CLAIMS AND TORT LIABILITY BUDGET PROCEDURE **6472**
(Revised 09/10)

Each year, one or more pieces of legislation is pursued which authorizes payment of: 1) government claims approved by the California Victim Compensation and Government Claims Board (VCGCB, formerly "Board of Control") when there is no other statutory authority for payment, and 2) judgments and settlements by Department of Justice (DOJ) when there is insufficient expenditure authority.

VCGCB Approved Claims

In this situation, VCGCB has approved a claim and, with input from the affected department, determined that there is no statutory authority for its payment. Generally, twice a year, VCGCB sends a list of claims with no statutory authority for payment to the Department of Finance (Finance). Finance analysts work with the affected departments to identify the appropriation to be charged and to certify that the necessary funds are available. These claims are then included in a claims bill and the chaptered bill reduces individual Budget Act items and transfers the authority for payment of claims to VCGCB.

When statutory authority for payment already exists, legislation is not required and the department may pay VCGCB approved claims directly without obtaining approval from Finance. The most common reason why a claim may lack statutory authority for payment is because it arose from a stale-dated warrant and the department no longer has expenditure authority for the fiscal year in which the warrant was issued.

Government Code Section 905.2(f) authorizes VCGCB to assess a surcharge in an amount not to exceed 15 percent of the total approved claim. These surcharges are treated as expenditures to the Budget Act items listed in the legislation.

Judgments and Settlements

In this situation, a chaptered claims bill authorizes DOJ to pay settlements or judgments directly from specified fund balances because there are insufficient funds available in an individual appropriation. To initiate inclusion of a judgment or settlement in a DOJ claims bill, Finance is required to send a letter to DOJ approving the settlement or judgment claim and certifying that the affected department's appropriation cannot absorb the cost of claim.

If the department has sufficient expenditure authority for payment of the claim, legislation is not required and it may pay the claim directly after obtaining approval from Finance. In accordance with SAM Section 8712, Finance approval is required for all claims in excess of $35,000.

Upon request of Finance, DOJ, the Department of Transportation, and the VCGCB shall submit reports to Finance providing actual cost data for the prior fiscal year. Such data is to include the following:

1. Claim payment expenditures by fund.
2. Staff services expenditures by fund.

Although the state no longer carries general tort liability insurance, several departments and agencies carry specialized insurance policies for specific purposes, e.g., Cal Expo and water project bond programs. The Department of General Services Insurance Office shall maintain, and submit to Finance upon request, for all departments and agencies, actual prior year, estimated current year, and anticipated budget year expenditures for tort liability insurance premiums.