at the Camarillo Developmental Center. By restricting respondents to the TEAM CARE model, the DDS did not allow the introduction of alternate approaches and gave IMS an advantage over other potential bidders since IMS had worked on the pilot project.

Further, the DDS specified minimum qualifications that were excessively restrictive and appeared to match the experience of IMS. For example, the RFP required respondents to have at least eight years of experience treating injured employees who work with the developmentally disabled. In addition, respondents must have completed a similar workers' compensation project for injured employees in a public institutional setting with a population of at least 1,500 employees per facility within the last five years. Because these minimum qualifications were restrictive and appear tailored to IMS, the DDS may have ruled out other contractors possessing the expertise necessary to successfully complete the project. In fact, of the 28 parties that requested a copy of the bid package, IMS was the only one to actually submit a proposal."

"For one of the contracts we reviewed and described earlier, we found the DDS did not adequately monitor contractor performance of its contract with IMS. The DDS agreed that IMS would provide 1,500 hours of team effort at each of four different developmental centers. In spite of this agreement, the DDS allowed the contractor to plan activities that exceeded the budget by 53 percent at the first developmental center, and by 24 percent at the second center. Further, the DDS paid invoices that were 20 percent higher than the budget at the first developmental center. In response, department officials stated that they anticipated work at the first two developmental centers would take more time than at the last two, even though this is not reflected in the contract budget. However, the department expects that work at all four of the developmental centers will be completed within the total budget of 6,000 hours.

In addition, the DDS established an hourly team rate of $480 to pay IMS. However, paying the contractor for each task based on a certain number of team hours reduces the DDS' ability to determine if the services were properly provided. This method presumed that all 11 members of the IMS staff contributed to the accomplishment of each task although the DDS did not know if all 11 staff actually contributed to each task. In one instance, we noted that IMS estimated four team hours would be necessary to hold a meeting with another DDS contractor at a cost of $1,920 ($480 x 4 hours). The meeting lasted four hours and was only attended by three IMS staff.

In a more typical contract, the contractor is paid by the hours worked, in this case 12 hours. However, because the DDS based the contractor's pay on team hours, the DDS essentially paid IMS for 42 instead of 12 hours.

Finally, we found that the DDS paid five of the IMS invoices we reviewed without sufficient support that services had been provided. We also found that two of these invoices were paid without proper authorization. In addition to requiring the contractor to certify costs claimed on invoices match the task order and the contract, the DDS project coordinator and contract manager also must certify that the contractor has completed the work described. However, we could not match the amount billed on the invoices to the amount of time budgeted on the related task orders. Although four of the five invoices were less than the task order total, one invoice exceeded the task order by approximately $13,000. In addition, the DDS paid two of the invoices without obtaining the required approval of the project coordinator and contract manager.

As a result of these problems, the DDS does not have adequate assurance that project tasks were completed or finished within the time budgeted. In addition, if the department does not take action to mitigate the effects of the cost overrun, the contract will eventually need to be amended to add more money before the project can be completed...." (California State Auditor Report #96015, State Contracting: Improvements Are Still Needed To Ensure the Effective Use of Public Resources, July 1997).

August 26, 1997

GOVERNMENT WASTE UPDATE #3

The Prison Industry Authority Has Wasted Over $30 Million of Taxpayer Money in the Past 3 Years

At the request of the Joint Legislative Audit Committee, the Bureau of State Audits performed an audit of the Prison Industries Authority (PIA) and issued report # 95106 in April 1996, identifying significant financial and performance problems within the agency. A follow up audit report #97502 titled, "Prison Industry Authority: Has Failed To Take Significant Corrective Action on Many State Auditor Recommendations," was issued in August 1997, and found:

"...In our 1996 audit, we found that the PIA has a practice of setting prices and operating factories, allowing some products and factories to subsidize others. As a result, the PIA's focus is on overall profitability and not on managing the costs of each enterprise it operates. For example, during fiscal year 1994-1995, the PIA operated 41 factories that generated $18.5 million in excess of their total costs. The PIA used this excess to fund 30 factories that had net losses of $8.6 million."

"During fiscal year 1994-1995, the PIA reported a net income of $9.9 million. However, the concept of "profit" is inappropriate for an organization such as PIA. Because all of the "profit" is simply a transfer of taxpayer funds from one state agency to another. Furthermore, the PIA's "profit" is ultimately funded by taxpayers paying for goods and services that are priced higher than the PIA cost or the price the State could obtain in the open market... the 1996 audit found that for certain gods and services, the California Department of Corrections paid $6.9 million more than was necessary to recover its costs...."

"... we found that for its 12 largest industries, the PIA was carrying approximately $16 million in excess inventory ... our current audit has shown that for the same 12 industries the PIA's excess inventory has continued to increase. We estimate that for fiscal year 1996-1997, the PIA is carrying $31.9 million in excess inventory. Further, between fiscal years 1994-1995 and 1996-1997, we estimate that the PIA wasted over $12.2 million carrying inventory it does not need to meet demand...The PIA's excess inventory levels have doubled over the last three fiscal years...for fiscal year 1994-1995, PIA had excess inventory of $15.9 million, resulting in excess carrying costs of $2.7 million... for fiscal year 1995-1996, the PIA's excess inventory levels had grown to $24.2 million, resulting in excess carrying costs of $4.1 million.[In fiscal year 1996-1997] we estimate that PIA's excess inventory level could grow to as much as $31.9 million, resulting in estimated carrying costs of $5.1 million...."

August 28, 1997

GOVERNMENT WASTE UPDATE #4

The Department of Forestry and Fire Protection Awarded Contracts Before Sufficient Funding Was Available

"Ensuring that sufficient funds are available to pay for contract services is another important step in contract planning. In an example of a contract that was awarded without sufficient funding and adequate benchmarks, the California Department of Forestry and Fire Protection (CDF) entered into a contract to convert its OV-10 airplanes to aid in firefighting. The department awarded the contract for $630,000 to the bidder with the lowest monthly labor cost. Although the contract was specific regarding cost, it did not specify the number of airplanes the CDF wanted to convert. Approximately halfway through the contract term, the CDF obtained approval to amend the contract amount from $630,000 to $2.5 million, an increase of 297 percent. All other terms of the contract remained the same. In its justification for the amendment, the CDF stated that when it prepared the original contract, it allocated only an initial amount of $630,000 of fiscal year 1994-95 money to begin major modifications to OV-10 airplanes. Further, the CDF stated that, although it did not include costs for future fiscal years, the CDF estimated the cost of the OV-10 project at $227,000 per aircraft for a total of $2.48 million.

As a result, we also determined that the amendment was not justified, because the CDF knew the total cost of the project at the time it prepared the original contract. That cost should have been part of the original contract. Alternatively, the CDF could have specified that the original contracted amount of $630,000 was only an initial amount for limited service.

Finally, the contract did not qualify what the CDF required of the contractor. Specifically, the contract did not include the number of airplanes the department wanted converted, the hours or dollars to be spent per airplane, or a schedule for completion. Without such detail, neither the CDF nor the contractor knew what should be delivered at the original cost. As a result, we conclude that the department was unable to determine exactly what deliverables were required by the contract.

The Department of Forestry and Fire Protection Did Not Determine That Goods Were Received

We found that the CDF's contract monitor did not confirm that aircraft parts had actually been received before approving an invoice. The invoice, which appropriately listed reimbursable parts and expense charges, was supported by additional invoices from other vendors. However, we found that none of these additional invoices was stamped or signed by CDF's receiving personnel to indicate that the goods had been received. Consequently, the CDF manager who approved the invoice for payment had not confirmed that the parts had been received. According to the contract monitor, no other effort was made to verify receipt. We determined that the CDF's receiving personnel stamped a copy of the invoice packed with the parts, then filed the invoice in a drawer. According to the clerk and the contract monitor, these filed invoices were not reviewed by the manager who approved the invoice for payment..." (California State Auditor Report # 96015, State Contracting: Improvements Are Still Needed To Ensure the Effective Use of Public Resources, July 1997.)

August 29, 1997

GOVERNMENT WASTE UPDATE #5

Inaccurate Estimates and Advertising of a Contract for the California Department of Corrections May Have Limited Competition

"In another example of poor planning, we found that institutions of the California Department of Corrections (CDC) did not always accurately estimate costs for needed services or disclose these costs when advertising their contracts... CDC institution advertised in the register for the same type of services, but did not state the expected value of the contract. In this case, only one bidder responded. The institution awarded a one-year contract to this bidder for approximately $49,000. Yet, four months after the award, the institution submitted a request to the DGS to increase the contract by almost $151,000 (approximately 300 percent of the original amount). In its request to amend the contract, the institution stated that it is difficult to determine the actual amount of laboratory tests needed and that the number of tests was grossly underestimated in this case. We do not agree with this assessment because the two previous years' contracts with the same vendor did provide a reasonable approximation of the extent of the services the institution would require. Specifically, the institution paid the vendor approximately $194,000 for similar services in fiscal year 1993-94 and $165,000 in fiscal year 1994-95.

"We noted four other instances in which the CDC increased funding for contracts by more than 100 percent through amendments. Improperly estimating and disclosing the value of its contracts when advertising the contracts may have limited the number of bidders responding to the institutions' advertisements...

"The California Department of Corrections Did Not Adequately Review Contracts"

"We also found that institutions of the CDC did not always properly monitor their contracts. Specifically, we noted that the institutions allowed contract charges to exceed contractual dollar limits before they requested amendments. The institutions also approved invoices for payment without adequate evidence that services had been provided.

"For each of the four amended contracts we tested at the CDC, dollar limits were exceeded before the CDC's institutions submitted amendments to increase funding, even though the CDC policy specifically requires that amendments be submitted prior to the exhaustion of contract funds. Contract amendments added 33 percent to 100 percent of the original contract amount. In addition, it took between 73 and 141 days for the institutions to submit amendments after the original contract amounts had been exceeded." (California State Auditor Report # 96015, State Contracting: Improvements Are Still Needed To Ensure the Effective Use of Public Resources, July 1997.)

September 2, 1997

GOVERNMENT WASTE UPDATE #6

Department of General Services Contract Coordination Wastes Taxpayer Dollars

"One objective of the Department of General Services (DGS) is to provide central support services to state departments, thereby promoting greater efficiency than if the departments individually provided such services. One method the DGS uses to achieve this objective is through statewide master agreements. Master agreements are contracts awarded for specific types of services-such as security, strategic planning, paging, copier maintenance, and electronic data processing-which can then be used by many state departments. In establishing a master agreement, state departments take advantage of their combined buying power while reducing steps for procuring needed services... We found the State may not be using master agreements to the fullest extent possible...

"We found that 10 of the California Department of Corrections' (CDC's) 32 institutions awarded individual contracts for medical laboratory tests for a total value of more than $2 million. Although the same contractor won the competitive bidding at all 10 institutions, the contractor charged them widely varying prices for the same tests. For example, a blood screen for Dilantin levels cost 50 cents at one institution, $5 dollars at another, and $10 at yet another. A test for the Hepatitis Delta virus antibody ranged from no charge to $60 per test. The price variance did not appear to be caused by the location of the testing laboratory or the quantity of tests requested by a given institution...

"The CDC was not the only department to use this contractor for medical laboratory tests. We found that the Camarillo and Sonoma Developmental Centers, both under the Department of Developmental Services, independently hired the same contractor. Had these two departments established a master agreement, the State might have benefited by obtaining lower prices than each department obtained on its own...

"Two of CDC's institutions independently awarded separate contracts for nurse registry services to provide nurses on an as-needed basis. The value of these contracts was approximately $633,000. Neither the department nor the DGS, which approved each of the contracts, attempted to consolidate these contracts into one master agreement...

"We found that three CDC institutions independently awarded contracts for opthamology services. If a single master agreement had been used, the State could have saved itself administrative costs of awarding three separate agreements.

" The DGS and other state departments share responsibility for ensuring that the State's contracting program is effective. Master agreements represent one efficient method for obtaining needed services and their use can result in savings to the State by lowering prices and reducing administrative effort. However, the State has not established a centralized approach that ensures master agreements are used when warranted. As a result, the State may be missing opportunities to obtain better prices and reduce administrative effort." (California State Auditor Report # 96015, State Contracting: Improvements Are Still Needed To Ensure the Effective Use of Public Resources, July 1997.)

September 3, 1997

GOVERNMENT WASTE UPDATE #7

Auditors Say $104 Million Was Misspent

"The federal emergency relief program that helps states rebuild roads destroyed in natural disasters has wasted more than $100 million on erroneous billings, and projects that don't qualify for emergency funds, according to a federal audit.

"The report released by the Department of Transportation's inspector general, spotlighted 11 California disaster relief projects that it said had run afoul of federal emergency funding limits, including the $1 billion replacement for the Oakland Cypress structure destroyed in the 1989 Loma Prieta quake.

"It also found 16 discrepancies arising from natural disasters in other states, including the 1980 eruption of Mount St. Helens volcano and Tropical Storm Albert, which ravaged Georgia in 1994.

"The (Federal Highway Administration) could have made better use of the $104 million of the $463 million in emergency relief provided for 27 projects where division offices did not follow regulations," the report said.

"In many cases, the audit found that the definition of an emergency was stretched way beyond the limits of federal law."(Los Angeles Daily News- August 27, 1997.)

"California State Office of Emergency Services Needs To Manage Disaster Recovery More Effectively"

"Office of Emergency Services' (OES) management needs to more effectively fulfill its responsibility to expedite California's recovery from the effects of disasters. OES does not plan adequately many of the functions central to its recovery efforts...

"By improving its management of the disaster recovery effort and streamlining some of its activities, we estimate that OES could save up to $833,000 per year. These savings would then be available to use on other necessary recovery activities...

"When OES fails to set priorities, makes objectives and priorities unrealistic, or does not clearly identify the staff expected to complete its planned objectives, OES significantly reduces the likelihood that staff will complete the projects as management intends...

"If OES were simply to modify its final inspection process for its disaster assistance and hazard mitigation projects so that the process is risk based, we estimate that OES could save as much as $181,900 annually and reduce its processing time by over 6,000 hours...

"If OES were to improve its payment process and provide an automated ledger system, the potential cost savings resulting from these focused improvements could amount to more than $200,000 of the approximate $450,000 annual budget for the fiscal personnel who process applicant payments. In addition to the potential resource savings, the time required for OES to pay an applicant could decrease by at least three days and perhaps by up to three months...

"In January 1995, OES piloted the PADMIS. The PADMIS was intended to automate the manual processing of disaster survey reports. However, users of the PADMIS immediately experienced several technical problems with the new system...

"As of September 1995, OES reported having invested over $5 million in the PADMIS. Of the $5 million, $3.3 million was used for hardware and the remaining $1.7 million for services. Because of its problems with the PADMIS, OES has discontinued using nearly all of the system's disaster recovery functions." (California State Auditor Report # 96032, Office of Emergency Services: Shortcomings in Managing Its Disaster Recovery Efforts Hamper Effectiveness, January 1997.)

September 4, 1997

GOVERNMENT WASTE UPDATE #8

The State Paid Millions of Dollars to Community Colleges for Questionable Training Agreements

"At the request of the Joint Legislative Audit Committee, we were asked to review agreements between community colleges and state, local, and private entities throughout the community college system...

"The Board of Governors (board) of the California Community Colleges is responsible for providing statewide direction, coordination, and leadership to California's community colleges. The Legislature appropriates funds to the board for support of the Chancellor's Office and for various local assistance programs administered by the 71 community college districts (districts). The money allotted to the districts includes state general apportionment (state apportionment) funds. For fiscal years 1994-95 and 1995-96, the Legislature appropriated approximately $886 million and $1 billion, respectively, for state apportionment. The Chancellor's Office determines the amount of state apportionment funds to allocate to the districts based primarily upon the number of full-time equivalent students (FTES) the districts report to the Chancellor's Office.

"We reviewed the districts' instructional and training agreements with state, local, and private entities for which the districts reported FTES to receive state apportionment funds. During our review, we found that many districts are generating millions of dollars in state funds for contractual agreements that require them to provide primarily administrative support services. Specifically, we surveyed the 71 community college districts and found that 28 districts had instructional or training agreements with state, local, and private entities for which the districts received an estimated $11 million in state apportionment funds during fiscal year 1994-95.

"In their descriptions of the contractual agreements, the 28 districts reported that the public or private entity provided the instruction and the facilities, while the districts supplied administrative support services, such as processing student admission and registration forms as well as attendance and grade reports. Although we are unable to conclude that these contracts violate current regulations, nonetheless, the districts generated millions of dollars in state apportionment for what appear to be administrative rather than instructional efforts.

"We reviewed ten agreements at four districts that received additional state apportionment by contracting with five state agencies, two local agencies, and two private entities. By entering into these agreements, both the districts and the agencies benefited at the expense of the State. Specifically, during fiscal years 1994-95 and 1995-96, the districts received at least $9 million in state apportionment funds for courses where the districts provide primarily administrative support services. Furthermore, through the agreements for fiscal year 1994-95, the state, local, and private agencies earned $2.6 million. Some of the state agencies used their earnings to procure goods and services "off the books," thereby circumventing the State's budget and procurement procedures, while the local and private agencies received cash payments. Because the General Fund provides both the apportionment dollars that the districts receive and the funds to support the state agencies' training programs, the State is essentially paying twice for these courses. In other words, the State is needlessly incurring millions of dollars in additional costs so that participants in the training courses can receive college credit.

"Furthermore, three of the four districts we reviewed did not meet the minimum conditions necessary to qualify the attendance of students in the contracted courses for state apportionment funds. As a result, the three districts inappropriately received approximately $6.7 million of state apportionment funds during fiscal years 1994-95 and 1995-96." (California State Auditor Report # 96103, California Community Colleges: The State Paid Millions of Dollars to Community Colleges for Questionable Training Agreements, May 1997.)

September 4, 1997

GOVERNMENT WASTE UPDATE #9

Serious Weaknesses Within the Department of Health Services Genetic Disease Branch Have Led to the Loss of Millions of Taxpayer Dollars

At the request of the Joint Legislative Audit Committee, the Bureau of State Audits performed an audit of the Department of Health Services (DHS) and issued report # 97105 in September 1997, identifying significant financial and performance problems within the Department of Health Services Genetic Disease Branch.

"The Department of Health Services' Genetic Disease Branch, which provides a valuable public service by screening for genetic disorders, has displayed serious weaknesses in the methods it uses to establish fees for its prenatal and newborn screening programs. The branch also uses faulty procedures to bill and collect fees from patients who take prenatal tests. In fact, because fees have significantly exceeded costs for prenatal testing program, the public may be paying more than necessary for program services. In addition, the branch has written-off $9.7 million in prenatal testing fees since 1993, and it may not be able to collect from patients an additional $6.5 million. Finally, branch regulations adopted by the DHS no longer need emergency status because most involve administrative changes and do not address emergencies.

"Under the department's direction, the branch offers to California residents various genetic services, including those furnished by its prenatal and newborn screening programs. For a single fee for each patient, the programs screen pregnant women and newborn babies to detect genetic disorders and then provides follow-up counseling and diagnostic services when necessary.

"Focusing on the structure and administration of these two programs, our review revealed the following shortcomings at the branch:

- During fiscal year 1995-96 the branch charged fees that exceeded costs by 13 and 12 percent for the prenatal and newborn testing programs, respectively. Some excess fees resulted from branch assumptions that did not materialize.

- Because it has an ineffective process for billing and collecting prenatal testing fees from patients, the branch has written off $9.7 million in uncollectible fees since July 1993, and it may soon add an additional $6.5 million to this figure.

- Branch staff were unaware that they had not billed the California Medical Assistance Program (Medi-Cal) $1.1 million for prenatal tests provided between July and November 1995, and these fees may now be uncollectible. Even if Medi-Cal pays the fees, the branch has lost an estimated $65,000 in interest earnings.

- The branch generally complies with state laws and regulations on contracting, but it has not always followed good business practices. From 1990-1996, the branch did not seek competitive bids for the laboratory testing contracts that it awarded.

"Besides examining fees and contracting at the branch, we assessed whether the department uses its emergency regulatory powers appropriately when it adopts branch regulations. Our analysis showed that the department's emergency regulatory authority is unnecessary. Even though the Health and Safety Code designates as emergencies all branch regulations affecting the prenatal and newborn screening programs, many branch

regulations that the department has adopted concern administrative issues rather than true emergencies. Also, the Administrative Procedures Act enables the department to adopt emergency regulations when emergencies arise.

"Further, the department has not benefited from oversight by the Office of Administrative Law (office), which makes certain that agencies complete the regulatory process promptly and also repeals regulations when necessary. Because the Health and Safety Code exempts from repeal any regulations any regulations governing the newborn and prenatal screening programs, the department could misuse its regulatory powers.

"Without supervision by the office, the department in one instance failed to complete the regulatory process on time. The department also violated the Administrative Procedures Act by increasing fees for both programs and modifying its prenatal screening tests without first adopting regulations to authorize these changes." (California State Auditor Report # 97105, Department of Health Services: The Genetic Disease Branch's Fee Setting, Billing, and Collection Processes Need Improvement, and Its Regulations Do Not Warrant Emergency Status, September 1997.) "

September 5, 1997

GOVERNMENT WASTE UPDATE #10

Poor Lottery Decisions on Scratcher Automation Led to Unnecessarily Incurring at Least $7.5 Million in Contract Dispute Costs

"On July 23, 1992, the California State Lottery signed a contract with High Integrity Systems, Inc. (HISI) to develop a Scratcher automation system...

"Specifically, beginning with the issuance of the Request for Proposal (RFP), the lottery made a number of poor decisions that led to its terminating the contract on April 21, 1993, suing HISI, being counter-sued, and eventually reinstating the contract with HISI by stipulated agreement on July 21, 1995. While the lottery's Scratcher automation system became fully operational on April 8, 1997, in retrospect, the lottery should not have incurred millions of dollars in dispute-related costs.

"Due to poor contract management, unfair expansion of the scope of work, and the questionable decision to terminate the HISI contract, the lottery incurred at least $7.5 million in direct dispute-related costs. Because the lottery has limited project management and does not have a system in place to track costs incurred for a specific project, we were only able to identify approximately $7.5 million in costs incurred from the date the contract was terminated to the date the contract was reinstated on July 21, 1995. These costs include legal services fees and costs, personal services, travel expenses, and technical consultant costs...

"Since the initiation of this litigation in April 1993, the lottery has paid Downey, Brand, Seymour, and Rohwer $7,268,587 under the legal services contract that expired on September 30, 1996. The total amount spent included attorney fees, nonattorney legal fees, technical consultant fees, and other costs such as videotaping, attorney travel, and per diem for attendance at depositions. The costs of copies and computerized indexing were also included. An outstanding balance of $180,000 remains; the lottery has not authorized payment and is disputing these fees...

"The original contract for legal services was for $85,000. Staff interviews conducted by counsel in May 1993 should have provided ample warning the lottery's case was uncertain. Yet, the lottery did not seriously discuss settlement until more than a year later, in June 1994, when the lottery authorized its counsel to contact HISI's counsel about reaching a settlement. Further, another six months passed without much progress toward settlement. By this time, the lottery commission had augmented the legal services contract several times and authorized the lottery to spend a cumulative total of no more than $9.2 million...

"The lottery commission approved three increases to the contract during the five months between March and August 1994, a process which increased the authorized contract total from $1 million to $9.2 million. This decision is particularly disturbing because by June 1994, the lottery had committed to seeking a settlement; however, the legal services contract was increased by $6.3 million in August 1994. While the lottery needed to continue preparing for a possible trial, we did not see sufficient justification for such a substantial increase. Further, the last four contract amendments the lottery approved extended the contract's terms, even though the contract had already expired...

"We found that the lottery was not aggressive in managing the lawsuit and may have been able to reach settlement much earlier, thus avoiding at least a portion of the identified 47.5 million in contract-dispute costs. " (California State Auditor Report # 96107.2, California State Lottery: Information Technology Operations Need Correction and Because of Poor Scratcher Automation Decisions, It Unnecessarily Incurred Millions of Dollars in Contract Dispute Costs, July 1997.) "

September 8, 1997

GOVERNMENT WASTE UPDATE #11

State Controller's Office Needs To Improve Its Relations With and Value to the Lottery

"Over the past 11 years, the State Controller's Office (SCO) has charged the lottery over $29 million for the performance of its audits and claims processing services. However, the SCO has not provided the lottery with details related to the composition of the total cost or the specific services to be provided. Although the lottery has made several attempts to obtain more detailed information, the SCO has not responded to its requests. Consequently, the lottery does not have all the information it needs to fulfill its management responsibilities. Further, the SCO does not always provide the resulting audit report to lottery officials in a timely manner, which reduces the value of the reports to the lottery.

"Finally, the SCO's audit plan for fiscal year 1996-97 includes the performance of two build-upon audits related to the annual financial audit and the biennial security audit, which are both performed by external independent contractors. The SCO's intention is to review the work of the external auditors and perform any additional work that it believes is necessary. The SCO"s reason for performing the build-upon financial audit is to reduce the risk of not performing its own financial audit of the lottery. The SCO's reason for performing the build-upon security audit is primarily to follow up on corrective actions implemented by the lottery. However, the lottery has its own Internal Audits Office that performs follow-up on the implementation of audit recommendations. Therefore, the SCO's efforts appear to be duplicative. In addition, the costs the SCO will charge to perform these build-upon audits will more than double the cost of audits mandated by the lottery act, even though it appears that the SCO's reports will provide limited additional value."(California State Auditor Report # 96107.1, California State Lottery: Opportunities Exist To Improve Planning, Reduce Administrative Costs, and Increase Sales Efficiency, August 1997.)

September 9, 1997

GOVERNMENT WASTE UPDATE #12

Savings Dollars At Risk

"In a recent investigation, we reported that a state employee at the Department of Personnel Administration stole over $400,000 held by the State in long-term savings plans between 1984 and 1986. These plans are designed to supplement retirement income of state employees. The thefts occurred because the department lacked an adequate system of internal controls. Although these thefts occurred more than ten years ago and the department has made improvements to help prevent future thefts from its savings plans, we conducted this follow-up audit to assess the adequacy of the existing system.

"Under state law, the department is required to establish and maintain an adequate system of internal controls to prevent errors, irregularities, or illegal acts. The maintenance of a strong system of internal control is critical when large amounts of money are involved, as is the case with these savings plans.

"Despite improvements made over the last ten years and as the result of our investigation, several significant weaknesses still exist in the department's internal controls over the State's long-term savings plans. Specifically, we noted the following conditions:

- The department has a number of dormant accounts in the savings plan for permanent employees. It also has an inordinate number of dormant accounts in the savings plans for temporary employees. The existence of these dormant accounts increases the department's risk of theft and noncompliance with Internal Revenue Service (IRS) regulations.

- The department has not adequately separated duties among employees to ensure that no one employee has the opportunity to commit and conceal theft."

- The department's requirements for establishing the identity of participants when they request payments or changes to accounts are minimal and lack the rigors to ensure an appropriate distribution from an account...

"The program does not adequately secure or control access to sensitive participant files. All employees working in the program have access to the files contained in the office and its file room. For example, the program stores all incoming and pending participant requests for payment on an open shelf in the office. The undelivered quarterly statements, some of which relate to dormant accounts, are also freely accessible. With these documents unsecured, a dishonest employee could find dormant accounts and initiate authorized payment requests.

"Also, all program staff are allowed access to the office file room where sensitive documents, such as approved payment requests, are stored. Thus, any employee could enter the file room to alter or destroy documents to conceal an unauthorized payment."(California State Auditor Report # 96125, Department of Personnel Administration: Improved Controls Would Reduce Risk in Long-Term Savings Plans, April 1997.) "

September 10, 1997

GOVERNMENT WASTE UPDATE #13

The Department of General Services Does Not Always Provide Appropriate or Sufficient Guidance in Purchasing Conservation Lands

"Our review of state land acquisitions for which state agencies used the Habitat Conservation Fund found that the Department of General Services' Office of Real Estate and Design Services (Office of Real Estate) does not always provide appropriate or sufficient guidance in purchasing conservation lands. The Office of Real Estate is responsible for approving estimates of land values and approving agreements for the acquisition of land. However, for 1 of the 13 state land acquisitions we reviewed, the Office of Real Estate did not protect the State's interest adequately when it purchased land from a nonprofit conservation organization. Specifically, the Office of Real Estate agreed to purchase the land before the nonprofit had acquired the title. Additionally, rather than obtain an independent appraisal, the Office of Real Estate relied on the original owner's critique of the nonprofit's appraisal to approve the purchase price of the land. Consequently, the Office of Real Estate paid approximately $1.8 million more than the nonprofit paid for the land, moneys the State could have used to acquire additional wildlife habitats.

"Additionally, the Office of Real Estate does not provide sufficient guidance for state property acquisitions. The Government Code requires the Department of General Services to develop and enforce policies and procedures for property acquisitions. However, we found that the department's Office of Real Estate does not provide state agencies adequate written policies and procedures for property acquisitions, does not effectively communicate changes in its policies and procedures, and does not take the lead in addressing policy changes. As a result, there is no clear statewide policy for real property acquisitions, and departments are sometimes using outdated information."(California State Auditor Report # 95110, Habitat Conservation Fund: Some State Agencies Need To Do More To Ensure the Fund Is Used Appropriately, April 1997.)

September 11, 1997

GOVERNMENT WASTE UPDATE #14

The Department of Insurance Has Used Revenue Inappropriately

"During our review of the department's cost allocation system for fiscal year 1995-96, we discovered an instance in which the department intentionally used revenues from the Proposition 103 assessment and examination fee revenue streams to cover indirect costs that the department should have charged to its fraud program. Section 736 and 12992 of the code limit the department's use of revenues earned from Proposition 103 assessments and examination fees to covering only the costs related to implementing the provisions of Proposition 103 and to examining insurance companies.

"To distribute the costs of its operations to appropriate programs, the department maintains a cost allocation system. Under this system, the department accumulates costs in accounts called "cost centers." The system then distributes amounts from these cost centers to one or more of the department's programs. The department allocates costs that may be distributed to multiple programs, called "indirect costs," to those programs based on the proportion of personal services costs for each program. Examples of indirect costs include legal, accounting, and personnel services. The department allocates to specific programs those costs, called "direct costs," that may be distributed to a single program.

"As we discuss earlier in this chapter, in June 1996, department staffed observed that the fraud program would probably overspend its appropriation for the indirect costs for the fiscal year 1995-96. In response to this concern, the department adjusted its allocated costs by $2.7 million, including diversions of $741,000 in indirect costs from its fraud program to the Proposition 103 revenue stream and $869,000 to the examination fee revenue stream."

"The department's improper budget adjustments have only added to its financial management problems. For instance, when it calculates the Proposition 103 assessment amount for a particular fiscal year, the department bases part of its calculation upon the costs it incurred during the prior fiscal year. Because the department inappropriately charged $741,000 of costs applicable to its fraud program to the Proposition 103 revenue stream in fiscal year 1995-96, insurance companies who pay the Proposition 103 assessment amount during fiscal year 1996-97 will absorb these costs inappropriately. When the department improperly charged the examination fee revenue stream $869,000 in fraud program costs for fiscal year 1995-96, the department contributed to the existing multi-million dollar shortfall in examination revenues in fiscal year 1995-96.

"The department stated that it adjusted these costs to conform to the $19.8 million expenditure limit of the fraud program for fiscal year 1995-96. According to the chief of the accounting and fiscal systems division, although the department received approval to increase substantially the number of fraud investigators in earlier fiscal years, it did not receive approval for a corresponding increase in indirect administrative costs. Because the department bases its allocation of indirect costs upon personal service costs, when the amount of salaries and benefits charged to a program increases, the indirect costs allocated to the program also increase. However, a review of the department's proposals to augment its budget for the fraud appropriation showed that the department failed to request the corresponding increase in indirect costs.

"Therefore, the department has compounded its original, obvious budgeting error-failure to ensure a proper balance between direct and indirect costs for the fraud program- with another budgeting error: its inappropriate use of moneys from two other dedicated revenue streams to cover the fraud program's over expenditure. With both actions, the department has undermined the budget process." (California State Auditor Report #9603, Department of Insurance: Management of Its Financial Affairs and Programs Needs Improvement, March 1997)

September 15, 1997

GOVERNMENT WASTE UPDATE #15

The Department of Insurance Has A Weak System for Distributing Automobile Fraud Revenues

"The department's system for distributing automobile fraud assessments, which total approximately $16 million annually, does not fully comply with statutory requirements. In addition, because of weak oversight by management, department staff responsible for calculating the distributions either was unaware of the department's system or did not comply with it. As a result, the staff did not identify all assessment revenues accurately nor distribute proper amounts to the required entities.

"Section 1872.8 of the code requires each insurance company doing business in the State to pay an annual assessment not to exceed one dollar for each vehicle it insures under a policy issued in the State. By regulation, the department has set this amount at one dollar. The revenues collected from this assessment go toward increased investigation and prosecution of fraudulent automobile insurance claims and economic automobile theft. Section 1872.8 further describes the percentages the department is to use in distributing the revenues to district attorneys to investigate and prosecute fraudulent automobile insurance claims, 32.3 percent to the department's Fraud Branch for enhanced investigative efforts, 14.25 percent to the California Highway Patrol (CHP) for enhanced prevention and investigative efforts to deter economic automobile theft, and 5 percent to its fraud Branch for the maintenance of its Automobile Insurance Claims Depository.

"However, several factors contribute to the inadequacy and unreliability of the department's system for distributing revenues generated from the assessment. First, the department does not appear to have adequate records to document assessment revenues. For instance, it could not provide sufficient accounting records for fiscal years 1993-94 and 1994-95 that document the amount of revenue generated by the assessment because, according to the chief deputy commissioner, these documents were not readily available. Therefore, we were unable to verify that the department accurately accounted for revenues collected from the assessment, correctly calculated distribution of the revenues, or properly distributed these revenues.

"Second, the department implemented an amendment to Section 1872.8 of the code before the amendment became effective. In September 1994, the governor signed legislation amending Section 1872.8 to include the distribution to the CHP. Because this amendment became effective on January 1, 1995, the department should have calculated the CHP's portion of the assessment based on revenues collected on or after January 1, 1995. However, the department, which bills quarterly for automobile fraud fees, calculated the CHP's quarterly for automobile fraud fees, calculated the CHP's portion based on its collections of the fees for the entire fiscal year. As a result, the department overpaid the CHP while underpaying other entities. Because the department lacked adequate accounting records, we could not determine the amount the department overpaid the CHP and the amounts it underpaid the other entities entitled to the revenues.

"Third, the department uses a faulty method to calculate amounts to distribute to the CHP. The department's chief deputy commissioner indicated that the department uses data for revenues collected through the end of the fiscal year to calculate the first payment amount for the CHP. The department uses data collected through December 31 after the close of the fiscal year to calculate the second, final payment amount. For example, the department would use revenue data as of June 30, 1996, to calculate the first payment amount for fiscal year 1995-96 revenue, and the department would refer to data as of December 31, 1996, to calculate the final amount. However, the department's calculation method results in two harmful effects. Specifically, the method ignores any revenues the department receives after December 31 for the prior year. The department must distribute all revenues collected from this assessment to the proper entity. Also, the method allows the department to unnecessarily hold revenues for as

many as ten months before distributing them to the CHP. Because the department bills insurance companies for this assessment quarterly in arrears, it should start receiving the first revenues by November of each fiscal year. Nonetheless, the department does not make the first payment to the CHP until after the end of the fiscal year. For example, for revenues received during fiscal year 1995-96, the CHP received its first payment from the department in September 1996, nearly ten months after it should have first collected the revenue.

"Fourth, the department has failed to distribute all amounts to the CHP that it should. Specifically, accounting records indicate that, from July 1, 1995 through June 30, 1996, the department collected more than $4.6 million in revenues related to assessments for fiscal year 1994-95. However, as of February 1997, the department had not yet disbursed the $660,000 share of these revenues to the CHP.

"Finally, the department has not distributed proper amounts to district attorneys. Specifically, for fiscal year 1995-96, the department disbursed more than $8 million to district attorneys based on its estimate that it would collect approximately $16.7 million in revenue from automobile fraud assessment. However, as of December 31, 1996, the department collected only $15.8 million, $900,000 less than it estimated. Therefore, according to the department's system for distributing these moneys, the department overpaid district attorneys more than $395,000 for fiscal year 1995-96. The department overpaid the district attorneys because it did not reduce the final payment to reflect the lower-than-anticipated collections.

"Inadequate oversight has helped to create theses weaknesses in the departments system for distributing revenues generated from the automobile fraud assessment. For example, the department staff has not used the same criteria to calculate payments to the different entities. Specifically, the person who calculated the department's distribution to the district attorneys was assigned to the department's Fraud Branch and based the payments on an estimate of the revenues to be generated. The person who calculated the distributions to be made to the CHP was assigned to the department's accounting and fiscal systems division and based these payments on accounting reports showing amounts collected. We did not observe evidence, and the department did not provide documentation, that the department coordinated the work these individuals performed or reviewed the distributions to ensure accuracy.

"The department agreed that it had weak oversight of its system for distribution of automobile fraud revenues. According to its chief deputy commissioner, the department has consolidated in its administrative branch all the functions related to fund calculations and distributions. In addition, as of January 1997, the department had appointed an individual with the appropriate skills to manage these activities. The chief deputy commissioner also stated that the department is currently developing formal procedures for disbursing automobile fraud revenues.

"The Department's Accounting Records Exhibit Additional Problems"

"Our review also disclosed several other problems with the department's accounting records. For example, the department continues to carry old and probably uncollectible receivable in its financial records. Section 8776.6 of the SAM describes procedures for state departments to use to write off or delete uncollectible receivables. For example, for non-employee accounts receivable, Section 8776.6 requires departments to develop collection procedures that will assure prompt follow-up on receivables and, if the procedures are unsuccessful, to prepare an analysis of various collection actions. If all reasonable collection procedures prove unsuccessful, departments may request relief from accountability of uncollectible amounts from the State Board of Control.

"The department, which has not followed the SAM's procedures for deleting uncollectible receivables, maintains records of at least 1,400 separate receivables, totaling more than $4.4 million, related to transactions that occurred between fiscal years 1983-84 and 1993-94. The department has not yet assessed which of these receivables, if any, are potentially collectable nor has it eliminated probable uncollectible receivables from its books. Maintaining records which include receivables that, because of their age, the department is not likely to collect ultimately causes extra work for fiscal staff.

"The department also has not properly reconciled its general cash records for the Insurance Fund, including the Revolving Fund portion, with bank records. For example, the department did not identify reasons for differences of $1.6 million and $1.5 million for June and July 1996, respectively. The department indicated that it expects to be able to perform full reconciliations as of January 1997.

"In addition, the department does not have adequate record storage and filing practices. For example, the accounting staff has kept important documents, such as invoices issued during fiscal year 1995-96 for Proposition 103 assessments and examinations, in at least 31 unlabeled or improperly labeled boxes. These boxes contain more than 2,000 invoices. Further, the invoices were not arranged consistently by number or invoice type. When we needed these documents, either we or the department's staff wasted valuable time searching manually through the boxes to try to find specific items. According to the deputy commissioner for administration, a 100 percent turnover in the department's accounting staff since February 1995 has contributed to the filing problems and to some of the other difficulties described in this chapter." (California State Auditor Report #9603, Department of Insurance: Management of Its Financial Affairs and Programs Needs Improvement, March 1997)

September 16, 1997

GOVERNMENT WASTE UPDATE #16

The Department of Health Services May Not Prevent Overpayments for Inaccurate Claim Amounts

Condition

"The Department of Health Services does not have adequate controls to ensure that it promptly corrects overpayments to providers for pharmacy claims, determines the accuracy of certain reimbursement amounts for provider claims, or oversees that provider claim documents are appropriately certified. Because it lacks these controls, the department does not have prompt access to the money it is entitled to, cannot prevent overpayments for inaccurate claim amounts, and cannot be assured that it is paying providers for authentic claims.

Recovery of Overpayments to Providers Is Slow

"The department did not promptly recover from providers approximately $2.5 million in overpayments for pharmacy dispensing services the providers rendered between March 1, 1994 and October 23, 1995. Specifically, during our review of payment calculations, we identified one pharmacy claim that was overpaid by $9.06 because of a coding error in the drug pricing file. After our discovery, the department initiated its process for erroneous payment corrections to determine the total number of claims that were similar to the overpayment that we found. The department identified an additional 357,665 claims representing a net overpayment of approximately $2.5 million to providers.

"In October 1995, the department corrected the coding errors in its automated claims payment system to prevent future overpayments. However, it did not begin taking steps to recover any previous overpayments until October 1996. According to the acting chief of the department's Performance and Change Management Branch, the department delayed the processing of these payment corrections because of increased workload and because it wanted to resolve other coding errors in the automated claims payment system.

The Automated Claims Payment System Cannot Identify Incorrect Co-Payments

"The department does not have preventive controls in its automated claims payment system for determining whether a long-term care beneficiary's share of cost, or required co-payment, reported on a claim form agrees with the amount recorded in this system. Although the automated claims payments system contains 16 months of a beneficiary's historical information, including the share of cost, the department does not have an edit in this system to compare the share of cost with the amount reported by the provider. As a result, the department cannot detect in advance those claims that the department should not pay because they contain incorrect amounts. For one of the two long-term care claims we reviewed, the department overpaid the provider by $7 because the department did not detect that the provider submitted a claim with an incorrect share of cost.

"To make a preliminary determination of the impact of the lack of an edit, the department reviewed a sample of 300 long-term care claims with dates of services in July 1996. Based on its review, the department estimates that between 94 percent and 98 percent of these claims were correctly paid. However, we did not audit the results of this review.

Provider Claim Forms Need The Proper Certification

"Finally, for 5 of the 23 provider claims we reviewed, the claim documentation did not contain evidence of the provider's statement and signature certifying the authenticity of the claim information. All 5 providers had claim agreements on file for a different method of claim submission; therefore, these claims should have included a signed provider certification statement with the billing document submitted. We reported a similar weakness during our fiscal year 1994-95 audit." (California State Auditor Report #96002, State of California: Internal Control and State and Federal Compliance Audit Report for the Year Ended June 30, 1996, June 1997)

September 17, 1997

GOVERNMENT WASTE UPDATE #17

Overstated Costs for Department of Motor Vehicles Registration Information have Resulted in Inequitable Charges to Customers

"In fiscal year 1989-1990, the Department of Motor Vehicles overstated its costs for providing information to customers. This miscalculation resulted in the department's charging unreasonable, inequitable fees for information services products. Further, because it has not reassessed its costs or revised its fee schedule during the last seven years, the department cannot ensure that its current fees are fair or that they cover the department's costs to deliver registration and licensing information.

"The department fulfills a variety of responsibilities in addition to supplying customers with registration information. These responsibilities include regulating the issuance and retention of driver's licenses, protecting the public interest in vehicle and vessel ownership, and providing personal identification services to drivers and nondrivers. While carrying out these functions, the department acquires and compiles registration and licensing information in its database. The California Vehicle Code allows the department to sell this information but requires it to charge fees that are sufficient to at least cover the cost of providing the information. The department's Office of Information Services (OIS), now called the Information Services Branch, has been the unit primarily responsible for managing the delivery of this information to customers.

"Our review focused on the department's process for establishing the fees it charges for registration and licensing information and on whether the department bases those fees upon actual costs. During our review, we noted the following issues that have affected the fees the department charges its customers:

- The department used flawed methods in fiscal year 1989-90 to calculate its costs to create and maintain its database. As a result, the department significantly overestimated its costs to provide registration and licensing information to its customers. Because the department overstated these costs, the fees the department charged some customers were higher than necessary. Moreover, because the department has not updated this calculation of costs or its fee schedule, the department cannot assure the fairness of its fees, nor can it properly identify or manage product profitability.

- After determining its costs to create and maintain the database, the department did not equitably distribute those costs to all products sold by OIS. Specifically, the department allocated the costs to only three of six products that should have received a proportionate share; therefore, the costs for three of the information products are too high while the costs for the other three are too low. The department thus cannot assure that the fees it established for the various products fairly represent the department's cost of providing these products to customers.

- The department did not retain all of the support for the data it used to calculate unit costs in fiscal year 1989-90, so we reviewed the volume data the department compiled for fiscal year 1995-96. Because we found errors in this current volume data, we question the reliability of the 1989-90 information.

- The department's paying customers are subsidizing its costs to provide registration and licensing information to government entities. Although the California Vehicle Code, Section 1811, requires the department to charge fees sufficient to cover its costs of providing information to its customers, Section 1812 of the same code specifically prohibits the department from charging certain entities, including the State and federal government, for information obtained from the department's records. The department therefore structured its fee schedule so that the prices paid by individuals and private entities would cover total costs.

"In addition we also estimate that, over the past six fiscal years, the department has generated an average profit of $16.5 million per year from sales of registration and licensing information. Also, in fiscal year 1995-96, the department generated a profit from sales to individuals and private entities that purchased less than one-third of the information the department provided to all of its customers.

"Further, we identified a few instances in which the department did not comply with the law when providing registration and licensing information. For example, the department released confidential residence addresses without obtaining the required written assurance that the information would be limited to statistical research and reporting purposes and that the customer would not use the information to contact any person. When it does not comply with the law, the department cannot be sure that customers are fully aware of the restrictions the law imposes on the use of such confidential information, and the department jeopardizes individuals' privacy. In another instance, we found that, contrary to the requirements of the law, the department also provided information to some customers without ensuring that the fees charged would cover related costs. When this occurs, the department must subsidize these costs by charging other customers more than necessary or by using taxpayers' money." (California State Auditor Report #96116, Department of Motor Vehicles: Overstated Costs for Registration Information Have Resulted in Inequitable Charges to Customers, July 1997)

September 18, 1997

GOVERNMENT WASTE UPDATE #18

Department's Contract Planning Is Inadequate

"We found that the Department of Alcohol and Drug Programs (DADP) paid for services that did not satisfy the contract's original objectives. The DADP increased funding and extended a drug intervention project for one additional year even though it knew the contractor had lost funding from other sources necessary to complete the project. During the third year of a three-year project, the DADP entered a consultant services contract that provided to the contractor supplemental funding totaling $73,880. The DADP supplied 27 percent of the funding necessary for the consultant to implement a drug intervention program through the production of live entertainment events targeting middle and high school students. However, the other funding sources reduced their financial support during the second year and discontinued funding for the third year of the program.

"In response to the decreased funding, the DADP increased its financial support by approximately $22,000 in the second year so the program would continue. The program costs for the first two years totaled $277,480 and $323,284, respectively. In the third year of this contract, the DADP approved a budget of $73,880 for the same services that cost over $270,000 in each of the previous years. The DADP was aware that the contractor was attempting to obtain funding from other sources. However, the DADP did not include a cancellation clause in the event the contractor was unable to obtain the additional necessary funding. Because the DADP did not require the contractor to obtain adequate funding before beginning the third year of the program, the DADP approved a budget that did not reasonably represent the program cost. When the contractor failed to obtain additional funding and could not perform all services required by the contract, the DADP changed the contract objectives and decreased the total contract amount to correspond to the work completed.

"Although we recognize that the DADP monitored the contract for the drug intervention program and limited the State's loss when the contractor could not obtain additional funding, we believe the DADP could have avoided this loss by requiring the contractor to obtain the necessary funding before beginning work. Because the services performed were limited to program planning, the DADP paid $39,000 for services that did not satisfy the original contract objectives...

"Adequate planning is a vital component of efficient contract management. By failing to ensure that the contracting process includes the essential contract elements, departments cannot ensure that they are using state resources efficiently and effectively. " (California State Auditor Report #95015, State Contracting: Reforms Are Needed to Protect the Public Interest. August 1996)

September 19, 1997

GOVERNMENT WASTE UPDATE #19

Department of Transportation: Misuse of State Computers, Telephones, and Employees for Personal Benefit

"A supervisor and another employee at the Engineering Services Branch within the Department of Transportation in Los Angeles allegedly used state time and equipment for personal gain.

"We investigated and substantiated the complaint. Specifically, a supervisor used state time, computers, telephones, and employees to conduct his own business for personal gain. Also, another employee used state time and computers for personal benefit.

"A supervisor within the branch at the department in Los Angeles used state time, computers, telephones, and employees to conduct his own businesses since 1989. Specifically, the supervisor owns a land survey firm, which provides services to non-state entities for fees. From April 1989 through December 1995, his land survey firm generated revenues of over $180,000. The supervisor also has ownership interests in an online real estate information company, a real property management company, and a farm in another country. The supervisor stated that he is a passive partner in the online real estate information company and the real property management company.

"We also found that besides his job at the department, the supervisor is also on the payroll of the engineering firm mentioned above. The engineering firm paid the supervisor a total of approximately $3,938 in 1995. When we asked the supervisor why he was on the payroll of the engineering firm, he indicated that he did not know. However, he stated that he had provided land survey services by supplying his land survey work crew and equipment to the engineering firm.

"The supervisor used his state computer to conduct business for personal gain. Specifically, the supervisor stored at least 615 computer files not related to state business on his state computer. Examples of the supervisor's business computer files include financial records of all his businesses; correspondence with his land survey clients and other correspondence related to his other businesses; and proposals, contracts and legal descriptions and maps of properties related to his land survey business. In addition, the supervisor used two software programs on the state computer to access and download real property data obtained from commercial enterprises. Examples of his personal files include personal financial documents, personal correspondence, and documents related to a fraternal organization of which the supervisor is an officer.

"The supervisor used a state computer to conduct his own businesses between April 1990 and September 1995. During this period, the supervisor used the state computer on at lease 573 occasions to access files related to his outside businesses during his regular office hours and nonoffice hours. Specifically, he accessed files related to his outside businesses during his regular office hours at lease 307 times during this period. Further, he accessed these files during nonoffice hours at lease 266 times during the same period.

"The supervisor also used state employees to conduct his land survey business. Specifically, since 1989, at least 24 department employees and student assistants assisted the supervisor in his land survey business for pay. At lease two of the employees who worked for the supervisor's private business used state resources to do the work. Specifically, a former department student assistant stated that on a few occasions, he printed preliminary plots of properties surveyed for the supervisor using state equipment during his lunch and break periods. The former student assistant then sent them to the supervisor at his home using a state facsimile machine.

“A second employee who works under the supervisor at the department also used state time and equipment to perform work related to the supervisor’s land survey business. The employee admitted that he had used a state computer on his lunch breaks to review design and map files related to land surveys he conducted for the supervisor. These files were stored on computer diskettes provided to him by the supervisor. The employee also stated that the supervisor had sent to his state computer some design and map files for his review.

“The employee stated that when the supervisor needed him to help on an outside land survey, the supervisor would generally call him at home to determine if he was available to work on the weekends. Although the employee stated that he helped the supervisor when he was able to obtain leave from work his immediate supervisor, we found on one occasion, September 15, 1996, the employee went with the supervisor in the afternoon to work on a land survey in Burbank on state time, without taking leave.

“A supervisor at the Los Angeles Engineering Services Branch within the Department of Transportation used state resources to conduct his outside business since 1989. He used state time, computers, telephones, and employees to conduct his businesses. In addition, a second department employee also used state resources for his personal benefit.” (California State Auditor Report #I97 - 1, Investigations of Improper Activities by State Employees: August 1 Through December 31, March 1996. March 1997)

September 22, 1997

GOVERNMENT WASTE UPDATE #20

The Department of Housing and Community Development Needs to Improve Accounting Information Being Submitted to State Policy Makers

"The Department of Housing and Community Development needs to improve its accounting of the transactions of the Mobilehome Park Resident Ownership Program (MPROP). As a result of deficiencies noted in the department's accounting for MPROP loans, we found that the actual revenues generated and the actual costs of operating the MPROP are unknown to policy makers. Specifically we found the following:

"The department does not maintain loan amortization schedules for loans with deferred payment status and, as a result, it is unable to determine the interest earned on these loans. Specifically, according to the department, the majority of the loans funded by the MPROP are originated with note terms allowing the payment of principal and interest to be deferred for the full term of the loans. The department calculates the interest for those loans that are in deferred payment status only when the loan matures. The department neither accrues interest nor does it disclose the number of loans outstanding and the related interest income that would have been earned if they were not deferred to state policy makers prior to maturity.

"According to the department, it does not periodically evaluate its loan portfolio nor has it established an allowance for loan losses account. The allowance for loan losses is an estimated amount of losses in a loan portfolio that the debt considers to be adequate to cover the estimated losses inherent in its loan portfolio which is charged to operating expenses. As a result of not recording the allowance in the financial statements, the department has understated the expenses of the MPROP.

"The department failed to promptly write off loans that it deemed uncollectible. Specifically, we noted 11 loans with a principal loss totaling $124,672 that the department deemed uncollectible during the period from February 1994 to June 1996. Although the department had prepared the applications for discharge from accountability for these loans, it had not submitted the applications to the Board of Control for write-off approval. As a result, the department has understated these expenses of the MPROP as well.

"Finally, we noted that the department failed to reclassify as accounts receivable five loans totaling $118,942 that, according to the department, became due and payable prior to 1993, because the borrowers have either died or are no longer residing on the property. Without proper identification of the loans that have become due and payable, the department can not effectively follow up on the repayment of its loans. Further, the department's delays in the following up on the loans increases the risk of uncollectible loans." (California State Auditor Report #96002, State of California: Internal Control and State and Federal Compliance Audit Report for the Year Ended June 30, 1996, June 1997)

September 24, 1997

GOVERNMENT WASTE UPDATE #21

Limited Operational Efficiency Seen in the Department of Real Estate

"The Department of Real Estate incurs administrative expense on collection activities that are unlikely to result in the collection of amounts owed. The department reported over $14 million in uncollectible accounts receivable as of June 30, 1996, that were related to payments from the Real Estate Recovery Account. The account, an account within the Real Estate Fund, is used as a last resort for people who have been defrauded by real estate licensees in connection with acts requiring a real estate license.

"The account is funded by 12 percent of all license fees collected. Prior to applying for a claims payment from the account, a claimant is required to obtain final court judgement based on the licensee fraud and the licensee's inability to pay the judgment, which is determined through an asset search. The claimant may file a claim against the account up to $20,000 for any one transaction and $100,000 for any one licensee, the maximum amount allowed by law.

When claims are paid out of the account, the license of the licensee is automatically suspended, and his or her name is flagged in the department's license database until the account has been repaid with interest. In addition to these automated records of amounts owed, the department establishes an accounts receivable in its accounting records equvilant to each of the amounts owed. For example, we noted that there were 415 entries in the department's accounts receivable subsidiary. While these receivables may be valid, and the department assumes the judgment creditor's rights, they are not considered collectible as established by the final court judgments.

"The department's accounting staff prepare and mail collection letters as required by state administrative practices, and is reasonable in most circumstances. While other collection efforts have yielded less than a 1 percent collection rate, the department has received no benefit from the collection letters. Specifically, it estimates that its collection efforts using the services of the Franchise Tax Board and flagging the debtor's name in its licensing database have yielded less than 1 percent collection rate. In addition, according to the department, during the fiscal year it received approval from the Board of Control to write off approximately $7 million in uncollectible receivables. This assisted the department in reducing the uncollectible accounts receivable balance to the $14 million existing as of June 30. The department's establishment of receivables for payments that are remotely collectible in addition to records already maintained in its license database causes increased workload for its accounting staff." (California State Auditor Report #96002, State of California: Internal Control and State and Federal Compliance Audit Report for the Year Ended June 30, 1996, June 1997)

October 6, 1997

GOVERNMENT WASTE UPDATE #22

The Department of Insurance Does Not Bill Insurance Companies for All Costs It Incurs

"The Department of Insurance does not always bill insurance companies for all costs the department incurs when conducting examinations. Sections 736 and 12992 of the code require that examination revenues be based on examination costs. However, our review of time sheets covering July through October 1996 for 39 staff working on market conduct examinations and on field rating and underwriting examinations disclosed that the department did not bill for 275 of the 11,167 hours that examination staff worked, an omission that resulted in an underbilling of $30,800. Underbilling problems also existed during fiscal years 1994-95 and 1995-96. Staff of the field examination division determined that the department did not bill insurance companies for at least 1,588 hours staff worked and recorded on their time sheets for December 1994 through November 1995. The field examination division staff calculated the underbilling for the period to be at least $150,903. When the department does not bill for all hours that the examination staff members work, the department must use other resources, such as revenues from fees and licenses, to fund the examination units' activities.

"**The Department Has Billed Insurance Companies Incorrectly"**

"Moreover, the department does not always bill examination hours at the correct examination rates. In October 1995, to cover its costs for actuarial activities, the department calculated an hourly rate of $240 for 1995-96 actuarial examinations. Subsequently, a report by the Bureau of State Audits stated that the department miscalculated the actuarial rate. Later in the fiscal year, the department lowered the rate to $222 per hour. However, the department did not consistently bill actuarial examinations at either rate. At various times during the fiscal year, the department invoiced actuarial examinations at six different hourly rates: $110, $175, $220, $222, $240, and $245. Thus, the department overbilled some insurance companies and underbilled others." (California State Auditor Report #96033, Department of Insurance: Management of Its Financial Affairs and Programs Needs Improvement, March 1997)

October 7, 1997

GOVERNMENT WASTE UPDATE #23

The Department of Insurance May Have a Shortfall inExamination Fee Revenues

"For fiscal year 1996-97, the department may not generate enough examination fee revenues to cover its costs for examining insurance companies. The department calculates the hourly rate for the fees according to its annual administrative and operational budgets for examination activities and the annual number of hours that it estimates it will spend examining companies.

"The department's initial calculations for fiscal year 1996-97 showed that it would earn sufficient revenue from the examination fees to cover the costs associated with these activities. However, our analysis of the department's billing for examinations during the first four months of fiscal year 1996-97 disclosed that the department had earned only 74 percent of the revenue expected to date. Specifically, the department estimated that it could bill for 38,155 hours for the financial analysis examinations and the field examinations for the first four months of 1996-97; however, by October 31, 1996, it had billed for only 26,788 hours, or 70 percent of its estimate. We have not determined whether the department will be able to bill more in the remainder of the year to compensate for the lower billings during the first four months. However, if the department continues to bill at its current rate all hours for financial analysis, field, market conduct, and field rating and underwriting examinations, which are those with the highest revenues, we calculate that it will receive only $13.3 million, or approximately $4.7 million less than it projected. If this situation occurs and if it incurs all costs it budgeted, the department will not generate sufficient examination fee revenues to cover its examination costs for at least the second year in a row.

"One reason for the potential shortfall in the examination fee revenues is the department's failure to compare budgeted expectations to actual performance. For example, until January 1997, more than six months into the fiscal year, the department had not developed any management reports that correlated the number of budgeted hours it expected to bill insurance companies with the actual number of hours billed. Such reports would have shown whether the examination bureaus were performing as projected and whether the department was meeting examination revenue goals for the year. Another reason for the potential shortfall in revenues is the department's failure to bill insurance companies for all the hours it worked on examinations." (California State Auditor Report #96033, Department of Insurance: Management of Its Financial Affairs and Programs Needs Improvement, March 1997)

October 13, 1997

GOVERNMENT WASTE UPDATE #24

Sexual Harassment Costs State Millions of Tax Payer Dollars

Early this month a court awarded $2.7 to plaintiffs' attorneys in a sexual harassment suit against the California Department of Corrections and California Men's Colony in San Luis Obispo. This was in addition to the $2 million in damages that were awarded to three plaintiffs and the $1.8 million that the state has paid for private defense attorneys in the sexual harassment trial.
The sexual harassment case has, to date, cost California tax payers $6.57 million.

According to a report by a Committee of the California State Legislature entitled, "How Well Do State Agencies Handle Sexual Harassment Complaints?, 56 state agencies reported a total of 777 sexual harassment complaints with an associated cost total of $4,361,247 between 1989-92.

A follow up report by the Assembly Committee on Consumer Protection, Government Efficiency in November of 1994 entitled "Incidence and Cost of Sexual Harassment in State Government" concluded that the incidence of sexual harassment in the state workplace and the monies paid out by the State of California have dramatically increased.

According to the 1994 report, state employees filed 1,846 complaints of sexual harassment in FY 1992-93 and FY 1993-94. The cost to the state to investigate , litigate, mediate and comply with settlements and judgements exceeded $15 million over that two year period.

October 14, 1997

GOVERNMENT WASTE UPDATE #25

The Department of Insurance Does Not Create Accounts Receivable When It Bills Insurance Companies

"During fiscal year 1995-96, the department did not establish accounts receivable totaling more than $46 million when it prepared invoices for insurance companies for examination fees, Proposition 103 assessments, and other assessments. Sections 8776.3 and 10507 of the State Administrative Manual require departments to establish accounts receivable when state departments prepare and send invoices. Rather than establish accounts receivable when it prepared and sent out its invoices, the department placed copies of invoices into a file until it received payment from the companies. At the end of the 1995-96 fiscal year, the department added up the remaining unpaid invoices to determine its year-end accounts receivable amount. With no automated listing to track receivables or to generate second billings, the department had to do this work manually.

"Without a system to establish accounts receivable at the beginning of the billing process, the department cannot easily identify those insurance companies that do not pay their invoices and thus cannot effectively collect overdue funds. Further, failure to collect promptly all amounts due can lead to cash flow problems.

"As of January 9, 1997, the department had not received payment for 70 invoices generated during fiscal year 1995-96 and totaling $960,515, or 3.5 percent, of the $27.6 million for Proposition 103 assessments. For all 70 invoices, the department did not send out the first past-due notices promptly after the payments were due. We found only two sets of past-due notices, dated April 15, 1996, and October 3, 1996. Proposition 103 payments for the first quarter of fiscal year 1995-96 were due on November 20, 1995, but the department did not send out the first past-due notices until April 15, 1996. We also observed that the department did not sufficiently follow up on insurance companies that had underpaid. Because some of these companies disputed various invoices from the department, the department filed these invoices in a "problem file" for future review. As of January 9, 1997, the problem file contained 83 unresolved invoices, some of which dated back to 1995, more than a year earlier.

"The department did not properly follow up on unpaid invoices for two reasons. First, the department appears to have no written procedures relating to the collection of accounts receivable; in fact, it could not provide us with documentation that shows the existence of such procedures. Second, the authority the department has is inadequate to compel prompt payment of invoices." (California State Auditor Report #96033, Department of Insurance: Management of Its Financial Affairs and Programs Needs Improvement, March 1997)

October 15, 1997

GOVERNMENT WASTE UPDATE #26

The Department of Insurance Has Not Promptly Accounted for the Results of its Proposition 103 Activities

"The department has failed to establish a system to match on a continuous, prompt, and accurate basis its revenues from Proposition 103 fees with related expenditures. As a result, the department cannot ensure that it is using these revenues only for the purposes mandated by law.

"Section 12992 of the code limits the use of revenues earned from Proposition 103 assessments to covering the costs related to implementing the provisions of Proposition 103. Further, Section 12990 of the code requires the department to adopt an accounting system that will allow it to identify accurately those costs for Proposition 103 activities and to link the costs to fees collected for these activities. Finally, as part of the settlement in *National Fire Insurance Company et al. V. Chuck Quackenbush*, the department agreed to establish a subaccount within the Insurance Fund for the exclusive purpose of collecting and disbursing funds for the administrative and operational costs arising from Proposition 103.

"Despite the clear mandate to account separately for Proposition 103 revenues and related expenditures, the department has had difficulty doing so. For instance, the department's automated accounting system separately identifies dedicated revenues and related expenditures during the fiscal year, but the system does not summarize the information in a convenient form and does not track the results of these separate operations from year to year. Instead, the department must develop this information manually, and the department is very late in identifying information from previous years. In January 1997, when we asked for the net results of operations related to Proposition 103 revenues from year to year, the department provided us only with its calculations as of June 30, 1995, more than 18 months earlier. Similarly, in October 1996, when we asked the department for cash flow information for Proposition 103 revenues for fiscal year 1995-96, the department did not have this information readily available. Instead, the department needed two weeks to compile the information for us. When we questioned the accuracy of its cash flow summary, the department submitted a revised version to us.

"Further, the accounting records on which the department bases its calculations are of dubious reliability. Reporting on internal controls at the department during the fiscal year ended June 30, 1995, the Department of Finance concluded that the departments' financial statements were "materially unreliable, unsupported, and virtually unauditable." The Department of Finance reported serious deficiencies in records and controls for accounts receivable, cash receipts, and cash disbursements.

"Because the department's accounting records provide part of the basis for calculating Proposition 103 fees in subsequent years, the department must maintain accurate records of the year. Carrying forward profits and losses into the calculation of subsequent years' fees is reasonable for Proposition 103 fees because generally the same insurance companies pay these fees each year. Thus, companies that the department undercharged for Proposition 103 fees in one year would generally be the same ones paying compensating amounts later. However, when the department does not maintain its accounting records in a regular, timely, and accurate manner, the department will not charge insurance companies the correct amount. (California State Auditor Report #96033, Department of Insurance: Management of Its Financial Affairs and Programs Needs Improvement, March 1997)

October 16, 1997

GOVERNMENT WASTE UPDATE #27

The Department of Insurance Does Not Meet Requirements to Examine the Practices of All Insurance Companies

"The procedures that the market conduct, investigations, and field rating and underwriting bureaus use to select the insurance companies that each bureau will examine do not ensure that the department examines the practices of each company at least once every five years. For example, rather than selecting each company for examination at least once every five years, the market conduct, investigations, and field rating and underwriting bureaus choose insurance companies according to patterns of complaints received by the department. Further, the field rating and underwriting bureau selects only those property and casualty insurance companies with annual written premiums of more than $5 million. According to its chief, the market conduct bureau completes approximately 50 to 60 examinations per year. If the market conduct bureau completed 60 examinations per year over five years, it would complete only 300 examinations of the more than 1,400 insurance companies subject to its review. Similarly, according to the chief investigator, the investigations bureau plans to examine 60 insurance companies during fiscal year 1996-97. If the investigations bureau were to conduct 60 examinations per year over five years, it too would complete only 300 examinations of the approximately 1,400 companies subject to its review. Finally, because of the department's $5 million minimum threshold for property and casualty insurance companies, approximately 384 of these companies are not subject to examinations by the field rating and underwriting bureau.

"Therefore, the methods these bureaus use to select insurance companies for examination do not guarantee that the department will examine the practices of all insurance companies at least once every five years as required and thus increase the potential that unfair insurance practices will go undetected and cause continuing harm to insurance consumers. According to the chief deputy insurance commissioner, these bureaus presently use selection methods that restrict the number and types of insurance companies they examine because it is not an industry standard to examine the practices of all insurance companies every five years and the National Association of Insurance Commissioners does not require such periodic examinations."(California State Auditor Report #96033, Department of Insurance: Management of Its Financial Affairs and Programs Needs Improvement, March 1997)

October 17, 1997

GOVERNMENT WASTE UPDATE #28

The Department of Insurance Does Not Comply With the Code's Requirements for Several Reasons

"The department has several reasons for not examining at least once every five years the practices of all applicable insurance companies admitted to do business in the State. First, the department does not believe the code requires it to do so. Specifically, the department does not interpret Section 729 et seq. of the code as we do; it believes these sections emphasize examination of the financial solvency of a company's practices. The department believes that the intent of these code sections was not to direct the department to examine the practices of each admitted company every five years.

"Not only do we take issue with the department's arguments, but California's appeals court appears to disagree with them as well. In its decision concerning *National Association of Independent Insurers et al. v. John Garamendi* (July 1995), the Third District Court of Appeal of the State of California (court) made several statements that conflict with the department's beliefs. Specifically, following a fundamental rule of statutory construction, the court stated that, when disputes concerning legislative intent exist, the court "must assume the Legislature knew what it was saying and meant what it said." This statement strongly implies that if the Legislature had intended the department to examine only the financial solvency of insurance companies every five years, the Legislature would have said so. In addition, after the court determined that the code did not define the term "examination" or the phrase "business and affairs," the court concluded that "an examination of business and affairs is a broad, comprehensive review of an insurer's activities." This statement confirms that an examination needs to go beyond an evaluation of financial solvency. Finally, the court stated that although the department has the discretion to determine *when it should conduct* an examination, the department must perform a *comprehensive* review of *all* of a company's affairs and determine, as part of that review, whether the company has complied with all applicable laws. Because of these statements by the court, we conclude that existing law requires the department to conduct at least once every five years a comprehensive examination, covering both financial solvency and practices, of every applicable insurance company admitted in the State.

"The second reason the department does not examine the practices of all applicable insurance companies at least once every five years is that the department believes that such an effort would not use its resources productively. Specifically, the department stated that the lack of consumer complaints against a large number of companies indicates that regular examinations of the companies' practices would be a pointless exercise and an imprudent use of resources. We acknowledge that insurance consumers would receive little or no relative benefit from regular examinations of some companies. For example, the department's list of 384 property and casualty companies that do business in the State and have less than $5 million in written premiums shows that 153 had no annual premiums during 1995. Obviously, California's insurance consumers would receive little or no benefit if the department were to examine the practices of these companies regularly. However, this same list shows 96 companies that had written premiums from $1 to $5 million. California consumers may receive some benefit from the department's periodic examination of these companies.

"The third reason the department offered for not examining all insurance companies every five years is that the department does not have the resources to meet the code's requirements as we interpret them. The department estimates that, to perform a regular review of every company would require departmental staffing levels perhaps nine or ten times higher than it currently maintains. We do not dispute the department's assertion that the department would need significant additional resources.

"We believe that existing law regarding examinations of insurance companies is too broad. Specifically, examinations of some companies would not improve consumer protection and would provide sufficient return for the department's costs. At the same time, we also believe that the department cannot choose administratively *not* to follow a law. Therefore, we would expect the department to attempt to have the law amended or to comply with the law. " (California State Auditor Report #96033, Department of Insurance: Management of Its Financial Affairs and Programs Needs Improvement, March 1997)

October 20, 1997

GOVERNMENT WASTE UPDATE #29

U.S. Border Patrol: Its Policies Cause Unreimbursed Medical Care to be in the Millions of Dollars

"Based on our review, we determined that San Diego County health care providers supplied medical treatment to at least 199 suspected unauthorized immigrants whose medical records indicated some level of involvement with the Border Patrol. From January 1996 through May 1997, these 199 incidents resulted in $2.26 million in medical charges by San Diego County hospitals as well as an estimated $834,800 incurred by other health care providers such as paramedics, physicians, surgeons, and laboratories. Of these amounts totaling $3.1 million, $2.9 million was unreimbursed and thus absorbed by the health care providers.

"Because the Border Patrol would not provide a list we used various sources, but primarily the county's Division of Emergency Medical Services to identify these incidents. For each case, we evaluated the circumstances surrounding the patient's injuries, the nature of the Border Patrol's involvement, and the financial impact of the patient's care. We also evaluated the evidence indicating that the injured person was an unauthorized immigrant and excluded cases when the person appeared to be a California resident.

"Although we believe we used the best sources available to us to identify these incidents, some cases may have been excluded from our search. For example, because the method we used to identify these incidents focused on ambulance companies and emergency dispatch organizations, it is unlikely we identified cases in which the injured were transported to the hospital in a nonemergency vehicle. This would include walk-in patients, patients who were transported by friends or family, or patients transported to the hospital in a Border Patrol vehicle.

"Also, we relied on emergency workers' recorded observations of the nature of Border Patrol involvement and the possible cause of injury. Such observations could be incomplete if, for example, patients did not disclose the cause of injury or Border Patrol involvement. As a result, we estimate that there could be a significant number beyond the 199 we identified. The potential impact of additional cases is discussed later." (California State Auditor Report #96117, U.S. Border Patrol: Its Policies Cause San Diego County Health Care Providers To Incur Millions of Dollars in Unreimbursed Medical Care, October 1997)

October 21, 1997

GOVERNMENT WASTE UPDATE #30

U.S. Border Patrol: Its Policies Cause Unreimbursed Medical Care to be in the Millions of Dollars

Analysis Identifies Border Patrol-Related Incidents

"We estimate that health care charges for emergency medical care for the incidents we identified totaled $3.1 million over 17 months. This includes $2.26 million for hospitals and an estimated $834,800 for other health care professionals such as paramedics, air transportation providers, physicians, surgeons, and laboratories. After being adjusted for payments received from the Border Patrol and others, the total unreimbursed amount is $2.9 million.

"Using financial records provided by the hospitals, we calculated the hospital charges on an individual basis. To estimate the charges for paramedics and air transportation providers, er used financial information they provided. Finally, using hospital estimates, we calculated charges for physicians, surgeons, and laboratories to be a minimum of 25 percent of hospital charges.

"During our analysis, we divided the incidents into two groups. The first group included cases with a direct relationship between the patient's injuries and the Border Patrol's actions. For example, if records indicate that the patient's resulted from "running from the Border Patrol" or "a motor vehicle accident while evading Border Patrol agents," we included the incident in the first group. We also included cases where the injuries occurred immediately following apprehension by a Border Patrol agent. For example, in one case, after being apprehended by an agent, a suspect injured herself after slipping on a rock while walking through rugged terrain.

"In contrast, if the records indicated that the Border Patrol was involved, but we found no evidence of a direct relationship between a patient's injuries and the Border Patrol's actions, we included the incident in the second group. For example, when an injured was found or transported by an agent, we included the case in the second group. Also, when the injured person was in Border Patrol custody but we found no evidence that the injury was related to an agent's actions, we included the case in this group. Finally, we included cases where the agent arrived on the scene shortly after the injuries were discovered.
"For cases in the first group, it appears that most people injured themselves while attempting to evade agents. Specifically, most injuries resulted from running, falling, or motor vehicle crashes. The types of injuries varied, although many individuals incurred arm or leg injuries, lacerations, or head injuries. About 25 percent of the cases involved multiple-passenger motor vehicle crashes. For the second group, we noted similar injuries, as well as a variety of others, such as cold-and heat-related injury, seizures, and abdominal pain. In the second group, about 18 percent of the injuries resulted from multiple-passenger motor vehicle crashes.

"We found that 85 of the incidents (43 percent) involved a direct relationship between the actions of the Border Patrol and the patient's injuries and thus were included in the first group." (California State Auditor Report #96117, U.S. Border Patrol: Its Policies Cause San Diego County Health Care Providers To Incur Millions of Dollars in Unreimbursed Medical Care, October 1997)

October 22, 1997

GOVERNMENT WASTE UPDATE #31

U.S. Border Patrol: Its Policies Cause Unreimbursed Medical Care to be in the Millions of Dollars

Analysis Indicates More Costs for Incidents Not Identified

"We believe that there are more emergency medical treatment charges related to additional incidents. This condition exists because, rather than getting information directly from the Border Patrol, we had to use other less complete sources to identify incidents. Specifically, we estimate that up to 875 additional cases may exist and that the charges related to these range between $2.0 million and $5.2 million. To calculate these amounts, we first estimated the number of additional incidents and next calculated a "high" and "low" estimate of charges.

"We estimate that up to 875 additional incidents exist beyond the 199 that we identified. We calculated this 875 figure by using the number of incidents we identified (199), the number of those for which hospital records indicated the Border Patrol paid medical charges (33), and the number of incidents for which the Border Patrol told us it paid medical charges (179). Specifically, we determined that the ratio of cases we identified (199) divided by the number of incidents where hospital records indicated a Border Patrol payment (33) is approximately 6 to 1 . Applying this same ratio to the number of total incidents that the Border Patrol told us it paid, 179, we calculate that there could be a total of 1,074 cases. After deducting the 199 we already identified, we find that there could be up to 875 additional cases.

"To develop estimated charges for these additional incidents, we used two different sources to present a range of charges. We believe that using a range to present our estimate best reflects the imprecise nature of calculating these charges. We used figures supplied primarily by the hospitals to calculate the high estimate of $5.2 million, and figures supplied by the Border Patrol to calculate the low estimate of $2.0 million." (California State Auditor Report #96117, U.S. Border Patrol: Its Policies Cause San Diego County Health Care Providers To Incur Millions of Dollars in Unreimbursed Medical Care, October 1997)

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October 23, 1997

GOVERNMENT WASTE UPDATE #32

U.S. Border Patrol Policies Limit Medical Payments and May Allow Some Injured Unauthorized Immigrants to Avoid Custody

"According to information the Border Patrol provided to us, its policy is not to pay for any medical expenses unless the injured were in its custody at the time of the injury. Further, because of the Border Patrol's policy not to take injured suspects into custody if they are unlikely to escape, and because it takes only certain people, such as those who smuggle others across the border, into custody following medical treatment, it appears that some unauthorized immigrants may avoid custody as a result of their injuries.

"As mentioned previously, we found that the Border Patrol paid for some or all of the hospital charges in 33 of 199 incidents. According to staff in its San Diego Sector procurement office, such payment would be made only if the person had been in custody prior to medical treatment. Moreover, according to a statement made by the chief patrol agent, the Border Patrol "has no financial responsibility for injured illegal aliens who have not been placed in Border Patrol custody."

"The chief patrol agent provided us with a statement to clarify the arrest (or custody) policy in San Diego. He explained: "In determining whether to take an injured alien into custody, Border Patrol agents are bound by [Immigration and Naturalization Service] policy, which generally provides that agents shall not take into custody any injured alien who is not likely to escape." He also stated: "Where an alien's injured condition precludes our determination of alienage and deportability, or where an alien's injured condition renders the alien unlikely to escape, we cannot and do not take custody at the scene. Border Patrol agents nationwide are bound by these rules and may not deviate at the local level."

"However, we believe that when it is on the scene where an injury is discovered, the Border Patrol has an opportunity to assess -- either immediately or following medical treatment -- whether the injured are unauthorized immigrants and, if so, to take them into custody. If the injured are unconscious and thus their immigrant status cannot be determined, the Border Patrol should consider assessing this later, such as when the injured are discharged from the hospital. Moreover, by simply not "taking into custody" injured unauthorized immigrants, the Border Patrol is able to avoid financial responsibility for their medical treatment. It is important to note that if the same individual had not been injured, he likely would have been immediately placed into custody.

"The chief patrol agent in San Diego cited federal contract law as the reason the Border Patrol does not pay for such medical expenses. Specifically, he cited a United States Court of Appeals (Court) case, *City of El Centro vs. United States*. This 1990 case relates to a specific instance where an El Centro hospital treated 14 people injured after their vehicle crashed following pursuit by Border Patrol agents. The Court overturned an earlier Claims Court decision, finding that because injured unauthorized immigrants were not detained by the Border Patrol, the government did not form an "implied contract," and thus could not be held financially responsible to pay the hospital. In its decision, however, the Court suggested that Congress could determine a method of relieving hospitals for such medical expenses.

"Specifically, in its decision, the Court stated: "As a matter of equity, there is good argument that these costs should be assessed against all the taxpayers of the United States. The question before the Court, however, is whether, as a matter of law, the United States is obligated to pay these costs." Moreover, the Court noted: "If there is to be a special program of relief for a hospital that provides services under the circumstances of this case, the Congress is in the best position to determine the nature of such a program, and its boundaries."

"Although the Court decision provides a legal basis for the Border Patrol to limit its payments to hospitals to only those cases where injured people were in its custody, it does not address an inherent inequity caused by the Border Patrol's policies. Specifically, its policy to only pay medical charges when the injured are in custody combined with its policy to only take into custody the uninjured results in health care providers incurring significant unreimbursed charges.

"Congress has the ability to address this inequity by passing a law requiring the federal government to pay for the costs to provide emergency medical services when unauthorized immigrants are injured and would have been taken into custody by the Border Patrol were it not for their injuries.

"In fact, a recent federal law authorizes the federal government to pay for emergency medical treatment for unauthorized immigrants, whether or not they are in custody at the time of injury. Effective January 1, 1997, states are eligible for payment from the federal government for emergency medical services provided by hospitals to unauthorized immigrants. Specifically, Title 8 of the United States Code, Section 1369 states that: "Subject to such amounts as are provided in advance in appropriation acts, each state or political subdivision of a state that provides medical assistance for care and treatment of an emergency condition through a public hospital or other public facility or through contract with another hospital or facility to an individual who is an alien not lawfully present in the United States is eligible for payment from the federal government of its costs of providing services, but only to the extent that such costs are not otherwise reimbursed through any other federal program and cannot be recovered from the alien or another person.

"While recent federal legislation provides funding for these medical expenses, it is not known how much, if any, funding health care providers in San Diego County would receive. Specifically, on August 5, 1997, the president approved the Federal Balanced Budget Act of 1997, which includes $25 million per year for four years beginning October 1, 1997, to fund emergency health services for unauthorized immigrants. These funds would be allocated to the 12 states with the highest number of unauthorized immigrants. Currently, the State Department of Health Services is preparing regulations that will make it possible for California to receive the federal funds. However, it did not know, as of September 24, 1997, the portion of the $25 million that California will receive or how much, if any, of that portion it would make available to San Diego County health care providers." (California State Auditor Report #96117, U.S. Border Patrol: Its Policies Cause San Diego County Health Care Providers To Incur Millions of Dollars in Unreimbursed Medical Care, October 1997)

October 24, 1997

GOVERNMENT WASTE UPDATE #33

Some Individuals May Avoid U.S. Border Patrol Custody as a Result of their Injuries

"In addition to avoiding financial responsibility, it appears that the Border Patrol's policy to not take injured suspects into custody if they are unlikely to escape may allow some of the injured to avoid custody as a result of their injuries. As noted earlier, according to the chief patrol agent, Border Patrol agents generally do not take into custody any injured suspect who is not likely to escape. Though on the surface this appears consistent with federal law requiring an arrest warrant when a suspect is deemed "unlikely to escape," we question whether it achieves the intended result of preventing illegal entry into the United States, given that for many of the injured, their status as "unlikely to escape" seems temporary.

"The United States Code, Title 8, Section 1357, permits Border Patrol agents to interrogate and arrest unauthorized immigrants, without an arrest warrant, under certain conditions. Specifically, a Border Patrol agent may interrogate a suspect as to that person's right to be or remain in the United States if the agent believes that individual entered the United States illegally and is likely to escape before an arrest warrant can be obtained.

"The chief patrols agent's statements, as discussed previously, did not describe the circumstances under which a Border patrol agent would take custody later, including after a suspect received emergency care. We did, however, obtain verbal information from the assistant chief patrol agent and also found a June 15, 1996, *North County Times* newspaper article that quoted a Border Patrol spokesman.

"According to the article, a Border Patrol spokesman stated that the Border Patrol does not generally make spot inspections of the immigration status of hospital patients. He stated: "If it's a Border Patrol-related incident, we'll come and check. If the patients had not been in Border Patrol custody or not under suspicion by agents (such as people fleeing in a vehicle that crashes), then the Border Patrol generally does not make hospital calls."

"This practice is consistent with information we obtained during an interview with the assistant chief patrol agent in the San Diego Sector. He told us that in most cases the Border Patrol does not take custody of an injured person following medical treatment. He added that an exception would be if the injured person was suspected of smuggling others across the border, or if the person might possibly provide testimony against a suspected smuggle. Otherwise, according to the assistant chief patrol agent, pulling an agent from patrolling the border to investigate one suspect at a hospital would probably allow many other unauthorized immigrants to enter the country.

"This practice of making follow-up visits to hospitals only under certain situations appears consistent with the results from our review. We found that, in some cases, the Border Patrol appears to have contacted at least some of the injured suspects following their medical treatment. Specifically, we found that, in some cases, the Border Patrol appears to have contacted at least some of the injured suspects following their medical treatment. Specifically we found that for 60 of the 199 incidents, the hospital records indicated that patient was discharged to the Border Patrol following treatment. We were unable, however, to verify that the Border Patrol actually took custody of any of these 60 patients, because the Border Patrol stated it could not provide us with such a list.

"For the remaining 139 incidents, there was no evidence in the hospital records that the Border Patrol contacted the people following their discharge. As a result, it appears that the Border Patrol may not have interrogated them as to their right to be in the United States. Thus, to the extent that these people are unauthorized immigrants, their injuries may have assisted them to avoid Border Patrol custody. It is important to note that we could not determine whether the injured intended for their injuries to assist them to avoid Border Patrol custody.

"We also question whether the Border Patrol's practices are logical when taken as a whole. Although injured suspects may be deemed "unlikely to escape" and thus avoid immediate apprehension, this status appears temporary in most instances. Given that in over 70% of the incidents we analyzed the suspects were treated on an outpatient basis, it seems logical to have some form of prompt follow-up contact to reconsider custody. Instead, according to a spokesperson, the Border Patrol "generally does not make hospital calls" unless the patient was already in custody or "under suspicion." We believe that if suspects' injuries were the only reason they were not taken into immediate custody, then all such people should be considered "under suspicion." (California State Auditor Report #96117, U.S. Border Patrol: Its Policies Cause San Diego County Health Care Providers To Incur Millions of Dollars in Unreimbursed Medical Care, October 1997)

October 30, 1997

GOVERNMENT WASTE UPDATE #34

The Los Angeles Unified School District Has Inadequate Policies for Imprest and School Checking Accounts

"The district does not have policies and procedures clearly requiring its employees to submit original receipts or invoices with claims for reimbursement. Instead, some schools are reimbursing individuals for expenditures supported only by photocopies of invoices and receipts. For example, two of the schools we reviewed, South Gate Middle School and Nimitz Middle School, accepted photocopies of receipts as support for expenditures totaling $1,473 for South Gate Middle School and $1,926 for Nimitz Middle School, from the imprest or school checking account. Thus, the district-and the taxpayers-have no assurance that the original documents were not altered, that the expenditures were legitimate, or that other individuals had not submitted the original receipts or invoices for reimbursement somewhere else or at some other time.

"Moreover, although district policies and procedures require staff to describe what has been purchased, they do not require the purpose of the purchases so administrators can determine whether claims submitted for reimbursement are legitimate. In some cases, we found that administrators approved claims with little or no information to identify the items purchased or their intended uses, thus providing opportunities for funds to be misused or abused. For example, an administrator at South Gate Middle School approved reimbursement of $147.74 to one employee for a "radio/dual-cassette boom box." No explanation of why the purchase was necessary was provided.

"The district currently audits imprest and school checking accounts at some schools approximately once every ten years, although some schools have not been audited for as long as 15 years. Because policy requires schools to maintain records for only five years, individuals controlling those funds could misuse them for at least five years following an audit while the misappropriation goes undetected. According to the district, it selects schools for audits based on allegations of irregularities. The district indicated that it does not audit the school sites more frequently because of the large number of schools and related lack of personnel." (California State Auditor Report #96121, Los Angeles Unified School District: The District Can Improve Its Handling of Employees Accused of Child Abuse as Well as Its School Financial Accounts, October 1997)

October 31, 1997

GOVERNMENT WASTE UPDATE #35

Los Angeles Unified School District: Schools Failed to Appropriately Manage Accounts

"We found a variety of internal control problems over imprest and other trust accounts at the schools we visited. Some of the problems related to insufficient support or documentation for reimbursements and others related to failure to adequately separate duties. While we found several internal control weaknesses at the Willenberg Special Education Center, we did not find specific instances of financial improprieties, such as those identified earlier by the district's Internal Audit Branch.

"At three schools we reviewed, the administrators failed to obtain receipts for significant expenditures from the imprest and school checking accounts. For example, the principal at South Gate Middle School failed to obtain receipts for $15,584 of the $330,236 spent from its imprest and school checking account during fiscal year 1996-97. In addition, at Ramona Opportunity High School and Nimitz Middle School, $2,677 and $11,397, respectively, were paid from the imprest and school checking accounts without receipts.

"Additionally, lack of attention to supporting documents allowed the imprest fund to pay twice for the same supplies at Ramona Opportunity High School. Specifically, we found that one teacher had submitted his credit card slip and a cash register receipt to document a $71.45 purchase of lumber used to build a planter. However, another teacher, a personal friend of the other teacher, submitted the actual receipt from the lumber company that provided detailed descriptions of the items as support for the same $71.45 purchase. The principal approved both receipts and wrote checks 961 and 962 to reimburse each of the two individuals on October 8, 1996. Although both individuals presented apparently legitimate receipts, the invoice number on the receipt submitted by the second employee also appeared on the cash register receipt submitted by the first employee. Credit card receipts usually do not describe the expenditure in as much detail as a store receipt. Moreover, reimbursing employees for amounts appearing on credit card receipts could lead to additional duplicate payments if employees, either accidentally or intentionally, submit for reimbursement both the credit card receipts and the store invoice at different times. Because the employee who turned in the credit card receipt actually paid for the items, the school instructed the other employee to repay the $71.45." (California State Auditor Report #96121, Los Angeles Unified School District: The District Can Improve Its Handling of Employees Accused of Child Abuse as Well as Its School Financial Accounts, October 1997)

November 3, 1997

GOVERNMENT WASTE UPDATE #36

The Los Angeles Unified School District Should Strengthen Controls Over School Checking and Imprest Accounts

Lack of Approvals

"The approval requirements for school expenditures depend on the school involved and the account from which the expenditure is made. District policy and state law require that three persons approve expenditures from school checking accounts at secondary schools, which include middle schools and high schools. The department chair or faculty club sponsor, the student body elected officer, and the principal or vice principal are responsible for approving the expenditures. The district's elementary school and special education school checking accounts require approval by only the school principal. Further, imprest account expenditures at both secondary schools and elementary schools require approval by the principal.

"At four of the five schools we visited, we found instances where materials were purchased from both the imprest and school checking account with either inappropriate approvals or none at all. For example, at Nimitz Middle School, an administrator requesting reimbursement from the school checking account did not obtain the required signatures on the approval form, and in fact provided one of the two signatures on the check made payable to her. The other signature was that of the financial manager who is authorized to sign checks, but not to approve expenditures. At Willenburg Special Education Center there were several instances of reimbursements made from the school imprest account without the required approval from the principal.

"Proper approvals are important because they help establish a level of accountability and responsibility for wrongdoing, thus decreasing the risk that individuals will use public funds improperly. Also, when expenditures are approved by two or more administrators, district employees tempted to engage in fraudulent purchasing practices have greater difficulty doing so.

Lack of Written Policies for Trust Funds

"The district's trust account policies provide general descriptions of how the accounts should be operated and maintained, describe some of the prohibited uses of the funds, and address a few ways that funds can be raised. However, we do not believe these policies are sufficiently detailed. Specifically, the schools are not required to maintain written information clearly explaining the sources of funds for each account and how the money can be used. For example, we found a lack of specific written policies for trust accounts at all the schools we visited except Willenburg Special Education Center, where our review focused on the imprest, not trust accounts. More specific trust guidelines would assist administrators in operating the accounts and provide additional evidence for internal or outside auditors attempting to determine whether schools properly manage funds. The schools' present lack of policies for trust funds could result in inadvertent or deliberate misuse of such funds.

Inadequate Separation of Duties

Each of the five schools we visited has a financial manager or administrative assistant responsible for several aspects of the accounting process. For example, the South Gate Middle School financial manager collects cash, prepares deposits, posts accounting transactions, maintains blank check stock, prepares checks, and performs bank reconciliations. An individual who performs so many functions could commit fraud that may go undetected, possibly for several years. By failing to maintain an adequate separation of duties, the district is failing to protect public funds." (California State Auditor Report #96121, Los Angeles Unified School District: The District Can

Improve Its Handling of Employees Accused of Child Abuse as Well as Its School Financial Accounts, October 1997)

November 4, 1997

GOVERNMENT WASTE UPDATE #37

Foundation Bylaws Give Cerritos College President Greater Authority Than Other Community Colleges

"The bylaws of the foundation give the college president the opportunity to exert greater influence over foundation operations than presidents of other community colleges we surveyed. According to its current bylaws, from 8 to 50 directors comprise the foundation's board of directors. Currently, there are 25 directors on the board. The college president, who is also the district president, is a foundation director and has the authority to select four other directors, including three members of the district management staff and one member of the district faculty. The existing directors are supposed to elect the remaining members and select officers, standing committee chairpersons, and executive board members. The executive board has the authority to conduct the foundation's business and consists of 5 to 14 elected officers, the elected chairpersons of the standing committees, and the district president.

"Under the current arrangement, the college president can exert considerable authority over foundation business. Since May 1997, the foundation's bylaws give the district president, subject to the control of the board of directors, the authority to select paid staff for the foundation and the authority to make the final decision in all foundation activities. Specifically, the foundation's bylaws allow the president the final decision in any disagreements with the foundation's executive board of directors on any action. Prior to the May revision, these disagreements were settled by the president and the foundation chairperson. This authority to have the final decision gives the president, should he choose, the ability to direct any action taken by the foundation.

"According to the president, the foundation has been structured in this manner based on his understanding of Section 72672(b) of the California Education Code. This section gives the president the responsibility for determining that all foundation expenditures are in accordance with the policies of the district's governing board and that they are appropriate. Rather than interpreting this to mean the president should have ultimate authority in all foundation decisions, we believe this section of the code requires the president to monitor the foundation's expenditures for propriety and adherence to district policy. Moreover, other districts we surveyed have not established such a strong role for their respective presidents over foundation activities." (California State Auditor Report #96118, Cerritos Community College: Improvements Needed in Aspects of Operating the District and Its Auxilary Organization. October 1997)

November 10, 1997

GOVERNMENT WASTE UPDATE #38

District Costs on Behalf of the Foundation Are Neither Reimbursed Nor Reflected in the Foundation's Financial Statements

"During fiscal years 1995-95 and 1995-96, two district employees performed the foundation's day-to-day business functions. Also during this period, several other district employees worked on a project for the foundation designed to promote community awareness of the college. All of the employees who worked on foundation activities received their salaries and benefits from the district. However, the foundation did not reimburse the district. Additionally, the foundation does not reflect these costs in its financial statements, thus giving a distorted picture of its financial position for both fiscal years we reviewed.

"Section 5927(j)(6) of the California Code of Regulations requires auxiliary organizations to reimburse the district for services district employees perform under the direction of the auxiliary organization. The foundation included this provision in its master agreement with the district and in its implementing regulations. However, during the two years we reviewed, the foundation has failed to reimburse the district for these significant payroll costs or to reflect such costs in its financial statements. We obtained estimates from district employees of the percentage of time they spent doing foundation work during the last two fiscal years. Using these estimates, we computed that the foundation should have reimbursed the district $65,153 in salaries and benefits for fiscal year 1994-95 and $105,849 for fiscal year 1995-96. By failing to reflect these costs, the foundation presented a distorted picture of its financial operations for the two years we reviewed. Moreover, during these two years, the foundation should have reimbursed the district approximately $171,000 but did not.

"The foundation reported a net loss of $8,171 in its financial statements for fiscal year 1994-95. However, had it included the unreimbursed labor costs for that year, its true loss would have been $73,324. Likewise, had the foundation reflected the amount it owed the district for unreimbursed labor costs for fiscal year 1995-96, the foundation's financial statements that reported a profit of $27,787 would have shown a loss of $78,052. We believe that these are actual costs for operating the foundation and should be disclosed. Without such disclosure, the directors may not have been fully aware of the extent of the losses that the foundation incurred during fiscal years 1994-95 and 1995-96. The board of directors needs the foundation's full financial picture to make prudent decisions. Additionally, we believe that providing district personnel to the foundation without reimbursement is contrary to both the California Code of Regulations and the master agreement between the college and its foundation.

"We discussed this matter with the college president, who believes that as long as the district personnel assigned to do foundation business are under his direction, reimbursement is not required. The president cites Title 5 of the California Code of Regulations, Section 59257, to lend support to his view that reimbursement is required only when the district employees perform work under the direction of the foundation. However, the president's interpretation of this section of the codes presents difficulties because it does not address the reality that as the president of the college, he is also a key director of the foundation. Therefore, it is difficult to discern when a district employee is working under the direction of the president or the foundation. For this reason, we are not convinced by the president's argument that it is permissible fore the foundation to benefit from the services of district personnel, but not reimburse the district for such services.

"In May 1997, the board of directors approved a significant change to the foundation's implementing regulations and its master agreement with the district. This change stipulates the district will support up to the equivalent of one full-time, management-level employee and one full-time assistant for the foundation without any provisions for reimbursement. Though approved by the foundation board and the district board of trustees, this action had not yet

been approved by the Chancellor's Office. Section 72672(c) of the California Education Code requries that the district's implementing regulations be submitted for approval to the Chancellor's Office. In fact, we received a copy of a letter dated October 20, 1997 sent by the general counsel for the Chancellor's Office addressed to the president of Cerritos College. In his letter, the general counsel informed the president that he ahd declined approval of the revised implementing regulations for the foundation. The general counsel based this decision on his conclusion that the district's practice of assigning it employees to perform work for the foundation without reimbursement is contrary to and inconsistent with state regulation.

"According to the college president, the district believes that state regulations and the conventional practice of other community colleges support its use of district personnel for foundation business without reimbursing the district. Additionally, the president feels that the foundation has returned value to the district in excess of any costs incurred. Nonetheless, during the period we reviewed, the foundation's implementing regulations and master agreement required reimbursement to the district. Further, we believe the foundation's May 1997 revisions relieving it from reimbursing the district are contrary to state regulations.

"When we contacted five other community college districts to determine whether it is customary practice for a district to supply its own employees to work for an auxiliary organization without reimbursement, two districts told us that some of its employees do work without reimbursement. Two other districts informed us that their foundations do reimburse them for all work district employees perform. The fifth district told us that its foundation is relatively new and has an agreement with the district that will allow some employees time to work for the foundation only during its first two years of operation. At the end of the two-year period, the foundation is required to reimburse the district.

"Our survey, though limited, indicates that other districts allow their employees to work on foundation activities without receiving reimbursement. Nevertheless, it is our view that this practice violates state regulations." (California State Auditor Report #96118, Cerritos Community College: Improvements Needed in Aspects of Operating the District and Its Auxiliary Organization. October 1997)

November 14, 1997

GOVERNMENT WASTE UPDATE #39

The California Public Utilities Commission Cannot Ensure Its Transportation Fees Cover Its Costs

"The commission plans to install a new automated accounting system by July 1, 1998. However, its current automated accounting system is unable to separately identify expenditures related to the transportation fund. Thus, the commission does not know the true costs of regulating the transportation companies. Nonetheless, if the commission's estimate of the fund's costs for fiscal year 1996-97 is accurate, its other fee-payers, such as utility companies, may have funded up to $1.4 million in railroad and passenger transportation regulation costs.

"The current accounting system identifies costs by branches or divisions within the commission. However, the accounting system was not designed to identify costs by fund for the branches or divisions that perform activities involving more than one fund. For example, the rail safety branch's costs are charged to a separate code in the accounting system. Staff within this branch perform tasks financed by several funds, including the transportation fund, the State Highway Account, and the Transportation Planning and Development Account. Because of the deficiencies in the current accounting system, the accounting system cannot break out the costs among the three funds.

"Nonetheless, every month, the commission estimates the costs to be charged to each of its funds using information from the STR system. However, regardless of the estimate, the commission cannot transfer to the utilities fund more than the amount budgeted for the cost of regulating transportation...The commission's estimate of the transportation fund's expenditures suggests that the costs of regulating transportation companies were approximately $1.4 million greater than the amount budgeted for fiscal year 1996-97. Nonetheless, the commission's director of the management and information services division stated that the budget more accurately reflects the transportation fund's expenditures because the estimate overstates the fund's overhead costs. However, he could not provide us with any evidence to support his claim.

"Not only is the commission unsure of the true costs of regulating transportation companies, the code limits the types of expenditures for which the commission can use its railroad corporation fees. The code limits spending of railroad fees to the safety personnel that inspects railroads and enforces rail safety regulations, the clerical and support staff for safety inspections, the legal personnel pursuing safety violations, and an audit by the bureau.

"The code does not allow railroad fees to be used to pay the railroad safety's pro rata share of the commission's overhead costs, which include costs associated with personnel, accounting, and executive management staff. Therefore, for fiscal year 1996-97, the commission obtained $335,000 from the Transportation Planning and Development Account to cover this portion of railroad safety costs. However, based on the commission's estimate and information from the STR system, the railroad safety's pro rata share may have been significantly higher. For example, for salaries and benefits alone, the STR system allocated to railroad safety overhead costs totaling $388,000, or $53,000 more than the amount funded. Because the commission cannot use the railroad fees to pay overhead costs, any shortfall in funding may be passed on to its other fee-payers." (California State Auditor Report #96020, California Public Utilities Commission: Its Fees May Not Cover Its Costs of Regulating Transportation Companies. November 1997)

November 17, 1997

GOVERNMENT WASTE UPDATE #40

Travel Expenses Still Above State Rates: The Chancellor's Office Should Set Limits On Travel Costs And Ensure That Districts Comply With Those Limits

The 1996 audit of the Chancellor's Office found that community colleges allowed the reimbursement of staff travel expenditures in accordance with policies adopted by each college's governing board. In some cases, reimbursement was well in excess of the State's rate. The Bureau of State Audits recommended that the Chancellor's Office modify the terms and conditions of the grants to restrict travel costs to state per diem rates and ensure that districts comply with those restrictions.

In a follow-up audit that was just released, the Chancellor's office continues to ignore state travel per diem rates and continues to allow community colleges to reimburse travel expenditures in accordance with individual governing board policies. It stated in its initial response to the 1996 report that, because the grants are in the form of local assistance funds to the colleges, it allows districts the same freedom with those funds that they have with other local assistance funds. The Chancellor's Office further stated that since district employees are not state employees, the state reimbursement rates are not legally applicable.

In response to the January 1996 report, the Legislature added Section 15379.28 to the Government Code, which requires, as a condition of receiving Economic Development funds that each community college district agrees to complete an audit of funds received. Although the new law requires the audits to include activities that would ensure compliance with all state travel reimbursement rates.

Although Economic Development grant funds are classified as local assistance funds, the program utilizes state funds which should be prudently spent. Furthermore, the Chancellor's Office should set limits on travel expenditures and require community colleges to comply with those limits. In addition, the Chancellor's Office should require each district's auditor to determine compliance. (California State Auditor Report #97599, While the Chancellor's Office Has Improved Its Administration of the Economic Development Program, It Has Failed To Fully Address All State Auditor Recommendations, November 1997)

November 20, 1997

GOVERNMENT WASTE UPDATE #41

Chancellor's Office Procedures Do Not Always Assure Proper Use of Grants and Contracts

The 1996 audit of the Chancellor's Office disclosed that grants were inappropriately awarded instead of contracts to prepare the Economic Development Program Evaluation and Annual Report. The Chancellor's Office has the statutory responsibility to submit an annual report to the Governor and the Legislature. Its use of grants unnecessarily curtailed competition to produce the annual report, and the grantee received the grant amount at least a year before the work was required to be completed.

At the time of the 1996 audit, the Chancellor's Office had established procedures requiring its Legal Affairs and Contracts Division to review all grants and contracts to assure their proper use. However, because of the above exception, the Bureau of State Audits recommended that the Chancellor's Office ensure that it follows those procedures by using contracts rather than grants to award funds when it has the legal or statutory responsibility to perform the activities.

While the Chancellor's Office has established written procedures to require its program staff to submit all project specifications to the Legal Affairs and Contracts Division for review, these written procedures do not require program staff or the Legal Affairs and Contracts Division to maintain a log or a copy of the project specifications reviewed and approved. The Legal Affairs and Contracts Division contracts manager stated that she reviews each project specification to determine if a contract or a grant has been properly used. If yes, she initials the project specifications and sends it back to the program division. If not, she forwards the project specification to legal counsel for further review. She does not maintain a log or a copy of the project specifications she has reviewed.

Although the auditors saw evidence that the program division maintained some copies of the project specifications that had been reviewed and initialed by the contracts manager, the file the division maintains is incomplete. Therefore, the Bureau of State Audits cannot verify that the Chancellor's Office is complying with its own internal procedures. Without adequate control to ensure that its Legal Affairs and Contracts Division review project specifications for all grants and contracts, the Chancellor's Office cannot ensure the proper use of grants and contracts.

In a written response to this audit report, the Chancellor's Office stated that during the fiscal year 1997-98, new procedures will be instituted that will require a sign-off signature by the Legal Affairs /Contracts Division indicating their review and approval of all project specifications. The review and approval forms, before they are released, will be maintained in a file with the individual project specification. In addition, the Chancellor's Office requires a review of all Request for Application Specifications by the Legal Affairs/Contracts Division before these are released for competitive bid. This procedure ensures proper classification of contracts and grants. (California State Auditor Report #97599, While the Chancellor's Office Has Improved Its Administration of the Economic Development Program, It Has Failed To Fully Address All State Auditor Recommendations, November 1997)

November 20, 1997

GOVERNMENT WASTE UPDATE #42

The Chancellor's Office Has Not Reimbursed the State for Costs of an Interjurisdictional Exchange Contract

In the 1996 audit, the Bureau of State Audits found that the Chancellor's Office inappropriately used an interjurisdictional exchange contract for employment, thereby incurring additional costs to the State of approximately $15,500. **Specifically, the Chancellor's Office continued to pay its deputy chancellor through an interjurisdictional exchange contract with State Center from July 1991 through June 1994, even though he had been appointed to an exempt position in July 1991. The auditors recommended that the Chancellor's Office reimburse the State for these unnecessary costs.** In addition, because the deputy chancellor was an employee of State Center before his appointment, the Chancellor's Office created a conflict of interest when it allowed him to approve grants that it awarded to State Center.

The Chancellor's Office disagree with the findings, stating that the interjurisdictional exchange is specifically allowed by law and that it obtained all necessary control approvals for this contract. It also stated that the unnecessary costs cited in the 1996 report, if any, occurred over a period of three years; therefore, the actual additional cost each year, if any, was very small. **To date, the Chancellor's Office has not repaid the additional costs. The deputy chancellor has since left the position, and as of September 1997, it remained vacant.** (California State Auditor Report #97599, While the Chancellor's Office Has Improved Its Administration of the Economic Development Program, It Has Failed To Fully Address All State Auditor Recommendations, November 1997)

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November 25, 1997

GOVERNMENT WASTE UPDATE #43

Fair Competition Is Questioned For Unspent Economic Development Funds

The Chancellor's Office has not implemented the 1996 recommendation to reduce the amount of grant funds it awards to community colleges by the amount of funds those districts have remaining from prior grant awards. The Bureau of State Audits reported in 1996 that the Chancellor's Office may not be maximizing its use of Economic Development funds because it allowed the grantees additional time to spend the funds rather than recover unspent moneys for other Economic Development initiatives.

The Economic Development grant agreements specify that funds remaining at the end of the grant period may revert to the State. The Chancellor's Office recovers these unspent grant funds either by billing the entity for the remaining balance or by withholding this amount from future apportionments. According to the Chancellor's Office, once these unspent funds revert to a portion of the State's general fund reserved for the Proposition 98 programs, they are available for future appropriation through the Budget Act, and the Chancellor's Office can no longer use them for the Economic Development Program.

Five of the 14 grants the Bureau of State Audits reviewed in 1996, had excess funds at the end of the original grant term. Rather than recover the funds, the Chancellor's Office extended the time frame for completion of project activities or allowed for new activities. **However, the audit contends that this policy reduces the incentive for a community college to complete its projects on time and denies other community colleges the opportunity to use the unspent funds remaining from prior grants.**

This audit reveals that the Chancellor's Office has not reduced the amount of grant money awarded to community colleges by the amount of unspent funds remaining from prior grants. In fiscal year 1995-96, it awarded a grant totaling $492,335 to State Center Community College District to fund a Statewide Economic Development Coordination Network (ED-Net) initiative. Of this amount, $82,393 remained unspent at June 30, 1996. **Rather than reduce the amount of the 1996-97 grant, the Chancellor's Office extended the original grant term to June 30, 1997, and awarded State Center another grant of $700,818 for fiscal year 1996-97.** Moreover, according to the fourth quarter expenditure report State Center submitted to the Chancellor's Office, State Center had not used $70,342 (85 percent) of the $82,393 as of June 30, 1997.

The Chancellor's Office should monitor the projects more closely to reduce the amount of unspent funds. The Bureau of State Audits reviewed the Chancellor's Office list of unspent funds for fiscal year 1995-96 grants to determine the amount that remained unspent at the end of the grant term. While the amount of unspent funds for the Economic Development Program as a whole does not appear to be excessive (2.7 percent of the total amount awarded for the grant term ending June 30, 1996), **the amount of unspent funds for certain individual grants does**. For example, by the end of the grant term, Peralta Community College District had not spent $45,538 (36 percent) of the $125,000 awarded for fiscal year 1995-96. According to the Chancellor's Office, the district was unable to promptly fill a director position vacated during fiscal year 1995-96, and the Chancellor's Office expected minimal, if any, unspent funds from the 1996-97 grant. Nevertheless, the district had not spent $46,689 (37 percent) of the $125,000 awarded for fiscal year 1996-97 by June 30, 1997. **Although the Chancellor's Office has procedures requiring its program specialists to review reports submitted by the community colleges, it does not appear that the Chancellor's Office is maximizing this process and some individual colleges are not adequately monitored.**

Because the final reports for fiscal year 1996-97 grants were not due until August 31, 1997, after the completion of the Bureau of State Audits' fieldwork, the full amount of unspent funds at fiscal year end is still unknown. The Chancellor's Office does agree that monitoring unspent funds is important and claims that it will review the information for fiscal year 1996-97 when it becomes available. The Chancellor's Office further stated that if it

determines certain recipients continue to have unspent funds from their fiscal year 1996-97 grants**, it will consult with its legal counsel regarding the possibility of amending grant agreements for future years to reduce awards to those colleges.** (California State Auditor Report #97500, California Community Colleges: While the Chancellor's Office Has Improved Its Administration of the Economic Development Program, It Has Failed To Fully Address All State Auditor Recommendations, November 1997)

December 1, 1997

GOVERNMENT WASTE UPDATE #44

Almost Two Years Later, The Chancellor's Office Has Still Not Determined if the Amounts Paid for the Needs Assessment and the State Plan for Vocational Education Were Appropriate

Since the Bureau of State Audits issued its 1996 report, (California State Auditor Report #94123, California Community Colleges: The Chancellor's Office Inadequately Controlled its Economic Development Program and, along With the Department of Education, Circumvented State Contracting Procedures, January 1996) the federal government approved the State's request to extend the State Plan for Vocational Education an additional two years. As a result, the Chancellor's Office has not yet issued any contracts for preparation of the plan. In its initial response to the 1996 recommendations, the Chancellor's Office stated that it would comply with state requirements for awarding contracts and submit complete and accurate information to the Department of General Services when requesting approval of contracts.

During the 1997 follow-up audit, the auditors did not see any evidence indicating that the Chancellor's Office is continuing to use fiscal agents. (By using fiscal agents, departments can specify the use of funds without subjecting them to state review or oversight.) However, it has not taken any action to determine if the amounts paid to the contractor who prepared the Vocational Education State Plan were appropriate. (According to the 1996 audit, because some community colleges were used as fiscal agents, the Chancellor's Office and the department paid $62,000 in administrative fees in addition to the amounts paid to the contractor.) Furthermore, **the Bureau of State Audits revealed that by using fiscal agents to pay the contractor, the Chancellor's Office could not assure that payments made to the contractor were appropriate and that the same services may have been paid for more than once.**

The Chancellor's Office continues to disagree with the Bureau of State Audits assessment. In its initial response to the 1996 audit, that Chancellor's Office stated that "Both the work products and the invoices were reviewed by the Chancellor's Office. The Chancellor's Office worked closely with the contractor and the Department of Education throughout the development and completion of the Needs Assessment and State Plan for Vocational Education. The Chancellor's Office believes that the amount paid for both these products were appropriate and reasonable. Furthermore, the Chancellor's Office stated that it paid for the product in increments because the contract was for professional services; therefore, neither Chaffey College nor the Chancellor's Office made duplicate payments to the contractor. **However, during the 1996 audit, the Bureau of State Audits found no evidence that the invoices were ever received by the Chancellor's Office.** Actually, the invoices were submitted directly to the fiscal agent who simply paid the contractor but did not monitor the progress of the work. **Because the auditors found inadequate controls over payments and some invoices submitted to the fiscal agents contained charges for the same services, the Bureau of State Audits STILL BELIEVES that the Chancellor's Office should review the payments made to the contractor to determine whether they were appropriate.** (California State Auditor Report #97500, California Community Colleges: While the Chancellor's Office Has Improved Its Administration of the Economic Development Program, It Has Failed To Fully Address All State Auditor Recommendations, November 1997)

January 2, 1998

GOVERNMENT WASTE UPDATE #45

Insufficient DOJ Staff Result in Hiring Outside Attorneys at the Cost of $12.3m

The Bureau of State Audits as directed by the Joint Legislative Audit Committee just released their findings in the use of outside legal counsel. Approximately $12.3 million, or 42 percent of the $29.6 million that client departments of the Department of Justice spent for outside counsel in fiscal year 1995-96 resulted from insufficient DOJ staff.

The State is involved in many matters requiring legal representation. The Department of Justice (DOJ), under the direction of the Office of the Attorney General, represents most state departments in legal matters. A few departments have been authorized by statute to employ civil service counsel for all their legal needs. Other departments employ civil service counsel for limited purposes, such as providing advice on administrative and program matters. The DOJ represents these departments in litigation.

When the DOJ declines to represent a department in legal proceedings, the department faces an urgency to respond to the lawsuit. Upon receiving the DOJ's consent to use other counsel, the department is then left with several alternatives including the following:

- Work with its own civil service counsel (However, the role of most department counsels is to provide advice on administrative and program matters, while the role of litigator is primarily reserved for the DOJ).

- Contract with one of the departments with civil service counsel (However the BSA believe it unrealistic to expect the department to search for litigators at other departments or to expect another department's counsel and support staff to have time to devote to litigation that could take up to several years to complete.)

The DOJ asserts that its workload has historically exceeded its resources. According to the chief assistant for civil law, changes in laws and practices, among other factors, have greatly increased the DOJ's workload and caused it to provide legal services in areas not previously performed. <u>Furthermore, because of the Trial Court Delay Reduction Act of 1990, 95% of all civil cases are to be resolved in 12 months and the remaining 5% are to be resolved in 24 months.</u> Consequently, attorneys now have less flexibility in managing their caseloads.

Departments will likely incur substantially higher costs when they use outside counsel. The DOJ charged departments $98 per hour for legal counsel in fiscal year 1995-96. Based on a weighted average of a sample of invoices reviewed by the BSA, the rates private attorneys charged averaged $182, with a range of $90 to $325 per hour.

Although the DOJ declines departments' requests for representation, the law does not explicitly allow departments to enter into contracts for personal services solely because there is a lack of civil service staff to perform the work. The California Government Code allows contracting for personal services only if departments meet certain conditions. However, there is a difference in how the law is interpreted. According to the chief assistant for civil law, when the DOJ must decline to represent a department and use of department counsel is not an available option, employment of outside counsel is typically justified as an urgent and temporary need within the meaning of the government code. However, according to the acting executive officer of the personnel board, a staff shortage alone is not a sufficient reason for personal services contracts. The personnel board can invalidate a contract if the department fails to adequately justify it.

The BSA recommends that if the Legislature believes this policy continues to be appropriate, it should then have the DOJ complete a staffing and workload study to determine if the DOJ has sufficient staff to represent departments. **Based on the results of such a study, the Legislature should authorize sufficient staffing and funding so that the DOJ does not decline work because of a lack of staff.**

The Legislature should consider modifying California Government Code Section 19130(b) to permit departments to contract for litigation services when the DOJ declines to represent departments because of insufficient resources. Unless the Legislature modifies California Government Code Section 19130(b) as recommended, the departments should provide appropriate justification to allow the Department of General Services to review contracts for compliance with this section. Further, the Department of General Services and the State Personnel Board should develop criteria for determining whether contracts are adequately under this section.

The State has acted to reduce its reliance on outside counsel. For fiscal year 1997-98, the state budge authorized the DOJ to establish and ultimately fill up to 37 new counsel positions on a reimbursement basis, with the intention to reduce reliance on outside counsel. As of mid-November, 15 of the 37 positions had been filled or advertised based on current workload and availability of funding. (California State Auditor Report #97102, State Legal Contracts: The State Could Reduce Its Reliance on Outside Counsel and Better Manage Contracts, December 1997)

January 5, 1998

GOVERNMENT WASTE UPDATE #46

Legal Contracts for Outside Counsel Poorly Managed

In its most recent report, the BSA released its assessment of outside legal counsel for (4) different areas of government that employs its own civil service counsel: the California Department of Corrections, the Commission on Teacher Credentialing, the Department of Social Services, and the Department of Water Resources. These departments had large dollar amounts in contracts of expenditures for outside counsel during fiscal year 1995-96 compared to other departments. Overall, these departments represent over 1/2 of the $29.6 million spent by Department of Justice client departments on outside counsel.

Despite the fact that all the contracts reviewed included language required by the Public Contract Code, none of the departments documented their use of the suggested management tools. Specifically, Section 10353.5 of the code provides that legal services contracts contain the following language: the legal contractor shall adhere to legal cost and billing guidelines, litigation plans, case phasing of activities, and budgets as designated by the department. However, the provision in the code "as designated by the department" makes it voluntary rather than compulsory for departments to require these items from outside counsel.

The BSA was particularly concerned about the following issues:

1. **Departments accepted outside counsels' invoices itemizing the work done by each attorney per day but did not request invoices organizing each attorney's total hours or expenses by task. (Without such a summary, it is difficult for a department to determine how much effort its outside counsel spent on a particular task or phase of a case.)**

2. **Department staff indicated that the legal contracts are subject to change and need to be flexible because conditions of litigation change, and that legal services are hard to measure. Departments also believe that they can judge the validity of the invoices without budget estimates or litigation plans. They therefore do not have a documented management process to ensure that they have received the legal services**

3. **In the BSA review, they found inconsistent use of contract provisions among departments. Departments cannot hold outside counsel to specific terms if the provisions are not included in their contracts.**

4. **Departments also lack guidance on the use of contract provisions. Legal staffs from different departments periodically consult with one another, but there is not a systematic method to share information about legal services contracts.**

5. **Three of the four departments reviewed did not consistently follow good internal controls to ensure compliance with legal services contract provisions. Specifically, these departments did not always determine that invoices were adequately supported or mathematically accurate before making payments.**

   Because departments do not exercise all their options in managing their legal services contracts, the potential exists for inefficient use of outside attorneys and overpayments to them.

To ensure better and more cost-effective management of legal contracts, the Legislature should amend the Public Contract Code, Section 10353.5, to mandate, rather than make voluntary, that departments require their legal contractors to adhere to legal cost and billing guidelines, litigation plans, case phasing of activities, and budgets.

To guide departments in more closely managing their legal service contracts the DGS should:

- **Include more explicit direction in the State Contracting Manual to help departments implement management tools.**
- **Consider adopting the Uniform Task-Based Management System in the State Contracting Manual.**
- **In cooperation with other departments, develop standard contract provisions for legal services contracts to ensure that departments retain proper control and contain costs.**

To use state funds as economically as possible, departments should ensure those contracts with outside counsel include all the elements necessary to evaluate the services received. Departments should take the following actions:

- **Exercise the options already available under the Public Contract Code to require outside counsel to provide budget estimates and litigation plans.**
- **Until the DGS acts, consider adopting the UTBMS as a process to manage contracts with outside counsel.**
- **Ensure that invoices are adequately supported, mathematically accurate, and consistent with contract terms before paying them.**

(California State Auditor Report #97102, State Legal Contracts: The State Could Reduce Its Reliance on Outside Counsel and Better Manage Contracts, December 1997)

Audits Released by the Bureau of State Audits During the 1997 Year

12-23-97 State Legal Contracts: The State Could Reduce Its Reliance on Outside Counsel and Better Manage Contracts. Report #97102

12-9-97 Department of Health Services: Its Drug Management Techniques are Similar to Those of Health Maintenance Organizations. Report #96038.

11-13-97 University of California: Its Award of Breast Cancer Research Funds Is Equitable; However, Some Procedures Should Be Improved. Report #96042.

11-12-97 California Community Colleges: While the Chancellor's Office Has Improved Its Administration of the Economic Development Program, It Has Failed To Fully Address All State Auditor Recommendations. Report #97500.

11-6-97 Los Angeles County: Departments Can Improve Purchasing and Warehousing Practices. Report #97018.1.

11-5-97 California Community Colleges: The Chancellor's Office Should Collect Additional Funds for Questionable Training Agreements. Report #97501.

11-4-97 California Public Utilities Commission: Its Fees May Not Cover Its Costs of Regulating Transportation Companies. Report #96020.

10-28-97 Los Angeles Unified School District: The District Can Improve Its Handling of Employees Accused of Child Abuse as Well as Its School Financial Accounts. Report #96121.

10-27-97 Cerritos Community College: Improvements Needed in Aspects of Operating the District and Its Auxiliary Organization. Report #96118.

10-16-97 U.S. Border Patrol: Its Policies Cause San Diego County Health Care Providers To Incur Millions of Dollars in Unreimbursed Medical Care. Report #96117.

9-4-97 Department of Health Services: The Genetic Disease Branch's Fee Setting, Billing, and Collection Processes Need Improvement, and Its Regulations Do Not Warrant Emergency Status. Report #97105.

9-3-97 The UCSF and Stanford Health Services: The Proposed Merger Should Make the Partners Fiscally Stronger, Although the Extent of Financial Benefits Is Potentially Overstated. Report #97122.

8-27-97 Department of Rehabilitation: Poor Management Practices Limit the Effectiveness of the Business Enterprise Program for the Blind. Report #96031.

8-21-97 Investigative Report: Conflicts of Interest, Illegal Acceptance of Gifts, Failure To Report Gifts, and Improper Reimbursement of Expenses at the Teale Data Center. Report #I960159.

8-20-97 Prison Industry Authority: Has Failed To Take Significant Corrective Action on Many State Auditor Recommendations. Report #97502.

8-12-97 Investigations of Improper Activities by State Employees: January 1 Through June 30, 1997. Report #I97-2.

8-4-97 Department of Health Services: Some Drug Treatment Authorization Requests Are Not Processed Promptly. Report #97012.

7-31-97 California State Lottery: Information Technology Operations Need Correction and Because of Poor Scratcher Automation Decisions, It Unnecessarily Incurred Millions of Dollars in Contract Dispute Costs. Report #96107.2.

7-24-97 State Contracting: Improvements Are Still Needed To Ensure the Effective Use of Public Resources. Report #96015.

7-15-97 Department of Transportation: Some Internal Audit Recommendations Have Been Implemented, but Inconsistencies Exist in Its Contracting for Expert Witness Services. Report #97106.

7-2-97 Department of Motor Vehicles: Overstated Costs for Registration Information Have Resulted in Inequitable Charges to Customers. Report #96116.

6-26-97 State of California: Internal Control and State and Federal Compliance Audit Report for the Year Ended 6-30, 1996. Report #96002

4-21-97 Habitat Conservation Fund: Some State Agencies Need To Do More To Ensure the Fund Is Used Appropriately. Report #95110

4-17-97 Department of Personnel Administration: Improved Controls Would Reduce Risk in Long-Term Savings Plans. Report #96125

3-31-97 Los Angeles County Metropolitan Transportation Authority: Effects of the Transfer of $50 Million to Los Angeles County. Report #96024

3-27-97 Los Angeles County: Although It Continues To Balance Current Budgets, Financial Uncertainties Linger. Report #97018

3-18-97 Investigations of Improper Activities by State Employees: August 1 Through December 31, 1996. Report #I97-1

3-13-97 Department of Insurance: Management of Its Financial Affairs and Programs Needs Improvement. Report #96033

2-26-97 California Transportation Commission and Department of Transportation: The State's Use of Transportation Funds Generated by the 1989 Transportation Blueprint Legislation. Report #96014

2-25-97 California State University: Evaluation of a Contractor Dispute at the Fullerton Campus. Report #96113

2-19-97 Department of Alcohol and Drug Programs: A Review of the Processes Used To Allocate and Disburse Alcohol and Drug Funds to Counties. Report #96039.1

2-19-97 Department of Alcohol and Drug Programs: A Review of the Actuary's Report on the 1996 Survey of Treatment Providers. Report #96039.2

2-7-97 Tahoe Regional Planning Agency: Addressing Broader Needs of the Lake Tahoe Region and Streamlining Regulatory Processes Will Increase Effectiveness. Report #96119

1-30-97 Office of Emergency Services: Shortcomings in Managing Its Disaster Recovery Efforts Hamper Effectiveness. Report #96032

1-29-97 California Department of Veterans Affairs: The Veterans Home at Yountville Could Decrease Costs, Increase Revenues, and Improve the Quality of Care Provided to Its Residents by Utilizing Accepted Industry and Managed Care Techniques. Report #96035

1-28-97 Department of Health Services: The Number of Drug Treatment Authorization Requests Has Begun To Stabilize. Report #97011

1-16-97 Department of Fair Employment and Housing: Its Complaint Processing Needs More Effective Management. Report #96034

1-3-97 State of California: Statement of Securities Accountability of the State Treasurer's Office, 6-30, 1996. Report #96008

Audit Reports Available from JLAC

Legislative Responses to BSA Work

Chapter 798, Statutes of 1997, (AB 1553, Figueroa). Insurance Fees: Late Fees. This bill would provide that certain uncontested Department of Insurance (DOI) billings for authorized service or assessments that are not paid to the DOI within 35 days of the invoice date shall be subject to a late charge. The bill would provide a procedure for an insurer to contest a billing under which late charges for the portion of the billing would be tolled. The analysis of this bill references the State Auditor's Report entitled "Department of Insurance: Management of Its Financial Affairs and Programs Needs Improvement" March 1997. This report estimated that poor revenue collection practice could lead to significant deficit by year's end based on DOI's projected budget. The report also noted that the DOI was in the process of implementing a new system for contested cases.

Chapter 239, Statutes of 1997, (SB 18, Rosenthal). Insurance: Consumer Services. SB 18 diverts unclaimed Proposition 103 refunds to specific purposes. Specifically, this bill provides that unclaimed refunds will go to:

1. Restore the DOI's consumer services and investigations.

2. Repay a $14 million loan made to the DOI from the General Fund.

3. Provide an additional $14 million to the General Fund.

The BSA audit of the DOI, issued in 3/97, contributed as BSA auditors recommended, among other things, that the Consumer Services Division be restored.

Chapter 309, Statutes of 1997, (SB 156, Johannesen). Wildlife Conservation Board. This bill would prohibit the Wildlife Conservation Board from exceeding the fair market value of property when acquiring property other than by eminent domain. The bill analysis references the April 21, 1997 BSA audit of the Habitat Conservation Fund (HCF), stating that the audit concluded that some state agencies need to do more to ensure the fund is used appropriately. Further, the analysis references an issue raised in the audit report in which the Department of General Services' Office of Real Estate and Design Services agreed to pay a nonprofit organization $1.8 million more than the nonprofit ultimately paid for the land.

Chapter 609, Statutes of 1997, (SB 200, Kelley). Enterprise Zones. SB 200 requires the Trade and Commerce Agency to designate no more than two Manufacturing Enhancement Areas requested by the governing board of cities each of which must meet certain specified criteria. While raising the questions of whether enterprise zones work, the bill analysis references several reports, including the November 1995 California State Auditor report concerning the effectiveness of the employment and economic incentive and enterprise zone programs. The report concluded that available data was insufficient to determine the effectiveness of the zones. In addition, the report concluded that even though some statistics indicate that business and job

growth within zones and program areas was generally faster than their respective counties, the effect of the programs on economic development cannot be isolated from other influences.

Chapter 337, Statutes of 1997 (SB 602, Alpert). California Breast Cancer Research Fund. SB 602 allocates California Breast Cancer Research Funds money upon appropriation by the Legislature to the University of California rather than the Department of Health Services; extends the Fund's sunset by five years; requires annual Fund contributions to be at least $250,000 for the Fund to be listed on tax returns; and, encourages tax preparers to inform taxpayers that they can made voluntary contributions to certain funds on their tax returns. The bill analysis refers to a 1996 report in which the State Auditor reviewed the Breast Cancer Research Program administered at the University of California San Francisco (UCSF) and wrote the UCSF needed to improved its oversight of the program**.**

Chapter 696, Statutes of 1997 (SB 1198, Costa). Market Enforcement Branch Reforms. Existing law continuously appropriates the sum of $100,000 from the Department of Food and Agriculture Fund each fiscal year to the Department of Food and Agriculture for litigation expenses incurred by the Bureau of Market Enforcement in civil actions undertaken by the bureau and charged by the Attorney General. This bill would permit these funds to be used by the bureau for litigation expenses, without regard to whether they are connected with civil actions undertaken by the bureau and charged by the Attorney General. Also, existing law sets forth the procedures and regulations governing licensures, including the grounds upon which licenses may be denied, suspended, or revoked, and the procedures to be followed in those cases. This bill would, among other things, permit the department to obtain access to a licensee's or agent's criminal record during the course of licensing investigation, and would require the Department of Justice to furnish that information upon request.

The bill analysis states that suggestions for reform had come through individuals and industry advisory committees. The analysis notes that in July of 1996, the Bureau of State Audits offered insight into functions of the Market Enforcement Branch. The oversight hearings of the Senate Committees on Agriculture and Water Resources, and Budget and Fiscal Review, culminated in SB 1047 of 1996 (Costa). This was an incremental reform measure that requires additional financial disclosure by licensees and prevents the filing of frivolous or out of date claims.

1997 Legislation Affecting Bureau of State Audits

Legislation Mandating Audits

Audit #97024, Chapter 282, Statutes of 1997 (1997 Budget Act). Item 4300-101-001, Provision 7. Department of Departmental Services Regional Centers.
This provision requires the Bureau of State Audits to conduct an analysis of Developmental Services regional center expenditures, including operations and the purchase of services. The analysis of operation expenditures shall examine the amount of support used for consumer-related case management services, and for all other administrative purposes. The analysis of purchase of services shall include a review of expenditure patterns overall and by service categories, and a comparison between regional centers. The analysis shall recommend how best to schedule and account for regional center expenditures in the Budget Act. The provision does not specify a reimbursement for the Bureau of State Audit's cost of completing the analysis.

Audit # 97025, Chapter 931, Statutes of 1997 (AB 920, Davis). California Forensic Science Laboratory Enhancement Program.
This bill requires the State Auditor to conduct an extensive specified assessment of the needs of the 19 existing forensic science laboratories and submit a report to the Legislature on the needs assessment by January 1, 1999. The BSA estimated that this audit would consume approximately 2,500 audit hours and require the assistance of contracted experts. The budget appropriation of $275,000 to the State Auditor to conduct this needs assessment of the local forensic laboratories was vetoed by Governor Wilson.

Legislation Affecting the Bureau of State Audits

Chapter 282, Statutes of 1997 (1997 Budget Act). Item 41300-001-0632, Provision 12. Health and Welfare Agency Data Center (HWDC).
This provision requires the HWDC to provide its response to the recommendations made in the Bureau of State Audit's audit report on the Statewide Automated Child Support System (SACSS) project to the fiscal committees in each house and chairperson on the Joint Legislative Budget Committee. The provision requires the HWDC to submit the response within 30 days of the release of the BSA's audit report. The response must include the HWDC's plan for implementing those recommendations or taking other actions that will improve the performance of services under the HWDC contract with the SACSS contractor and HWDC's management of the contract.

Chapter 282, Statutes of 1997 (1997 Budget Act). Item 4130-001-0632, Provision 13 Health and Welfare Agency Data Center (HWDC).
This provision states that the full amount of funds necessary to complete the SACSS project shall be made available after a determination by the Department of Finance that all SACSS contract conditions and performance criteria have been achieved; the finding of the audit completed by the Bureau of State Audits have bee successfully addressed; and the concerns of the Legislature and the Governor have been met.

Chapter 299, Statutes of 1997 (Education Trailer Bill to the 1997 Budget Act, Migden). AB 1578 Economic Development Program.
Among other things, the bill requires the Legislative Analyst, in conjunction with the Bureau of State Audits, to conduct a review of the effectiveness of the Economic Development Program as part of the Legislative Analyst's analysis of the Budget Bill to be issued in February 1999.

Chapter 690, Statutes of 1997 (SB 408, Maddy). State Auditor Technical Clean-up Bill.
This bill would revise existing law to prohibit the release of papers, correspondence, memoranda, or any information pertaining to any audit not completed, delete references to any investigation in these provisions, and delete the requirement that the State Auditor determine that disclosure will impede the audit. Existing law requires the Auditor General to conduct certain audits and prepare certain reports according to specific timelines. This bill would assign these responsibilities to the State Auditor and provide specific dates after which these audit and reporting requirements would end. Specifically, this bill does the following:

- Amends Section 84752 of the Education Code which mandates an audit of the Community Colleges Districts. This amendment simply provides the State Auditor with discretion to determine which districts are audited rather than auditing all 71 districts.

- Deletes Section 8544.1 of the Government Code which is no longer relevant.

- Amends Section 854(b) of the Government Code to clearly state that the State Auditor may not publicly release any information in any form prior to public release of the audit report. The amendment simply codifies a long-standing policy of the State Auditor and the Auditor General.

- Amends Section 854(b) and (c) to delete any references to investigations. Investigations by the BSA are governed by Government Code 8547 et seq. References to investigations in Section 8545 are inappropriate and should be deleted.

- Amends various code sections to provide sunset dates for specified audits mandated by current law. These audits include Transportation Blueprint Funding (Prop.111), Drug TARS, Business Enterprise Program for the Blind, and Consultant Contracts

Chapter 926, Statutes of 1997 (SB 936, Burton). Child Supporting Enforcement. This bill would provide for a child support state incentive payment program applicable to counties meeting specified data reporting requirements. The bill instructs the Legislative Analyst, in consultation and collaboration with interested groups, including the Bureau of State Audits, to prepare a performance-based incentive program for the 1998-99 fiscal year. For subsequent fiscal years, the incentive programs should mirror the federal incentive plan. The Legislative Analyst is required to submit the report to the Legislature by March 1, 1998.

Budget Augmentation Requests Affecting JLAC And The Bureau Of State Audits

On May 19, 1997, the JLAC submitted a budget augmentation proposal for the Bureau of State Audits budget for the 1997/98 fiscal year to the Honorable Rod Wright, Chair, Budget Subcommittee No. 4.

The proposal requested a budget augmentation of $1.1 million which would fund one audit unit of approximately 18 staff and provide approximately 25,000 additional hours annually for allocation by the Legislature.

While the budget augmentation request was included in the Assembly budget it did not make it out of the Budget Conference Committee.

On June 18, 1997, the JLAC submitted a budget augmentation proposal for the Bureau of State Audits budget for the 1997/98 fiscal year to the Honorable Denise Ducheny and the Honorable Mike Thompson, Co-Chairs, Budget Conference Committee.

The proposal requested a budget augmentation of $1,570,000 which would fund seventeen (17) currently unfunded mandates. This proposal died in Budget Conference Committee.

May 19, 1997 Letter JLAC to Assembly Budget Subcommittee #4

June 18, 1997 Letter JLAC to Budget Conference Committee

June 18, 1997

Assemblymember Denise Ducheny
Senator Mike Thompson
Co-Chairs, Budget Conference Committee
State Capitol, Room 6026
Sacramento, CA 95814

Dear Ms. Ducheny and Mr. Thompson:

This is to inform you that today at its hearing, the Joint Legislative Audit Committee (JLAC) adopted without dissent, a motion (moved by JLAC Vice-Chair, Senator Maddy and seconded by Assemblymember Leach) to submit as a JLAC request the augmentation of the Bureau of State Audits' (BSA) budget in the amount of $1,570,000 to fund currently unfunded audit mandates.

Joint Rule 37.4 states that any bill requiring action by the BSA, shall contain an appropriation for its cost. I have attached a copy of a list of all currently unfunded audit mandates with their estimated cost. The seventeen (17) unfunded mandates that are currently in effect have a combined estimated cost of $1,570,000. It is the desire of the JLAC that audit mandates be properly funded as required under Joint Rule 37.4.

Thank you for your attention to this matter. If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,

SCOTT WILDMAN
Chair, Joint Legislative Audit Committee

cc: Senator Ken Maddy, Vice-Chair, Joint Legislative Audit Committee
Kurt Sjoberg, State Auditor

Attachment

JLAC MEMBER BIOGRAPHIES

Scott Wildman, Chair JLAC
43rd Assembly District

Scott Wildman was elected to the State Assembly in 1996 from the 43rd District, representing Burbank, Glendale and the Los Feliz area of Los Angeles.

He is a former teacher and small business owner who ran for the Assembly as an advocate for quality education, economic development, and the needs of working people and their families.

Scott has spent his career with his "sleeves rolled up," working his way through college as a printer and later opening his own small business. After the printing company he built suffered irreparable earthquake damage, Scott returned to his first love -- teaching.

As a teacher, Scott specialized in helping at-risk children succeed by developing curricula, introducing new classroom technologies, and training teachers. For the past several years, Scott has represented public school teachers as a staff member of the United Teachers of Los Angeles. He remains a tireless advocate for smaller class size, stronger educational standards, and increased parental involvement.

Scott, age 45, grew up in Claremont, California. His father was an electrical engineer in the defense industry, and his mother worked in the home, raising Scott, his sister, and two brothers. As a teenager, Scott moved with his family to Colorado. He earned his degree at the University of Colorado, and his teacher certification at California State University, Hayward.

Scott and his wife Arlene, an attorney, have been married for over 20 years and have raised five children: Gia, her physician husband, and their three children live and work in the San Francisco area; William and his wife, Julie, have three children and operate their own business; Andres is a Harvard graduate and is attending Stanford Law School; Lucia is a junior at U.C. Berkeley and an accomplished dancer; and Pablo is a freshman at the Tisch School of the Arts at New York University.

Scott has a long history of community activity and commitment to the children. He has been a Little League coach, a parent representative on numerous school site committees, a martial arts instructor, and a volunteer tutor.

Susan Davis
76th Assembly District

Susan A. Davis was reelected on November 5, 1996 to represent the 76th Assembly District, which includes the north central portion of the City of San Diego.

As a first-year legislator, Davis had the highest percentage of legislation passed and signed into law of any freshman and third best success ratio in the entire Assembly. Among her major legislative accomplishments, Davis authored legislation to improve evaluation standards for public school teachers, making it easier to dismiss teachers who no longer perform satisfactorily in the classroom. The California School Boards Association named her "1995 Assembly member of the Year." She was also recognized as a "Woman of Achievement" by the Soroptimists International of San Diego as "Legislator of the Year" by the San Diego Chapter of the National Women's Political Caucus.

For three years prior to her election to the Assembly, Davis was Executive Director of the Aaron Price Fellows Program, which involves community leaders and business professionals in giving high school students a head start toward becoming student leaders and responsible citizens. Davis has been the President of the League of Women Voters of San Diego and was the first former League President to serve in the Legislature. For championing the causes of school-based health facilities of students, Davis was awarded the Susan B. Anthony and Alice Paul awards.

Tony Cardenas
39th Assembly District

Tony Cardenas was elected to the California State Assembly on November 5, 1996.

Tony graduated with an Electronic Engineering Degree from the University of California at Santa Barbara, where he was on the Dean's Honor List. After graduating, he worked at Hewlett Packard as an Engineering Specialist. Today, he is the successful owner and President of Our Community Real Estate Company.

He believes strong role models make for strong students and brighter futures, so for the past ten years, he has been lecturing Los Angeles Unified School District students on the theme of community and personal responsibility. He is a participant in the L.A. Youth at Work Program, providing enterprising students with employment opportunities.

Tony Cardenas is a graduate of the Valley Leadership Institute; he has served as Mayor Richard Riordan's appointee to the City of Los Angeles Business Advisory Committee, and is a Commissioner to the El Pueblo de Los Angeles Historical Monument.

Dick Floyd
55th Assembly District

Dick Floyd was born into a military family and moved to California when he was a youngster. He grew up in Lawndale and attended Leuzinger High School.

Dick joined the Army and saw action in Korea, where he was wounded.

He was Chief of Staff to State Senator Ralph Dills before being initially elected to the State Assembly in 1980 when the Veterans of Foreign Wars chose him Freshman Legislator of the Year and Legislator of the Year. He was also called "..the class of the class" the first term.

He is the leading fighter in the Assembly for more jobs, greater job security, and a healthier work environment for California's working men and women.

When former Governor Deukmejian abolished Cal-OSHA, the best workers' safety program in America, by removing the money necessary to run the program, Floyd was a leader in the fight to restore the funds. And, he continued the fight by taking a lead role in the campaign to keep the program by placing Cal-OSHA on the ballot, where the voters approved it.

He convened a legislative hearing at the Carson City Hall in 1988 to explore the dangers of hydrofluoric acid at area plants.

Floyd was chairman of the Assembly Governmental Organization Committee, the Assembly Select Committee on Veterans Affairs, and the Assembly Committee on Labor and Employment.

In 1992, he submitted to the Attorney General the statewide Don't Tax Food Initiative to repeal the unfair, unpopular tax snack foods, bottled water and candy. That became Proposition 163, which passed with 66% of the vote in November 1992.

Steven T. Kuykendall
54th Assembly District

Steven T. Kuykendall was elected to represent the 54th Assembly District on November 8, 1994. Recognized for his leadership abilities, Assemblyman Kuykendall was selected to be Republican Whip his first year in office.

Re-elected in 1996, Kuykendall now serves as the Vice-Chair of the Assembly Labor and Employment Committee and is a member of the Utilities and Commerce, Local Government, Banking and Finance, Higher Education, and Natural Resources Committees.

Born in McAlester, Oklahoma, on January 27, 1947, Kuykendall was commissioned a Marine Corps Second Lieutenant in 1968. He is a veteran of the Vietnam War, serving two tours of duty and participating in the effort to stop the North Vietnamese Easter Offensive. He rose to the rank of Captain, retiring in 1973 after suffering a permanent shoulder disability. He currently serves as the Commandant of the Legislative Marine Brigade.

Kuykendall settled on the Palos Verdes Peninsula in 1976, where he lives with his wife Janice, and one of his three children. His daughter Kerry is a Naval Aviator in the U.S. Navy, assigned to an F-14 squadron at Oceana Naval Air Station in Virginia Beach, Virgina; Brent is a sophomore at Northern Arizona University; and Craig is a freshman at Palos Verdes Peninsula High School.

Kuykendall's extensive involvement in civic affairs led to his election to the Rancho Palos Verdes City Council—serving as councilmember-at-large, and Mayor during his tenure. He served on the city's Budget, Law Enforcement and Emergency Preparedness Committees. He worked to preserve the Palos Verdes Unified School District and secure needed school funding from private resources. He was chair of the Regional Law Enforcement Committee which oversaw public safety in the community and administered the Los Angeles County Scheriff's contract services for the peninsula. He served as Vice Chair of the Los Angeles County Emergency Preparedness Commission and as Vice Chair of the Palos Verdes Transit Authority.

Kuykendall is a California licensed real estate broker, became a principal in David Buxton Financial Corporation in 1984, specializing in commercial and residential financing. Before joining David Buxton Financial, he founded and served as President of the Lockheed Mortgage Corporation, a subsidiary of Lockheed Corporation.

Kuykendall earned his B.S. degree in Economics from Oklahoma City University in 1968. He earned his MBA at San Diego State University in 1974.

Lynne C. Leach
15th Assembly District

In November 1996, Lynne C. Leach was elected to the State Assembly to represent the combined Alameda/Contra Costa Counties apportioned 15th Assembly District. Mrs. Leach recently was appointed Chair of the Assembly Republican Caucus. She is the only Republican Member from Northern California and the only woman to be part of the new leadership team. Lynne is a member of the new TEAM California, a bi-partisan effort to lobby Washington to ensure California's interests are promoted and protected.

For thirty-three years, Lynne has been in sales. In 1978, she started her own business, Applied Business Communications, Inc., which specializes in sales, customer service and communication training. Since 1988, Mrs. Leach has produced and hosted regular cable television shows: Make It Your Business, At Issue and Behind the Headlines. Her fourth cable show, Focus 15 began in February of 1997.

A member of the Walnut Creek Chamber of Commerce since 1967, she served as its president from 1985-1986. She is also a member of the Walnut Creek Professional and Business Women's Club and served as its president from 1982-1983. Other civic activities have included the Contra Costa Sheriff's Posse, and service on advisory boards for the Boy Scouts, YMCA, Diablo Valley College and the Lamorinda National Bank. She has worked as a volunteer of the Walnut Creek Presbyterian Church.

Elected to the Contra Costa County Republican Central Committee in 1988, Lynne served as its Chair from 1991-1995. During her tenure, she introduced the successful BOOT CAMP (an annual candidate training program) and the R.E.V.O.L.T. Committee (Republicans Educating Voters on Lower Taxes).

One of the Assemblywoman's top priorities in Sacramento is to encourage California's economy by making it a more business friendly state. Her other major concerns are returning California schools to their premier status, encouraging families by lowering their tax burdens, and addressing the transportation challenges of the 15th Assembly District.

Raised in a blue collar family, Leach is a Chicago native. Her father was a sheetmetal worker and union member. Her mother was a full time homemaker. Mrs. Leach worked her way through college and, in 1963, graduated from Roosevelt University with a degree in Psychology. In 1964, she and her husband, Bob, moved to Berkeley and then to Walnut Creek in 1967. They still call Walnut Creek home and their two grown children, Carol and Brian, were raised there.

Lynne commutes daily to Sacramento and enjoys being able to spend as much time as possible in the district she is honored to represent.

Tom Torlakson
11th Assembly District

Assemblyman Torlakson's career in public service in 1980 when he was first elected to the Contra Costa County Board of Supervisors. He achieved a 99.9% attendance record at Board meetings over the last 15 years. In 1980, he served as Antioch City Councilman and Mayor ProTem.

Tom Torlakson has been a leader in pushing for a positive business climate, as he believes that jobs are a top priority to support our families. He initiated the Contra Costa Economic Summit and countywide Strategy on Economic Vitality. He also initiated the voter-approval Contra Costa County General Plan, which resulted in a balanced plan for economic growth, housing, environmental safeguards and agricultural lands protection. He led in the development and completion of the Byron Airport and surrounding light industrial and business parks.

Tom Torlakson has also worked hard to meet local transportation needs. He led efforts to lower the Willow Pass Grade, widen Highway 4 and bring BART to East County. He was one of the main authors of Measure C, which guaranteed $80 million for East County and $45 million for West County for improvements to State Route 4. Tom led in the completion of numerous major road improvements and signalizations throughout the county (over $69 million constructed to date with a total of over $300 million guaranteed in the future).

Kenneth Maddy, Vice Chair, JLAC
14th Senate District

Kenneth L. Maddy serves as the State Senator from the 14th Senate district which encompasses the rich agricultural counties of Fresno, Tulare and Kern. Maddy served as a State Assemblyman from the San Joaquin Valley from 1970 through 1978. He first won his Senate seat in a special election in 1979, and has been re-elected four times to that seat.

Senator Maddy is a senior Republican member of the State Senate and served as its Republican leader for eight years, longer than any in recent history. Under his tenure, the ranks of Senate Republicans grew to its largest number since 1980. As leader the Senator also distinguished himself on major issues. Most notable were his roles in formulating a strong code of ethics for state legislators and his support for the Transportation Improvement Initiative to update our state's transportation's system. His leadership and commitment in resolving California's annual budget crisis has brought plaudits, not only from Republicans and Democrats alike, but noted columnists and editorial writers as well. He has also been recognized on the national level, receiving the 1992 Lee Atwater Memorial Minority Leader of the Year Award from the National Republican Legislators Association.

Presently, Senator Maddy serves on the following Senate Standing Committees: Chairman of Finance, Investment and International Trade; Vice Chairman of Governmental Organization; Budget and Fiscal Review; Health and Human Services; and Legislative Ethics. He serves as Chairman of the Joint Fairs Allocation and Classification Committee, and Vice Chairman of the Joint Audit Committee.

A native Californian, Maddy attended Los Angeles and Inglewood schools and graduated from California State University, Fresno with a Bachelor of Science Degree in Agriculture. After service in the United States Air Force as an Air Force Police Officer, he graduated from the University of California at Los Angeles School of Law with a Juris Doctorate Degree.

An attorney by profession, Maddy is one of the few San Joaquin Valley attorneys to have successfully argued a case before the U.S. Supreme Court. While in the state Assembly, Maddy served as Chairman of the Assembly Criminal Justice Committee and the Welfare Committee.

Maddy has long been in the forefront on legislative battles concerning farm labor, water, land use and other agricultural issues. He is a particularly strong advocate of private property rights and continues to fight to reduce the scope of governmental regulation on agriculture, business and industry. He has long served on the Senate Health Committee and has been considered a major voice for all health issues.

Senator Maddy is a member of the Rotary Club of Fresno and the CSU Fresno Bulldog Foundation and President's Club. He was a member of Sigma Nu Fraternity and Blue Key Honor

Society while at CSUF, and Phi Delta Phi Legal Fraternity at UCLA. His hobbies are golf, tennis and horses.

Ruben Ayala
32nd Senate District

Senator Ayala was last elected to the Senate in 1994. Under the current term limits regulations he will be ineligible for reelection in 1998.

Native of Chino. Elected January 1974.

Chino School Board Member, City Councilman, Chino's first elected Mayor. San Bernardino County Supervisor, chairman two terms.

Recipient of 1993 Award of Merit by Association of California Water Agencies. Named Legislator of the Year by Association of California Water Agencies, American Public Works Association, the California State VFW and the League of Calfornia Cities. Amvets Award Recipient (1990).

Chino's newest high school is named after the Senator. City of Rialto dedicated Ayala Drive, City of Chino and San Bernardino County both have dedicated Ayala Parks in his honor. Honored by the Metropolitan Water District and other organizations for authoring SB 200 (Peripheral Canal legislation).

Attended Chino public schools, Pomona Jr. College, UCLA Extension, graduated from National Electronics Institute.

WWII Marine Corps veteran.

Wife, Irene. Sons: Buddy, Maurice, Gary. Granddaughters: Danielle, Sarah and Amy.

Ray Haynes
36th Senate District

Ray Haynes was elected to Senate in 1994. Elected to Assembly 1992.

Senator Haynes is a lawyer by profession and holds a Bachelor of Arts from California Lutheran College, 1976; J.D., University of Southern California, 1980. Masters in Public Administration form Eastern Kentucky University, 1981.

Ray Haynes is a member of the Board of Directors; Riverside County American Red Cross; Riverside County Lincoln Club, and former member, Moreno Valley Planning Commission

Quentin L. Kopp
8th Senate District

Senator Kopp was elected in the California State Senate on November 4, 1986, as the first non-incumbent Independent since 1878. He was re-elected to a third term in 1994 and is the first Independent to be re-elected as an Independent to the legislature in the history of California.

Senator Kopp is a practicing trial lawyer and senior partner in the firm of Kopp and DiFranco. He is also a weekly commentator on KTVU-TV in Oakland. He was born in Syracuse, New York and served as a lieutenant in the United States Air Force from 1952 until 1954. He was educated at Dartmouth College and Harvard Law School.

Steve Peace
40th Senate District

Senator Steve Peace was born and raised in San Diego. Both of his parents were teachers. Steve served as Student Body President at Bonita Vista High School, where he also played football and basketball. He graduated from the University of California at San Diego with a degree in political science. Steve and Cheryl married in 1974 and reside in El Cajon with their three children, Clint (17), Bret (14), and Chad (13).

Mr. Peace is the Chief Financial Officer of Four Square Productions, a motion picture production company he co founded in National City in 1972 which is San Diego's largest producer of commercial and corporate films, videotapes, and multi-media presentations. The company, though, is best known for its four Killer Tomato feature films and the Saturday morning Fox Children's Network cartoon Attack of the Killer Tomatoes co-produced by Peace and Four Square President John DeBello.

Elected to represent the 40th Senate District in December of 1993 after serving in the State Assembly since 1982, Senator Peace's 40th District includes the South Bay, portions of San Diego, and the communities of Lemon Grove, La Mesa, Spring Valley and El Cajon.

Senator Peace has developed a reputation as the person the Legislature turns to on particularly difficult and complex issues. He is credited with presiding over a forum which is bipartisan, exhaustive and open to a full airing of views.

In 1993, as the Chair of the Assembly Finance, Insurance and Public Investment Committee, he successfully designed a bipartisan workers' compensation reform package which exceeded all expectations by slashing employer costs by almost $4 billion per year while simultaneously increasing benefits to genuinely injured workers.

In 1994, Senator Peace authored a series of criminal justice reform measures signed by Governor Wilson which significantly increased penalties for violent criminals, including the so-called one strike and you're out bill aimed at violent sex offenders.

In 1996, as the Chair of the Senate Committee on Energy, Utilities and Communications, he guided the legislature through a successful negotiation of complex legislation restructuring the electric industry and reforming the Public Utilities Commission which the San Jose Mercury described as ... legislative work at its best.

Less publicized, but equally important, was his leading role behind the scenes in education budget negotiations producing landmark reductions in class size for primary grade school children and blocking college tuition and fee increases for CSU and UC campuses. Both are causes he has fought for throughout his career.

Early in his career, the native San Diegan signaled both his independence and his willingness to take on tough fights, when in 1988, then-Assemblyman Peace joined four Democratic colleagues in an effort to reform the California Legislature itself. Taking on powerful leaders from both parties, the year-long battle led to many significant changes including subjecting legislative committees to the provisions of the Open Meetings Act.

His commitment to political reform was underscored again last Spring when he was one of only a handful of incumbent politicians to support the Open Primary Initiative passed overwhelmingly by California voters in March of 1996.

Senator Peace's activities in the community have included work as a Homeowner's Association President, Co Chair of Citizens for Clean Water, Pony and Little League Coach, and membership in the local Chamber of Commerce. Steve also successfully led an effort to block increases in local cable television rates in his community.

Adam B. Schiff
21st Senate District

First elected to the State Senate in 1996 and the youngest member of the Upper House, Adam Schiff is Chair of the Senate's Public Employment and Retirement Committee, Chair of the Subcommittee on Juvenile Justice, and Chair of the Joint Committee on the Arts. Adam also sits on the Senate Budget Committee and its Subcommittee on Education, as well as the Public Safety Committee and the insurance Committee.

Prior to his election to the Senate, Adam Schiff served as a criminal prosecutor with the U.S. Attorney's Office for six years. He had a 100 percent conviction record on cases ranging from arson, political corruption and drug trafficking, to illegal immigrant smuggling and toxic dumping.

Adam, a resident of Burbank, has been involved in a wide range of community activities. A member of the Burbank and Glendale Chambers of Commerce, he has been a columnist for the

“Burbank Leader” and Mock Trial Coach at Burbank High School. He has also been a Big Brother since 1986.

John Vasconcellos
13th Senate District

--Serving his 1st term in the California State Senate after representing the heart of Santa Clara County/Silicon Valley (13th District), the economic engine of California's prosperity, in the California State Assembly;

--called 'pragmatic idealist', 'conscience of the Legislature', liberated legislator', & 'Johnny Appleseed of Self Esteem';

--chairs the Criminal Procedures Committee;

--chaired the Assembly Budget and Ways & Means Commitee for 15 years;

--founder, California Task Force to Promote Self Esteem and Personal and Social Responsibility;

--chaired the Assembly Democratic Economic Prosperity Team (ADEPT), designing California's economic recovery;

--author of the Strategic Action Agenda--TOWARD A CALIFORNIA/JAPAN PARTNERSHIP, and the TOUGH & SMART PUBLIC SAFETY PROGRAM;

--believes society's primary commitment must be to encourage the development of healthy, self-realizing, responsible human beings;

--sees California as the human frontier, the seedbed of our revolutions in hi-tech, gender, race & self esteem;

--is committed to keeping California first: a safe, competitive and decent state;

--is dedicated to developing a new human politics based on the belief that we human beings are innately inclined toward becoming constructive, life-affirming, responsible, trustworthy;

--author of "A Liberating Vision: Politics for Growing Humans";

--invites you personally to join him as a partner in moving all Californians -

TOWARD A STATE OF ESTEEM,

TOWARD A MULTICULTURAL DEMOCRACY,

ALTOGETHER -

TOWARD AN ADEPT CALIFORNIA

TOWARD A HEALTHIER STATE!

Appendix A

Joint Legislative Audit Committee
Authority, Rules and Procedures Adopted March 5, 1994

Authority

1. The Joint Legislative Audit Committee is created pursuant to Government Code Section 10501. The Committee shall consist of seven members of the Senate and seven members of the Assembly selected in the manner provided for in the Joint Rules of the Senate and Assembly. (G.C. 10502)

2. The Chair of the fiscal committee for the Senate and the Chair of the fiscal committee of the Assembly shall be members of the Joint Legislative Audit Committee. (Joint Rules of the Senate and Assembly, 37.3)

3. Four members from each house constitute a quorum and the number of votes necessary to take action on any matter. (Joint Rules of the Senate and Assembly, 37.3)

4. The Committee is authorized to make rules governing its own proceedings, (G.C. 10503) and shall elect its own chair. (G.C. 10502)

5. The State Auditor shall conduct any audit of a state or local governmental agency that is requested by the Committee to the extent that funding is available and in accordance with the priority established by the Committee. (G.C. 8546.1)

6. Any member of the Legislature may submit requests for audits to the Committee for its consideration and approval. Any audit request approved by the Committee shall be forwarded to the State Auditor as a Committee request. (G.C. 8546.1)

Rules and Procedures

7. Upon receipt of an audit request from a member of the Legislature, the Chair shall transmit the request to the State Auditor for the purpose of determining the feasibility, scope and cost of performing the proposed audit.

8. The State Auditor will prepare an analysis of the audit request, including the feasibility, scope and cost of the audit, and transmit the analysis to the Committee Members.

9. No action shall be taken on an audit request until such time as the Committee has reviewed the request and the State Auditor's analysis in an open meeting of the Committee. The Legislator requesting the audit, or his/her authorized representative, will be invited to appear at the hearing to submit reasons for approving his/her request.

10. The Committee shall consider each request and either: 1) approve it, 2) deny it, or 3) place it on hold for future consideration. The Chair shall notify each requester of the Committee's decision after the open meeting.

11. For all approved audits, the Committee shall set priorities for the State Auditor considering the extent that funding is available.

12. To assist the Committee in ranking and prioritizing approved audits, the State Auditor shall periodically provide a schedule of available funding for request audits throughout the fiscal year.

13. An audit request placed on hold by the committee and not acted upon before the end of the regular two-year session of the Legislature shall automatically be deemed denied. The Chair shall contact each requester whose audit request has been thus denied and notify them that the audit request can be resubmitted to the Committee during the next regular session.

14. Notwithstanding Rule 9, an audit request of an urgent nature received during interim or recess may be approved with the concurrence of the Chair and Vice Chair, provided that the audit's cost shall not exceed $50,000 and that the audit shall not commence until five working days after the Committee members have been notified in writing of the audit's approval.

    a. Audit requests in excess of $50,000 received during interim require approval through an open meeting of the Committee as described in Rule 9.

    b. If any Committee member objects to an audit request approved pursuant to Rule 14 within the five working days, the audit shall be placed on hold until the next regular open meeting of the Committee.

15. The State Auditor shall conduct all audits pursuant to Government Code Section 8546 and release the completed audit report to the Governor, Legislature, members of the Joint Legislative Audit Committee, other Legislative Committees and the requester.

16. Any Committee member may request a public hearing to discuss the State Auditor's completed report. Upon receiving such a request, the Chair shall schedule a public hearing at a reasonable time and location and inform each Committee member. The official whose office is the subject of the audit, the requester, the State Auditor or any other person may be summoned by the Chair to appear at the hearing and provide testimony.

17. The Chair may appoint subcommittees and hold hearings as a full committee or subcommittee concerning state financial and program issues and conduct business at any place within the state, during the sessions of the Legislature or any recess thereof, and in the interim period between sessions.

18. The Committee, subcommittees, Committee members and their staff may review State Auditor reports and take action thereon, ascertain facts and perform other special studies as directed by the Chair.

19. The Committee may sponsor whatever legislation it deems appropriate to carry out its mission and testify during Legislative deliberations on these measures.

20. The Committee may track legislation affecting the funding or workload of the State Auditor or Joint Legislative Audit Committee and testify as needed. The Committee may also participate in budget and fiscal hearings regarding the State Auditor's budget and funding.

21. Pursuant to Joint Rules 37.4 and 37.5, the Committee shall review all bills or resolutions assigning a study to the Committee or State Auditor and request an appropriation to fund the audit or waive this requirement as appropriate.

Appendix B

Government Code Sections Relating to the Joint Legislative Audit Committee

10500. It is the desire of the Legislature to create the Office of the Auditor General, whose primary duties shall be to perform performance audits as may be requested by the Legislature. The authority of the office under the direction of the Joint Legislative Audit Committee is confined to examining and reporting and is in no way to interfere with adequate internal audit to be conducted by the executive branch of the government or the state audit or other audits required by statute to be performed by the State Auditor. The Legislature also finds that a significant portion of the state budget consists of subventions to local governments and, therefore, oversight capability necessary to determine funding priorities and to evaluate the efficiency and necessity of state-supported local programs and state programs administered by local governments.

10501. The Joint Legislative Audit Committee is hereby created. The committee shall determine the policies of the Auditor General, ascertain facts, review reports and take action thereon, and make reports and recommendations to the Legislature and to the houses thereof concerning the state audit, the revenues and expenditures of the State, its departments, subdivisions, and agencies whether created by the Constitution or otherwise, and such other matters as may be provided for in the Joint Rules of the Senate and Assembly. The committee has a continuing existence and may meet, act, and conduct its business at any place within this State, during the sessions of the Legislature or any recess thereof, and in the interim period between sessions.

10502. The committee shall consist of seven Members of the Senate and seven Members of the Assembly who shall be selected in the manner provided for in the Joint Rules of the Senate and Assembly. The committee shall elect its own chairman. Vacancies occurring in the membership of the committee between general sessions of the Legislature shall be filled in the manner provided for in the Joint Rules of the Senate and Assembly. A vacancy shall be deemed to exist as to any member of the committee whose term is expiring whenever such member is not reelected at the general election

10503. The committee is authorized to make rules governing its own proceedings and to create subcommittees from its membership and assign to such subcommittees any study, inquiry, investigation, or hearing which the committee itself has authority to undertake or hold. The provisions of Rule 36 of the Joint Rules of the Senate and Assembly relating to investigating committees shall apply to the committee and it shall have such powers, duties and responsibilities as the Joint Rules of the Senate and Assembly shall from time to time prescribe, and all the powers conferred upon committees by Section 11, Article IV, of the Constitution.

10504. After recommendation by the committee, the Auditor General shall be selected by concurrent resolution and shall serve until his or her successor is selected or until his or

her removal by concurrent resolution. When the Legislature is not in session, the committee may suspend the Auditor General until the Legislatures reconvenes. When there is a vacancy in the office of Auditor General, the Chairman of the Joint Legislature Audit Committee shall select an acting Auditor General until an Auditor General is selected by the Legislature. The committee shall fix the salary of the Auditor General, deputies, and staff. The funds for the support of the committee shall be provided from the Contingent Funds of the Assembly and Senate in the same manner that those funds are made available to other joint committees of the Legislature.

10520. The Auditor General shall only conduct audits and investigative audits approved by the Joint Legislative Audit Committee. Any provision of law directing the Auditor General to conduct an audit or investigative audit shall be deemed a request to the Joint Legislative Audit Committee to direct the Auditor General to undertake that audit or investigative audit. Once an audit or investigative audit is approved, the Auditor General shall complete the audit or investigative audit in a timely manner and in accordance with the "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions" issued by the Comptroller General of the United States. Immediately upon completion of an audit, the Auditor General shall transmit a copy of the audit report to each member of the Joint Legislative Audit Committee.

10521. The Auditor General, prior to his or her selection, shall possess a combination of education and experience which in the opinion of the Legislature is necessary to perform the duties of his or her office.

10522. The Auditor General shall be paid the salary fixed by the Joint Legislative Audit Committee and shall be repaid all actual expenses incurred or paid by him or her in the discharge of his or her duties.

10523. The Auditor General may employ and fix the compensation, in accordance with Section (4) of Article VII of the Constitution, of such professional assistants and clerical and other employees as he or she deems necessary for the effective conduct of the work under his or her charge. The Auditor General and his or her employees are legislative employees for purposes of Sections 20364, 11032, 11033, 11041, and 18990, and for purposes of the "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions" issued by the Comptroller General of the United States.

10524. The permanent office of the Auditor General shall be in Sacramento, where he or she shall be provided with suitable and sufficient offices. When in his or her judgment the conduct of his or her work requires, he or she may maintain offices at other places in the state.

10525. The Auditor General shall not destroy any papers or memoranda used to support a completed audit sooner than three years after the audit report is released to the public. All books, papers, records, and correspondence of the Auditor General's office pertaining to its work are legislative records subject to Article 3.5 (commencing with Section 9070) of

Chapter 1.5 of Part 1 and shall be filed at any of the regularly maintained offices of the Auditor General, except that none of the following items shall be released to the public by the Auditor General or his or her employees:

(a) Personal papers and correspondence of any person receiving assistance from the Auditor General when that person has requested in writing that his or her papers and correspondence be kept private and confidential. Those papers and correspondence shall become legislative records upon the order of the Auditor General or the Legislature or if the written request is withdrawn.

(b) Papers, correspondence, or memoranda pertaining to any audit or investigation not completed, when in the judgment of the Auditor General, disclosure of those papers, correspondence, or memoranda will impede the audit or investigation.

(c) Papers, correspondence, or memoranda pertaining to any audit or investigation which has been completed, which papers, correspondence, or memoranda are not used in support of any report resulting from the audit or investigation. The amendment of this section made at the 1981-82 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.

10526. It is a misdemeanor for the Auditor General or any employee or former employee of the office to divulge or make known in any manner not expressly permitted by law to any person not employed by the Office of the Auditor General, any particulars of any record, document, or information the disclosure of which is restricted by law from release to the public. This prohibition is also applicable to any person or business entity which is contracting with or has contracted with the Auditor General and to the employees and former employees of that person or business entity or the employees of any state agency or public entity which has assisted the Auditor General in the course of any audit or investigative audit or which has been furnished a draft copy of any report for comment or review.

10527. (a) Notwithstanding any other provision of law, the Auditor General during regular business hours shall have access to, and authority to examine and reproduce, any and all books, accounts, reports, vouchers, correspondence files, and other records, bank accounts, and money or other property, of any agency of the state, whether created by the Constitution or otherwise, and any public entity, including any city, county, and special district which receives state funds, and it shall be the duty of any officer or employee of any agency or entity, having those records or property in his or her possession or under his or her control, to permit access to, and examination and reproduction thereof, upon the request of the Auditor General or his or her authorized representative.

(b) For the purposes of access to and examination and reproduction of the records and property described in subdivision (a), an authorized representative of the Auditor General is an employee or officer of the agency or public entity involved and is subject to any limitations on release of the information as may apply to an employee or officer of the

agency or public entity. For the purpose of conducting any audit or investigation, the Auditor General or his or her authorized representative shall have access to the records and property of any public or private entity or person subject to review or regulation by the agency or public entity being audited or investigated to the same extent that employees or officers of that agency or public entity have access. No provision of law providing for confidentiality of any records or property shall prevent disclosure pursuant to subdivision (a), unless the provision specifically refers to and precludes access and examination and reproduction pursuant to subdivision (a). This subdivision does not apply to records compiled pursuant to Chapter 1 (commencing with Section 10200). (c) Any officer or person who fails or refuses to permit access and examination and reproduction, as required by this section, is guilty of a misdemeanor.

10527.1. Where any specific statute bars the access of the Auditor General or the Joint Legislative Audit Committee to any record, the Joint Legislative Audit Committee, by approval of a majority of the members of the committee, may authorize that the Auditor General and the Joint Legislative Audit Committee be granted access, with the right to examine and reproduce, to the records if that access is for the purpose of an audit authorized by the committee to the extent permitted by federal law. That authorization shall include safeguards to prohibit disclosure of any information which identifies by name or address any public social service recipient, or any other record which is protected by law.

10527.2. The Auditor General shall not have access to arrest records of the Department of Justice without the specific authorization of the Joint Legislative Audit Committee and the Attorney General. It is the intent of this section that the Attorney General comply with such a request if it is clear that the information is an essential element of an approved audit and the information will not be used for commercial or political purposes.

10527.3. It shall be a misdemeanor for the Auditor General or any employee of the Auditor General, a member of the Joint Legislative Audit Committee or any employee of the committee to release any information received pursuant to Section 10850 of the Welfare and Institutions Code or Section 10527.1 or 10527.2 of this code, that is otherwise prohibited by law to be disclosed.

10527.4. Nothing in Section 10527.1, 10527.2 or 10527.3, nor any other provision of law shall limit the authority of the Joint Legislative Audit Committee to subpoena records under the authority granted to the committee by the Constitution and the Joint Rules of the Senate and Assembly.

10528. The Auditor General shall make special audits and investigations, including performance audits, of any state agency whether created by the California Constitution or otherwise, and any public entity, including any city, county, and special district which receives state funds, as requested by the Legislature or any committee of the Legislature.

Appendix C

Joint Rules

Joint Legislative Audit Committee

37.3. The Joint Legislative Audit Committee is created pursuant to the Legislature's rulemaking authority under the California Constitution, and pursuant to Chapter 4 commencing with Section 10500) of Part 2 of Division 2 of Title 2 of the Government Code. The committee shall consist of seven Members of the Senate and seven Members of the Assembly, who shall be selected in the manner provided for in these rules. Notwithstanding any other provision of these rules, four members from each house constitute a quorum of the Joint Legislative Audit Committee and the number of votes necessary to take action on any matter. The Chairman or Chairwoman of the Joint Legislative Audit Committee, upon receiving a request by any Member of the Legislature or committee thereof for a copy of a report prepared or being prepared by the Bureau of State Audits, shall provide the member or committee with a copy of the report when it is, or has been, submitted by the Bureau of State Audits to the Joint Legislative Audit Committee.

Study or Audits

37.4. (a) Notwithstanding any other provision of law, the Joint Legislative Audit Committee shall establish priorities and assign all work to be done by the Bureau of State Audits.

(b) Any bill requiring action by the Bureau of State Audits shall contain an appropriation for the cost of any study or audit.

(c) Any bill or concurrent, joint, Senate, or House resolution assigning a study to the Joint Legislative Audit Committee or to the Bureau of State Audits shall be referred to the respective rules committees. Before the committees may act upon or assign the bill or resolution, they shall obtain an estimate from the Joint Legislative Audit Committee of the amount required to be expended to make the study.

Waiver

37.5. Subdivision (b) of Rule 37.4 may be waived by the Joint Legislative Audit Committee. The chairman or chairwoman of the committee shall notify the Secretary of the Senate, the Chief Clerk of the Assembly, and the Legislative Counsel in writing when subdivision (b) of Rule 37.4 has been waived. If the cost of a study or audit is less than one hundred

thousand dollars ($100,000), the chairman or chairwoman of the committee may exercise the committee's authority to waive subdivision (b) of Rule 37.4.

Appendix D

Government Code Sections 8546- 8546.8

8546. It is the intent of the Legislature that the Bureau of State Audits have the independence necessary to conduct all of its audits in conformity with "Government Auditing Standards" published by the Comptroller General of the United States and the standards published by the American Institute of Certified Public Accountants, free from influence of existing state control agencies that could be the subject of audits conducted by the bureau. Therefore, all of the following exclusions apply to the office:

(a) Notwithstanding Section 19790, the State Auditor shall establish an affirmative action program that shall meet the criteria and objectives established by the State Personnel Board and shall report annually to the State Personnel Board and the commission.

(b) Notwithstanding Section 12470, the State Auditor shall be responsible for maintaining its payroll system. In lieu of audits of the uniform payroll system performed by the Controller or any other department, the office shall contract pursuant to subdivision (e) of Section 8544.5 for an annual audit of its payroll and financial operations by an independent public accountant.

(c) Notwithstanding Sections 11730 and 13292, the State Auditor is delegated the authority to establish and administer the fiscal and administrative policies of the bureau in conformity with the State Administrative Manual without oversight by the Department of Finance, the Office of Information Technology, or any other state agency.

(d) Notwithstanding Section 11032, the State Auditor may approve actual and necessary traveling expenses for travel outside the state for officers and employees of the bureau.

(e) Notwithstanding Section 11033, the State Auditor or officers and employees of the bureau may be absent from the state on business of the state upon approval of the State Auditor or Chief Deputy State Auditor.

(f) Sections 11040, 11042, and 11043 shall not apply to the Bureau of State Audits. The State Auditor may employ legal counsel under those terms that he or she deems necessary to conduct the legal business of, or render legal counsel to, the State Auditor.

(g) The provisions and definitions of Section 11342 shall not be construed to include the Bureau of State Audits. The State Auditor may adopt regulations necessary for the operation of the bureau pursuant to the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Division 3), but these regulations shall not be subject to the review or approval of the Office of Administrative Law.

(h) The State Auditor shall be exempt from all contract requirements of the Public Contract Code that require oversight, review, or approval by the Department of General Services or any other state agency. The State Auditor may contract on behalf of the State of California for goods and services that he or she deems necessary for the furtherance of the purposes of the bureau.

(i) (1) Subject to Article VII of the California Constitution, the State Auditor is delegated the authority to establish and administer the personnel policies and practices of the Bureau of State Audits in conformity with Part 2.6 (commencing with Section 19815) of Division 5 of Title 2 without oversight or approval by the Department of Personnel Administration.

(2) At the election of the State Auditor, officers and employees of the bureau may participate in benefits programs administered by the Department of Personnel Administration subject to the same conditions for participation that apply to civil service employees in other state agencies. For the purposes of benefits programs administration only, the State Auditor is subject to the determinations of the department. The Bureau of State Audits shall reimburse the Department of Personnel Administration for the normal administrative costs incurred by the Department of Personnel Administration and for any extraordinary costs resulting from the inclusion of the bureau employees in these state benefit programs.

8546.1. The State Auditor shall conduct financial and performance audits as directed by statute. The State Auditor may conduct these audits of any state agency as defined by Section 11000, whether created by the California Constitution or otherwise, and any local governmental agency, including any city, county, and school or special district. However, the State Auditor shall not audit the activities of the Milton Marks Commission on California State Government Organization and Economy or the Legislature to assure compliance with government auditing standards. The State Auditor shall conduct any audit of a state or local governmental agency or any other publicly created entity that is requested by the Joint Legislative Audit Committee to the extent that funding is available and in accordance with the priority established by the committee with respect to other audits requested by the committee. Members of the Legislature may submit requests for audits to the committee for its consideration and approval. Any audit request approved by the committee shall be forwarded to the State Auditor as a committee request. The State Auditor shall complete any audit in a timely manner and in accordance with the "Government Auditing Standards" published by the Comptroller General of the United States. Immediately upon completion of the audit, the State Auditor shall transmit a copy of the audit report to the commission. Not later than 24 hours after delivery to the commission, the commission shall deliver the report to the Legislature, appropriate committees or subcommittees of the Legislature, and the Governor. Once transmitted to these parties, the report shall be made available to the public.

8546.3. The State Auditor shall examine and report annually upon the financial statements otherwise prepared by the executive branch of the state so that the Legislature and the public will be informed of the adequacy of those financial statements in compliance with generally accepted accounting principles applied on a basis consistent with that of the preceding fiscal Year. In making that examination, the State Auditor may make the audit examination of accounts and records, accounting procedures, and internal auditing performance that he or she determines to be necessary to disclose all material facts necessary to proper reporting in accordance with the federal Single Audit Act of 1984 (31 U.S.C. Section 7501 et seq.) and the purposes set forth in Section 8521.5.

8546.4. (a) The State Auditor shall annually issue an auditor's report based upon the general purpose financial statements included in the Controller's annual report that is submitted to the Governor pursuant to Section 12460. The auditor's report shall be in accordance with the "Government Auditing Standards" published by the Comptroller General of the United States and the standards published by the American Institute of Certified Public Accountants.

(b) The State Auditor, in the performance of this annual audit, may examine all the financial records, accounts, and documents of any state agency as defined by Section 11000.

(c) The State Auditor shall rely, to the maximum extent possible, upon the audits performed by the Controller, the Department of Finance, internal auditors of state agencies, and independent contractors. The Director of Finance shall be responsible for coordinating and providing technical assistance to the internal auditors of state agencies. Nothing in this article is intended to reduce or restrict the operations of internal auditors whose review of internal financial and administrative controls of state agencies is essential for coordinated audits.

(d) State agencies receiving federal funds shall be primarily responsible for arranging or federally required financial and compliance audits. State agencies shall immediately notify the Director of Finance, the State Auditor, and the Controller when they are required to obtain federally required financial and compliance audits. The Director of Finance, the State Auditor, and the Controller shall coordinate the procurement by state agencies, including any negotiations with cognizant federal agencies, of federally required financial and compliance audits.

(e) To prevent duplication of the annual audit conducted by the State Auditor pursuant to subdivision (a), except for those state agencies that are required by state law to obtain an annual audit, no state agency shall enter into a contract for a financial or compliance audit without prior written approval of the Controller and the Director of Finance, which approval shall state the reason for the contract and shall be filed with the State Auditor at least 30 days prior to the award of the contract. No funds appropriated by the Legislature shall be encumbered for the purpose of funding any contract for an audit that duplicates the annual financial audit conducted by the State Auditor.

(f) Notwithstanding any other provision of this article, nothing in this section shall be construed to limit, restrict, or otherwise infringe upon the constitutional or statutory authority of the Controller to superintend the fiscal concerns of the state.

(g) Notwithstanding any other provision of this article, nothing in this section shall be construed to limit, restrict, or otherwise infringe upon the statutory authority of the Director of Finance to supervise the financial and business policies of the state.

8546.5. The Director of Finance, in coordinating the internal auditors of state agencies, shall ensure that these auditors utilize the "Standards for the Professional Practices of Internal Auditing."

8546.6. The State Auditor, in connection with any audit or investigation conducted pursuant to this chapter, shall be deemed to be a department head for the purposes of Section 11189.

8546.7. Notwithstanding any other provision of law, every contract involving the expenditure of public funds in excess of ten thousand dollars ($10,000) entered into by any state agency, board, commission, or department or by any other public entity, including a city, county, city and county, or district, shall be subject to the examination and audit of the State Auditor, at the request of the public entity or as part of any audit of the public entity, for a period of three years after final payment under the contract. Every contract shall contain a provision stating that the contracting parties shall be subject to that examination and audit. The failure of a contract to contain this provision shall not preclude the State Auditor from conducting an examination and audit of the contract at the request of the public entity entering into the contract or as part of any audit of the public entity. It is the intent of the Legislature that the Regents of the University of California include in contracts involving the expenditure of state funds in excess of ten thousand dollars ($10,000) a provision stating that the contracting parties shall be subject to the examination and audit of the State Auditor, at the request of the regents or as part of any audit of the university, for a period of three years after final payment under the contract. The examinations and audits under this section shall be confined to those matters connected with the performance of the contract, including, but not limited to, the costs of administering the contract.

8546.8. Unless the contrary is stated or clearly appears from the context, any reference to the Auditor General, the Office of the Auditor General, or the Joint Legislative Audit Committee in any statute or contract in effect on the effective date of this chapter, other than Chapter 4 (commencing with Section 10500), with respect to the performance of audits, shall be construed to refer to the State Auditor, the Bureau of State Audits, and the Milton Marks Commission on California State Government Organization and Economy, respectively.

Appendix E

Government Code Sections 8547- 8547.10
Reporting of Improper Governmental Activities Act

8547. This article shall be known and may be cited as the "Reporting of Improper Governmental Activities Act."

8547.1. It is the intent of the Legislature that state employees and other persons should disclose, to the extent not expressly prohibited by law, improper governmental activities.

8547.2. For the purposes of this article:

(a) "Employee" means any individual appointed by the Governor or employed or holding office in a state agency as defined by Section 11000.

(b) "Improper governmental activity" means any activity by a state agency or by an employee that is undertaken in the performance of the employee's official duties, whether or not that action is within the scope of his or her employment, and that (1) is in violation of any state or federal law or regulation, including, but not limited to, corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property, or willful omission to perform duty, or (2) is economically wasteful, or involves gross misconduct, incompetency, or inefficiency. For purposes of Sections 8547.4, 8547.5, 8547.10, and 8547.11, "improper governmental activity or activities" includes any activity by the University of California or by an employee, including an officer or faculty member, that otherwise meets the criteria of this subdivision.

(c) "Person" means any individual, corporation, trust, association, any state or local government, or any agency or instrumentality of any of the foregoing.

(d) "State agency" is defined by Section 11000. "State agency" includes the University of California for purposes of Sections 8547.5 to 8547.7, inclusive.

8547.3. (a) An employee may not directly or indirectly use or attempt to use the official authority or influence of the employee for the purpose of intimidating, threatening, coercing, commanding, or attempting to intimidate, threaten, coerce, or command any person for the purpose of interfering with the right of that person to disclose to the State Auditor matters within the scope of this article.

(b) For the purpose of subdivision (a), "use of official authority or influence" includes promising to confer, or conferring, any benefit; effecting, or threatening to effect, any reprisal; or taking, or directing others to take, or recommending, processing, or

approving, any personnel action, including, but not limited to, appointment, promotion, transfer, assignment, performance evaluation, suspension, or other disciplinary action.

(c) Any employee who violates subdivision (a) may be liable in an action for civil damages brought against the employee by the offended party.
(d) Nothing in this section shall be construed to authorize an individual to disclose information otherwise prohibited by or under law.

8547.4. The State Auditor shall administer the provisions of this article and shall investigate and report on improper governmental activities.

8547.5. Upon receiving specific information that any employee or state agency has engaged in an improper governmental activity, the State Auditor may conduct an investigative audit of the matter. The identity of the person providing the information that initiated the investigative audit shall not be disclosed without the written permission of the person providing the information unless the disclosure is to a law enforcement agency that is conducting a criminal investigation.

8547.6. The State Auditor may request the assistance of any state department, agency, or employee in conducting any investigative audit required by this article. If an investigative audit conducted by the State Auditor involves access to confidential academic peer review records of University of California academic personnel, these records shall be provided in a form consistent with university policy effective on August 1, 1992. No information obtained from the State Auditor by any department, agency, or employee as a result of the State Auditor's request for assistance, nor any information obtained thereafter as a result of further investigation, shall be divulged or made known to any person without the prior approval of the State Auditor.

8547.7. (a) If the State Auditor determines that there is reasonable cause to believe that an employee or state agency has engaged in any improper governmental activity, he or she shall report the nature and details of the activity to the head of the employing agency, or the appropriate appointing authority. If appropriate, the State Auditor shall report this information to the Attorney General, the policy committees of the Senate and Assembly having jurisdiction over the subject involved, and to any other authority that the State Auditor determines appropriate.

(b) The State Auditor shall not have any enforcement power. In any case in which the State Auditor submits a report of alleged improper activity to the head of the employing agency or appropriate appointing authority, that individual shall report to the State Auditor with respect to any action taken by the individual regarding the activity, the first report being transmitted no later than 30 days after the date of the State Auditor's report and monthly thereafter until final action has been taken.

(c) Every investigative audit shall be kept confidential, except that the State Auditor may issue any report of an investigation that has been substantiated, keeping confidential the

identity of the individual or individuals involved, or release any findings resulting from an investigation conducted pursuant to this article that is deemed necessary to serve the interests of the state.

(d) This section shall not limit any authority conferred upon the Attorney General or any other department or agency of government to investigate any matter.

8547.8. (a) A state employee or applicant for state employment who files a written complaint with his or her supervisor, manager, or the appointing power alleging actual or attempted acts of reprisal, retaliation, threats, coercion, or similar improper acts prohibited by Section 8547.3, may also file a copy of the written complaint with the State Personnel Board, together with a sworn statement that the contents of the written complaint are true, or are believed by the affiant to be true, under penalty of perjury. The complaint filed with the board, shall be filed within 12 months of the most recent act of reprisal complained about.

(b) Any person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against a state employee or applicant for state employment for having disclosed improper governmental activities, is subject to a fine not to exceed ten thousand dollars ($10,000) and imprisonment in the county jail for up to a period of one year. Any state civil service employee who intentionally engages in that conduct shall be disciplined by adverse action as provided by Section 19572. If no adverse action is instituted by the appointing power, the State Personnel Board shall invoke adverse action as provided in Section 19583.5.

(c) In addition to all other penalties provided by law, any person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against a state employee or applicant for state employment for having disclosed improper governmental activities shall be liable in an action for damages brought against him or her by the injured party. Punitive damages may be awarded by the court where the acts of the offending party are proven to be malicious. Where liability has been established, the injured party shall also be entitled to reasonable attorney's fees as provided by law. However, any action for damages shall not be available to the injured party unless the injured party has first filed a complaint with the State Personnel Board pursuant to subdivision (a) of this section, and the board has failed to reach a decision regarding any hearing conducted pursuant to Section 19683.

(d) This section is not intended to prevent an appointing power, manager, or supervisor from taking, directing others to take, recommending, or approving any personnel action or from taking or failing to take a personnel action with respect to any state employee or applicant for state employment if the appointing power, manager, or supervisor reasonably believes any action or inaction is justified on the basis of evidence separate and apart from the fact that the person has disclosed improper governmental activities as defined in subdivision (b) of Section 8547.2.

8547.9. Notwithstanding Section 19572, if the State Personnel Board determines that there is a reasonable basis for an alleged violation, or finds an actual violation of Section 8547.3 or 19683, it shall transmit a copy of the investigative report to the State Auditor. All working papers pertaining to the investigative report shall be made available under subpoena in a civil action brought under Section 19683.

8547.10(a) A University of California employee, including an officer or faculty member, or applicant for employment may file a written complaint with his or her supervisor or manager, or with any other university officer designated for that purpose by the regents, alleging actual or attempted acts of reprisal, retaliation, threats, coercion, or similar improper acts for having disclosed improper governmental activities, together with a sworn statement that the contents of the written complaint are true, or are believed by the affiant to be true, under penalty of perjury. The complaint shall be filed within 12 months of the most recent act of reprisal complained about.

(b) Any person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against a University of California employee, including an officer or faculty member, or applicant for employment for having disclosed improper governmental activities, is subject to a fine not to exceed ten thousand dollars ($10,000) and imprisonment in the county jail for up to a period of one year. Any university employee, including an officer or faculty member, who intentionally engages in that conduct shall also be subject to discipline by the university.

(c) In addition to all other penalties provided by law, any person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against a university employee, including an officer or faculty member, or applicant for employment for having disclosed improper governmental activities shall be liable in an action for damages brought against him or her by the injured party. Punitive damages may be awarded by the court where the acts of the offending party are proven to be malicious. Where liability has been established, the injured party shall also be entitled to reasonable attorney's fees as provided by law. However, any action for damages shall not be available to the injured party unless the injured party has first filed a complaint with the university officer identified pursuant to subdivision (a), and the university has failed to reach a decision regarding that complaint within the time limits established for that purpose by the regents.

(d) This section is not intended to prevent a manager or supervisor from taking, directing others to take, recommending, or approving any personnel action or from taking or failing to take a personnel action with respect to any university employee, including an officer or faculty member, or applicant for employment if the manager or supervisor reasonably believes any action or inaction is justified on the basis of evidence separate and apart from the fact that the person has disclosed improper governmental activities.

8547.11 (a) A University of California employee, including an officer or faculty member, may not directly or indirectly use or attempt to use the official authority or influence of the employee for the purpose of intimidating, threatening, coercing, commanding, or

attempting to intimidate, threaten, coerce, or command any person for the purpose of interfering with the right of that person to disclose to a University of California official, designated for that purpose by the regents, or the State Auditor matters within the scope of this article.

(b) For the purpose of subdivision (a), "use of official authority or influence" includes promising to confer, or conferring, any benefit; effecting, or threatening to effect, any reprisal; or taking or directing others to take, or recommending, processing, or approving, any personnel action, including, but not limited to, appointment, promotion, transfer, assignment, performance evaluation, suspension, or other disciplinary action.

(c) Any employee who violates subdivision (a) may be liable in an action for civil damages brought against the employee by the offended party.

(d) Nothing in this section shall be construed to authorize an individual to disclose information otherwise prohibited by or under law.

8547.12. (a) A California State University employee, including an officer or faculty member, or applicant for employment may file a written complaint with his or her supervisor or manager, or with any other university officer designated for that purpose by the trustees, alleging actual or attempted acts of reprisal, retaliation, threats, coercion, or similar improper acts for having disclosed improper governmental activities, together with a sworn statement that the contents of the written complaint are true, or are believed by the affiant to be true, under penalty of perjury. The complaint shall be filed within 12 months of the most recent act of reprisal complained about.

(b) Any person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against a California State University employee, including an officer or faculty member, or applicant for employment for having disclosed improper governmental activities, is subject to a fine not to exceed ten thousand dollars ($10,000) and imprisonment in the county jail for up to a period of one year. Any university employee, including an officer or faculty member, who intentionally engages in that conduct shall also be subject to discipline by the university.

(c) In addition to all other penalties provided by law, any person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against a university employee, including an officer or faculty member, or applicant for employment for having disclosed improper governmental activities shall be liable in an action for damages brought against him or her by the injured party. Punitive damages may be awarded by the court where the acts of the offending party are proven to be malicious. Where liability has been established, the injured party shall also be entitled to reasonable attorney's fees as provided by law. However, any action for damages shall not be available to the injured party unless the injured party has first filed a complaint with the university officer identified pursuant to subdivision (a), and the university has failed to reach a decision regarding that complaint within the time limits established for that purpose by the trustees. Nothing in this section

is intended to prohibit the injured party from seeking a remedy if the university has not satisfactorily addressed the complaint within 18 months.

(d) This section is not intended to prevent a manager or supervisor from taking, directing others to take, recommending, or approving any personnel action, or from taking or failing to take a personnel action with respect to any university employee, including an officer or faculty member, or applicant for employment if the manager or supervisor reasonably believes any action or inaction is justified on the basis of evidence separate and apart from the fact that the person has disclosed improper governmental activities.

(e) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action.

1997 Discretionary Audits (Directed by JLAC)

Job No.	Subject	Date Approved	Report Issued	Report Due
96117	**U.S. Border Patrol – Emergency Medical Care for Illegal Aliens** Requested by: Assemblymember Jan Goldsmith	3/5/97	10/16/97	
96118	**Cerritos Community College District** Requested by: Asssemblymember Grace Napolitano	4/16/97	10/27/97	
96121	**Los Angeles Unified School District** Requested by: Assemblymember Steve Baldwin	5/20/97	10/28/97	
97101	**Community Redevelopment Agencies** Requested by: Senators Barbara Lee and Byron Sher	4/16/97		1/98
97102	**State Contracts with Private Counsel for Legal Services** Requested by: Assemblymember Howard Wayne	4/16/97		12/97
97103	**Kern County Child Protective Services** Requested by: Senator Jim Costa	4/16/97		1/98
97105	**Department of Health Services Genetic Disease Testing** Requested by: Senator Ken Maddy	4/16/97	9/4/97	
97106	**Department of Transportation Contracts for Expert Witnesses** Requested by: Senator Hilda Solis	4/16/97	7/15/97	
97108	**Administration of the Cal-Mortgage Program/ Los Medanos** Requested by: Assemblymember Tom Torlakson	8/27/97		Spring 98
97110	**Attorney General's Card Club Registration Unit** Requested by: Assemblymember Dick Floyd	6/18/97		2/98

Job No.	Subject	Date Approved	Report Issued	Report Due
97111	**Department of Alcoholic Beverage Control** Requested by: Senator Richard Polanco	5/20/97		03/98
97112	**Office of Real Estate Appraisers** Requested by: Assemblymember Roderick Wright	5/20/97		02/98
97114	**South Coast Air Quality Management District (AB 1114)** Requested by: Grace Napolitano	6/18/97		
97115	**LA County's HIV/AIDS Programs (to be included in LA semi-annual audit)** Requested by: Richard S. Polanco	6/18/97		03/98
97116	**Statewide Automated Child Support System** Requested by: Assembly Committee on Televising the Assembly and Information Technology	5/20/97		02/98
97118	**Health Plan Division of the Department of Corporations** Requested by: Assemblymember Susan Davis	6/18/97		03/99
97119	**Los Angeles County Courthouse Construction/ Los Angeles County Criminal Justice Facilities Fund** Requested by: Assemblymember George Runner	7/16/97		
97121	**Department of Mental Health Hospitals** Requested by: Assemblymember Bill Leonard	7/16/97		Spring 98
97122	**University of California Medical Center at San Francisco and Stanford Health Services** Requested by: Senators Tom Hayden and Quentin Kopp	7/16/97	9/3/97	

1997 Mandated Audits (Subject to JLAC Review)

Job No.	Auditee	Description of Required Audit	Statute	Repeated Audit
96002	**State of California**	Internal Control and State and Federal Compliance Audit Report	GC 8546.1	Yes – annual
96015	**Miscellaneous**	Consultant Contracts	Ch. 1044/90	Yes – annual
96017	**Tulare County**	Experimental In-Home Supportive Services	Ch. 1124/96	No
96020	**Public Utilities Comm.**	Rail Safety Program	Ch. 616/95	Yes
96031	**Dept. of Rehabilitation**	Business Enterprise Program for the Blind	Ch. 1316/90	Yes
96036	**Dept. of Social Services**	In-Home Supportive Services	Ch. 206/96	No
96037	**Dept. of Social Services**	In-Home Supportive Services	Ch. 206/96	No
96038	**Dept. of Health Services**	Medi-Cal Drugs – Management Techniques	Ch. 197/96	No
96040	**Community Colleges**	Community Colleges	Ch. 637/96	
96041	**California State University**	CSU Vendor Payment System	Ch. 934/96	No
96042	**University of California**	UC Breast Cancer Research Program	Ch. 543/96	No
96043	**Dept. of Insurance**	DOI Health Insurance Purchasing Agents	Ch. 916/96	Yes
96044	**Community Colleges**	ED>Net Program	Ch. 1057/96	No
97001	**State of California**	General Purpose Financial Statements	GC8546.1	Yes - annual
97006	**State Treasurer's Office**	Treasurer's Cash Count	GC13297,98,99	Yes – 3x a year
97008	**State Treasurer's Office**	Security Count	GC13297,98,99	Yes – annual
97012	**Dept of Health Services**	Drug Treatment Authorization Requests	Ch. 716/92	Yes – semi-annual
97014	**CalTrans**	Proposition111, Blueprint Legislation	Ch. 16/90	Yes – annual

Job No.	Auditee	Description of Required Audit	Statute	Repeated Audit
97017	**Dept. of Corrections**	Corrections, Youth Authority, Mental Health – Early Intervention Program	Ch. 1034/94	No
97019	**L.A. County**	Los Angeles County Procurement	Ch. 518/95	Yes – semi-annual
97022	**CalTrans**	Seismic Retrofit Bond Act	Ch. 310/95	Yes – annual
97023	**Dept. of Health Services**	Medi-Cal Contracting	GC13297,98,99	
98011	**Dept. of Health Services**	Drug TARS	Ch. 716/92	
98017	**Board of Equalization**	Tax Settlement Program	Ch. 138/94	No