

ITEM 13

STAFF REPORT

UPDATE ON IMPELMENTATION OF RECOMMENDATIONS FROM BUREAU OF STATE AUDITS REPORT 2009-501

STATE MANDATES: OPERATIONAL AND STRUCTURAL CHANGES HAVE YIELDED LIMITED IMPROVEMENTS IN EXPEDITING PROCESSES AND CONTROLLING COSTS AND LIABILITIES

On October 15, 2009, the Bureau of State Audits (BSA) released its follow-up audit report on the mandates process.¹ The audit report makes the following recommendations:

- To ensure that it resolves sufficiently its backlog of test claims, incorrect reduction claims, and the boilerplate amendment request, the Commission should do the following:
 1. Work with Finance to seek additional resources to reduce its backlog, including test claims and incorrect reduction claims. In doing so, Commission staff should prioritize its workload and seek efficiencies to the extent possible.
 2. Implement its work plan to address the Controller's boilerplate amendment.
- To promote the legislatively determined, joint, and Commission processes and to provide the necessary information to assess their success, the following actions should occur:
 1. The Commission should add additional information in its semiannual report to inform the Legislature about the status of mandates being developed under joint and Commission processes, including delays that may be occurring. If the Commission believes it needs a statutory change to implement this recommendation, it should seek it.
 2. The Commission and Finance should inform local entities of these processes by making information about the alternatives readily available on their Web sites.

¹ The report can be found at <http://www.bsa.ca.gov/pdfs/reports/2009-501.pdf>.

- The Commission should continue its efforts to work with the legislative subcommittee and other relevant parties to establish a reconsideration process that will allow mandates to undergo revision when appropriate.
- To improve the state mandate process, the Legislature, in conjunction with relevant state agencies and local entities, should ensure the further discussion of reforms.
- To ensure that it can meet its responsibilities, including a heightened focus on audits of state mandates, the Controller should work with Finance to obtain sufficient resources. Additionally, the Controller should increase its efforts to fill vacant positions in its Mandated Cost Audits Bureau.

The State Auditor requires the Commission to reply to the final report within 60 days, six months, and one year of the report's issue date regarding what steps the Commission has taken to implement the report's recommendations.

The first report was due on December 15, 2009, and was required to include a timetable for implementation and the person(s) responsible for implementing the recommendations.

On October 30, 2009, the Commission adopted the proposed workplan to implement the BSA recommendations. The workplan included a description of the tasks Commission staff are completing to implement the BSA recommendations, the person(s) responsible for managing implementation and when the task will be complete. The first report and the adopted workplan were submitted to BSA on November 5, 2009.

The six-month report and an updated workplan are due on April 15, 2010. Staff updated the workplan to reflect actions completed or scheduled to be completed since the 60 day report was submitted. Actions completed since the 60-day report was issued include:

- Consolidated additional test claims.
- Increased earlier test claim review to obtain missing documents on a timelier basis.
- Issued draft staff analysis for *Investment Reports* incorrect reduction claim and set for hearing on May 27, 2010.
- Increased the use of electronic scanning for test claim correspondence, record keeping and agenda preparation.
- Dismissed withdrawn and inactive test claims and requests to amend parameters and guidelines.
- Added new items to the meeting/hearing agendas to update the Commission on new practices that are being implemented and implementation of the BSA October 15, 2009 Audit Report.
- Developed workplan, conducted public workshop, and drafted proposed amendments on Commission regulations.
- Completed additional 41 requests to amend parameters and guidelines to add boilerplate language.
- Drafted legislative proposal to implement BSA recommendation to augment Reports to the Legislature on Approved Mandates, and submitted language for inclusion in SB 894.

- Briefed legislative staff and conducted additional Commission Legislative Subcommittee meeting on proposed language for modification (reconsideration) of existing mandated programs.

Staff Recommendation

Staff recommends that the Commission approve the updated workplan for implementing the Audit Report's recommendations.

**COMMISSION ON STATE MANDATES
IMPLEMENTATION OF BSA REPORT NO. 2009-501**

Adopted: October 30, 2009

Updated: March 26, 2010

| BSA Recommendations and Summary of Tasks | Responsible Person(s) | Complete Date |
|---|---|--------------------------------------|
| <p>Recommendation 1.</p> <p><i>To ensure that it resolves sufficiently its backlog of test claims, incorrect reduction claims, and the boilerplate amendment request, the Commission should do the following:</i></p> <ol style="list-style-type: none"> 1. <i>Work with Finance to seek additional resources to reduce its backlog, including test claims and incorrect reduction claims. In doing so, Commission staff should prioritize its workload and seek efficiencies to the extent possible.</i> 2. <i>Implement its work plan to address the Controller's boilerplate amendment.</i> | <p>Paula Higashi Nancy Patton Camille Shelton Kerry Ortman Heidi Palchik IT staff</p> | |
| <p>Summary of Tasks</p> <p><u>Staffing Needs and Resources</u> Commission staff discuss staffing and resource needs with Department of Finance staff and our Commission members on an ongoing basis each fiscal year.</p> | | |
| <p>Continue discussions with Department of Finance staff regarding Commission staffing needs.</p> | | Ongoing |
| <p>Prepare BCP to address staffing needs when Finance authorizes BCP submittals.</p> | | Fiscal Year 2011-2012 & beyond |
| <p><u>Prioritization and Seeking Efficiencies</u> Commission staff continually look for ways to make the Commission's procedures and the mandates process more efficient.</p> | | |
| <p>Examine and, if necessary, refine Commission procedures to ensure that pending workload is prioritized based on relationship to other pending workload and consolidated to the extent possible so that it is completed as soon as possible.</p> | | Ongoing |

| BSA Recommendations and Summary of Tasks (continued) | Responsible Person(s) | Complete Date |
|---|------------------------------|--|
| | | |
| Consolidate additional test claims. | | Ongoing |
| Increase earlier test claim review to obtain missing documents on a timelier basis. | | Ongoing |
| Continue to increase the use of the Commission's website to distribute caseload documents to reduce costs and efficiently manage document preparation and distribution. | | Ongoing |
| Increase the use of electronic scanning for test claim correspondence, record keeping and agenda preparation. | | Ongoing |
| Dismissed withdrawn request to amend parameters and guidelines. | | 10/30/2009 |
| Dismissed inactive test claims. | | 01/29/2010 03/26/2010 |
| Upgrade the website system for reviewing and downloading Statements of Decision and parameters and guidelines for existing programs. | | 04/19/2010 |
| Schedule additional inactive and withdrawn requests to amend parameters and guidelines for dismissal. | | 05/27/2010 |
| Schedule incorrect reduction claim for hearing. | | 05/27/2010 |
| Continue to report to the Commission on new practices that are being implemented. | | Bi-Monthly Commission Meetings |
| Added a new section to the bimonthly meeting agendas to discuss implementation of the BSA October 15, 2009 Report. | | 02/24/2010 |
| Added a new section to the Executive Director's Report to report new practices to the Commission and the public at Commission bimonthly meetings. | | 02/24/2010 |
| Review existing Commission statutes and regulations to seek ways to make the mandates process more efficient. | | This is a process that we conduct annually |
| Developed workplan for updating Commission regulations. | | 01/26/2010 |
| Adopted Commission's 2010 Rulemaking Calendar. | | 01/29/2010 |
| Conducted staff meetings to review existing regulations and discuss proposed changes. | | 02/03/2010 02/10/2010 02/17/2010 |
| Draft proposed changes to regulations. | | 03/23/2010 |
| Conduct workshop with claimants, state agencies, and interested parties and persons to discuss proposed changes. | | 03/25/2010 |

| BSA Recommendations and Summary of Tasks | Responsible Person(s) | Complete Date |
|---|------------------------------|--------------------------|
| Order to initiate rulemaking and proposed language scheduled for Commission adoption. | | 05/27/2010 |
| Submit notice of rulemaking to Office of Administrative Law. | | 06/01/2010 |
| Notice publication date and initiate 45-day comment period. | | 06/11/2010 |
| Conduct public hearing if requested. | | 07/26/2010 |
| Schedule for Commission adoption. | | 09/24/2010 |
| <u>Complete SCO Request for Amendment of 49 sets of Parameters and Guidelines to Include Boilerplate Language</u> Commission staff delayed recommendations on these requests until pending litigation was completed. The case was decided in Superior Court, but is being appealed. BSA recommends going forward. Staff developed workplan to set the 49 requests for the October 2009, and January, March, and May 2010 meetings. | | |
| Developed workplan. | | 07/23/2009 |
| Issued draft staff analysis on requests regarding parameters and guidelines for 3 local agency programs. | | 09/23/2009 |
| Issued final staff analyses on 3 requests. | | 10/14/2009 |
| Issued draft staff analyses on requests regarding parameters and guidelines for 21 local agency programs, and scheduled for December 2009 meeting. | | 10/14/2009 |
| Commission adopted amendments for 3 local agency programs. | | 10/30/2009 |
| Cancelled December meeting. | | 10/30/2009 |
| Moved requests regarding parameters and guidelines for 21 programs to January 2010 meeting. | | 11/01/2009 |
| Issued draft staff analysis on requests regarding parameters and guidelines for 5 school district programs, and scheduled for January 2010 meeting. | | 12/10/2009 |
| Issued final staff analyses on 26 requests. | | 01/14/2010 01/15/2010 |
| Commission adopted amendments for 26 programs. | | 01/29/2010 |
| Issued draft staff analysis on requests regarding parameters and guidelines for 15 school district programs. | | 02/05/2010 |

| BSA Recommendations and Summary of Tasks | Responsible Person(s) | Complete Date |
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| | | |
| Issued final staff analyses on 15 requests. | | 03/11/2010 |
| 15 requests set for hearing. | | 03/26/2010 |
| Issue draft staff analyses on remaining 5 boilerplate requests for 05/27/2010 meeting. | | 04/02/2010 |
| <p>Recommendation 2.</p> <p><i>To promote the legislatively determined, joint, and Commission processes and to provide the necessary information to assess their success, the following actions should occur:</i></p> <ul style="list-style-type: none"> • <i>The Commission should add additional information in its semiannual report to inform the Legislature about the status of mandates being developed under joint and Commission processes, including delays that may be occurring. If the Commission believes it needs a statutory change to implement this recommendation, it should seek it.</i> • <i>The Commission and Finance should inform local entities of these processes by making information about the alternatives readily available on their Web sites.</i> | Paula Higashi Nancy Patton Kerry Ortman Heidi Palchik IT staff | |
| Summary of Tasks | | |
| <u>Report to Legislature</u> | | |
| Included information in our next Report to the Legislature regarding status of proposed joint requests to adopt reasonable reimbursement methodologies and pending Legislatively Determined Mandates and submitted to Governor's Office for approval. | | 11/05/2009 |
| Released approved report. | | 01/05/2010 |
| Drafted and submitted legislative proposal to amend Government Code section 17600 to require Commission to include additional information in Report to Legislature, as recommended by BSA. | | 11/12/2010 |
| Submitted language to Senate Local Government Committee for inclusion in the 2010 Senate Local Government Omnibus legislation (SB 894). | | 02/18/2010 |

| BSA Recommendations and Summary of Tasks | Responsible Person(s) | Complete Date |
|--|-------------------------------|----------------------|
| | | |
| <u>Additional Information on Website</u> | | |
| Meet with local entities and Finance staff to determine what information will assist local entities in using the alternative processes. | | 10/29/2009 |
| Develop information on alternative processes for our website. | | 11/16/2009 |
| Upload information on alternative processes to the Commission's website | | 03/18/2010 |
| | | |
| Recommendation 3. <i>The Commission should continue its efforts to work with the legislative subcommittee and other relevant parties to establish a reconsideration process that will allow mandates to undergo revision when appropriate.</i> | Paula Higashi Nancy Patton | |
| Summary of Tasks | | |
| Conducted Commission Legislative Subcommittee workshop to discuss proposed language, and received public comment on proposed language. | | 10/30/2009 |
| Briefed staff with Legislative Analyst's Office and Assembly Budget, Subcommittee #4 on proposed language. | | 11/04/2009 |
| Conducted Commission Legislative Subcommittee workshop to discuss revised language. | | 03/25/2010 |
| | | |
| Recommendation 4. <i>To improve the state mandate process, the Legislature, in conjunction with relevant state agencies and local entities, should ensure the further discussion of reforms.</i> | Paula Higashi Nancy Patton | |
| Summary of Tasks | | |
| Work with Legislature, as requested, to discuss mandate reforms. | | Ongoing |