



March 30, 2011

TO: David Hansell
Acting Assistant Secretary
Administration for Children and Families

FROM: /George M. Reeb/
Acting Deputy Inspector General for Audit Services

SUBJECT: Review of Title IV-E Foster Care Costs Claimed on Behalf of Delinquent
Children in Los Angeles County, California (A-09-08-00023)

Attached, for your information, is an advance copy of our final report on Title IV-E foster care costs claimed on behalf of delinquent children in Los Angeles County, California. We will issue this report to the California Department of Social Services within 5 business days.

If you have any questions or comments about this report, please do not hesitate to call me, or your staff may contact Lori S. Pilcher, Assistant Inspector General for Grants, Internal Activities, and Information Technology Audits, at (202) 619-1175 or through email at Lori.Pilcher@oig.hhs.gov or Lori A. Ahlstrand, Regional Inspector General for Audit Services, Region IX, at (415) 437-8360 or through email at Lori.Ahlstrand@oig.hhs.gov. Please refer to report number A-09-08-00023.

Attachment



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Office of Audit Services, Region IX
90 – 7th Street, Suite 3-650
San Francisco, CA 94103

April 6, 2011

Report Number: A-09-08-00023

Mr. John A. Wagner
Director
California Department of Social Services
744 P Street
Sacramento, CA 95814

Dear Mr. Wagner:

Enclosed is the U.S. Department of Health & Human Services (HHS), Office of Inspector General (OIG), final report entitled *Review of Title IV-E Foster Care Costs Claimed on Behalf of Delinquent Children in Los Angeles County, California*. We will forward a copy of this report to the HHS action official noted on the following page for review and any action deemed necessary.

The HHS action official will make final determination as to actions taken on all matters reported. We request that you respond to this official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

Section 8L of the Inspector General Act, 5 U.S.C. App., requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at <http://oig.hhs.gov>.

If you have any questions or comments about this report, please do not hesitate to call me, or contact James Kenny, Audit Manager, at (415) 437-8370 or through email at James.Kenny@oig.hhs.gov. Please refer to report number A-09-08-00023 in all correspondence.

Sincerely,

/Lori A. Ahlstrand/
Regional Inspector General
for Audit Services

Enclosure

Direct Reply to HHS Action Official:

Ms. Sharon Fujii
Regional Administrator, Region IX
Administration for Children and Families
U.S. Department of Health & Human Services
90 Seventh Street, Ninth Floor
San Francisco, CA 94103

Department of Health & Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF TITLE IV-E
FOSTER CARE COSTS
CLAIMED ON BEHALF OF
DELINQUENT CHILDREN IN
LOS ANGELES COUNTY,
CALIFORNIA**



Daniel R. Levinson
Inspector General

April 2011
A-09-08-00023

Office of Inspector General

<http://oig.hhs.gov>

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Section 8L of the Inspector General Act, 5 U.S.C. App., requires that OIG post its publicly available reports on the OIG Web site.

OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

EXECUTIVE SUMMARY

BACKGROUND

Title IV-E of the Social Security Act (the Act), as amended, authorizes Federal funds for States to provide foster care for children under an approved State plan. Section 472(a) of the Act establishes Title IV-E foster care eligibility requirements, such as the child's age, deprivation of parental support or care, and judicial determination that remaining in the home would be contrary to the child's welfare. For children who meet these requirements, Federal funds are available to States for maintenance payments, administrative costs, and training costs. In California, the Department of Social Services (the State agency) supervises the 58 county welfare departments that administer the Title IV-E foster care program.

In Los Angeles County, the Department of Children and Family Services (the county agency) administers the foster care program. The county agency has an agreement with the Los Angeles County Probation Department that specifies this department as the responsible agency for Los Angeles County delinquent children placed in foster care. A delinquent child is a child who is adjudicated a ward of the court either because of the child's incorrigible behavior or because of acts committed by the child that would be considered criminal if committed by an adult.

The county agency determines the Title IV-E eligibility of children and submits claims to the State agency for reimbursement of maintenance payments, administrative costs, and training costs on behalf of delinquent children placed in foster care. The State agency submits claims to the Federal Government for the county agency's costs and is reimbursed the Federal share.

For Federal fiscal years (FY) 2005 and 2006 (October 1, 2004, through September 30, 2006), the State agency claimed \$83 million (Federal share) on behalf of Los Angeles County delinquent children, including maintenance payments of \$36 million and associated administrative costs of \$47 million for case planning and management.

OBJECTIVE

Our objective was to determine whether the State agency claimed Title IV-E maintenance payments and associated administrative costs on behalf of Los Angeles County delinquent children in accordance with certain Federal requirements.

SUMMARY OF FINDINGS

The State agency did not always claim Title IV-E maintenance payments and associated administrative costs on behalf of Los Angeles County delinquent children in accordance with certain Federal requirements. Of the 100 monthly maintenance payments in our sample, 80 payments were allowable, 18 payments were unallowable, and 2 payments could not be evaluated because the case files had been sealed under a court order. The 18 unallowable payments consisted of:

- 13 payments and associated administrative costs for children who were not eligible for services and
- 5 payments for eligible children that included costs for unallowable services or for services that were not provided.

Based on these sample results, we estimated that for FYs 2005 and 2006, the State agency claimed unallowable Title IV-E costs totaling \$5,700,637 (Federal share), consisting of \$2,212,926 in maintenance payments and \$3,487,711 in associated administrative costs.

The State agency claimed unallowable Title IV-E costs because it did not ensure that the county agency's eligibility determinations and claims for maintenance payments complied with Federal requirements. Specifically, the county agency (1) made incorrect Title IV-E eligibility determinations or maintained insufficient documentation to support eligibility determinations, (2) claimed payments for children whom the county agency had determined to be ineligible, (3) claimed payments that included unallowable services because the county agency had not used the correct non-IV-E percentages to exclude social work costs, and (4) made a clerical error that resulted in a payment for services that were not provided.

RECOMMENDATIONS

We recommend that the State agency:

- refund to the Federal Government \$5,700,637 for unallowable costs, consisting of \$2,212,926 in maintenance payments and \$3,487,711 in associated administrative costs, and
- ensure compliance with Federal requirements by periodically selecting a sample of foster care case files for delinquent children to determine whether the county agency (1) made correct eligibility determinations and maintained sufficient documentation to support eligibility determinations and (2) claimed payments only for eligible children, allowable services, and services provided.

STATE AGENCY COMMENTS

In its comments on our draft report, the State agency did not concur with our first recommendation or the amount of the recommended refund. The State agency provided explanations and documentation for five sample items related to unallowable maintenance payments for children who were not eligible for services. The State agency concurred with our second recommendation and provided information on actions that it had taken or planned to take to address the recommendation. The State agency's comments are included as Appendix E. We excluded individual case file documentation attached to the State agency's comments because it contained personally identifiable information.

OFFICE OF INSPECTOR GENERAL RESPONSE

After reviewing the State agency's documentation for the five sample items, we concluded that one payment could not be evaluated and removed the associated finding from the final report, three payments were allowable, and one payment remained unallowable. Accordingly, we revised the number of payments that could not be evaluated, the number of unallowable payments, the associated unallowable administrative costs, and the amount of the recommended refund.

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INTRODUCTION

BACKGROUND

Title IV-E Foster Care Program

Title IV-E of the Social Security Act (the Act), as amended, authorizes Federal funds for States to provide foster care for children under an approved State plan. At the Federal level, the Administration for Children and Families (ACF) administers the program.

Section 472(a) of the Act establishes Title IV-E foster care eligibility requirements. For children who meet these requirements, Federal funds are available to States for maintenance payments, administrative costs, and training costs:

- Maintenance payments are payments to foster parents, group homes, and residential childcare facilities on behalf of a foster care child for such things as food, shelter, daily supervision, clothing, school supplies, and reasonable travel to the child's home. The Federal share of maintenance payments is based on each State's Federal reimbursement rate for Title XIX (Medicaid) expenditures. During our audit period, the Federal share of California's maintenance payments was 50 percent.
- Administrative costs are expenditures necessary for the proper and efficient administration of the Title IV-E program. These costs include such activities as case planning and management, preplacement activity, preparation for and participation in court hearings, determination and redetermination of eligibility, placement of the child, recruitment and licensing of foster homes and institutions, rate setting, and data collection and reporting. Also reimbursable in this category is a proportionate share of overhead costs. The Federal share of the administrative costs allocable to the Title IV-E program is 50 percent.
- Training costs include the costs of training State or local staff to perform administrative activities and the costs of training current or prospective foster care parents, as well as personnel of childcare institutions. The Federal share of certain training costs allocable to the Title IV-E program is 75 percent.

California Title IV-E Foster Care Program

In California, the Department of Social Services (the State agency) supervises the 58 county welfare departments that administer the Title IV-E foster care program. The State agency licenses the homes of foster parents who are not relatives of the child, group homes, and residential care facilities in California that provide foster care services. The State agency also certifies out-of-State facilities and performs annual reviews to verify facility compliance with California licensing standards so that out-of-State facilities may accept California foster care children.

The State agency establishes the monthly payment rates for in-state foster care facilities. The payment rates for foster family homes are based on the age of the child, and the payment rates for group homes are based on the level of care and services that the group home provides. For group homes, care and services include activities performed by social workers. Because social work costs are not allowable Title IV-E costs,¹ the State agency determines the non-IV-E share of the group home's payment rate by calculating the percentage of the group home's total costs that are attributable to social work costs. The county welfare departments then use the non-IV-E percentage to exclude from Federal reimbursement social work costs included in the payment rate.

Los Angeles County Department of Children and Family Services

In Los Angeles County, the Department of Children and Family Services (the county agency) administers the foster care program. The county agency has an agreement with the Los Angeles County Probation Department (Probation Department) that specifies this department as the responsible agency for Los Angeles County delinquent children placed in foster care. Pursuant to California's Welfare and Institutions Code, sections 601 and 602, a delinquent child under the responsibility of the Probation Department is a child who is adjudicated a ward of the court either because of the child's incorrigible behavior or because of acts committed by the child that would be considered criminal if committed by an adult.

The Probation Department approves the homes of relative caregivers (relative homes) used for the placement of Los Angeles County delinquent children. The Probation Department also places delinquent children in foster care facilities licensed by the State agency.

The county agency determines the Title IV-E eligibility of children and submits claims to the State agency for reimbursement of maintenance payments, administrative costs, and training costs on behalf of delinquent children placed in foster care. The State agency submits claims to the Federal Government for the county agency's costs and is reimbursed the Federal share.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the State agency claimed Title IV-E maintenance payments and associated administrative costs on behalf of Los Angeles County delinquent children in accordance with certain Federal requirements.

Scope

For Federal fiscal years (FY) 2005 and 2006 (October 1, 2004, through September 30, 2006), the State agency claimed \$83,186,068 (Federal share) on behalf of Los Angeles County delinquent

¹ Pursuant to 45 CFR § 1356.60(a)(1), costs associated with social services are not included in determining foster care maintenance payments. Also, 45 CFR § 1356.60(c)(3) states that such costs are not claimable as Title IV-E foster care administrative costs.

children, including maintenance payments of \$36,079,368 and associated administrative costs of \$47,106,700² for case planning and management.

We did not review the State agency's compliance with certain foster care requirements, such as those related to development of a child's written case plan, caseworker visits for a child placed out of State, or 6-month court or administrative reviews of a child's status in foster care. We also did not review the Probation Department's training costs because they were not claimed as State and local administrative costs on Title IV-E claims. Additionally, we did not review the cost components used to develop the monthly payment rates for foster care facilities. We relied on the State agency's non-IV-E percentages for in-state group homes to exclude social work costs. We also relied on the State agency's licensing information to determine whether a foster care facility was licensed and on the Probation Department's approval information to determine whether a relative home was approved.

We limited our review of administrative costs to case planning and management. The Probation Department incurred these costs for children placed in foster care for whom maintenance payments were made.

We did not assess the State agency's or the county agency's overall internal controls. We limited our review to gaining an understanding of selected State and county agency controls related to claiming maintenance payments and associated administrative costs to the Title IV-E program.

We performed our fieldwork at the State agency in Sacramento, California; the county agency in Glendora, California; and the Probation Department in Los Angeles, California.

Methodology

To accomplish our objective, we:

- reviewed applicable Federal and State laws, regulations, and guidance;
- interviewed State agency, county agency, and Probation Department officials to obtain an understanding of the claiming process for maintenance payments and associated administrative costs;
- interviewed State agency officials to obtain an understanding of the development of monthly payment rates and the associated non-IV-E percentages;
- interviewed State agency and county agency officials to obtain an understanding of the procedures for verifying Title IV-E eligibility and maintenance payment amounts;

² The Probation Department contracts with community-based organizations to provide preplacement preventive services, such as school-based supervision, mentoring, and tutoring, to at-risk children to help prevent delinquency. Because our review was limited to maintenance payments for children placed in foster care, we excluded administrative costs for preplacement services. Specifically, the \$47,106,700 does not include community-based organization costs totaling approximately \$1 million (Federal share).

- obtained from the State agency its approved foster care payment rates and non-IV-E percentages for in-state foster care facilities;
- obtained from the county agency a file of maintenance payments for delinquent children that were claimed for FYs 2005 and 2006;³
- reconciled maintenance payments in the file to monthly payment reports for delinquent children supporting the county agency's claims submitted to the State agency;
- reconciled the county agency's claims to the State agency's worksheets and expenditure summaries supporting the State agency's Title IV-E claims submitted to the Federal Government;
- reviewed 2 contracts between the Probation Department and foster care facilities;
- created a database of monthly maintenance payments by combining the Title IV-E maintenance payments made on behalf of each delinquent child for a monthly placement;
- created a sampling frame consisting of 17,640 monthly maintenance payments (\$36,079,368 Federal share);
- randomly selected from the sampling frame 100 monthly maintenance payments (\$201,339 Federal share) and:
 - obtained adjustments from the county agency and netted the adjustments against the payments,⁴
 - reviewed documentation provided by the county agency and Probation Department to determine whether the payments claimed by the State agency met certain Federal requirements,
 - reviewed the State agency's licensing files for in-state group homes,
 - reviewed the State agency's certification and the out-of-State license for an out-of-State group home,
 - obtained from the out-of-State group home the costs included in its payment rate,
 - reviewed the Probation Department's approval documentation for relative homes,

³ The file did not include the county agency's adjustments. These adjustments reclassified certain payments from Title IV-E to non-IV-E sources and were reflected in subsequent claims by the State agency. The file also did not include the county agency's non-IV-E adjustments to exclude social work costs from Title IV-E reimbursement.

⁴ The county agency had identified children associated with 33 of the 100 sampled payments as ineligible for Title IV-E. After the State agency submitted claim adjustments to ACF, the payments netted to zero. We did not consider these payments to be errors.

- verified that the county agency used the correct State-agency-approved non-IV-E percentage for each facility,
- identified the maintenance payments that did not meet certain Federal requirements and calculated the correct payment amounts,⁵ and
- used the results of our sample to estimate the Federal share of unallowable maintenance payments in the sampling frame;
- reconciled the Probation Department’s supporting documentation for administrative costs claimed under the Title IV-E program to the county agency’s quarterly administrative expense claims submitted to the State agency;
- calculated an average monthly administrative cost for a child’s monthly placement associated with the monthly maintenance payments in the sampling frame;⁶ and
- estimated the unallowable associated administrative costs.

See Appendix A for our sampling methodology, Appendix B for our sample results and estimates of unallowable maintenance payments, Appendix C for our estimation methodology for administrative costs, and Appendix D for our estimates of unallowable administrative costs.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

FINDINGS AND RECOMMENDATIONS

The State agency did not always claim Title IV-E maintenance payments and associated administrative costs on behalf of Los Angeles County delinquent children in accordance with certain Federal requirements. Of the 100 monthly maintenance payments in our sample, 80 payments were allowable, 18 payments were unallowable, and 2 payments could not be evaluated because the case files had been sealed under a court order. The 18 unallowable payments consisted of:

- 13 payments and associated administrative costs for children who were not eligible for services and

⁵ When calculating the correct maintenance payment amounts, we took into account the county agency’s subsequent adjustments and the non-IV-E share of maintenance payments not claimed for Title IV-E reimbursement.

⁶ This calculation was necessary because the Probation Department did not identify administrative costs on a monthly per-child basis.

- 5 payments for eligible children that included costs for unallowable services or for services that were not provided.⁷

Based on these sample results, we estimated that for FYs 2005 and 2006, the State agency claimed unallowable Title IV-E costs totaling \$5,700,637 (Federal share), consisting of \$2,212,926 in maintenance payments and \$3,487,711 in associated administrative costs.

The State agency claimed unallowable Title IV-E costs because it did not ensure that the county agency’s eligibility determinations and claims for maintenance payments complied with Federal requirements. Specifically, the county agency (1) made incorrect Title IV-E eligibility determinations or maintained insufficient documentation to support eligibility determinations, (2) claimed payments for children whom the county agency had determined to be ineligible, (3) claimed payments that included unallowable services because the county agency had not used the correct non-IV-E percentages to exclude social work costs, and (4) made a clerical error that resulted in a payment for services that were not provided.

COSTS CLAIMED FOR SERVICES PROVIDED TO INELIGIBLE CHILDREN

For 13 sampled monthly maintenance payments, the State agency claimed costs for services provided to delinquent children who did not meet Title IV-E eligibility requirements. The unallowable costs totaled \$24,353 (Federal share). The table below shows the number of eligibility deficiencies in the 13 payments.

Summary of Eligibility Deficiencies

Requirement Not Met	No. of Payments⁸
Income	6
Judicial determination that remaining in the home would be contrary to the welfare of the child	4
Facility licensing and approval	2
Age	1
Deprivation of parental support	1
Residency	1
Reasonable efforts to prevent removal from the home	1

The State agency claimed unallowable costs because the county agency (1) made incorrect eligibility determinations or maintained insufficient documentation to support eligibility

⁷ Administrative costs are allowable for children who are Title IV-E eligible. Because the 13 payments were claimed on behalf of children who were ineligible for Title IV-E, the associated administrative costs were not allowable. However, because the five payments were claimed on behalf of eligible children, the associated administrative costs were allowable.

⁸ The total exceeds 13 because 3 monthly payments had more than 1 eligibility deficiency. We questioned a payment amount only once regardless of how many deficiencies it had.

determinations and (2) claimed maintenance payments for children whom the county agency had determined to be ineligible.

Income Requirements

Section 472(a) of the Act states that children for whom States claim Title IV-E funding must meet the eligibility requirements for Aid to Families with Dependent Children (AFDC) as established in section 406(a) or 407 (as in effect on July 16, 1996).⁹ Section 472(a)(4)(A) of the Act defines a needy child, in part, as one who “would have received aid under the State plan approved under section 402 (as in effect on July 16, 1996) in or for the month in which ... court proceedings leading to the removal of such child from the home were initiated”¹⁰

Federal regulations (45 CFR § 233.20(a)(3)(xiv)) state: “For AFDC, in States that do not have laws of general applicability holding the stepparent legally responsible to the same extent as the natural or adoptive parent, the State agency shall count as income to the assistance unit the income of the stepparent ... of an AFDC child who is living in the household with the child” California does not have laws of general applicability holding the stepparent legally responsible to the same extent as the natural or adoptive parent.

The State agency claimed six monthly maintenance payments on behalf of children who did not meet income requirements. For three of these payments, the county agency did not include the income of the parents and/or stepparents when computing household income. For the three remaining payments, the county agency had determined that financial need was not established; however, the payments were erroneously charged to the Title IV-E program.

Judicial Determination That Remaining in the Home Would Be Contrary to the Welfare of the Child

Section 472(a)(1) of the Act requires that “the removal from the home ... was the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child” Federal regulations (45 CFR § 1356.21(c)) state: “If the determination regarding contrary to the welfare is not made in the first court ruling pertaining to removal from the home, the child is not eligible for title IV-E foster care maintenance payments for the duration of that stay in foster care.” Pursuant to 45 CFR § 1356.21(d): “The judicial determinations regarding contrary to the welfare ... must be explicitly documented and must be made on a case-by-case basis and so stated in the court order.”

⁹ The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 replaced AFDC with the Temporary Assistance for Needy Families block grant. However, Title IV-E foster care requirements use the 1996 AFDC criteria for eligibility.

¹⁰ The Deficit Reduction Act of 2005 (DRA), P. L. No. 109-171, signed into law on February 8, 2006, revised section 472(a) of the Act to clarify that for Title IV-E foster care eligibility, a child must be eligible for AFDC in the specified relative’s home from which he or she is removed. Our report cites the earlier Act provisions because the DRA revisions to section 472(a) did not take effect until June 9, 2006, for districts under the jurisdiction of the U.S. Court of Appeals for the Ninth Circuit, which includes California. Moreover, the DRA revisions to section 472(a) of the Act did not affect our findings related to delinquent children who did not meet Title IV-E eligibility requirements.

The State agency claimed four monthly maintenance payments on behalf of children for whom the required judicial determinations had not been made. Specifically, the Probation Department did not provide the county agency with the first court order pertaining to the child's initial removal from the home. (The first court order did not contain contrary-to-the-welfare findings.) The Probation Department provided the county agency with subsequent court orders that contained contrary-to-the-welfare findings; however, the court made these judicial determinations after the child had been removed from the home.

Facility Licensing and Approval

Section 472(b) of the Act states: "Foster care maintenance payments may be made under this part only on behalf of a child ... who is – (1) in the foster family home of an individual ... or (2) in a child care institution" Section 472(c) states:

... the term "foster family home" means a foster family home for children which is licensed by the State in which it is situated or has been approved ... as meeting the standards established for such licensing; and (2) the term "child care institution" means a private child care institution, or a public child care institution ... which is licensed by the State in which it is situated or has been approved ... as meeting the standards established for such licensing

California's licensing and approval standards for foster family homes (California Code of Regulations, Title 22, division 6, chapter 9.5, section 89319) state: "All persons subject to criminal record review shall obtain a criminal record clearance from the [State agency] or county as appropriate. Such review will require submission of completed fingerprints pursuant to Health and Safety Code section 1522." Section 89387(a)(8) of the licensing and approval standards states: "Except for infants, children shall not share a bedroom with an adult."

ACF's *Child Welfare Policy Manual*, section 8.3A.8c, states that licensing and approval requirements may be waived for an individual relative home in certain circumstances. In these circumstances, the reason for the waiver must be documented in the foster home's licensing or approval record, and the certification of licensure or approval must indicate the waiver's applicability to the specific relative child.

The State agency claimed two monthly maintenance payments on behalf of children in relative homes that did not meet Federal and State requirements for foster family homes. For one payment, the foster home did not meet California licensing and approval standards because criminal background checks had not been conducted on all adults living in the home. For the other payment, a female adult and a 13-year-old male child shared the same bedroom. No waivers were documented for these exceptions to California's licensing and approval standards.

Age Requirements

Section 472(a) of the Act requires that children for whom States claim Title IV-E funding meet the eligibility requirements for AFDC as established in section 406(a) or 407 (as in effect on July 16, 1996). Section 406(a)(2), as in effect on July 16, 1996, states that the child must be

“(A) under the age of eighteen, or (B) at the option of the State, under the age of nineteen and a full-time student in a secondary school (or in the equivalent level of vocational or technical training), if, before he attains age nineteen, he may reasonably be expected to complete the program of such secondary school (or such training).”

State agency eligibility regulations (section 45-201.1(b)(3) of the *California DSS-Manual-Eligibility Assistance Standards*) state that the child must “[a]ttend on a full-time basis either a high school or, if he/she has not completed high school, a vocational-technical training program which cannot result in a college degree ... provided he/she is reasonably expected to complete either program before reaching age 19. Full-time attendance must be defined and verified by child’s school.”

The State agency claimed one monthly maintenance payment on behalf of a child who was over the age of 18 and could not reasonably have been expected to complete a secondary education program (or equivalent vocational or technical training) before the age of 19. Neither the county agency nor the Probation Department provided evidence that the child attended secondary school or an equivalent vocational or technical training program on a full-time basis during the month for which the payment was made.

Deprivation of Parental Support

Section 472(a) of the Act requires that children for whom States claim Title IV-E funding meet the eligibility requirements for AFDC as established in section 406(a) or 407 (as in effect on July 16, 1996). An eligible child must be deprived of parental support, among other requirements. Section 406(a) of the Act, as in effect on July 16, 1996, states:

The term “dependent child” means a needy child (1) who has been deprived of parental support or care by reason of the death, continued absence from the home (other than absence occasioned solely by reason of the performance of active duty in the uniformed services of the United States), or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece, in a place of residence maintained by one or more of such relatives as his or their own home

The State agency claimed one monthly maintenance payment on behalf of a child who did not meet the requirement that he or she be deprived of parental support or care. The county agency had determined that deprivation was not established; however, the payment was erroneously charged to the Title IV-E program.

Residency Requirements

Section 472(a)(4) of the Act states that children for whom States claim Title IV-E funding must meet AFDC eligibility requirements as established in section 406(a) (as in effect July 16, 1996). Section 406(a)(1) defines a dependent child as a needy child who “... is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister,

uncle, aunt, first cousin, nephew, or niece, in a place of residence maintained by one or more of such relatives as his or their own home”, among other requirements.

Section 472(a)(4)(A) of the Act provides that foster care maintenance payments may be made on behalf of a child only if the child “would have received aid under the State plan approved under section 402 (as in effect on July 16, 1996) in or for the month in which ... court proceedings leading to the removal of such child from the home were initiated” Section 472(a)(4)(B)(ii) allows Title IV-E foster care funding provided that the child “had been living with a relative specified in section 406(a) (as in effect on July 16, 1996) within six months prior to the month in which ... proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made.”

The State agency claimed one monthly maintenance payment made on behalf of a child for whom the county agency provided no evidence that the child had lived with a specified relative in the month of or within 6 months before the month that proceedings were initiated leading to the child’s removal from the home. Probation Department documentation disclosed that the child had lived in an out-of-State facility and had also resided with friends.

Reasonable Efforts To Prevent Removal From the Home

Section 471(a)(15)(B) of the Act states: “[E]xcept as provided in subparagraph (D), reasonable efforts shall be made to preserve and reunify families—(i) prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child’s home”

Federal regulations (45 CFR § 1356.21(b)) state: “The State must make reasonable efforts to maintain the family unit and prevent the unnecessary removal of a child from his/her home In order to satisfy the ‘reasonable efforts’ requirements of section 471(a)(15) (as implemented through section 472(a)(1) of the Act), the State must meet the requirements of paragraphs (b) and (d) of this section.” Section (b)(1)(i) of the regulation states: “When a child is removed from his/her home, the judicial determination as to whether reasonable efforts were made, or were not required to prevent the removal, in accordance with paragraph (b)(3) of this section, must be made no later than 60 days from the date the child is removed from the home” Section (b)(1)(ii) of the regulation states: “If the determination concerning reasonable efforts to prevent the removal is not made as specified in paragraph (b)(1)(i) of this section, the child is not eligible under the title IV-E foster care maintenance payments program for the duration of that stay in foster care.”

The State agency claimed one monthly maintenance payment on behalf of a child for whom the court did not make a timely judicial determination as to whether reasonable efforts were made to prevent removal from the home. Specifically, the judicial determination occurred more than 6 months after the child had been removed from the home.

Unallowable Associated Administrative Costs

As explained in Appendixes C and D, we estimated that the State agency claimed \$34,716 (Federal share) in unallowable administrative costs associated with the 13 sampled monthly maintenance payments for services provided to ineligible children.

COSTS CLAIMED FOR UNALLOWABLE SERVICES AND SERVICES NOT PROVIDED

The State agency claimed five monthly maintenance payments on behalf of Title IV-E eligible children for unallowable services (four payments) or services that were not provided (one payment).

The State agency claimed these unallowable costs, which totaled \$330 (Federal share), because the county agency (1) had not used the correct non-IV-E percentages to exclude social work costs and (2) made a clerical error that resulted in a payment for services that were not provided.

Costs Claimed for Unallowable Services

Section 472(b)(2) of the Act limits maintenance payments to “only those items which are included in the term ‘foster care maintenance payments’ (as defined in section 475(4)).” Section 475(4)(A) of the Act states: “The term ‘foster care maintenance payments’ means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child’s personal incidentals, liability insurance with respect to a child, and reasonable travel to the child’s home for visitation.”

The State agency claimed four monthly maintenance payments that included social work costs, which are not covered under the Federal definition of foster care maintenance payments. The county agency claimed social work costs because it had not used the correct non-IV-E percentage or had not used any non-IV-E percentage to exclude the costs.

Costs Claimed for Services Not Provided

OMB Circular A-87, Attachment A, states that to be allowable under Federal awards, a cost must be determined in accordance with generally accepted accounting principles (section C.1.g.) and adequately documented (section C.1.j.). In addition, section C.2. states: “A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.”

The State agency claimed one monthly maintenance payment for services that the facility did not provide. The case file documented that the child had run away and was no longer in the facility. The child’s absence from the facility was greater than 14 days, and the Probation Department terminated the child’s placement at the facility after the child ran away. Because of a clerical error, the county agency used the incorrect number of facility days to calculate the payment amount for the facility. The payment exceeded the facility costs because services were no longer being provided to the child.

SUMMARY OF UNALLOWABLE COSTS CLAIMED

Of the 100 monthly maintenance payments sampled, 18 payments included unallowable costs totaling \$24,683 for services provided to ineligible children or for unallowable services or services not provided to eligible children. Based on the sample results, we estimated that for FYs 2005 and 2006, at least \$2,212,926 of the \$36,079,368 (Federal share) claimed for maintenance payments was unallowable for Federal reimbursement.

We estimated that the State agency claimed \$34,716 in unallowable administrative costs associated with the 13 sampled monthly maintenance payments for services provided to ineligible children. Therefore, we estimated that for FYs 2005 and 2006, at least \$3,487,711 of the \$47,106,700 (Federal share) claimed for associated administrative costs was unallowable for Federal reimbursement.

RECOMMENDATIONS

We recommend that the State agency:

- refund to the Federal Government \$5,700,637 for unallowable costs, consisting of \$2,212,926 in maintenance payments and \$3,487,711 in associated administrative costs, and
- ensure compliance with Federal requirements by periodically selecting a sample of foster care case files for delinquent children to determine whether the county agency (1) made correct eligibility determinations and maintained sufficient documentation to support eligibility determinations and (2) claimed payments only for eligible children, allowable services, and services provided.

STATE AGENCY COMMENTS

In its comments on our draft report, the State agency did not concur with our first recommendation and the amount of the recommended refund. The State agency provided explanations and documentation for five sample items related to unallowable maintenance payments for children who were not eligible for services:

- Regarding the sample item for the finding in the draft report related to lack of documentation supporting the eligibility determination, the State agency commented that the probation case file was sealed by the court. The State agency also commented that our audit identified another sealed case file in which we determined that the sample item represented a payment that could not be evaluated.
- Regarding two sample items for the finding related to income requirements, the State agency provided documentation supporting that income requirements had been met. One of these sample items also had a finding related to deprivation of parental support, for which the State agency also provided supporting documentation.

- Regarding a sample item for the finding related to age requirements, the State agency commented that the *Title IV-E Foster Care Eligibility Review Guide* stated that an independent living plan satisfied eligibility requirements. The State agency provided a signed transitional independent living plan to support the payment for the child associated with this sample item.
- Regarding a sample item for the finding related to a judicial determination that remaining in the home would be contrary to the welfare of the child, the State agency provided a copy of the court transcript from December 29, 2005, that identified the requisite Title IV-E findings for the payment.

The State agency concurred with our second recommendation and provided information on actions that it had taken or planned to take to address the recommendation, including making a Web-based training module available in mid-2011 for child welfare and probation staff and reviewing the training and technical assistance provided by the Office of Administrative Courts to ensure that county probation departments are knowledgeable on the completion of judicial documentation. The State agency also commented that it would temporarily redirect resources to perform onsite claims validation in up to six counties, including Los Angeles County. In its review of Los Angeles County, the State agency will include a review of claimed payments from a sample of foster care case files for delinquent children.

The State agency's comments are included as Appendix E. We excluded individual case file documentation attached to the State agency's comments because it contained personally identifiable information.

OFFICE OF INSPECTOR GENERAL RESPONSE

After reviewing the State agency's documentation for the five sample items, we concluded that one payment could not be evaluated and removed the associated finding from the final report, three payments were allowable (related to the findings regarding income, deprivation of parental support, and age requirements), and one payment remained unallowable (related to the finding regarding judicial determination). Accordingly, we revised the number of payments that could not be evaluated, the number of unallowable payments, the associated unallowable administrative costs, and the amount of the recommended refund.

For the sample item that remained unallowable, the court transcript provided by the State agency pertained to the December 29 dispositional hearing, not the December 27 adjudication hearing in which the child was ordered detained in juvenile hall. The December 27 court order did not contain the required judicial determination that it was contrary to the child's welfare to remain in the home. Federal regulations (45 CFR § 1356.21(c)) state: "The contrary to the welfare determination must be made in the first court ruling that sanctions (even temporarily) the removal of a child from home."

APPENDIXES

APPENDIX A: SAMPLING METHODOLOGY FOR MONTHLY MAINTENANCE PAYMENTS

POPULATION

The population consisted of monthly Title IV-E foster care maintenance payments made on behalf of Los Angeles County delinquent children that the California Department of Social Services (the State agency) claimed for Federal reimbursement. These payments were claimed during Federal fiscal years (FY) 2005 and 2006.

SAMPLING FRAME

We obtained monthly maintenance payments from the Los Angeles County Department of Children and Family Services. We combined the payments made on behalf of a delinquent child for a monthly placement into a single monthly maintenance payment. We excluded any monthly maintenance payment that totaled zero or a negative amount. The resulting sampling frame consisted of 17,640 monthly maintenance payments totaling \$36,079,368 (Federal share).

SAMPLE UNIT

The sample unit was a monthly maintenance payment made on behalf of a delinquent child placed in foster care.

SAMPLE DESIGN

We used a simple random sample.

SAMPLE SIZE

We selected a sample of 100 monthly maintenance payments.

SOURCE OF RANDOM NUMBERS

The source of the random numbers was the Office of Inspector General, Office of Audit Services (OAS), statistical software.

METHOD FOR SELECTING SAMPLE ITEMS

We consecutively numbered the sample units in the sampling frame from 1 to 17,640. After generating 100 random numbers, we selected the corresponding frame items.

ESTIMATION METHODOLOGY

We used the OAS statistical software to estimate the Federal share of the monthly maintenance payments unallowable for Federal reimbursement.

**APPENDIX B: SAMPLE RESULTS AND ESTIMATES FOR MONTHLY
MAINTENANCE PAYMENTS (FEDERAL SHARE)**

Sample Results

No. of Monthly Maintenance Payments in Sampling Frame	Total Costs Claimed for Monthly Maintenance Payments in Sampling Frame	No. of Sampled Monthly Maintenance Payments	Total Costs Claimed for Sampled Monthly Maintenance Payments	No. of Unallowable Monthly Maintenance Payments Claimed	Value of Unallowable Monthly Maintenance Payments Claimed
17,640	\$36,079,368	100	\$201,339	18	\$24,683

Estimates of Unallowable Monthly Maintenance Payments
(Limits Calculated for a 90-Percent Confidence Interval)

Point estimate	\$4,353,993
Lower limit	2,212,926
Upper limit	6,495,060

APPENDIX C: ESTIMATION METHODOLOGY FOR ADMINISTRATIVE COSTS

Administrative costs associated with preplacement activity, eligibility determinations, licensing, and training may be incurred for children who are considered foster care candidates (i.e., children not yet removed from their homes), as well as for children already placed in foster care. Because our audit covered monthly maintenance payments on behalf of delinquent children placed in foster care, the associated administrative costs included only the Los Angeles County Probation Department’s (Probation Department) Title IV-E costs for case planning and management and excluded administrative costs for preplacement services. The administrative costs included in our review are similar to those that the Administration for Children and Families uses to calculate administrative cost disallowances during its Title IV-E foster care eligibility reviews. The Probation Department’s administrative costs for case planning and management claimed by the State agency for FYs 2005 and 2006 totaled \$47,106,700 (Federal share).

The Probation Department did not identify administrative costs on a monthly per-child basis. Therefore, to estimate the administrative costs associated with unallowable monthly maintenance payments, we calculated an average monthly administrative cost for a child’s monthly placement, as shown below:

Total Title IV-E Administrative Costs Claimed (Federal Share)		Total No. of Monthly Placements for Delinquent Children		Average Monthly Administrative Cost per Child’s Monthly Placement
\$47,106,700	÷	17,640	=	\$2,670

Because administrative costs are allocated to the Title IV-E program based on a ratio of Title IV-E eligible children to all foster care children, administrative costs are allowable for children who are Title IV-E eligible. Conversely, administrative costs are unallowable for children who are not Title IV-eligible. Therefore, we considered the associated monthly administrative costs to be unallowable when a sampled monthly maintenance payment was determined to be unallowable because of an ineligible child. However, if the monthly maintenance payment was determined to be unallowable for reasons not related to a child’s eligibility, we considered the associated monthly administrative costs to be allowable.

We used the OAS statistical software to estimate the total Federal share of unallowable administrative costs associated with the Probation Department’s claims for unallowable monthly maintenance payments.

APPENDIX D: ESTIMATES OF ADMINISTRATIVE COSTS (FEDERAL SHARE)

Estimate of Unallowable Administrative Costs Claimed for Sampled Payments

Total No. of Monthly Maintenance Payments in Sampling Frame	Total Administrative Costs Claimed in Sampling Frame	No. of Sampled Monthly Maintenance Payments	Total Estimated Administrative Costs Claimed for Sampled Monthly Maintenance Payments	No. of Monthly Maintenance Payments for Ineligible Children	Estimated Unallowable Administrative Costs Claimed for Sampled Monthly Maintenance Payments
17,640	\$47,106,700	100	\$267,045	13	\$34,716

Estimates of Unallowable Administrative Costs
(Limits Calculated for a 90-Percent Confidence Interval)

Point estimate	\$6,123,876
Lower limit	3,487,711
Upper limit	8,760,041

APPENDIX E: STATE AGENCY COMMENTS



CDSS

JOHN A. WAGNER
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
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ARNOLD SCHWARZENEGGER
GOVERNOR

December 13, 2010

Lori A. Ahlstrand
Regional Inspector General
Office of Audit Services, Region IX
90 - 7th Street, Suite 3-650
San Francisco, CA 94103

Dear Ms. Ahlstrand:

SUBJECT: OFFICE OF INSPECTOR GENERAL AUDIT REPORT A-09-08-00023

The California Department of Social Services (CDSS) appreciates the opportunity to respond to the Office of Inspector General's (OIG) draft report entitled "Review of Title IV-E Foster Care Costs Claimed on Behalf of Delinquent Children in Los Angeles County, California". The review objective was to determine whether the CDSS claimed Title IV-E maintenance and associated administrative costs (on behalf of Los Angeles County) for delinquent children in accordance with federal requirements. As a result, the review recommends that CDSS:

1. refund \$8,084,007 to the Federal Government; and
2. perform periodic sampling.

The enclosed response provides the reasons CDSS is disagreeing with the recommended refund and the Department's efforts to resolve the recommendation to perform periodic sampling.

If you have any questions, please contact me at (916) 657-2598, or Cynthia Fair, Chief, Audits Bureau at (916) 651-9923.

Sincerely,

JOHN A. WAGNER
Director

Enclosures

Enclosure

CDSS Response to OIG Draft Report A-09-08-000233

Recommendations for Social Services

- I **Recommendation #1:**
Refund to the Federal Government \$8,084,007 for unallowable costs, consisting of \$3,020,316 in maintenance payments and \$5,063,691 in associated administrative costs.

CDSS Response #1: The CDSS does not concur.

The following sample case responses explain/support CDSS response position:

Sample Number 2-7966: Missing documentation, unable to verify eligibility – no probation case file

This probation case file was sealed by the courts. Los Angeles County cited Welfare and Institutions Code section 781 (copy enclosed) that "once the court has ordered the records sealed, the proceedings in the case shall be deemed never to have occurred". This audit identified another sealed case (73-4695) that was initially a finding but subsequently removed from the findings. In discussion with the OIG auditor, [REDACTED], the finding for sample number 73-4695 was dropped because the auditors received and reviewed case file eligibility and minute orders and determined it was a sealed case and therefore removed the case as a finding. OIG Auditor [REDACTED] stated that Los Angeles County did not provide any information on sample number 2-7966 therefore, it remained a finding. CDSS confirmed with the OIG Auditor the documentation that was needed for OIG to review the case file eligibility and minute orders for sample number 2-7966. We are providing you with the reconstructed eligibility documentation and the appropriate minute order to substantiate and verify the eligibility for this sample number. Enclosed please find a: reconstructed FC2 for Detention date of 3/12/2001; reconstructed FC3 for Petition date of 3/12/2001; FC3 (Supplement) for Petition of March 2001; Wage and Earning statements for the period inclusive of March 2001; and, Minute Order dated 3/12/2001. Additionally, enclosed is a statement from Region IX indicating that reconstruction of Aid to Families with Dependent Children (AFDC) linkage (all other things remaining the same) is permissible.

In the event that OIG decides not to accept the enclosed eligibility documentation for this sample number, CDSS believes that this sample number must be removed from the population of sample numbers for audit and extrapolation purposes. To the extent that necessary documentation exists in the file sealed by order of the Court, it is unavailable to CDSS, and no presumption should be created as to whether that information exists or does not exist in the sealed court file. It is unfair and unreasonable to determine that a disallowance be applied to Los Angeles County, because it could not obtain documentation that was sealed by court order. The Court's action to seal this case was not brought about by any action or inaction by CDSS or Los Angeles County. This case was not sealed through an effort to conceal information pertaining to the state or county's performance in meeting federal requirements in this case. It was sealed as required by California law. Furthermore, there is nothing CDSS or Los Angeles

Draft OIG Review A-09-08-00023

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December 2, 2010

Office of Inspector General Note: We concluded that the payment for sample item 2-7966 could not be evaluated and removed this finding from the final report. We have redacted personally identifiable information from the State agency comments.

Enclosure

CDSS Response to OIG Draft Report A-09-08-000233

County can do to unseal this case, because under the statute regarding sealed cases, (See WIC Section 781, enclosed) there is no legal basis for CDSS or Los Angeles County to move to unseal this case. Accordingly, should OIG refuse to change its determination of error in this case, OIG should remove this sample number from the sample.

Sample number 21-3666: AFDC Linkage

The finding was based on AFDC linkage being determined in the month of December 2003 instead of November 2003-the month the child was removed from the home. We are providing documentation that establishes the AFDC linkage based on November 2003 (wage documentation and FC3 enclosed). Additionally, enclosed is a statement from Region IX indicating that reconstruction of AFDC linkage (all other things remaining the same) is permissible.

Sample number 44-93767: Age Requirement

This OIG finding states "no evidence of verification from school of full time attendance and reasonably expected to complete program before age 19". Enclosed is an excerpt from the Title IV-E Foster Care Eligibility Review Guide, dated March 2006. This review guide identifies on page 36 that "School records, independent living plans, or other documentation similar in purpose are examples of evidence that may be used to satisfy the eligibility requirement". Enclosed is the Transitional Independent Living Plan (TILP) for the child identified with this finding. The OIG used a sample payment month of August 2005. The TILP was completed and signed in July 2005 indicating the youth is expected to graduate from high school prior to his 19th birthday. In past federal Title IV-E reviews, the level of review for verification of school graduation has not proceeded beyond an examination of the appropriate eligibility forms. In addition to the TILP, enclosed are the CDSS Division 45 regulations and two All County Letters instructing county welfare departments on the education requirement.

Sample number 60-17256: Judicial Determination

This OIG finding indicates that a "contrary to the welfare" finding was not made in the minute order. Enclosed is a copy of the court transcripts from December 29, 2005, that identify the requisite Title IV-E findings. It is CDSS' experience that some minute orders do not contain the required findings, but the court transcripts do; therefore, CDSS and Administration for Children and Families allow use of either the minute order or court transcripts to document that requisite Title IV-E findings are made on the first court ruling that sanctions the child's removal from the home.

Sample number 78-2454: AFDC Linkage

This OIG finding indicates the eligibility case file did not contain a FC2, FC 3 and/or FC3 (Supplement); therefore the AFDC eligibility was not verified. Los Angeles County indicated that this case had two separate foster care segments. CDSS confirmed with the OIG Auditor that eligibility documentation for the removal in June 2001 was the documentation needed for this sample number.

Enclosure

CDSS Response to OIG Draft Report A-09-08-000233

We are providing you with the reconstructed eligibility documentation and the appropriate minute order to substantiate and verify the eligibility for this sample number (enclosed). Additionally, enclosed is a statement from Region IX indicating that reconstruction of AFDC linkage (all other things remaining the same) is permissible.

**II Recommendation #2:
Periodically select and sample foster care case files for delinquent children to determine whether the county agency has done the following:**

- a. made correct eligibility determinations and maintained sufficient documentation to support those determinations; and,
- b. claimed payments only for eligible children, allowable services, and services provided.

CDSS Response #2.a: The CDSS does concur.

The CDSS is the single state agency responsible for oversight of Title IV-E funds. As such, the state undergoes Federal Reviews every three years and has successfully passed the 2003, 2006 and 2009 review. Given the low error rate under the Title IV-E review, CDSS does not believe there are systemic problems with eligibility determinations. However while CDSS concurs that monitoring eligibility determinations is a significant function of oversight, CDSS is not a control, or funding, agency and lacks resources to adequately perform this function on a consistent basis. Due to external considerations for resources, CDSS is committed to work within the state's budget processes and with control agencies to seek additional resources to perform regular and consistent monitoring functions to ensure correct eligibility determinations and sufficient documentation to support those determinations. Approval of any new resources must go through the normal budget and legislative processes. The CDSS has been developing a "work around" to this oversight issue by proposing a web-based training module for child welfare and probation staff to ensure that county placing agencies have the correct training to determine and complete the appropriate forms. The Department anticipates making this web-based training available mid 2011. Additionally, CDSS contracts with the Office of Administrative Courts to provide judicial reviews and technical assistance on a consistent basis throughout the state. The CDSS can review the training and technical assistance to ensure that county probation departments are knowledgeable on the completion of judicial documentation to allow the child welfare eligibility workers to make the correct eligibility determination. Other issues identified in the findings, such as eligible facility, etc., would be addressed through the web-based training.

CDSS Response #2.b: The CDSS does concur.

As part of a corrective action implementation plan for Audit Common Identification Number A-09-10-12782, the Department has formally implemented the current procedures to address recurrent claiming inconsistencies or

Enclosure

CDSS Response to OIG Draft Report A-09-08-000233

unexplained expenditures that are identified through either: (1) claims reviews, (2) budget trend or variance analysis, or (3) A-133 audit reviews. In addition, for state FY 2010-11, the CDSS will temporarily redirect resources to perform onsite claims validation in up to six counties, including Los Angeles County. In its review of Los Angeles County, the CDSS will include a review of claimed payments for eligible children, allowable services, and services provided from a sample of foster care case files for delinquent children. The CDSS is committed to work within the state's budget processes and with control agencies to seek additional resources to perform regular and consistent fiscal onsite monitoring of county claiming procedures. Approval of any new resources must go through the normal budget and legislative processes.