



The Reporter summarizes below the activities of those entities within State government which regularly review, monitor, investigate, intervene or oversee the regulatory boards, commissions and departments of California.

OFFICE OF ADMINISTRATIVE LAW

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The Office of Administrative Law (OAL) was established on July 1, 1980, during major and unprecedented amendments to the Administrative Procedure Act (AB 1111, McCarthy, Chapter 567, Statutes of 1979). OAL is charged with the orderly and systematic review of all existing and proposed regulations against six statutory standards—necessity, authority, consistency, clarity, reference and nonduplication. OAL has the authority to disapprove or repeal any regulation that, in its determination, does not meet all six standards. OAL also has the authority to review all emergency regulations and disapprove those which are not necessary for the immediate preservation of the public peace, health and safety or general welfare. The goal of OAL's review is to "reduce the number of administrative regulations and to improve the quality of those regulations which are adopted...."

MAJOR PROJECTS:

Opinions. OAL has, in recent months, issued three regulatory determination opinions regarding manuals used by the Department of Developmental Services (DDS). In each instance, the DDS manual was determined to be (1) subject to the requirements of the Administrative Procedure Act (APA); and (2) a "regulation" and therefore invalid and unenforceable unless adopted as a regulation and filed with the Secretary of State. All three determinations were issued at the request of the California Association of Rehabilitation Facilities.

-November 5, 1986, OAL Determination No. 9, Docket No. 86-005. The DDS "Rate Procedure Manual," which sets out policies, procedures, and methodologies for establishing rates of payment to service providers for the

developmentally disabled, was determined to be a regulation.

-November 26, 1986, OAL Determination No. 10, Docket No. 86-006. The DDS "Vendorization Procedure Manual," which sets standards for providers of services to the developmentally disabled, was determined to be a regulation.

-January 21, 1987, OAL Determination No. 1, Docket No. 86-007. The DDS "Individual Program Plan Manual," which contains guidelines for and the philosophy of the Individual Program Plan, was determined to be a regulation.

OFFICE OF THE AUDITOR GENERAL

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The Office of the Auditor General (OAG) is the nonpartisan auditing and investigating arm of the California legislature. OAG is under the direction of the Joint Legislative Audit Committee (JLAC), which is comprised of fourteen members, seven each from the Assembly and Senate. JLAC has the authority to "determine the policies of the Auditor General, ascertain facts, review reports and take action thereon...and make recommendations to the Legislature...concerning the state audit...revenues and expenditures...." (Government Code section 10501.) OAG may "only conduct audits and investigations approved by" JLAC.

Government Code section 10527 authorizes OAG "to examine any and all books, accounts, reports, vouchers, correspondence files, and other records, bank accounts, and money or other property of any agency of the state...and any public entity, including any city, county, and special district which receives state funds...and the records and property of any public or private entity or person subject to review or

regulation by the agency or public entity being audited or investigated to the same extent that employees of that agency or public entity have access."

OAG has three divisions: the Financial Audit Division, which performs the traditional CPA fiscal audit; the Investigative Audit Division, which investigates allegations of fraud, waste and abuse in state government received under the Reporting of Improper Governmental Activities Act (Government Code sections 10540 *et seq.*); and the Performance Audit Division, which reviews programs funded by the state to determine if they are efficient and cost effective.

RECENT AUDITS:

Report No. P-638 (December 1986) focuses on the administration and management of the Welfare Fraud Early Detection/Prevention (FRED) programs operated by Orange, Sacramento, and Tulare counties. FRED was established under the 1983 Budget Act to detect and prevent fraud at the time an individual applies for Aid to Families with Dependent Children (AFDC) or food stamps.

The 1986 Budget Act directed OAG to conduct a FRED audit, which has indicated that counties (1) use similar criteria in selecting applications for investigation; (2) employ similar investigative techniques in conducting their FRED programs; and (3) rarely prosecute for welfare fraud while denying approximately 18.3% of applications on that basis. The audit report concluded that fraud investigations usually do not delay the payment of aid to eligible applicants.

Report No. P-569 (January 1987) reviews the Department of Corrections' program management and construction management contracts. The report charges that the Department is overpaying private consultants responsible for managing the state's massive prison construction program. Specifically, auditors determined that for two of six program management and construction management contracts for fiscal years 1984-85 and 1985-86, the Department could have saved \$941,000 while still providing a reasonable rate of profit to contractors.

Auditors also found that the Department's program management firm is not delivering cost control reports as required. The audit report makes several recommendations, as follows:

-The Department should prepare for negotiations with its contractors by