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February 27, 1991

P-017

Honorable Robert Campbell, Chairman
Members, Joint Legislative Audit Committee
State Capitol, Room 2163
Sacramento, California 95814

Dear Mr. Chairman and Members:

The Office of the Auditor General presents its report concerning the Department of General Services' (department) management of the State's capital outlay program. The report indicates that the department needs to develop a reliable system for monitoring the progress and cost of capital outlay projects. In addition, the department needs to comply with state requirements when contracting for architectural, engineering, project management, and other services. Further, the department needs to manage its employees more efficiently. And, finally, the department needs to comply with federal regulations requiring the removal of certain equipment filled with polychlorinated biphenyls.

Respectfully submitted,

KURT R. SJOBERG
Auditor General (acting)

The Department of General Services Needs To Improve Its Management of the Design and Construction of State Buildings

P-017, February 1991

Office of the Auditor General
California

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Summary

Results in Brief

The Department of General Services (department) needs to improve its management of its portion of the State's capital outlay program, which involves the design and construction of state facilities. During the course of our review, we noted the following conditions:

- Because the department has an unreliable system for monitoring the progress and cost of capital outlay projects, the governor and the Legislature cannot obtain reliable information when evaluating the department's management of the capital outlay program and when setting priorities for the program;

- Because the department does not always comply with state requirements and sometimes makes errors when contracting for architectural, engineering, project management, and other services, some firms have been denied the opportunity to compete for more than $7.31 million in state business and the department may not have contracted with the most qualified firms for the most reasonable price;

- Because the department does not always comply with provisions in its retainer contracts for architectural, engineering, and land-surveying services when making project assignments to contractors, qualified firms under contract with the State were denied the opportunity to perform work with a value of more than

$197,000 on behalf of the State. Moreover, the department may not have contracted with the most qualified firms for the most reasonable price;

- Because the department does not always manage its employees efficiently, its programs for reviewing plans to ensure handicapped access to public buildings and reducing toxic substances in public facilities have not progressed as quickly as they could have. Also, it must, according to the chief of the architectural and engineering sections of the Office of the State Architect (OSA), charge state agencies higher fees or increase its billable hours for capital outlay projects to recover the cost of staff who are underutilized in their professional capacity; and

- Because the department did not comply with federal regulations requiring the removal of certain equipment filled with polychlorinated biphenyls (PCB) in or near state property, the general public, institutional residents, and state employees continue to be exposed to potential health and safety hazards, and the State may now be subject to federal fines.

Background

One of the department's areas of responsibility is property management. This includes the capital outlay program. Until 1986, the department's OSA had responsibility for the program. However, in 1986, the Office of the Legislative Analyst (LAO), in its analysis of the Governor's Budget 1986-87, recommended the creation of a separate office to manage the State's capital outlay program and to contract for all architectural and engineering services while the OSA would continue to have some design and inspection duties. The Legislature adopted the LAO's recommendation and added provisions that would direct the department to create such an office through the budget for fiscal year 1986-87. The governor vetoed these provisions.

Nevertheless, during 1986, the department administratively reorganized project management responsibilities by combining the long-range planning and environmental review function of the Office of Facilities Planning and Development with the project management activities envisioned by the Legislature's provisions. The department planned to combine these functions in a newly formed Office of Project Development and Management (OPDM) by gradually shifting the project management responsibilities from the OSA to the OPDM. However, as of December 31, 1990, the two offices still share responsibility for administering the State's capital outlay program.

The Department Has Unreliable Information Regarding the Progress and Cost of Capital Outlay Projects

Neither the OPDM nor the OSA has a reliable system to account for the progress or total cost of major capital outlay projects. Specifically, neither of the two offices' project scheduling systems contains information regarding how projects are progressing compared with earlier estimates. In addition, reports issued by the OPDM, known as Quarterly Capital Outlay Reports, which are sent to the Legislature, are inaccurate. Further, the department does not ensure that costs are charged to the appropriate capital outlay project or that costs are even charged in its cost accounting system, known as the Project Management and Accounting (PMA) system. Moreover, the PMA system lacks appropriate security controls to ensure that information is reliable.

As a result of these weaknesses, the governor and the Legislature cannot obtain reliable or complete information when setting priorities for the capital outlay program. Further, the governor and the Legislature cannot evaluate the department's performance in managing the program. For example, the LAO's principal analyst in charge of reviewing the State's capital outlay program told us that he was unable to obtain an up-to-date account of all monies spent on capital outlay projects for veterans' homes during deliberations for the fiscal year 1989-90 budget.

The Department Does Not Always Comply With State Requirements When Procuring Some Services

The department does not always award contracts for architectural, engineering, project management, and other services in accordance with state regulations and sometimes makes errors when awarding these contracts. Specifically, it incorrectly eliminated some qualified firms from the consideration they were entitled to receive when the firms competed for contracts for which the State has paid more than $7.23 million. Further, the department enters into sole-source contracts without the proper justification for doing so. Consequently, it denied other firms the opportunity to compete for more than $81,000 in state funds.

In addition, the department does not always comply with provisions in its retainer contracts for architectural, engineering, and land surveying services when making project assignments to contractors. (Retainer contracts are generally two-year contracts with architectural and engineering firms to provide unspecified services in their areas of expertise as assignments arise.) Specifically, the department gave assignments for certain geographical areas to firms that had not been selected to serve those areas. Instead, the firms had been selected to serve other areas. The assignments had a total value of more than $197,000. As a result of these weaknesses, the department may not have contracted with the most qualified firms for the most reasonable price, and it has denied some firms the opportunity to provide services to the State.

The OSA Does Not Always Manage Its Employees Efficiently

The OSA does not always manage its employees efficiently. Specifically, during fiscal year 1989-90, staff in four of the seven architectural and engineering sections charged at least 12,800 hours to nonfee-generating projects. Although these professional staff may be performing substantive work, the department generally prefers the staff to work on fee-generating projects. The 12,800 staff hours represent at least $864,000 in potential revenue to the OSA. Although it is reasonable to expect the OSA to experience some inefficiencies, some other OSA units had work, some of which was fee-generating, that qualified architectural and

engineering staff who were underutilized in their professional capacity could have performed during the same period. For example, during the same period, the OSA's Access Compliance section (ACS) charged approximately 1,657 hours to overtime and had a backlog of approximately 1,100 projects in various stages of review. We believe that architectural and engineering staff could have helped reduce the ACS's backlog and overtime costs. Further, the supervising engineer in charge of one of the OSA's toxic abatement programs claims that qualified architectural and engineering staff could have undertaken work for him during this same period, thereby assisting his program to meet federal deadlines.

As a result of this inefficient use of employees, the OSA's programs for reviewing plans to ensure handicapped access to public buildings and reducing toxic substances in public facilities have not progressed as quickly as they could have. Moreover, according to the chief of the OSA's architectural and engineering sections, the OSA must charge state agencies higher fees or increase their billable hours to recover the cost of underutilized staff. The chief also stated that although the OSA does not have formal policies or procedures to transfer available employees to other units, it is currently developing such procedures.

The OSA Has Not Removed Certain Potentially Hazardous Equipment From State Property

Because of insufficient funding, the OSA did not comply with federal regulations requiring the removal of certain equipment filled with polychlorinated biphenyls (PCB) from state property by October 1, 1990. Specifically, according to the OSA, as of November 1, 1990, it had removed approximately 800 items of PCB-filled equipment from state buildings. However, we found that it still had not removed at least 29 items that it should have removed by October 1, 1990. As a result of not removing the hazardous equipment, the general public, institutional residents, and state employees continue to be exposed to potential health and safety hazards. In addition, under certain circumstances, state agencies risk incurring federal fines of up to $25,000 per day

for each of the PCB-filled items of equipment not removed by the October 1, 1990, deadline. According to the department, it had inadequate resources to meet the federal deadline.

Recommendations

To improve its management of the State's capital outlay program, the Department of General Services should take the following actions:

- Develop a reliable system for monitoring the progress and cost of all capital outlay projects compared with earlier estimates;
- Ensure that it charges costs related to particular projects to those projects;
- Establish a system of security controls over its Project Management and Accounting system;
- Give private firms the consideration they are entitled to receive when they compete for contracts;
- Do not award sole-source contracts unless it has the proper justification for doing so;
- Comply with provisions in its retainer contracts for architectural, engineering, and land-surveying services;
- Ensure that the Office of the State Architect continues to develop and implement policies and procedures to make staff available to other units within the OSA when those units need assistance; and
- Ensure that the OSA removes certain equipment filled with polychlorinated biphenyls from state facilities as soon as possible.

Agency Comments

The Department of General Services (department) agreed to take appropriate actions to address each of our recommendations. However, the department disagrees with some of our conclusions. For example, the department believes that its current management information systems provide sufficient information for effective management of its part of the State's capital outlay program. In addition, the department believes that its method of allocating construction project management costs is appropriate.

Introduction

The Department of General Services (department) was created in 1963 to increase the overall efficiency and economy of state government operations. One of the department's areas of responsibility is property management. This includes the planning, acquisition, design, construction, maintenance, and operation of state-owned facilities for state offices and employees. Until fiscal year 1986-87, the department's Office of the State Architect (OSA) had overall responsibility for the portion of the State's programs that encompasses the design and construction of state facilities (capital outlay program). Under the capital outlay program, the OSA was responsible for the budget package preparation, project design, selection of architectural and engineering consultants, bidding and awarding of construction contracts, construction supervision and inspection, and overall project management and scheduling. However, according to the Office of the Legislative Analyst (LAO), as early as 1985, the OSA's project management did not ensure effective, efficient, or prompt completion of projects.

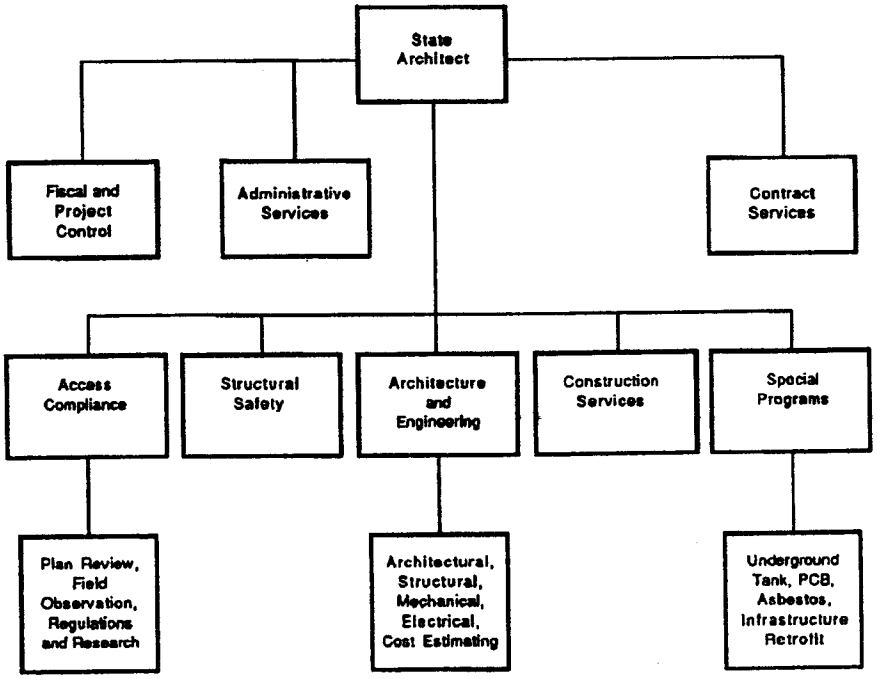
In 1986, the LAO, in its analysis of the Governor's Budget 1986-87, recommended that a separate capital outlay project control unit be formed within the department to manage the capital outlay program and to contract for all architectural and engineering services while the OSA would continue to have some design and inspection responsibilities. The new unit would contract with private firms or the OSA for design services. According to the LAO, the Legislature hoped to increase accountability within the existing project delivery system to ensure

the OSA completed projects on schedule and within the budget. The Legislature adopted the LAO's recommendation and added provisions that would direct the department to create such an office through the budget for fiscal year 1986-87, but the governor vetoed the provisions.

Nevertheless, during 1986, the department administratively reorganized project management responsibilities by combining the long-range planning and environmental review function of the Office of Facilities Planning and Development with the project management activities envisioned by the Legislature's provisions. The department planned to combine these functions in a newly formed Office of Project Development and Management (OPDM) by gradually shifting the project management responsibilities from the OSA to the OPDM. However, the OSA and the OPDM continue to share responsibility for administering the State's capital outlay program as of December 31, 1990. As of that date, the OSA administered 111 capital outlay projects in various stages of completion, and the OPDM administered 72 capital outlay projects in various stages of completion.

As shown in Chart 1, the OSA has five units: Access Compliance, Structural Safety, Architecture and Engineering, Construction Services, and Special Programs. Each of the five units has a chief who reports directly to the state architect on operational and technical issues while the OSA's chief deputy handles administrative matters directly. Through these five units, the OSA provides five basic services under the current capital outlay program. First, the OSA provides architectural and engineering services for state construction projects. Second, the OSA provides construction inspection services for all state projects. Third, the OSA provides plan checking and inspection services according to state statutes concerning access for the handicapped, earthquake safety for schools and hospitals, and earthquake and fire safety for state-owned and leased facilities. Fourth, the OSA administers three programs to mitigate hazardous conditions in state-owned facilities including removal of polychlorinated biphenyls (PCB). Finally, the OSA provides project management and accounting for some of the State's construction projects.

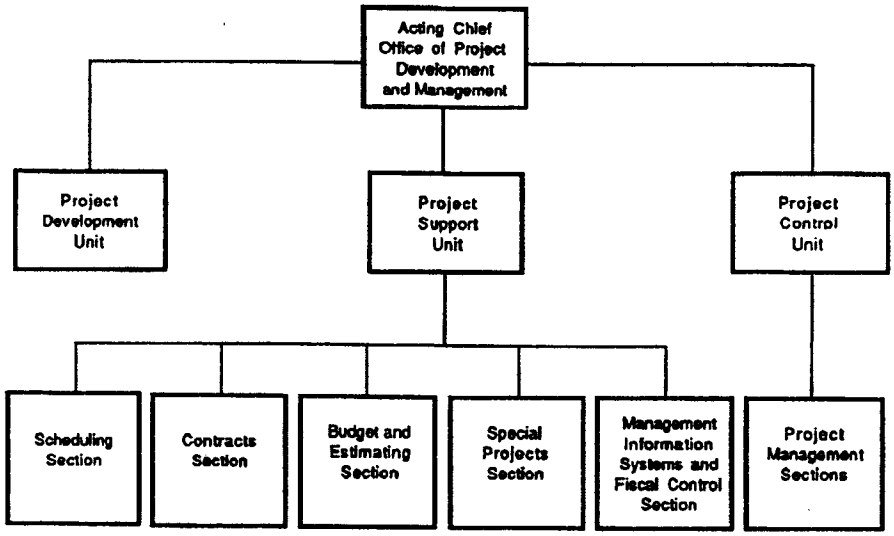
Chart 1 **Office of the State Architect**
Partial Organization Chart
May 1, 1990



Under the new organization, the OPDM was to be the principal contact agency for departments proposing or completing projects. In addition, departments were to contact the OPDM, rather than the OSA, for budget package preparation, architectural and engineering services, and project management. Although the OSA still manages more projects than was intended by the proposed reorganization, the OPDM's project directors also play a leading role in the management of capital outlay projects. The project directors are responsible for communicating with client departments, architectural and engineering firms under contract, and the Department of Finance on matters related to budgets.

Further, the project directors are responsible for scheduling, project review and administration, and maintaining the approved scope and cost of a project. Also, as shown in Chart 2, the OPDM's Project Support Unit includes, among other sections, a Budget and Estimating Section, a Contracts Section, and a Scheduling Section, all of which assist in project management.

Chart 2 **Office of Project Development and Management**
Partial Organization Chart
January 1, 1991



Scope and Methodology

The purpose of our review was to assess the department's management of the State's capital outlay program. Toward this end, we chose a sample of five major capital outlay projects for review. Of the five capital outlay projects we selected, one was managed entirely by the OSA, another was managed entirely by the OPDM, and the other three were managed initially by the OSA and then taken over by the OPDM.

We intended to document the actual cost and progress of the five major capital outlay projects and compare this data with the cost and schedules the Legislature had approved. However, when we reviewed files and interviewed staff at the OSA, the OPDM, and the Office of Fiscal Services (OFS), we found that the department had inaccurate and incomplete information regarding the progress and cost of capital outlay projects. The department's OFS provides the OSA and the OPDM with accounting services. Specifically, the OFS' capital outlay unit prepares claim schedules and financial statements and sets monies aside to meet contract obligations. Because these offices maintained inaccurate and incomplete information regarding the projects, we were unable to determine the actual costs of the projects or how they progressed compared with estimates.

We were also asked to compare the OSA's and the OPDM's management of similar projects. However, several factors impeded such comparison, including inaccurate and incomplete data on costs.

To determine why the department's information was inaccurate and incomplete, we reviewed the department's controls over the cost accounting system it uses for the capital outlay projects it manages. In addition, we interviewed staff who were responsible for establishing the data systems used by the department to track the cost and progress of capital outlay projects. Further, we reviewed documentation related to those systems. Furthermore, we reviewed invoices and other documents related to contractor costs at the OSA, the OPDM, and the OFS.

To determine whether the department complies with contracting requirements, we reviewed the state laws, regulations, and departmental policies and procedures related to contracts for construction, architectural and engineering services, and construction project management. For the five capital outlay projects in our sample, we reviewed documents related to three

contracts for construction, ten contracts for architectural and engineering services, and one contract for construction project management. We also reviewed over 100 change orders issued on the three construction contracts. Because the change orders only accounted for approximately 5 percent of the construction costs and because discrepancies we noted were not material, we did not review the change orders related to additional construction contracts. We also reviewed documents related to nine retainer contracts and 137 work assignments given to the firms under those retainer contracts. (Retainer contracts are generally two-year contracts with architectural and engineering firms to provide unspecified services in their areas of expertise as assignments arise.) At least one of the assignments given under each contract was related to one of the five capital outlay projects we reviewed.

We were also asked to determine which positions and responsibilities were transferred from the OSA to the OPDM and whether the department had deviated from legislative intent when it transferred these positions. Because of this request and because the OPDM now contracts for and performs some of the services previously performed by the OSA, we requested the Legislative Counsel's opinion on several aspects of the reorganization. Specifically, we asked the Legislative Counsel whether the department should have reassigned project administration responsibilities to the OPDM since, according to the California Government Code, the OSA has general charge of the construction of all state buildings. The Legislative Counsel stated that the department could reassign administrative responsibilities for functions that were not directly related to the management of the actual construction of state buildings. Since the OSA still has responsibility for inspecting the construction of state buildings, the department was within its authority to reassign the other duties.

In addition, we noted that the OPDM contracted with at least one private firm to provide construction project management, work previously performed by OSA staff. Consequently, we asked the Legislative Counsel whether the OPDM could contract with firms for construction project management that available OSA employees could perform. We also asked whether vacant positions constitute available employees. The Legislative Counsel stated that the OPDM could contract for personal services to achieve substantial cost savings regardless of whether civil service employees were available to perform the work. The Legislative Counsel further stated that the presence of vacant positions that, if filled, would enable the services to be performed, does not prevent the OPDM from contracting with firms to perform the services as long as the OPDM meets certain conditions. We noted that the executive officer of the State Personnel Board concluded that it was legal for the OPDM to contract with a firm for construction project management services. Consequently, we did not attempt to determine whether the OPDM met the conditions reguired by law.

Further, some of the individuals who managed capital outlay projects may not have been licensed architects and engineers. To determine whether such individuals are required to be licensed, we obtained a legal opinion from our legal counsel. According to our legal counsel, no such requirement exists.

Furthermore, we determined that the OPDM temporarily filled some vacant OSA positions while awaiting authorization for establishing additional positions within the OPDM. The vacant OSA positions consisted of a supervising architect, an associate architect, a word processing technician, an account clerk, an office assistant, and a student assistant. We reviewed the personnel documents related to these positions and the OPDM's deficiency authorization that allowed the OPDM to establish new positions within the OPDM. Based on our review, we determined that the department complied with the applicable requirements.

Because the department shifted many responsibilities from the OSA to the OPDM, we wanted to determine whether this action resulted in OSA staff being underutilized. Toward this end, we reviewed monthly charges to discretionary overhead for professional staff in four of seven architectural and engineering sections for fiscal year 1984-85–before the department created the OPDM. We then compared these charges with the monthly discretionary overhead charges for the same group for fiscal year 1989-90. OSA professional staff charge their time to discretionary overhead when they are underutilized in their professional capacity. The OSA is expected to cover the cost of its operations through fees charged to client agencies.

We found that the time charged to discretionary overhead decreased as a percentage of total time charged for mechanical engineers and electrical engineers between fiscal year 1984-85 and fiscal year 1989-90. For cost estimators and architects, the percentage increased over the same period. However, our analysis led us to the conclusion that the OSA's charges to discretionary overhead were affected by more than the creation of the OPDM.

Because the percentage of time charged to discretionary overhead for all four groups of staff generally exceeded the OSA's goal of 5 percent of the total hours charged, we attempted to determine how the OSA could reduce these nonfee-generating charges and increase revenue. We did this by interviewing staff and reviewing documents in other OSA units to determine whether these units had fee-generating or mandated work that qualified architectural and engineering professionals could perform.

Finally, to assess whether the OSA is meeting mandated deadlines for special projects related to hazards from polychlorinated biphenyls (PCB), we interviewed staff and reviewed documents in the unit responsible for removing PCB-filled equipment from state property. Because we did not have the

technical expertise needed to interpret the OSA's plans and drawings and because those documents were the documents that identified the different types of PCB-filled equipment, we relied on the OSA's professional staff to identify equipment that the OSA had not removed before the mandated deadlines. We did not confirm whether or not the OSA had, in fact, removed other equipment before the deadlines. We also interviewed staff at the federal Environmental Protection Agency to determine what action that agency takes when entities fail to meet federal requirements.

Chapter 1 The Department of General Services Has Unreliable Information Regarding the Progress and Cost of Capital Outlay Projects

Chapter Summary

The Financial Integrity and State Manager's Accountability Act of 1983 requires that state departments establish, maintain, and document their internal accounting and administrative controls. However, the Department of General Services (department) does not have reliable information regarding the progress and cost of capital outlay projects. Specifically, the department's scheduling system does not contain information on the progress of projects as compared with earlier estimates. In addition, reports, known as Quarterly Capital Outlay Reports, which are sent to the Legislature, are inaccurate. Also, the department's system for cost accounting, known as the Project Management and Accounting (PMA) system, does not ensure that costs are charged to the appropriate project. Moreover, we found that the PMA system had incomplete information and that the department had inadequate security controls over the PMA system and the department's Capital Outlay Project System (COPS), which is used to monitor project costs.

As a result of these weaknesses, the department should not rely on the information its systems provide to assist in its management of the State's capital outlay program. In addition, the governor and Legislature do not have the accurate information necessary for setting capital outlay priorities or for evaluating the department's management of the State's capital outlay program. For example, during budget deliberations in 1989, the Office of the Legislative Analyst (LAO) was unable to get an up-to-date account of all monies spent on capital outlay projects for veterans' homes.

Background

The Office of the State Architect (OSA) and the Office of Project Development and Management (OPDM) share responsibility for the State's capital outlay program. As of December 31, 1990, the OSA managed 111 capital outlay projects in various stages of completion, and the OPDM managed 72 capital outlay projects in various stages of completion. The department's Office of Fiscal Services (OFS) provides the OSA and the OPDM with accounting services. Specifically, the OFS' capital outlay unit prepares claim schedules and financial statements and sets monies aside to meet contract obligations.

The OSA and the OPDM each have their own internal scheduling system. In addition, the OPDM maintains a data base solely for generating reports, known as Quarterly Capital Outlay Reports, which the department has agreed to provide to the Legislature. The OSA provides the OPDM with a data file containing the status of OSA-managed projects that the OPDM merges with the OPDM's data. The OPDM then generates the Quarterly Capital Outlay Reports.

The department's cost accounting system for capital outlay projects is the PMA system. The department initiated the PMA system during fiscal year 1984-85 to record income and expenditures and provide ready access to up-to-date financial information on capital outlay projects. Toward that end, the department uses the PMA system to generate reports that track monies set aside for, detailed expenses of, and funds available for capital outlay projects.

The computer specialist who designed the PMA system accommodated both the OSA's project management process and the OFS' capital outlay accounting system. When the department created the OPDM, that office developed its own project management system, the Capital Outlay Project System (COPS), to monitor project costs. However, because the PMA is the department's centralized capital outlay cost accounting system, the OPDM also must provide information on the OPDM's personnel charges to the PMA system. As a result, the OSA, the OPDM, and the OFS all provide data to the PMA. The OFS enters information

on the transfer of funds, the payments to vendors, and the monies set aside for each project. Once a month, the OPDM generates a data file using the COPS to provide information on the OPDM's personnel charges by project. The OSA also enters data on project initiation for projects managed by either the OSA or the OPDM. The OSA also enters the actual hours its personnel charge to each project. Finally, the OSA generates all regularly scheduled management reports for the OSA, the OPDM, and the OFS. For example, the OSA provides the OFS with monthly reports on contract costs and labor charges by project and monies set aside to date by project.

The Department Has Unreliable Information on the Progress of Major Capital Outlay Projects

The California Government Code, Sections 13400 through 13407, comprises the Financial Integrity and State Manager's Accountability Act of 1983. Section 13402 of that act requires state departments to establish, maintain, and document their internal accounting and administrative controls. The controls are necessary to limit fraud and errors, to provide a foundation for accountability, and to ensure reliable information for decision makers.

In addition, by agreement with the Legislature, the OPDM submits its Quarterly Capital Outlay Reports to the Legislature. These reports must provide data on the cost and progress of all capital outlay projects managed by the department. According to the LAO's principal capital outlay analyst, the intent of this report was to provide information to the Legislature needed for planning the State's capital outlay program and for improving the administration of the program.

Incomplete Information in the OSA's and the OPDM's Internal Scheduling Systems

Neither the OSA nor the OPDM has a project scheduling system that provides a history of a capital outlay project's schedule changes. Therefore, neither office has a system that portrays how the project is progressing compared with previous estimates. Specifically, the OSA updates its scheduling system after the OSA's weekly scheduling meeting. However, each time the OSA changes its estimate of when it will complete a project, the OSA scheduler updates the data base by writing over the previous information, thus erasing the previous scheduling information including any information on why the project may be behind schedule. Consequently, the system lacks information on project progress as compared with earlier estimates. This kind of information is necessary for the department to evaluate the OSA's management of the State's capital outlay program. Further, accurate information that documents how projects proceed through the system could provide insights as to how the capital outlay process might be improved.

The OPDM's automated scheduling system, like the OSA's, lacks information on project progress as compared with earlier estimates. In addition, the data base does not contain all capital outlay projects. Moreover, once the OPDM completes a project, the OPDM removes information on the project from the system. For example, the system contained data on only one of the four OPDM-managed projects in our sample. Finally, scheduling procedures do not require that the data base include information on why projects that are not on schedule are not progressing according to the original schedule. As a result of these weaknesses, the department does not have the information necessary to evaluate the OPDM's management of the capital outlay program.

The department's acting director stated that the department's current scheduling systems are sufficient for management information purposes. In addition, she pointed out that the department also employs an integrated data base to maintain the status of all major capital outlay projects assigned to the OSA and

the OPDM. However, we found that the department uses this integrated data base to generate the Quarterly Capital Outlay Reports, and as we show in the next section of this chapter, the information this data base provides is misleading.

Unreliable Data in Reports to the Legislature

The department does not ensure that the data on the progress of capital outlay projects that it provides to the Legislature in the Quarterly Capital Outlay Reports are accurate. The OSA and the OPDM both provide information to the data base that the OPDM uses to produce the Quarterly Capital Outlay Reports. We reviewed the data presented in ten consecutive Quarterly Capital Outlay Reports. Specifically, we tracked information the reports presented for a sample of eight major capital outlay projects. These projects were not part of the sample of five projects that we reviewed in more depth. The sample of eight included both OSA- and OPDM-managed projects. For those eight projects, we reviewed information provided on the project schedule and any comments provided by the OPDM. We concluded that the scheduling information in the Quarterly Capital Outlay Reports was misleading for both OPDM- and OSA-managed projects. For example, the OPDM stated in the comments section of four consecutive quarterly reports that the preliminary plans for one capital outlay project managed by the OPDM were proceeding on schedule, but the preliminary plans were actually completed four months behind the original schedule. When the project fell behind schedule, the OPDM merely changed the scheduled completion date. Consequently, it appeared that the project was on schedule although it had already fallen behind.

In addition to the errors we found during our systematic review of the information provided for a sample of eight projects, we also noted inaccuracies in the Quarterly Capital Outlay Reports related to one of the five major capital outlay projects we reviewed in more depth. Specifically, we found that entries in the

reports for June and September 1989 stated that the project was completed by the scheduled deadline, June 12, 1989. The department removed this project from its Quarterly Capital Outlay Reports after its September 1989 report. While this information would lead the reader to conclude that the project was completed on schedule, we found documentation in the files that the State did not accept the construction as being complete until October 13, 1989. Further, we noted that the department continued to charge OPDM project management time to the project as late as May 31, 1990.[1]

Our review was corroborated by both the LAO and the department itself. According to the LAO's principal analyst for capital outlay, the Quarterly Capital Outlay Reports have not been useful to the Legislature because the data are misleading. In addition, the department acknowledged that it needs to revise the procedures it uses to develop the reports to ensure accuracy. Also, the department's acting director stated that the department will develop a corrective action plan to improve this weakness.

The Department Has Unreliable Information on the Cost of Major Capital Outlay Projects

As stated on page 13, the Financial Integrity and State Manager's Accountability Act requires state departments to establish, maintain, and document their internal accounting and administrative controls to limit fraud and errors, to provide a foundation for accountability, and to ensure reliable information for decision makers. Section 13403 of the same act, as well as the State Administrative Manual, Section 8080.1, outlines the minimum requirements for internal accounting and administrative control systems. These requirements include separating duties related to recordkeeping and allowing only authorized personnel access to the State's assets to ensure the safeguarding of those assets.

[1] Although we determined that the department charged these OPDM costs to this project, we did not confirm that the costs were correctly charged. Beginning on page 19, we discuss the OPDM's lack of controls over the system it uses to account for personnel charges.

Our review of the department's PMA system for the capital outlay program found that the department charged costs to the wrong projects, that the PMA system had incomplete information, and that the department had inadequate security controls over the PMA system and the OPDM's COPS, which is used to monitor the costs of OPDM-managed projects. Further, we found that the cost information the department provides to the Legislature in its Quarterly Capital Outlay Reports is misleading.

Costs Charged to the Wrong Capital Outlay Projects

Department policy requires the OFS to ensure that a payment does not exceed the total amount approved and that authorized OSA or OPDM staff have approved the invoice and directed the OFS to charge costs against valid projects before the OFS authorizes the State Controller's Office to issue a warrant. As a result, the OFS should enter into the PMA system charges to projects as directed by the OSA or the OPDM unless the payment exceeds the contract amount, an unauthorized person approved the invoice, or the cost was charged against an invalid project code.

We reviewed one OPDM contract for construction management and found that the OPDM directed the OFS to charge costs to the wrong capital outlay projects. At the time of our review, the department had paid 42 invoices for this contract. (All of the projects for this contract were related to the State's mental health capital outlay program.) The contract files contained backup information for 5 of the 42 invoices. For these 5 invoices, totaling more than $794,000, the OPDM had authorized charges to certain projects when the invoices showed that the charges were related to other projects. For example, in one case, the OPDM directed the OFS to charge more than $143,000 to two projects in Napa and Camarillo. The invoices, however, showed that at least $56,000 of the costs were related to other projects in Atascadero, Los Angeles, and Patton. Moreover, while the invoices showed that approximately $90,000 of the costs on the 5 invoices were incurred for projects in Patton, the OPDM charged none of the

costs to these projects. In total, we found that the OPDM directed the OFS to charge more than $521,000 (65.6 percent) of the more than $794,000 for the 5 invoices to certain projects although the invoices indicated that those costs were related to other projects. The OFS followed the OPDM's instructions when it entered the charges into the PMA system.

According to the department, the OPDM does not attempt to directly charge the costs of this contract related to the State's mental health capital outlay program to the projects for which the costs were incurred because the projects are numerous and the flow of budgeted funds does not coincide with the practical scheduling of construction work. The department's acting director stated that the Department of Finance, the Department of Mental Health, the LAO, and the contractor knew about and agreed to the department's method of allocating costs. The department also stated that "Since the total cost of the projects was tightly controlled, minor deviations from the true costs for each sub-project, due to the allocation process, were accepted and recognized by the parties involved."

However, because the OPDM does not charge costs to the appropriate capital outlay projects, the department cannot identify the costs of any single project. Moreover, when we followed up on the acting director's statement that the Department of Finance knew about and agreed to the department's method of allocating costs related to the mental health capital outlay program, the acting chief of the OPDM told us that the OPDM discussed the allocation method with the former head of the Department of Finance's capital outlay unit. Because the former head of the unit is now deceased, we were unable to substantiate the department's claim of Department of Finance knowledge of the allocation method. In addition, when we asked the principal capital outlay analyst at the LAO whether he knew about the OPDM's method of allocating these costs and whether he had agreed to the method, he pointed out that his office has no authority to approve the

allocation method. The principal capital outlay analyst also stated that he had encouraged the Legislature to appropriate project management costs to specific projects because he believed that the department needed to be accountable for both the money spent on program management and the money spent on each project. The principal analyst agreed with us that the department's allocation process is inappropriate.

Incomplete Information in the PMA System

Further, in our review of files related to our sample of five major capital outlay projects, we found documentation that the State spent at least $57,000 on two projects that was not recorded against the two projects in the PMA system. For example, the PMA did not reflect $53,414 paid to a construction program and project management firm for services on a mental health hospital project. According to the department, payments not correctly charged against a project are usually either oversights or data entry errors that are normally detected through reconciliations or by identification by OSA or OPDM project management staff. However, when we began our review, the PMA system did not reflect another $115,000 paid to the same firm for services on another mental health hospital project. The department corrected this omission during our review--two and one-half years after it paid for the services.

Inadequate Security Controls Over the PMA System and the COPS

According to the department, its PMA system functions as its centralized capital outlay cost accounting system. However, we found that the department lacks assurance that the data in the system are accurate or complete.

Because the OPDM uses the COPS to generate a data file of its personnel charges that the OSA adds to the PMA system, the accuracy of the PMA system depends upon the accuracy of the COPS. However, the COPS lacks appropriate controls required by the Financial Integrity and State Manager's Accountability Act of 1983.

Specifically, the COPS currently does not have the required separation of duties related to cost recordkeeping. For example, project managers initiate documents that include their own time charges that the OPDM uses to enter data into the COPS. However, the project managers also have access to the data on file, and by agency policy, have the ability and the authority to make changes to the data base after the COPS clerk has entered the time charges. Although we did not observe such instances, no controls exist to prevent a project manager, whose project might be running over budget, from charging time to another project.

In addition, the COPS requires no passwords or other user identifications. Therefore, anyone with physical access to the COPS terminal machine can enter the data base and make changes since the OPDM maintains the data base on one centralized personal computer. While it appears that the OPDM nightly locks the room in which it keeps the COPS, the room remains unlocked all day. Further, the OPDM houses the computer in a room with the office's photocopier. Moreover, the OPDM keeps the program documentation explaining how to use the system in the same room with the computer. Therefore, the entire staff of the OPDM has the opportunity and the information necessary to access the COPS and to make changes to the data in the system. Furthermore, while the system automatically records any changes on an adjustment file, the absence of user identification means that the system cannot provide an audit trail that identifies who made changes to the system. Therefore, the OPDM has no assurance that changes are legitimate. Finally, while the department is currently developing an integrated management information system that includes password protection, the new system will increase project managers' access to the COPS data base because

the COPS will be put on a network and the project managers will have their own work stations. As long as the OPDM uses the COPS as it currently exists to generate a data file of its personnel charges for the PMA system, the department will lack assurance that the information in the PMA system is accurate.

In its November 1990 report of its audit of the PMA system, the department itself found that the password procedures for the PMA system are also not sufficient to provide assurance of data protection. That report noted that the combinations of passwords and other user identifications were "guessable," which, according to the internal auditor, nullifies the security provided by passwords. In response to the report, the department agreed to implement procedures to strengthen its control over access to the PMA system. However, because the report was issued after we completed our fieldwork, we did not verify that the department had implemented these procedures.

In addition, the internal auditor pointed out that the PMA system has a number of deficiencies in its terminal procedures and program logic. For example, the procedures for recording personnel hours do not ensure that an individual is authorized to charge time against a particular work order. According to the department's internal auditor, because of the deficiencies in terminal procedures and program logic, unauthorized information can enter the system and accurate information may be accidentally deleted. As a result, the PMA system may provide inaccurate data. In response to the internal audit, the department agreed to immediately make some of the recommended system changes. In addition, the department agreed to evaluate the remainder of the recommendations to determine whether the changes are warranted or necessary. Again, because the audit report was issued after we completed our fieldwork, we did not determine whether the department followed through on this agreement.

Inadequate Data on Costs in the Quarterly Capital Outlay Reports

The Quarterly Capital Outlay Reports that the OPDM submits to the Legislature, and which we discuss beginning on page 15, include data on the cost of projects, as well as information on their progress. Our review of the cost data presented in these reports found that the cost data, like the scheduling data, are misleading. For example, in the reports for April, July, and October 1988, the OPDM states that the working drawings phase for one OPDM-managed project are 100 percent complete. In these three reports, the OPDM lists the dollars spent, as of the dates of the reports, as $143,614. A reader of these reports would assume that the total cost of the working drawings phase was $143,614. However, in the quarterly report for December 1988, the OPDM gives the dollars spent as of December 1988 for the working drawing phase as $374,064. As with the scheduling information discussed in the previous section, there is no explanation, or even recognition of the more than 100 percent increase in the cost.

As we point out on page 16, as late as May 31, 1990, the department continued to charge OPDM project management time to a project that was presumably completed in June 1989. In fact, the department charged contract expenses and employee costs totaling $769,539 to this project after the date of the last Quarterly Capital Outlay Report in which the project appeared. However, because the department removed the project from its Quarterly Capital Outlay Reports after the September 1989 report, the Legislature is left with the impression that the cost of the project was $4.06 million when the department's PMA system shows a total project cost of $4.86 million. As a result, the information provided to the Legislature is misleading.

The Effects of Unreliable Information Regarding the Progress and Cost of Capital Outlay Projects

Because the department's internal scheduling and cost accounting systems are unreliable, the department should not rely on them to assist in the management of the State's capital outlay program. As a result, the department lacks accurate information for evaluating how the OPDM and the OSA manage the State's capital outlay program. In addition, the governor and the Legislature do not have accurate information necessary for setting capital outlay priorities or for evaluating the department's management of the State's capital outlay program. For example, during the 1989 budget deliberations, the LAO was unable to get an up-to-date account of all monies spent on projects for veterans' homes.

Conclusion

Because the Department of General Services has inadequate controls over its project scheduling and cost accounting, it does not have reliable information regarding the progress and cost of capital outlay projects. As a result, the department cannot rely on the information for evaluating how the Office of Project Development and Management and the Office of the State Architect manage the State's capital outlay program. In addition, the governor and the Legislature do not have the information necessary for setting capital outlay priorities or for evaluating the capital outlay process.

Recommendations

To ensure that it has reliable information regarding the cost and progress of capital outlay projects, the Department of General Services should take the following actions:

- Develop a reliable management information system for monitoring the progress and cost of all capital outlay projects. The system should include at least the following elements: the data necessary to develop reliable Quarterly Capital Outlay Reports; the ability to track the history of the progress of projects and the reasons for any delays or changes from the original schedule; and a method for ensuring the accuracy of the data;

- Ensure that costs related to a particular project are charged against the project for which the costs were incurred and that cost information for projects is complete;

- Establish a system of controls over the Capital Outlay Project System that separates duties, limits access, and ensures that changes in data are legitimate; and

- Implement the recommendations contained in its internal audit report of the Project Management and Accounting System.

Chapter 2 The Department of General Services Does Not Always Comply With State Requirements When Procuring Architectural, Engineering, and Other Services

Chapter Summary

The Department of General Services (department) does not always award contracts for architectural, engineering, project management, and other services in accordance with state regulations and sometimes makes errors when awarding these contracts. Specifically, it incorrectly eliminated some qualified firms from the consideration they were entitled to receive when the firms competed for contracts for which the State has paid more than $7.23 million. Further, the department enters into sole-source contracts without the proper justification for doing so. Consequently, it denied other firms the opportunity to compete for more than $81,000 in state funds.

In addition, the department does not always comply with provisions in its retainer contracts for architectural, engineering, and land-surveying services when making project assignments to contractors. (Retainer contracts are generally two-year contracts with architectural and engineering firms to provide unspecified services in their areas of expertise as assignments arise.) Specifically, the department gave assignments for certain geographical areas to firms that had not been selected to serve those areas. Instead, the firms had been selected to serve other areas. The assignments had a total value of more than $197,000. As a result of these weaknesses, the department may not have contracted with the most qualified firms for the most reasonable price, and it has denied some firms the opportunity to provide services to the State.

The Department Does Not Always Consider Qualified Firms When Awarding Contracts

The California Government Code, Section 4526, requires the department's director to contract with firms for architectural, engineering, construction project management, and other services based on demonstrated competence and on professional qualifications. The department does not have to award these types of contracts based on obtaining the lowest possible cost. Consequently, firms competing for these contracts do not submit bids on the contracts. Instead, Section 4527 of the California Government Code requires the department to conduct discussions with at least three firms and select no less than three firms as being the most highly qualified to provide the services required. When the department's Office of Project Development and Management (OPDM) and the Office of the State Architect (OSA) select firms to provide architectural, engineering, construction project management, and other services, they appoint a panel to review the statements of qualifications that have been submitted by competing firms and rank the firms based on specified criteria that measure the firms' qualifications. From this initial review, they select a number of firms that they invite to answer questions regarding their qualifications and their approach to the pending project. Another panel then conducts the interviews and ranks the finalist firms based on specified criteria. Section 4528 of the California Government Code further requires the department to negotiate for a fair and reasonable price with the firms that it has identified as being most qualified, in the order of their relative qualification, when awarding contracts for these types of services.

However, the OPDM and the OSA have awarded contracts without following these procedures or have made scoring errors. For example, the OPDM did not consider two firms that were entitled to further consideration as two of seven finalists for a contract for project management. According to the numerical ranks given to these firms by the screening committee, these two firms were among the seven most qualified. Consequently, when the OPDM invited seven firms to make a presentation to the OPDM and to answer questions regarding their qualifications and possible approach to the project, it should have included these two firms. Instead, the OPDM included in its final review of seven finalists two other firms that had lower numerical ranks. Apparently, the OPDM did not include in its final review the two firms that

were originally among the seven most qualified because it made recording errors when it transferred the panel members' scores to a computer that it then used to calculate the numerical ranks of competing firms. The OPDM did not award the contract to either of the two firms that had lower ranks. However, the two firms that had higher ranks did not have the opportunity to compete for the contract. The OPDM has paid the firm that it selected for this contract more than $7.1 million for services provided from November 1986 through June 1990.

Similarly, the OSA erroneously excluded one firm from final consideration for a retainer contract for specification writing services in Northern California. Retainer contracts are generally two-year contracts with architectural and engineering firms to provide unspecified services in their areas of expertise as assignments arise. Again, according to the numerical ranks of the firms, the OSA should have invited this firm to make a presentation to the OSA and to answer questions regarding its qualifications and its possible approach to providing the services. However, the OSA granted this final consideration to another firm that had a lower ranking. According to the ranks, this firm was not as qualified as the firm that the OSA excluded from further consideration. Apparently, the OSA excluded the more qualified firm because the OSA made errors when assigning the ranks to the competing firms. The department paid the primary and secondary firms that the OSA selected to provide these services in Northern California more than $130,000 from October 1988 through July 1990. The secondary firm was the firm that had a lower rank in the preliminary assessment than the firm that did not receive additional consideration.

As a result of not following the required procedures and making scoring errors, the department may not have contracted with the most qualified firms and may not have obtained the most reasonable price. In addition, the department has denied some firms the consideration they were entitled to receive when the department awarded contracts on behalf of the State. The State paid more than $7.23 million for these contracts at the time of our review.

The Department Enters Into Sole-Source Contracts Without Proper Justification

The California Government Code, Section 4526, requires the department's director to contract with firms for architectural, engineering, construction project management, and other services based on demonstrated competence and professional qualifications and requires the director to adopt, by regulation, procedures for selecting contractors. Sections 4527 and 4528 require the department to conduct discussions with at least three firms and select a minimum of three firms as being most qualified to provide the required services. The law requires the department to negotiate for a satisfactory contract at a fair and reasonable price, in order of preference based on the firms' relative qualifications. Moreover, in response to Section 4526 of the California Government Code, the department established procedures for it to follow in Title 21 of the California Code of Regulations. These procedures also include the requirement that the department identify no less than three qualified firms and negotiate with the most qualified firms for the contract. However, Section 1330 of those regulations allows the director to negotiate a contract for the services without following the specified procedures if the director makes a finding that taking the time to follow the procedures would adversely affect in a significant way the public's health, safety, or welfare. In addition, Section 14827.1 of the California Government Code states that a state agency cannot award a contract unless notice of the contract has been published in the California State Contracts Register. However, Section 14827.3 permits the department to enter into contracts without advertising in the California State Contracts Register if the department's director determines that it would be in the State's best interests.

For five of the eight OPDM contracts for architectural, engineering, or construction project management services that we reviewed, the OPDM awarded the contracts without publishing notices of the contracts through the California State Contracts Register and without identifying more than one firm qualified to perform each contract. The total value of these sole-source contracts awarded between September 1, 1986, and April 30, 1988, was more than $74,000. The OPDM awarded one firm three of the five contracts. Although the OPDM received exemptions from

publishing notices of the contracts in the California State Contracts Register, it did not fulfill the requirements that would allow it to deviate from the required procedures for architectural, engineering, and construction project management contracts. None of the justifications for entering into these sole-source contracts included any statement that following the required procedures would adversely affect the public's health, safety, or welfare. Further, the justifications for entering into four of these sole-source contracts claimed that the department did not have existing contracts that would cover the services. In fact, through the OSA, the department had an existing contract with a firm that covered these types of services.

We believed that these discrepancies might have only occurred during the early stages of the OPDM's operations and that the OPDM may have subsequently corrected the problem. Therefore, we arbitrarily selected a contract awarded in March 1989 for review. The OPDM also awarded this contract, with a total value of $7,700, on a sole-source basis without proper justification. The firm selected for this contract is the same firm that received three of the other five sole-source contracts.

As a result of not following the required procedures, the department may not have contracted with the most qualified firms and may not have obtained the most reasonable price. In addition, the department has denied other firms the opportunity to compete for more than $81,000 in state business. The OPDM entered into these contracts on a sole-source basis because the contracts manager believed it was in the State's best interests. The contracts manager stated that, in some cases, there was a need to have the work performed quickly. However, the written justifications did not claim that taking the time to follow required procedures would have adversely affected in a significant way the public's health, safety, or welfare.

The Department Does Not Always Comply With Provisions in Its Retainer Contracts

To facilitate prompt completion of capital outlay projects, the department generally awards two-year retainer contracts for a variety of architectural, engineering, and land-surveying services for different geographical areas in the State. The department requires competing firms for these contracts to indicate each geographical area that they wish to serve. In most cases, the OSA contracts with at least a primary and a secondary firm to provide the services as assignments arise in each of various geographical areas. Contracts with the firms that the department selects as being the first and second most qualified firms to provide services in the appropriate geographical areas specify that, if at any time during its two-year contract, the primary firm has a workload that would prevent it from delivering services promptly, the department shall use the secondary firm to perform an assignment.[2]

We reviewed 137 assignments the department gave to nine firms under retainer contracts covering the period from February 1984 through September 1990. For at least 17 (12.4 percent) of the 137 assignments, we found that the department gave assignments for certain geographical areas to firms that had not been selected to serve those areas. Instead, the firms had been selected to serve other areas. The department did not attempt to determine whether the firms it had originally contracted with to provide services for these particular geographical areas could perform the work promptly at a reasonable price. These assignments had a total value of more than $197,000.

Specifically, the department gave 13 assignments with a total value of more than $154,000 to a firm that the department identified as the most qualified firm to provide various architectural services in the Sacramento area. However, the assignments were for projects located in Norwalk, Patton, San Luis Obispo, Camarillo, and San Jose. At least 7 of the 13 assignments were for checking plans and drawings.

[2] All of the retainer contracts that we reviewed contained this provision. However, we did not review all of the department's retainer contracts.

According to the OSA's contracts manager, the OSA has not defined what portions of the State are included in each of the geographical areas for which it selects retainer contractors. However, Norwalk, Patton, San Luis Obispo, and Camarillo are substantially closer to Los Angeles than they are to Sacramento. In fact, San Luis Obispo, which is closest of the four locations to Sacramento, is 305 miles from Sacramento, but only 204 miles from Los Angeles. Similarly, San Jose is 117 miles from Sacramento, but only 45 miles from San Francisco. The department had identified other firms to be the most qualified to provide various architectural services in the San Francisco and Los Angeles areas, but did not attempt to determine whether those firms could provide the services for these 13 assignments. The OSA granted 10 of these assignments and the OPDM granted the other 3 assignments.

Several of the project managers stated that the work covered by these assignments did not have to be performed at the location of the project and that it was more efficient to have the work performed in Sacramento than at the project location. These services included plan checking. Although it may have been preferable to have the work performed in Sacramento, the assignments did not specify that the work had to be performed in Sacramento. Unless the department specifies that work is to be performed somewhere other than the project area, firms under contract to perform work in the project area could claim that they were entitled to the opportunity to perform the work. Further, in one case, the State authorized the contractor in Sacramento to spend $1,000 to travel to the project location in San Luis Obispo.

Moreover, two project managers said that the firm selected to perform the work in Sacramento had experience in the specific tasks required by the assignment. However, as stated earlier, the OSA requires firms to compete for each geographical area for which the firms want to provide services. Because the department did not have records of its selection process for the retainer contracts for various architectural services, we could not determine whether the firm selected to do the work in the Sacramento area competed for retainer contracts in the other geographical areas.

However, we can conclude that either the firm did not compete to provide services on projects in those areas, or, if it had competed, the department had decided that the firm was not as qualified as the firms with which the department had contracted for those areas.

In addition to improperly awarding the 13 assignments, the OSA gave 4 assignments with a total value of approximately $43,000 to a firm that the department selected as the most qualified firm to provide land surveying services in the Fresno and Bakersfield area. However, these assignments were for projects in Sacramento, Folsom, Yountville, and Los Angeles. The department had identified other firms as being the most qualified to provide land surveying services in the Sacramento, San Francisco, and Los Angeles areas, but we could find no evidence that the OSA contacted those firms to determine whether they could promptly provide the services in their respective areas at a reasonable price. Further, the firm selected to provide land surveying services in the Fresno and Bakersfield area did not compete for the Sacramento, San Francisco, or Los Angeles areas.

One project manager stated that he was not aware of any requirement for giving assignments to retainers in specific areas, and two stated that they did not know of any designated boundary for geographical areas. In addition, the OSA's contract unit, which processed the assignments, does not always verify that assignments are given only to firms that have been identified as the most qualified to perform such work in the geographical area.

When the department gives assignments to firms that have not competed with firms that the department selected as being most qualified to perform the work, the department has no assurance that it has given the work to the most qualified firm. In addition, because the department did not contact the firms with which it had contracted for the areas, the department has no assurance that it paid the most reasonable price for these services. Further, the department denied firms with which it had contracted to perform these types of services the opportunity to perform the work. The

work represented more than $197,000 in state business. As a result, although a firm may not prevail, the firm might sue the State for breach of contract because of this denied opportunity.

Conclusion

The Department of General Services does not always award contracts for architectural, engineering, project management, and other services in accordance with state regulations and sometimes makes errors when awarding these contracts. Specifically, it incorrectly eliminated some qualified firms from the consideration they were entitled to receive when the firms competed for contracts for which the State has paid more than $7.23 million. Further, the department enters into sole-source contracts without the proper justification for doing so. Consequently, it denied other firms the opportunity to compete for more than $81,000 in state funds. In addition, the department does not always comply with provisions in its retainer contracts for architectural, engineering, and land-surveying services when making project assignments to contractors. Specifically, the department gave assignments for certain geographical areas to firms that had not been selected to serve those areas. Instead, the firms had been selected to serve other areas. The assignments had a total value of more than $197,000. As a result of these weaknesses, the department may not have contracted with the most qualified firms for the most reasonable price, and it has denied some firms the opportunity to provide services to the State.

Recommendations

To improve its contracting for architectural, engineering, and other services, the Department of General Services should ensure that the Office of the State Architect and the Office of Project Development and Management take the following actions when awarding contracts and making assignments to retainer contractors:

- Give qualified firms the consideration they are entitled to receive when they compete for contracts;

- Verify all scoring when assigning ranks to firms that submit statements of qualifications;

- Unless there is a required justification for not doing so, always identify at least three firms qualified to perform work that is being contracted;

- Comply with provisions in retainer contracts;

- Specify in retainer assignments where work is to be performed if the work must be performed outside of a project's geographical area; and

- Define the portions of the State contained within each of the geographical areas specified for retainer contracts.

Chapter 3 The Office of the State Architect Does Not Always Manage Its Employees Efficiently

Chapter Summary

The Office of the State Architect (OSA) does not always manage its employees efficiently. Specifically, during fiscal year 1989-90, professional staff in four of the seven architectural and engineering sections in the OSA charged at least 12,800 hours to nonfee-generating projects. Although these professional staff may be performing substantive work, the Department of General Services (department) generally prefers the staff to work on fee-generating projects. The 12,800 staff hours represent at least $864,000 in potential revenue to the OSA. However, during the same period, other OSA units had work, some of which was fee-generating, which the qualified architectural and engineering staff who were underutilized in their professional capacity could have performed.

According to the chief of the OSA's architectural and engineering sections, the OSA must recover the cost of having staff charge time to nonfee-generating projects by either charging state agencies higher fees for services or increasing billable hours in subsequent years. In addition, because of inefficient use of professional staff, other OSA units did not complete work as soon as they might have if architectural and engineering staff who were underutilized in their professional capacity had helped them. For example, the Access Compliance section (ACS), which reviews plans and specifications for all state buildings to ensure compliance with physically handicapped accessibility requirements, reported that it received 1,951 applications for plan checking in fiscal year 1989-90. According to the OSA, as of June 30, 1990, the ACS had a backlog of approximately 1,100 projects in various stages of plan checking. Qualified staff who were underutilized in their professional capacity in at least one architectural and engineering section could have helped the ACS reduce its backlog.

Background

The OSA is expected to cover the cost of its operations by charging fees for services. The OSA adjusts its fees annually to reflect changes in costs and workload so that it can recover all costs of operations through billings to OSA-managed projects. When the OSA's architectural and engineering staff cannot charge time directly to a project, they must charge their time to overhead. The OSA distinguishes between two different types of overhead. Nondiscretionary overhead includes cost categories such as sick leave, vacation, compensating time off, bereavement leave, jury duty, and military leave. All other overhead charges are identified as discretionary. Discretionary overhead includes clerical support, public relations, and library maintenance. OSA professional staff charge their time to discretionary overhead when they are underutilized in their professional capacity. Although the professional staff may be performing substantive work when they charge time to discretionary overhead, the department generally prefers them to work on fee-generating projects according to the OSA's assistant to the chief of architecture and engineering.

Section 13400 et seq. of the California Government Code requires state agencies to maintain an effective system of management control, evaluate the system on an ongoing basis, and when management detects weaknesses, promptly correct those weaknesses to minimize waste of government funds. Such administrative controls promote operational efficiency. In addition, the public has a right to expect that state managers use state resources as efficiently as possible when administering the State's programs. Although it is reasonable to expect the OSA to experience some inefficiencies, the OSA should reduce employee time charged to discretionary overhead as much as possible by making professional staff who currently are not performing fee-generating work available to other OSA units when those units need assistance with fee-generating or mandated projects. According to the chief of the OSA's architecture and engineering sections, the OSA's objective is to limit employees' charges to discretionary overhead to 5 percent of all time charges.

Inefficient Management of Employees

According to an OSA report, during fiscal year 1989-90, professional staff members in the OSA's architectural and engineering sections charged 27,478 hours to discretionary overhead. The OSA claims that it could have earned approximately $1.9 million in revenue during fiscal year 1989-90 if staff had instead charged their time to fee-generating projects. Because the OSA reported that as a result of excessive discretionary overhead charges it did not earn this fee revenue, we reviewed the OSA's report in more depth. Specifically, for professional staff in four of seven architectural and engineering sections, including the mechanical engineering, electrical engineering, architectural activities, and cost estimating sections, we reviewed charges to discretionary overhead during selected months. According to this report, the four architectural and engineering sections charged 20,664 hours to discretionary overhead. These hours, which represent 22 percent of the total hours worked by professional architectural and engineering staff in these sections, represent approximately $1.4 million in potential revenue based on architectural and engineering project management fees of $67.50 per hour. The 20,664 hours include supervisors' hours spent on but not charged to fee-generating projects. When we exclude supervisors' time from discretionary overhead, staff who were underutilized in their professional capacity in the OSA's four architectural and engineering sections charged at least 12,800 hours to discretionary overhead, which represents $864,000 in potential revenues. The 12,800 hours represent 13.6 percent of total time worked by all professional staff in their sections including supervisors.

Some of these staff who were underutilized in their professional capacity consistently charged time to discretionary overhead for extended periods. For example, in the electrical engineering section, one employee charged 296 hours to discretionary overhead during the six months from January through June 1990–average of 49.3 hours each month. He charged his time to such discretionary overhead categories as informal training and employee relations. Also, in the architectural activities section, one employee charged 583 hours during fiscal year 1989-90 to discretionary overhead–an average of 48.6 hours per month. He charged time to such

categories as clerical support and library research. According to the chief of the architectural and engineering sections, when professional staff's time charges to discretionary overhead exceed 5 percent, the department must charge higher fees for services to client agencies or increase billable hours in subsequent years to recover these costs.

In addition, while professional architectural and engineering staff were charging time to discretionary overhead, two OSA units had work, some of which was fee-generating, that qualified architectural and engineering staff could have performed. For example, the OSA's ACS reported that it received 1,951 applications, 1,687 of which were submitted by public schools, for plan checking in fiscal year 1989-90 alone. The ACS reviews plans and specifications for state buildings to ensure compliance with physically handicapped accessibility requirements. The value of the projects involved in these applications was approximately $2.1 billion. As of June 30, 1990, according to the OSA, the ACS had a backlog of approximately 1,100 projects in various stages of plan checking. Moreover, according to the OSA, professional staff in the ACS charged 1,657 hours to overtime during fiscal year 1989-90. We believe that qualified and underutilized architectural and engineering staff could have helped reduce the ACS's backlog and overtime costs. Furthermore, the OSA charges client agencies fees for checking building plans. Consequently, if the architectural and engineering staff had been charging their time to these projects instead of to discretionary overhead, the OSA would have earned more revenue during the period.

Furthermore, the supervising engineer in charge of the OSA's polychlorinated biphenyls (PCB) program claims that qualified architectural and engineering staff from electrical engineering, mechanical engineering, and cost estimating sections could have undertaken work for him during the last year. He understood that workload for these professional staff was down and that the staff were available for reassignment. He stated that qualified architectural and engineering staff could have assisted him in consultant administration and management. However, he stated

that when he approached the staff for assistance he was told that they could not assist him because of scheduled workload. The supervising engineer also stated that the OSA's electrical engineering staff did perform some design work that his unit normally would have contracted with consultants to perform. However, we believe this assistance would not have significantly reduced the PCB unit's workload because the workload consists mainly of managing consultants under contract to remove toxic equipment. In part, because qualified architectural and engineering staff did not assist the supervising engineer with these tasks, he claims that his unit completed projects later than if it had had additional support from the architectural and engineering staff. Moreover, much of this unit's work is federally mandated. This unit, discussed in the next chapter, failed to comply with federal regulations, in part, because it had insufficient staffing levels even though qualified architectural and engineering staff who were underutilized in their professional capacity were available.

Although it has procedures that help management to anticipate slack periods, the OSA does not have procedures for making architectural and engineering staff who are underutilized in their professional capacity available to other OSA units that need assistance. According to the assistant to the chief of the OSA's architectural and engineering sections, these professional staff submit quarterly schedules that summarize current and anticipated workload requirements. Using these schedules, the supervisors then assign projects to ensure professional staff have sufficient workload. According to his assistant, the chief of the architectural and engineering sections also meets weekly with staff supervisors to determine professional staff workload requirements. In addition, the chief meets periodically with the Office of Project Development and Management to discuss, among other issues, workload scheduling for OSA staff. Despite these procedures, which help to identify and minimize employee time charges to discretionary overhead, the chief stated that the OSA does not have formal policies or procedures to transfer available employees to other units although it is currently developing such procedures.

The department's acting director stated that it is impractical to reassign staff for portions of a day but that it is more practical to reassign workload. We agree that reassigning workload is a reasonable method of minimizing charges to discretionary overhead. However, the acting director implied that architectural and engineering staff can only assist other units full time. We disagree. The staff could fit several tasks into their work day. For example, the supervising engineer of the OSA's PCB program stated that architectural and engineering staff could have assisted with tasks such as reviewing consultant qualifications, assembling bid documents, and reviewing progress payments and consultant invoices. In fact, as pointed out by the acting director, each of the OSA's architects and engineers has multiple project responsibilities. Consequently, these staff are required to balance a varied workload. We believe that it would be prudent for the department to take advantage of its system for identifying slack periods to plan productive uses for staff who are underutilized in their professional capacity. At a minimum, the architectural and engineering sections could make their staff who are underutilized in their professional capacity available to help other units with short-term tasks as the need arises.

Conclusion

Because the Office of the State Architect allowed architectural and engineering staff to be underutilized in their professional capacity, the professional staff in four of seven architectural and engineering sections in the OSA charged at least 12,800 hours to nonfee-generating assignments. These hours represent at least $864,000 in potential fee revenue to the OSA. As a result, the OSA must, according to the chief of the OSA's architectural and engineering sections, recover the cost of having professional staff charge time to nonfee-producing projects by either charging state agencies higher fees for services or increasing billable hours in subsequent years. In addition, during the same period, some OSA units had work that qualified architectural and engineering staff who were underutilized in their professional capacity could have performed. Because the OSA did not make the underutilized professional staff available to these units, the units did not complete some of their work as soon as they could have.

Recommendations

To minimize time charged to discretionary overhead and to use its professional staff more efficiently, the Office of the State Architect should take the following actions:

- Take advantage of information developed under its system to identify slack periods and plan productive uses for staff who are underutilized in their professional capacity; and

- Continue to develop and implement policies and procedures that allow flexibility in making staff who are underutilized in their professional capacity available to other OSA units when these units need additional assistance.

Chapter 4 The Office of the State Architect Has Not Removed Certain Potentially Hazardous Equipment From State Property

Chapter Summary

Because of insufficient funding, the Office of the State Architect (OSA), did not comply with federal regulations requiring the removal of certain equipment filled with polychlorinated biphenyls (PCB) from state property by October 1, 1990. As a result, the general public, institutional residents, and state employees continue to be exposed to potential health and safety hazards, and the State may now be subject to federal fines.

Background

PCBs are toxic liquid chemicals that help regulate the temperature of electrical transformers. PCBs released into the environment as a result of a fire or an explosion can result in toxic by-products. The Congress declared, under the Toxic Substances Control Act (act) of 1976, that PCBs improperly handled constituted an unreasonable risk to the public and the environment and, to minimize risk to the public's health, banned their manufacture and limited their use after January 1, 1978. Under the act, the Environmental Protection Agency (EPA) could authorize the use of PCBs under certain conditions if they did "not present an unreasonable risk of injury to health or the environment." In 1979, the EPA published its rule, which allowed the continued use of all intact, nonleaking PCB-filled transformers without specific authorizations or conditions. The EPA amended this rule in 1985 after determining that fires from PCB-filled transformers occurring in or near buildings present risks to human health and to the environment. The EPA reached this determination after considering the extreme toxicity of the by-products resulting from

PCBs released into the environment as a result of a fire. The PCB transformers fires rule (fires rule), prohibits the continued use of network PCB-filled transformers with higher secondary voltages in or near commercial buildings, including state buildings, as of October 1, 1990. Also, the fires rule requires the installation by October 1, 1990, of electrical protection devices on all radial PCB-filled transformers in or near these buildings. Finally, for lower secondary voltage network PCB transformers, the EPA requires the installation of electrical protection switches by October 1, 1990, or removal from service by October 1, 1993. For lower secondary voltage network PCB transformers targeted for removal by October 1, 1993, the EPA requires that the units be registered with the EPA's regional administrator by October 1, 1990.

The OSA is responsible for the identification, replacement, removal, and disposal of hazardous PCB-filled transformers for all state-owned facilities. OSA staff direct consultant contractors, who are selected through competitive selection procedures, to perform the work on behalf of state entities although it is the state entities that risk incurring EPA fines if they are not in compliance with the act. Also, the OSA offers consulting services, site surveys, studies, sampling analyses, and training and awareness seminars to all state agencies.

Hazardous Equipment Not Removed From State Property

Since 1981, the department, through the OSA, has conducted surveys that have identified approximately 1,000 PCB-filled items of equipment, including electrical transformers in state-owned facilities. Through technical, economic, and environmental evaluations, the OSA determined that removal of PCB transformers was generally the most advantageous alternative for complying with the EPA's mandated deadlines.

Since 1981, the OSA stated that it has removed or is in the process of removing approximately 800 of the estimated 1,000 PCB-filled items of equipment. The OSA's professional staff identified at least 29 of the remaining 200 PCB-filled transformers

as being subject to the October 1, 1990, deadline. We confirmed that the OSA failed to remove these 29 pieces of equipment by the deadline. The OSA has awarded contracts and expects to remove these transformers before November 30, 1991.[3]

The supervising engineer in charge of the OSA's PCB unit stated that approximately 140 of the 200 remaining transformers are subject to removal based on inadequate switching protection. These remaining transformers are at approximately 100 facilities including universities, state hospitals, prisons, and homes for veterans. According to the department, switches on almost half of these remaining PCB-filled transformers have a history of failure with age and, in several cases, have been the cause of fire-related incidents. The OSA plans to remove these transformers by the fall of 1992 to be in compliance with the EPA's October 1993 deadline. Also, the OSA plans to remove another 30 transformers although they are not subject to the fires rule. The OSA has determined that removal of these transformers would relieve state agencies of EPA-mandated inspections, recordkeeping requirements, and PCB equipment management.

Because the OSA has not removed PCB-filled transformers from state facilities, the general public, institutional residents, and state employees continue to be exposed to potential health and safety hazards at more than 100 facilities in the State. Also, because the OSA did not comply with EPA regulations, the State has become vulnerable to significant liability risks. Specifically, under certain circumstances, state agencies risk incurring EPA penalties of up to $25,000 per day for those PCB-filled transformers not in compliance with the October 1, 1990, deadline. According

[3] Because we did not have the technical expertise needed to interpret the OSA's plans and drawings and because those documents were the documents that identified the different types of PCB-filled equipment, we relied on the OSA's professional staff to identify equipment that the OSA had not removed before the mandated deadlines. We did not confirm whether or not the OSA had removed other equipment before the deadlines.

to its penalty policy, the EPA may adjust a proposed penalty to reflect such factors as the violator's culpability, history of such violations, and ability to pay. However, the State cannot be assured of which, if any, of these adjustments the EPA may make.

The EPA has already issued citations to, and reached settlements with, some state agencies for not complying with EPA requirements concerning the storage, documentation, and identification of PCB-filled transformers. For example, in 1989, the EPA and the California State University (CSU) reached a settlement whereby the CSU agreed to a lump sum settlement of $17,900 for violating requirements of the EPA. Also, the CSU agreed, among other things, to employ a permanent full-time environmental expert to undertake a systemwide review of PCB practices, to seek republication of an article on PCBs, and to procure or produce an educational videotape on PCBs at a total estimated cost of $255,000. Finally, the EPA could assess the CSU up to an additional $75,000 as stipulated payment if it fails to conform to certain portions of the settlement.

Also, the EPA reached a settlement with the Department of Corrections for $15,800 after charging it with such violations as improper use, inadequate marking, improper disposal, improper storage, and inadequate documentation of PCB-filled transformers.[4] Further, under the consent agreement with the EPA, the Department of Corrections certified that its employees received training in the handling of PCB equipment. This training cost the department approximately $12,448.

According to the supervising engineer in charge of the PCB unit, the OSA did not have sufficient staff to manage the removal of all the PCB-filled transformers by the EPA's October 1990 deadline. However, as we discuss in the previous chapter, the

[4] The EPA may subsequently reduce this fine if the department completes certain tasks.

OSA could have supplied the PCB unit with additional staff if it had used staff who were underutilized in their professional capacity in other units.

The OSA also claims that it received insufficient state funding to remove PCB-filled electrical transformers by the EPA's mandated deadline. For example, in fiscal year 1988-1989, the OSA received 57 percent of its budget request for its PCB program. Moreover, in its request for its fiscal year 1991-92 budget, the OSA pointed out that, because of the State's fiscal shortage, in fiscal year 1990-91, the State took away from the OSA's PCB program $1.8 million in bid savings that the OSA had saved from prior years. In addition, the OSA pointed out that the State took away $2.0 million of its already reduced 1988-89 appropriation also because of the State's fiscal shortage. The State approved $2.7 million in fiscal year 1990-91 as carryover to fund completion of projects initiated in fiscal year 1989-90. However, this will not be sufficient to remove all the remaining transformers and, according to the EPA, it does not provide federal funds that would assist the OSA in removing them.

Conclusion

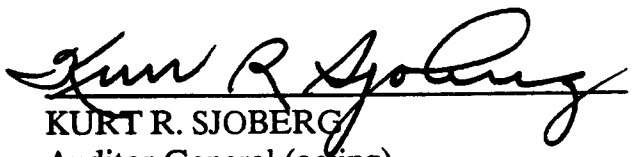
According to the Office of the State Architect, it did not comply with federal regulations requiring the removal of certain equipment filled with polychlorinated biphenyls from state property because it did not receive sufficient staffing or funding. As a result of the OSA not removing these hazardous pieces of equipment, the general public, institutional residents, and state employees continue to be exposed to potential health and safety hazards, and the State may now be subject to EPA fines.

Recommendation

As soon as possible, the Office of the State Architect should remove those transformers filled with polychlorinated biphenyls that are not in compliance with the regulations of the Environmental Protection Agency.

We conducted this review under the authority vested in the auditor general by Section 10500 et seq. of the California Government Code and according to generally accepted governmental auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,



KURT R. SJOBERG
Auditor General (acting)

Date: February 25, 1991

Staff: Robert E. Christophel, Audit Manager
Ann K. Campbell
Andrew Collada
Gilbert D. Guadiana
Helen E. Roland

State of California

State and Consumer Services Agency

Memorandum

To: Kurt R. Sjoberg
Acting Auditor General
660 J Street, Suite 300
Sacramento, CA 95814

Date: February 19, 1991

From: Office of the Secretary
(916) 323-9493
ATSS 473-9493

Subject: RESPONSE TO AUDITOR GENERAL REPORT NO. P-017

Thank you for the opportunity to respond to your Report P 017 entitled "THE DEPARTMENT OF GENERAL SERVICES NEEDS TO IMPROVE ITS MANAGEMENT OF THE DESIGN AND CONSTRUCTION OF STATE BUILDINGS." The attached response from the Department of General Services addresses each of your recommendations.

If you need further information or assistance on this issue, you may wish to have your staff contact Elizabeth Yost, Acting Director, Department of General Services, at 323-9969.

Sincerely,

THOMAS E. DITHRIDGE
Deputy Secretary

TED:mb

cc: Elizabeth Yost, Acting Director
Department of General Services

Rick Gillam, Audit Manager
Department of General Services

State of California State and Consumer Services Agency

MEMORANDUM

Date: February 19, 1991 File No: P-017

To: Porter L. Meroney, Undersecretary
State and Consumer Services Agency
915 Capitol Mall, Room 200
Sacramento, CA 95814

From: **Executive Office**
Department of General Services

Subject: **RESPONSE TO AUDITOR GENERAL REPORT NO. P-017 -- THE DEPARTMENT OF GENERAL SERVICES NEEDS TO IMPROVE ITS MANAGEMENT OF THE DESIGN AND CONSTRUCTION OF STATE BUILDINGS**

Thank you for the opportunity to respond to Office of the Auditor General (OAG) Report No. P-017 which addresses recommendations to the Department of General Services (DGS). The OAG audit involved an approximately ten-month assessment of DGS' management of its responsibilities within the State's capital outlay program. This assessment primarily involved a review of activities performed by the Office of the State Architect (OSA) and the Office of Project Development and Management (OPDM). The following response addresses each of the recommendations.

OVERVIEW OF REPORT

The DGS has reviewed the findings, conclusions, and recommendations presented in Report No. P-017. As discussed in this response, the DGS will take appropriate actions to address the recommendations.

Overall, the reported findings are not surprising when consideration is given to the size and complexity of the capital outlay functions administered by the DGS. As of December 31, 1990, the OSA administered 111 capital outlay projects with a total estimated cost of approximately $232 million, and OPDM administered 72 capital outlay projects with a total estimated cost of approximately $467 million.

The following response addresses the recommendations. Since they have been extensively discussed in past meetings with OAG staff and in prior correspondence, our disagreements with some specific findings and, especially, the effects and conclusions resulting from those findings, will not be repeated in this response.

I

THE DEPARTMENT OF GENERAL SERVICES HAS UNRELIABLE INFORMATION REGARDING THE PROGRESS AND COST OF CAPITAL OUTLAY PROJECTS

"To ensure that it has reliable information regarding the cost and progress of capital outlay projects, the Department of General Services should take the following actions:"

RECOMMENDATION: "Develop a reliable management information system for monitoring the progress of all capital outlay projects. The system should include at least the following elements: the data necessary to develop reliable Quarterly Capital Outlay Reports, the ability to track the history of the progress of projects and the reasons for any delays or changes from the original schedule; and a method for ensuring the accuracy of the data."

DGS RESPONSE: The DGS believes its current management information systems provide sufficient information for effective management of its part of the State's capital outlay program. The DGS will evaluate the issues presented under this recommendation to determine if the system should be revised. Specifically, for the Quarterly Capital Outlay Reports, by the March 1991 quarterly report, the DGS will provide an improved report to the Legislature.

The Quarterly Capital Outlay Report was initiated in response to a request from the Legislature in the Budget Act. Since the initial report was issued for the June 1987 quarter, it has been updated quarterly for the Legislature. While the report provides valuable information on the current status of a project, the information in the report is abbreviated and could be misleading for persons not closely involved with each project. The Department will be revising the report to provide more historic budget and fiscal information in order that it might be less esoteric, thereby eliminating the impressions of misinformation. The DGS is committed to ensuring that the needs of the Legislature are met.

For the concerns expressed related to the ability of the management information system to track the history of the progress of projects and the reasons for any delays or changes from the original schedule, the current data processing software does not allow the accumulation of this information. The projects are closely supervised by DGS' staff and DGS' staff meet regularly with client agencies to discuss the status of projects. The DGS will do a cost benefit analysis to determine if the current systems should be augmented as recommended in the report.

OSA and OPDM will also reemphasize to staff the need to maintain diligence in ensuring that all management information data is accurate.

RECOMMENDATION: "Ensure that costs related to a particular project are charged against the project for which the costs were incurred and that cost information for projects is complete."

DGS RESPONSE: The DGS will continue to charge costs in a manner that is in accordance with each agency's capital outlay appropriation. The methodology used for allocating construction management costs for the Department of Mental Health projects for which the report expresses concerns was fully known by interested parties and complies with requirements in the budget act. (1)*

For the few errors noted in costs charged within the Project Management and Accounting (PMA) system due to oversights or data entry errors, the OSA and OPDM will reemphasize to project staff the importance of verifying the accuracy of the PMA reports in a timely manner. It should be noted that all costs are reconciled upon a project's completion and closeout and, therefore, any errors in charging costs would ultimately be identified.

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* The Office of the Auditor General's comments on specific points in this response begin after the Department of General Services' response.

RECOMMENDATION: "Establish a system of controls over the Capital Outlay Project System that separates duties, limits access, and ensures that changes in data are legitimate."

DGS RESPONSE: The DGS will evaluate all risks associated with the Capital Outlay Project System (COPS) prior to implementing the integrated management information system. It should be recognized that the COPS is a personal productivity tool that was developed when the OPDM function was began with three staff members in July 1986. OPDM now has developed a need for a more detailed integrated management information system. In the past, the risks associated with COPS were deemed acceptable due to the small amount of staff costs involved when compared to total project costs, and the degree of monitoring of reports performed by project managers and supervisors to ensure that inappropriate charges were not made.

While the likelihood of a project manager charging time to another project without detection is minimal, a new LAN based system is expected to be implemented by June 1991. This system will address the security concerns expressed in the audit report. The upgraded LAN based COPS system will control access at three levels. The first level will be handled by the LAN operating system which will allow only authorized users with valid passwords to log-on to the system. The second level of control will be at the supervisory level. This control will allow supervisors to make modifications only on project records for which the specific supervisor is responsible. The third level of control is at the project manager level and similarly restricts project managers from modifying records other than those for which they have project management responsibility.

RECOMMENDATION: "Implement the recommendations contained in its internal audit report of the Project Management and Accounting System."

DGS RESPONSE: Appropriate DGS' offices are in the process of addressing or have addressed all recommendations presented in the EDP internal audit report. The Department's EDP auditor will perform a follow-up review to provide management with an evaluation of the actions taken to address the recommendations.

It should also be noted that the DGS was pleased that while the internal audit report concluded that controls could be improved in a number of areas, it also stated that: "We find that the OSA has successfully developed a comprehensive system which produces a large number of useful project management and accounting reports to serve the needs of project tracking, fiscal reporting, and administrative services."

II

THE DEPARTMENT OF GENERAL SERVICES DOES NOT ALWAYS COMPLY WITH STATE REQUIREMENTS WHEN PROCURING ARCHITECTURAL, ENGINEERING, AND OTHER SERVICES

"To improve its contracting for architectural, engineering, and other services, the Department of General Services should ensure that the Office of the State Architect and the Office of Project Development and Management take the following actions when awarding contracts and making assignments to retainer contractors:"

RECOMMENDATION: "Give qualified firms the consideration they are entitled to receive when they compete for contracts."

DGS RESPONSE: The DGS gives qualified firms the consideration they are entitled to receive when they compete for contracts. While other concerns addressed in the audit report are discussed in our responses to the following recommendations, this recommendation appears to be the result of the one contract that was awarded by OPDM without holding discussions with and selecting no less than three firms as being most qualified. This finding appears to be the result of a misunderstanding of the specific statutory provisions which govern the award of contracts in differing circumstances. Section 4527 of the Government Code, which has been cited in the report, does not apply to the award of contracts for the review of plans and specifications. Contracts for such reviews are governed by the Public Contract Code which does provide for awarding sole source contracts when only one bidder is deemed responsive. We have verified the applicability of the referenced codes with our Chief Counsel and determined that the awarding of this contract was proper. (2)

RECOMMENDATION: "Verify all scoring when assigning ranks to firms that submit statements of qualifications."

DGS RESPONSE: The specific cases of calculation errors noted by the OAG occurred several years ago and would not have affected the final contract awards. Since that time and prior the OAG audit, the DGS recognized the potential for human error and revised the scoring process. (3)

RECOMMENDATION: "Unless there is a required justification for not doing so, always identify at least three firms qualified to perform work that is being contracted."

DGS RESPONSE: DGS' policies have always required written justification. However, the Department will take action to ensure that the justification clearly demonstrates potential adverse effects on public health, safety and welfare.

RECOMMENDATION: "Comply with provisions in retainer contracts."

DGS RESPONSE: A policy statement will be written and circulated to project staff regarding the use of regional retainer contractors. That statement will provide direction on the appropriate procedures for using retainer contractors.

The policy of both OSA and OPDM has been to issue the retainer assignments to the firm under contract in the geographic area where the work is to be performed. This practice is in the best interest of the State and is known by the firm's under retainer. In fact, a contractor protest has never been received related to this issue.

RECOMMENDATION: "Specify in retainer assignments where work is to be performed if the work must be performed outside of a project's geographical area."

DGS RESPONSE: In the future, the location where the work will occur will be entered on all assignments where the title might erroneously suggest that services are to be provided elsewhere.

Most of the assignments given to firms that had not been selected to serve the geographic area where the work was only seemed inappropriate because the project title on the assignment indicated locations other than Sacramento. For example, an assignment might have Camarillo State Hospital in its title, leading the reader to believe that the work should be performed on location at the hospital in Ventura County. However, if the work was plan-checking services, then it is appropriate to hire a Sacramento-based firm since that is where the work would actually be performed. Sacramento is the location where plans are checked because that is where the various compliance agencies are located (for example, Structural Safety Section, Handicapped Access Section, State Fire Marshal, etc.). Using firms in Sacramento results in reduced costs of telephone, telefax, mailing, reproduction, and elimination of production delays that would result while awaiting mailed documents.

RECOMMENDATION: "Define the portions of the State contained within each of the geographical areas specified for retainer contracts."

DGS RESPONSE: Both OSA and OPDM will evaluate this issue; the current practice of dividing the State into regions has been intentionally flexible.

III

THE OFFICE OF THE STATE ARCHITECT DOES NOT ALWAYS MANAGE ITS EMPLOYEES EFFICIENTLY

"To minimize time charged to discretionary overhead and to use its professional staff more efficiently, the Office of the State Architect should take the following actions:"

RECOMMENDATION: "Take advantage of information developed under its system to identify slack periods and plan productive uses for staff who are underutilized in their professional capacity."

DGS RESPONSE: OSA is in the process of formalizing its existing policies and procedures for the transfer of staff as a written section of its office manual. However, upon analyzing the 12,800 overhead hours referenced in the report, OSA has determined that most of this time would not have been available for charging to a fee-generating project. Specifically, except for approximately 3,000 hours which were spent on overhead projects that could have been delayed if a project was pending, the overhead charges were for prudent and necessary activities that probably could not be delayed even if a fee-generating project was available. These activities included direct project staff time that was pending allocation to a project or pending an augmentation, and such general necessary overhead charges such as staff training and development of a computer assisted design system. (4)

While the OSA does transfer staff and/or workload when feasible, it is limited by the amount appropriated for the Access Compliance and PCB activities. Neither of these programs have the spending authority which would allow staff augmentation from any source. (5)

RECOMMENDATION: "Continue to develop and implement policies and procedures that allow flexibility in making staff who are underutilized in their professional capacity available to other OSA units when these units need additional assistance."

DGS RESPONSE: OSA has contracted with an outside consultant to provide an analysis of its operations to determine if staff could be used more efficiently. However, DGS' flexibility to transfer staff is strictly limited by the amount appropriated for each function.

IV

THE OFFICE OF THE STATE ARCHITECT HAS NOT REMOVED CERTAIN POTENTIALLY HAZARDOUS EQUIPMENT FROM STATE PROPERTY

RECOMMENDATION: "The Office of the State Architect should continue to remove those transformers filled with polychlorinated biphenyls that are not in compliance with the regulations of the Environmental Protection Agency as soon as possible."

DGS RESPONSE: OSA will continue to remove the transformers referenced in this recommendation. These transformers are being removed as timely as feasible within the amount appropriated.

CONCLUSION

As part of its continuing efforts to improve policies and procedures, the DGS has implemented or is taking action to implement the recommendations presented in this report. It should be noted that both OSA and OPDM management have continually shown a willingness to take actions in a prompt manner to improve operations.

If you need further assistance or information on this issue, please call me at 323-9969.

ELIZABETH YOST, Acting Director
Department of General Services

Comments The Office of the Auditor General's Comments on the Response From the Department of General Services

① The supplemental reports to the budget acts allocate funds for construction project management to specific capital outlay projects. In addition, as we state in the report, we could not confirm that the Department of Finance was aware of or agreed to the department's method of allocating construction project management costs to these projects. Further, as we also state in the report, the principal capital outlay analyst at the Office of the Legislative Analyst agrees with us that the Department of General Services' (department) allocation method is inappropriate.

② This recommendation was directed to all three of the examples in the section entitled "The Department Does Not Always Consider Qualified Firms When Awarding Contracts." After further review of the department's legal position, it appears that the department may be correct in its conclusion that Section 4527 of the California Government Code did not apply to one contract for plans and specifications review. Consequently, we have removed this example from the report. We originally included this contract in our report because we noted that the contract itself specified that the department awarded the contract pursuant to Sections 4525 through 4529 of the California Government Code.

③ It is not clear to us how the department can conclude that the errors in assigning ranks to firms that competed for contracts would not have affected the final contract awards. Since the department denied some firms the opportunity to make presentations to the department, the department cannot know how those firms would have fared in fair competition for those contracts.

④ As we state on page 36, professional staff may be performing substantive work when they charge time to discretionary overhead. However, we were told that the Office of the State Architect (OSA) did not have formal policies for which categories of discretionary overhead professional staff should charge their time to under different circumstances. In addition, the OSA does not clearly define the categories of discretionary overhead most frequently charged. Therefore, we do not see how the OSA could always determine exactly what staff were doing when the department says that 9,800 hours were spent on projects, yet charged to discretionary overhead.

⑤ If funds for access compliance and activities related to polychlorinated biphenyls (PCB) were limited, assistance from the architectural and engineering sections may not have reduced professional staff time charged to discretionary overhead. However, this assistance would have helped the Access Compliance section complete its work more quickly and would have helped the PCB unit meet federally mandated deadlines.

cc: Members of the Legislature
Office of the Governor
Office of the Lieutenant Governor
State Controller
Legislative Analyst
Assembly Office of Research
Senate Office of Research
Assembly Majority/Minority Consultants
Senate Majority/Minority Consultants
Capitol Press Corps