

ITEM 11
STAFF REPORT
UPDATE ON IMPLEMENTATION 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 made 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.
- 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.

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

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, and include a timetable for implementation and the person(s) responsible for implementing the recommendations.

The first report was due on December 15, 2009. On October 30, 2009, the Commission adopted the proposed workplan to implement the BSA recommendations. The first report and the adopted workplan were submitted to BSA on November 5, 2009.

The six-month report and an updated workplan were due on April 15, 2010. On March 26, 2010, the Commission adopted an updated workplan, and on April 15, 2010, staff submitted to BSA the six-month report and the attached updated workplan. The workplan has been updated to reflect actions taken since the May, 27, 2010 Commission meeting, and include:

- Updating the progress of the proposed language for a reconsideration or "redetermination" process. The working group submitted the proposed language to Legislative Counsel for inclusion in a budget trailer bill, and has met twice with local agency and school district representatives to discuss the language.
- Updating status of SB 894, which contains the Commission's language to include additional information in our Reports to the Legislature. SB 894 passed Assembly Local Government Committee (9-0) on June 30, 2010. It is pending in Assembly Appropriations Committee, no hearing date set.
- Commission adoption of the five remaining requests to amend parameters and guidelines to include boilerplate language. The 49 requests to amend parameters and guidelines to add boilerplate language are complete.
- Commission dismissal of additional withdrawn and inactive test claims and requests to amend parameters and guidelines.
- Commission determination on incorrect reduction claim. Additional incorrect reduction claims have been set for hearing.
- Senate Education Committee informed Commission staff that oversight hearings will be conducted during fall 2010.

The next report on implementation is due on October 15, 2010. Staff will provide the Commission with updates on implementation at each Commission meeting.

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

Adopted: October 30, 2009

Updated: March 26, 2010

May 27, 2010

Staff Update: July 19, 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> 	Paula Higashi Nancy Patton Camille Shelton Kerry Ortman Heidi Palchik IT staff	
<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 requests to amend parameters and guidelines.		10/30/2009 01/29/2010 05/27/2010
Dismissed inactive test claims.		01/29/2010 03/26/2010 05/27/2010
Schedule additional withdrawn test claim for dismissal.		07/29/2010
Upgrade the website system for reviewing and downloading Statements of Decision and parameters and guidelines for existing programs.		08/02/2010
Completed incorrect reduction claim for hearing.		05/27/2010
Schedule additional incorrect reduction claims for hearing.		07/29/2010 09/30/2010
Added a new section to the bimonthly meeting agendas to discuss implementation of the BSA October 15, 2009 Report, and continue to report to the Commission on new practices that are being implemented.		Bi-Monthly Commission Meetings
Review existing Commission statutes and regulations to seek ways to make the mandates process more efficient.		Ongoing
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 (continued)	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
Last day for public comment.		07/30/2010
Schedule for Commission adoption.		09/30/2010
<u>Complete SCO Request for Amendment of 49 sets of Parameters and Guidelines to Include Boilerplate Language</u>		
The Commission completed hearings and determinations on the 49 sets of requests to amend parameters and guidelines.		05/27/2010
<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		
Report to Legislature		
Released Report to the Legislature that included information regarding status of proposed joint requests to adopt reasonable reimbursement methodologies and pending Legislatively Determined Mandates.		01/05/2010

BSA Recommendations and Summary of Tasks (continued)	Responsible Person(s)	Complete Date
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
SB 894 amended to include Commission's language.		04/12/2010
SB 894 passed Senate Local Government Committee (5-0) and referred to Senate Appropriations Committee.		04/19/2010
SB 894 passed Senate Appropriations Committee pursuant to rule 28.8.		05/03/2010
Passed the Senate (30-0).		05/10/2010
Passed Assembly Local Government Committee (9-0); pending in Assembly Appropriations Committee.		06/30/2010
<u>Additional Information on Website</u>		
Completed adding information on alternative processes to the Commission's website.		03/18/2010
<p>Recommendation 3.</p> <p><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></p>	Paula Higashi Nancy Patton Camille Shelton	
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
Met with staff with Senate Budget Subcommittee No. 4, Assembly Budget Subcommittee No. 4, Legislative Analyst's Office, and Department of Finance (working group) to discuss further reforms to proposed language. Language is now referred to as "redetermination process."		04/20/2010

BSA Recommendations and Summary of Tasks (continued)	Responsible Person(s)	Complete Date
Commission's budget and mandates issues heard in Senate Budget Subcommittee No. 4. Proposed language for redetermination process is included in hearing agenda, and discussed in hearing. The proposed language is held open so it can be further vetted and refined.		04/29/2010
Commission staff updated Commission members on redetermination process language.		05/03/2010
Commission's budget and mandates issues are heard in Assembly Budget Subcommittee No. 4. Proposed language for redetermination process is included in hearing agenda, and discussed in hearing. Subcommittee directed staff to continue working on the proposed language.		05/04/2010
Working group met to continue discussion on proposed language.		05/06/2010
New working group draft issued.		05/10/2010
Working group met to continue discussions, and invited local agency and school district representatives to participate.		05/12/2010 06/25/2010
Legislative Counsel draft reviewed and changes proposed. Proposed changes submitted to Legislative Counsel.		06/30/2010
<p>Recommendation 4.</p> <p><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></p>	Paula Higashi Nancy Patton	
Summary of Tasks		
Work with Legislature, as requested, to discuss mandate reforms.		Ongoing
Senate Education Committee informed Commission staff that oversight hearings will be conducted on the mandates process in fall 2010.		06/30/2010