

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 5

PUBLIC SAFETY

ASSEMBLYMEMBER SHIRLEY N. WEBER, PH.D., CHAIR

MONDAY, APRIL 3, 2017

3:00 P.M. – CALIFORNIA STATE CAPITOL ROOM 437

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ITEMS TO BE HEARD

5225 CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

ISSUE 1: CALIFORNIA MEDICAL FACILITY PSYCHIATRIC INPATIENT PROGRAM

The California Department of Corrections and Rehabilitation will open this issue with a description of the proposed \$11.4 million from the General Fund and 90 positions to convert 74 existing outpatient mental health beds into ICF beds at CMF.

PANELISTS

- California Department of Corrections and Rehabilitation
- Department of Finance
- Legislative Analyst's Office
- Public Comment

GOVERNOR'S PROPOSAL

CDCR requests \$11.4 million General Fund to convert an enhanced outpatient unit into a 74-bed Intermediate Care Facility (ICF) at the California Medical Facility. This equates to approximately \$154,000 per bed for additional staff. This cost is not comparable to other inpatient psychiatric programs because it does not include the cost for existing staff at the facility that would be used to support the ICF beds. The proposed ICF beds would be operated by CDCR, consistent with the administration's plan for CDCR to have full responsibility for all inpatient psychiatric beds.

BACKGROUND

Inpatient psychiatric programs are operated in both state prisons and state hospitals. There are a total of 1,547 inpatient psychiatric beds. There are two levels of inpatient psychiatric programs:

- **ICF.** ICFs provide longer-term treatment for inmates who require treatment beyond what is provided in CDCR outpatient programs. Inmates with lower security concerns are placed in low-custody ICFs, which are in dorms, while inmates with higher security concerns are placed in high-custody ICFs, which are in cells. There are 784 ICF beds, 700 of which are high-custody ICF beds in state prisons. In addition, there are 306 low-custody ICF beds in state hospitals.

- **Acute Treatment Programs (ATPs).** ATPs provide shorter-term, intensive treatment for inmates who show signs of a major mental illness or higher level symptoms of a chronic mental illness. Currently, there are 372 APP beds, all of which are in state prisons.

In addition to these beds, there are 85 beds for women and condemned inmates in state prisons that can be operated as either ICF or ATP beds. As of January 2017, there was a waitlist of over 120 inmates for ICF and ATP beds.

LAO ASSESSMENT AND RECOMMENDATION

Additional Capacity Appears Justified. Given that there is currently a 120-inmate waitlist for inpatient psychiatric beds, the proposal to provide 74 additional beds appears justified on a workload basis. We also note that activating these additional beds could help reduce the amount of time that inmates on the waitlist spend in comparatively more expensive MHCBS.

LAO Recommendation

Much like the LAO's recommendation regarding the lift and shift from DSH to CDCR, the LAO recommends that the Legislature approve the proposed funding and positions to convert outpatient mental health beds into CDCR-operated ICF beds on a three-year, limited-term basis. In order to help the Legislature assess whether CDCR can successfully develop its own approach to staffing inpatient psychiatric units.

STAFF COMMENTS

In the LAO's analysis of the CMF ICF bed proposal and the Mental Health Crisis Beds proposed at RJD and CIM, it is stated that there are two factors that could potentially reduce the need for MHCBS by the time the proposed beds at RJD and CIM would be activated by the end of 2020-21. First, the implementation of Proposition 57 is expected to reduce the inmate population, which could also reduce the mental health population and the need for MHCBS. For example, under the administration's current plans to implement Proposition 57, some inmates in inpatient psychiatric programs who were not earning good-time credits - which reduce an inmate's sentence for adhering to prison rules - or were earning these credits at lower rates, may become eligible to earn credits. Because this would reduce the population of these inmates, it could also reduce the need for MHCBS. Second, if the Legislature approves the ICF unit proposed at CMF, it could reduce the amount of time inmates spend in MHCBS waiting for admission to ICF beds.

This Subcommittee heard CDCR's proposal for the MHCBS at RJD and CIM on March 6th, and held the proposal open based on the impact that Prop 57 and this new ICF unit could have on the need for additional MHCBS statewide. Staff notes that this proposal for additional beds ICF beds at CMF does not address the need for additional mental health beds in the Southern California region. The Subcommittee may wish to have CDCR address the following:

1. Please describe the trends in need for additional capacity for serving those with chronic mental illness within the inmate population.
2. Does the Department have plans for developing additional capacity to serve those with mental illness?

Staff Recommendation: Hold Open.

ISSUE 2: HEALTH CARE APPEALS PILOT

The California Department of Corrections and Rehabilitation will open this issue with a description of the proposed \$5,398,000 General Fund and 36 positions beginning in fiscal year 2017-18 in order to provide additional registered nurses as part of the Health Care Appeals Pilot.

PANELISTS

- California Department of Corrections and Rehabilitation and California Correctional Health Care Services
- Department of Finance
- Legislative Analyst's Office
- Public Comment

GOVERNOR'S PROPOSAL

The California Correctional Health Care Services (CCHCS) requests \$5,398 million General Fund (GF) and 36 positions beginning in fiscal year 2017-18. This request will provide Health Care Appeals Registered Nurses, Correctional Facility (HCARN) to ensure clinical review is available within the Health Care Appeals Office (HCAO) at each institution within the California Department of Corrections and Rehabilitation (CDCR) and will address additional time requirements related to Effective Communications (EC).

BACKGROUND

Concerns arose about the overly bureaucratic nature of the health care appeals process, excessive screen outs, and lack of clinical triage/intervention were raised by Federal Judge Thelton Henderson, the Plata Court, the Receiver, and CCHCS legal counsel in late 2014. Responding to these concerns, on September 1, 2015, CCHCS launched a Health Care Appeal Pilot (Pilot) at three institutions: Central California Women's Facility, California Substance Abuse Treatment Facility (SATF), and California State Prison, Solano. The Secretary of State approved the pilot with the understanding that the impacted regulations would be implemented within two years following the commencement of the Pilot. The Office of Administrative Law (OAL) will file the new health care regulations with the Secretary of State, and will publish the regulations in the CCR, Title 15 pursuant to the provisions of the official approved Pilot filing: Office of Administrative Law-OA L 2015-0831-01.

The Pilot focused on two main changes:

1. The establishment of HCARNs to conduct clinical triage, conduct a clinical review when appropriate, and facilitate early face-to-face clinical intervention when appropriate.
2. The simplification of the health care appeals process by eliminating one institutional level of review.

This approach ensures the reduction of redundancy in the health care appeals process. The Pilot institutions have reported positive results related to the upfront clinical triage and ability to address urgent/emergent issues immediately. The HCARNs have successfully integrated their advocacy and proactive handling of the health care appeals primarily due to being available to address questions and the provision of patient education. Overall, the pilot institutions have seen the following positive results: 1) there has been a reduction in the number of health care appeals rejected or cancelled due to "non-urgent" clerical reasons (such as, but not limited to: missing documents, threats or abusive language within appeal, no adverse effect on welfare, etc.); 2) an increase in patient access to care due to HCARN intervention; 3) and an increase in the number of health care appeals resolved at the institutional level.

LAO ASSESSMENT AND RECOMMENDATION
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Streamlined Appeals Process Makes Sense. Given that the streamlined health care appeals process is expected to resolve health care appeals more cost-effectively by providing clinical reviews earlier in the appeals process, expanding the pilot to all institutions makes sense.

Health Care Appeals Should Be Managed Within Existing Resources. The primary change in the proposed appeals process is that administrative staff would no longer review appeals. Instead, they would only prepare appeals and send them to a registered nurse for the clinical review. The nurse would conduct largely the same clinical review as they currently do under the existing process. If appeals are sent to headquarters for review, the headquarters staff would also follow the same review process currently in place. The Receiver has not provided an explanation of how reducing workload associated with the administrative review would result in a need for an increase in the number of nurses needed to complete clinical reviews. Given that the clinical review process would remain largely the same under the proposed appeal process, their workload would not significantly change. Moreover, during the pilot, the Receiver was able to use existing resources to perform clinical reviews of health care appeals.

New Appeals Process Could Actually Reduce Costs. The new appeals process may result in reduced workload and create savings. Workload would likely be reduced in several ways. First, by eliminating the administrative level of review, the administrative staff would only prepare appeals for the nurses to review. Second, the new process is anticipated to reduce the number of appeals that require headquarters review as part of

the final appeals stage. Third, the new process is expected to more effectively address the clinical concerns of inmates who submit appeals, resulting in fewer inmates receiving PCP visits as part of the appeal process. Despite the potential for savings, the Receiver does not propose to score any savings.

LAO Recommendation

The LAO recommends that the Legislature direct the Receiver to implement this new process without additional funding. Given that the new process would likely reduce costs, the LAO recommends that the Legislature direct the Receiver to implement it at all institutions. However, because it could be managed within existing resources and would likely reduce costs, the LAO finds no reason to provide the Receiver with additional funding to implement it. Accordingly, the LAO recommends that the Legislature reject the proposed funding.

It is worth noting that the Receiver the Receiver has sent the LAO additional information on the appeals process, which the LAO is still reviewing to determine if it changes the recommendation above.

STAFF COMMENTS

The Subcommittee may wish to ask CDCR and CCHCS to describe and clarify the mechanical differences between the current and proposed appeals processes.

Staff Recommendation: Hold Open.

ISSUE 3: LICENSED VOCATIONAL NURSE MEDICATION MANAGEMENT

The California Department of Corrections and Rehabilitation will open this issue with a description of the proposed \$8.9 million General Fund and 105.2 Licensed Vocational Nurses to staff each pill window throughout the day.

PANELISTS

- California Department of Corrections and Rehabilitation and California Correctional Health Care Services
- Department of Finance
- Legislative Analyst's Office
- Public Comment

GOVERNOR'S PROPOSAL

The California Correctional Health Care Services (CCHCS) requests \$8.9 million from the General Fund and 105.2 additional positions for medication management based on a new staffing model developed by the Receiver that includes a sufficient number of Licensed Vocational Nurse (LVN) positions to staff each pill window throughout the day and distribute medication inmates are allowed to keep and use as needed.

BACKGROUND

Under the approved Medical Classification Model (MCM), Licensed Vocational Nurse Medication Management (LVNMM) positions are allocated based upon a 1:100 nurse-to-patient encounter ratio for Nurse Administered (NA) medication administration. The calculation takes the total number of patients divided by 100 multiplied by the seven day relief of 1.77 to determine staffing allocations. The formula has created shortcomings in LVNMM staffing by not allocating enough staff to cover all medication administration areas (MAA) or taking into account Keep-On-Person (KOP) medication distribution. The current medication management staffing in the institutions is insufficient to carry out all the responsibilities incumbent on the LVNs in MAAs, resulting in institutions being reliant on registry and overtime to fill voids in the Post Assignment Schedule.

Finally, Little Hoover Report #231, April 2016 cites the need for the State to reduce overtime in its health care facilities. The report sets a target of a 50 percent reduction of overtime in State health care facilities by 2018. Mandatory overtime has been a union issue that needs to be addressed. Requiring overtime for staff in a health care environment can jeopardize retaining staff, and staff fatigue may lead to poor judgment when administering health care.

Most medications are distributed to inmates from pill windows at various locations throughout each prison. Inmates typically line-up at these windows to receive their medication four times a day—morning, noon, later afternoon, and before they go to sleep. In addition, some medication is distributed to inmates to keep and use as needed, such as an asthma inhaler. Typically, Licensed Vocational Nurses (LVNs) distribute medication to inmates. The 2016-17 budget included a total of \$80 million for LVNs engaged in medication management.

According to the Receiver, budgeted staffing levels have not been adequate to complete daily medication distribution. This is because the current staffing model used to determine level of LVNs and associated funding needed each year for medication management does not account for certain factors that have increased workload in recent years. Such factors include additional pill windows that have since been added to facilities and the need to distribute medication that inmates keep and use as needed. As a result, institutions have relied on overtime and registry staff to complete this increased workload not accounted for under the current staffing model. (Registry staff are contractors that provide services on an hourly basis when civil servants are unavailable.)

LAO ASSESSMENT AND RECOMMENDATION

Additional medication management workload not captured by the Receiver's current staffing model was generally completed with overtime and registry staff. Because the new staffing model should account for all medication management workload, costs associated with the use of overtime and registry staff for medication management should be largely eliminated. We note, however, that the proposal does not reflect a reduction in overtime or registry related to medication management. At the time of this analysis, the Receiver was not able to provide a sufficient amount of information to estimate the level of savings possible.

STAFF COMMENTS

CCHCS has stated that the budgeted staffing levels have not been adequate to complete daily medication distribution, which is very concerning. The Subcommittee may for CDCR and CCHCS to provide further detail of current workload, and address how these positions would improve medication delivery to inmates.

Staff Recommendation: Hold Open.

ISSUE 4: SUICIDE WATCH

The California Department of Corrections and Rehabilitation will open this issue with a description of the proposed \$3.06 million General Fund and 184.5 positions in 2017-18 and \$3.02 million General Fund and 184.5 positions beginning in 2018-19 to address the increased Suicide Watch workload.

PANELISTS

- California Department of Corrections and Rehabilitation and California Correctional Health Care Services
- Department of Finance
- Legislative Analyst's Office
- Public Comment

GOVERNOR'S PROPOSAL

The California Correctional Health Care Services (CCHCS) requests \$3.06 million General Fund (GF) and 184.5 positions in fiscal year 2017-18 and \$3.02 million GF and 184.5 positions beginning in 2018-19 to address the increased Suicide Watch (SW) workload. In outgoing years, this will be included in the annual population adjustment to reflect changes in usage.

BACKGROUND

Increased SW utilization creates a resource issue for CCHCS. Redirecting staff (especially high cost classifications) to cover the SW workload has caused staffing deficiencies in other areas. This has begun to impact inmate programming. For example, if custody staff are redirected to SW, then programming (education, vocation, etc.) can be altered or cancelled. In addition, if health care staff are redirected to SW, then clinic lines may be cancelled and other non-critical patient care impacted. Occasionally, redirecting staff has caused CCHCS to be unable to provide appropriate supervision and staff in health care areas. Inappropriate supervision could lead to underperformance of staff and health care areas without a lead supervisor to direct workflow. Annual expenditures for SW had traditionally been around \$9 million, but expenditures have risen with the increased utilization of SW. During the last four months of 2015-16, the number of SWs increased dramatically. This rapid increase has continued into 2016-17.

This request for 184.5 positions is based on the average number of annual hours for SW, divided by 8 hours (to determine number of monthly shifts), and then divided by 30 (number of days in a month) to determine the daily number of shifts/staff needed.

Staffing a portion of the daily average of shifts at the institutions with the greatest SW usage (ECP/RC institutions) will allow institutions relief from the SW issue and reduce the number of high-cost staff being redirected for this function. Funding required for 184.5 CNAs is approximately \$12 million, \$9 million of which will be covered by the historic SW expenditures. These positions will also help reduce overtime or temporary help to cover posts (when appropriate) if SW is not needed on a given watch. The additional staffing will provide relief to the SW issue and reduce impacts to inmate programming and high-cost staff being redirected for this function.

Based on current workload trends, permanent staffing will not be necessary at the non-ECP/RC institutions. Temporary help funding will be provided to these institutions to address their SW workload. The use of CNAs provides the appropriate skill set for the SW workload and is the most cost-effective approach. This is particularly significant in that the use of high-cost classifications (RN, SRN II/IIIs, and CC), which had been minimal for a number of years, increased significantly during 2015-16. Not only are costs an issue, but inmate programming has been altered or cancelled due to lack of custody staff. CCHCS has also experienced grievances regarding mandatory overtime from nursing staff, which leads to lower employee morale, and may have an impact on employee retention. Establishing CNAs will allow the institutions to manage the necessary and critical function of SW while reducing costs, improving staff morale, and reducing impacts to inmate programming.

CNAs can also work in the inpatient units or other health care areas if there are no SW assignments. Working in the inpatient units will help reduce overtime, temporary help and registry expenditures when additional staff are needed based on patient acuity. The additional resources can also offset other program deficiencies driven by lack of staffing resources, call-offs, and vacancies. Unfortunately, there are no easy solutions or quick fixes to the SW issue. There is, however, a need to be addressed immediately. Institutional dynamics have been in a state of change following AB 109 population reductions and the Ashker Litigation reducing segregated housing. CCHCS is committed to providing safe, efficient, and effective care to its patients and SW is a critical need within the Department.

LAO ASSESSMENT AND RECOMMENDATION
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The Governor's budget proposes \$3.1 million from the General Fund for 184.5 additional CNA positions, as well as temporary help to conduct suicide watch for patients awaiting transfer to MHCBS. The LAO notes that the total cost of the Governor's proposal is \$12.1 million. However, \$9 million of the total cost would be offset by funding that is currently used for overtime and registry staff costs associated with suicide watch.

However, it appears that this adjustment does not account for the full reduction in overtime and registry costs. The LAO estimates that the 184.5 new CNA positions would work 316,000 hours at a total cost of \$10.5 million. However, based on information provided by the Receiver, the LAO estimates that this could avoid the need for \$13.3 million in overtime and registry costs—about \$4.3 million more than assumed in the Governor’s budget. However, it is possible that some of the suicide watch workload is currently being covered by individuals who are being redirected from other duties, such as guarding rehabilitation programs or providing medical treatment to inmates. This could reduce the additional \$4.3 million in savings identified above as these redirected positions would return to their original duties rather than be eliminated. At the time of the LAO’s analysis, the Receiver had not provided sufficient information to assess the extent to which this is the case.

STAFF COMMENTS

The Subcommittee may wish to have CCHCS and CDCR go into further detail about the following:

1. Both CCHCS and CDCR have stated that in order to adequately staff SW, facilities have utilized overtime and staff redirected from their duties. Have either CCHCS or CDCR analyzed how much was spent on overtime in past years? Are there any cost savings accounted for in this proposal?

Staff Recommendation: Hold Open.

ISSUE 5: CCHCS PROPERTY CONTROLLERS

The California Department of Corrections and Rehabilitation will open this issue with a description of the proposed \$2.1 million General Fund and 25.3 positions in fiscal year 2017-18, which would allow CCHCS and CDCR to ensure that health care assets are properly tracked and services throughout their lifecycles.

PANELISTS

- California Department of Corrections and Rehabilitation and California Correctional Health Care Services
- Department of Finance
- Legislative Analyst's Office
- Public Comment

GOVERNOR'S PROPOSAL

The California Correctional Health Care Services (CCHCS) requests \$2.14 million General Fund (GF) and 25.3 positions fiscal year 2017-18 and \$2.97 million GF and 11.7 positions beginning in 2018-19 to support development, implementation, and maintenance of the Enterprise Asset Management (EAM) program and to ensure that health care (including medical, mental health, and dental programs) assets are properly tracked and serviced throughout their lifecycles.

BACKGROUND

Equipment management involves systematically tracking equipment throughout its lifecycle to ensure that it is properly maintained and available for use when needed. CDCR's Division of Adult Institutions (DAI) is currently responsible for managing all of the department's equipment - such as computers, e-readers, and exam tables - including those used by health care programs. DAI equipment management staff use several separate electronic systems to track the Department's equipment. According to the Department, the increasing volume and complexity of health care-related equipment, along with growth in equipment used by CDCR's educational and vocational programs, have resulted in an unmanageable workload for DAI staff. Furthermore, the Receiver reports that inspectors have observed at several institutions that medical equipment is often improperly stored, damaged, or unaccounted for.

The Receiver indicates that if CDCR cannot sufficiently track and maintain its medical, mental health, and dental equipment, it risks spending unnecessarily to replace missing equipment, and the quality of health care could be compromised. As a result, in 2014 the Receiver hired two staff with existing resources to establish an equipment

management unit within CCHCS. The Receiver reports that this initial effort highlighted the magnitude of the deficiencies in the equipment management process for inmate health care and concluded that existing DAI staffing levels were insufficient to provide the needed support.

In *Plata v. Brown*, filed in 2001, the State conceded that deficiencies in prison medical care violated prisoners' (U.S. Constitution) Eighth Amendment rights and stipulated to a remedial injunction, which ultimately ushered in the appointment of the Receiver. The Receiver is responsible for medical care delivery, which is partially dependent upon the availability and condition of medical equipment and other assets. This is acknowledged in the June 6, 2008 letter to the Court (included in the Federal Receiver's Turnaround Plan of Action (TPA)), which noted that constitutionally adequate health care is supported by appropriate medical facilities, equipment and processes, adding, "Basic medical equipment is often not available." The presence of appropriate medical facilities, equipment, and processes are so important to a positive outcome, that their absence would preclude reaching the level of care required by the Court, possibly extending the receivership.

Plata Medical Experts, the Office of the Inspector General (GIG), and CCHCS staff have observed the asset management practices at various institutions and have documented problems that exist when an adequate number of PCs are not available. The observations of these groups support the conclusion that positions tasked with property accounting functions are needed at the institutions, and administrative positions tasked with asset management program support are needed at HQ. In addition to the requirement for the Department to become accountable for its overall assets, it is critical that the asset management system be particularly robust as it relates to the institutional health care system. Health care assets must be available and in serviceable condition when needed, otherwise patient access to care will be compromised. The manner in which these assets are used requires a very well-functioning, standardized system, enterprise-wide.

LAO ASSESSMENT AND RECOMMENDATION
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Both the Receiver and DAI report that the current staffing level and systems for managing all of the department's equipment (including those related to health care) are inadequate. The Governor's proposal attempts to address the existing challenge related to health care equipment in isolation from the larger problem that has been identified. Specifically, the proposal would establish a separate system and process for tracking health care equipment by creating a new unit at headquarters, developing new policies and procedures, using an electronic system that the department has not previously used for equipment management, and hiring new staff at each institution. We find that this bifurcated approach is problematic for three reasons:

- First, the proposal does not address DAI's existing challenge in managing non-health care equipment.

- Second, creating a separate system for health care equipment would be inefficient. For example, under the proposal, each prison would have one position specifically dedicated to the management of health care equipment and one position specifically dedicated to management of all other equipment, with each position reporting to a different office within CDCR headquarters. Such an approach does not take into account the different needs across institutions and how those needs could change over time. This is because it is possible that some institutions may have a greater need for the management of non-health care equipment compared to the management of health care equipment.
- Finally, such a bifurcated approach would likely not make sense as various aspects of inmate medical care continue to be delegated back to CDCR. For example, the Receiver has delegated responsibility for inmate medical care at ten institutions back to CDCR to date. Given that CDCR will eventually be responsible for integrating all aspects of inmate medical care into its operations, it is problematic that the Receiver would initiate a bifurcated approach to asset management in the midst of this transition.

LAO Recommendation

In view of the above concerns, the LAO recommends that the Legislature reject the Governor's proposal to implement a separate equipment management program for CDCR's health care equipment. Given the importance of ensuring that both health care and non-health care equipment is available for use when needed for inmates and staff and that challenges with the existing management of equipment have been identified, the LAO recommends that the Legislature direct the department to submit a comprehensive proposal to effectively improve the management of all equipment. The proposal should address DAI's existing challenge in managing both health care and non-health care equipment, reflect the different equipment management needs across institutions, and account for any potential savings in equipment purchases.

STAFF COMMENTS

Staff recommends asking the following questions of CCHCS and CDCR:

- Why does the Department propose a bifurcated approach for health care versus non-healthcare assets?
- Please provide further description of the spectrum of health care asset needs in California's facilities. More specifically, do all facilities have the same types of health care inventory? Assuming there are certain facilities that would a smaller inventory of health care assets, at those facilities, could the current property controller absorb the workload for health care assets?

Staff Recommendation: Hold Open.

ISSUE 6: CALPIA JANITORIAL CONTRACT

The California Department of Corrections and Rehabilitation will open this issue with a description of the proposed \$5.9 million General Fund in fiscal year 2016-17 in order to fund janitorial services for increased space driven by the Health Care Facility Improvement Program and Statewide Medication Distribution Improvements.

PANELISTS

- California Department of Corrections and Rehabilitation and California Correctional Health Care Services
- Department of Finance
- Legislative Analyst's Office
- Public Comment

GOVERNOR'S PROPOSAL

California Correctional Health Care Services (CCHCS) requests \$5,976 million General Fund (GF) in fiscal year 2016-17, \$13,754 million GF in 2017-18, \$21,644 million GF in 2018-19, and \$21,869 million GF in 2019-20 for California Prison Industries Authority (CalPIA) janitorial services for increased space driven by the Health Care Facility Improvement Project (HCFIP) and Statewide Medication Distribution (SWMD) Improvements.

BACKGROUND

In 2013-14 CCHCS entered into contract with CalPIA Healthcare Facilities Maintenance (HFM) program as a solution to an outstanding stipulation from the Plata class action lawsuit. This contract expired December 31, 2016. (An extension commencing January 1, 2017 has been executed.) The stipulation required California Department of Corrections and Rehabilitation (CDCR) to develop policies and procedures to ensure every patient receives adequate health care services in a clean and sanitary environment. Activation of the HFM program is completed and the contracted services are provided in 34 CDCR institutions (excluding California Health Care Facility). The HFM program provides custodial services to maintain a clinical health care level of cleaning in medical areas, mirroring health care standards and meeting licensing requirements for the existing 1.8 million square feet of health care space within the institutions currently being cleaned by HFM.

The contract is based on health care space identified at the time of the contract implementation. An assessment of existing space that measured and reviewed service frequency of cleaning needs based on medical standards was completed. CalPIA also utilized the International Sanitary Supply Association (ISSA) guidelines to determine the overall hours necessary to provide the services. ISSA is a worldwide group recognized in the industry. The guidelines provide a standardized method for determining the cleaning time for different cleaning functions based on the type of area, cleaning method, and items within the area.

The contract identifies the potential of additional health care space (unknown square footage, location and room type at the time of the original assessment) that would be subject to review of service needs at the completion of the projects. The projects and potential spaces are referenced as HCFIP and SWMD improvements. The projects are divided into sub-projects and managed by CDCR's Facility Planning, Construction, and Management (FPCM). As with all construction, dates are subject to change, and contract needs were based on activation schedules of additional space within the Institutions. SWMD is scheduled for completion by April 2017 and HCFIP is scheduled for completion by end of 2018-19.

STAFF COMMENTS

Staff notes no concerns with this proposal at this time.

Staff Recommendation: Hold Open.

5420 CALIFORNIA PRISON INDUSTRY AUTHORITY

ISSUE 7: SELF-SUPPORTING REQUIREMENT CLARIFICATION TRAILER BILL LANGUAGE

The California Prison Industry Authority (CalPIA) will open this issue with a description of the proposed trailer bill language, which prohibits CalPIA from establishing cash reserves to support funding of retiree health care and pensions above specified amounts.

PANELISTS

- California Prison Industry Authority
- Department of Finance
- Legislative Analyst's Office
- Public Comment

GOVERNOR'S PROPOSAL

The proposed trailer bill language would specify that CalPIA does not require immediate cash availability for funding retiree health care and pension liabilities above amounts established in the Budget Act, or as determined by the Board of Administration of the Public Employees' Retirement System, or the Director of Finance for the fiscal year.

BACKGROUND

Existing law establishes the Prison Industry Authority within the Department of Corrections and Rehabilitation under the direction of the Prison Industry Board. Existing law grants the board specified powers, including the ability to review and approve the annual budget for the authority, in order to assure that the solvency of the Prison Industries Revolving Fund is maintained. Existing law also states that the purpose of the authority is, among other things, to operate a work program for prisoners, which will ultimately be self-supporting by generating sufficient funds from the sale of products and services to pay all the expenses of the program.

STAFF COMMENTS

Staff notes no concerns with this proposal at this time.

Staff Recommendation: Hold Open.

8120 CALIFORNIA MILITARY DEPARTMENT**ISSUE 8: ENVIRONMENTAL PROGRAMS INCREASE TO MEET FEDERAL REQUIREMENTS**

The California Military Department will open this issue with a brief overview of the Department's overall budget, followed by a description of the proposed establishment of one position and an increase of \$144,000 in Federal Trust Fund authority within the Army Guard Headquarters, Environmental Programs Directorate.

PANELISTS

- California Military Department
- Department of Finance
- Legislative Analyst's Office
- Public Comment

GOVERNOR'S PROPOSAL

The California Military Department (CMD) requests the establishment of one position and an increase of \$144,000 in Federal Trust Fund authority within the Army Guard Headquarters, Environmental Programs Directorate. This position will be established at no cost to the State, as the position is authorized and will be fully funded by the National Guard Bureau. The requested position will be located at the Camp Roberts Installation and will be critical to executing federally funded Military Construction (MILCON), maintenance and repair projects, and real-estate actions state-wide by ensuring that required federal and state environmental prerequisites, including environmental assessments, Environmental Conditions of Property validations, historic preservation, and permitting are satisfied.

According to CMD, authorization of this request would resolve the workload problem for the Environmental Directorate and will also avoid future fines and penalties due to non-compliance, and ensure that construction and operational activities are not delayed or cancelled due to inadequate or delayed completion of environmental requirements. If the proposal is not granted, the CMD is at risk of losing multi-million dollar, federally-funded statewide projects and not meeting all environmental requirements.

BACKGROUND

Due to the large number of California Army National Guard (CA ARNG) facilities, the complexity of the environmental programs in California and the continuously-increasing scope of environmental laws and regulations, the National Guard Bureau (NGB) determined in its 1999 Federal Manning model that the Environmental Programs Directorate requires 35 positions. The manning model was developed by NGB using the

number of facilities, installations, and requirements for which each state is responsible. In FY 2013, Environmental Programs was authorized 7 State Civil Service (SCS) positions through the BCP process, bringing the state authorized positions to 33, in addition to a single federal technician.

However, in order to keep up with increasing environmental project demands and changing environmental laws and requirements, it is necessary to request one more position to reach the NGB requirement of 35 positions. The 35 positions are responsible for statewide environmental compliance within the CA ARNG. This directorate manages 17 programs including, but not limited to: Hazardous Materials, Hazardous Waste, Solid Waste, Pollution Prevention, Water and Air Quality Management, Underground and Aboveground Tank Management, Pest Management, Natural Resources, Cultural Resources, Endangered Species protection. Compliance Cleanup, Installation Restoration Program, Environmental Condition of Property (ECOP) studies, and National Environmental Protection Act (NEPA) and California Environmental Quality Act (CEQA) compliance. These and other programs generate a variety of projects that require project management, coordination with regulatory agencies, consultation with operating directorates, fieldwork, and acquiring permits.

Historical Workload

Workload Measure	PY- 4	PY- 3	PY- 2	PY-1	PY	CY
Consultations	8	22	39	61	78	82
NEPA/CEQA Reviews	79	132	193	248	298	313
ECOP Reviews	2	2	5	7	7	16
Monitoring (hours)	8	294	341	275	302	318
Enviro Contracts Managed	23	11	8	7	8	14

Projected Outcomes

Workload Measure	CY	BY	BY+1	BY+2	BY+3	BY+4
Consultations	82	82	86	90	95	100
NEPA/CEQA Reviews	313	313	329	346	363	381
NCOPs	16	16	17	18	19	20
Monitoring (hours)	318	318	333	383	403	423
Enviro Contracts Managed	14	14	15	16	17	18

STAFF COMMENTS

Staff notes no concerns with this proposal at this time.

Staff Recommendation: Hold Open.

ISSUE 9: CAPITAL OUTLAY: CONSOLIDATED HEADQUARTERS COMPLEX

The California Military Department (CMD) will open this issue with an overview and description of this proposal, which requests \$147 million in lease revenue bond funds for the design-build phase of the Headquarters Complex project.

PANELISTS

- California Military Department
- Department of Finance
- Legislative Analyst's Office
- Public Comment

BACKGROUND

Currently, CMD headquarters staff are divided between three leased buildings in the Sacramento region. According to CMD, the location and the condition of these buildings present several challenges. For example, the distance between these buildings can make coordinating activities amongst the different staff difficult. In addition, the buildings currently do not meet security requirements set forth by the U.S. Department of Defense, such as having a certain amount of land in between their entryways and the parking lots and walls with a certain thickness.

In view of the concerns with the existing leased facilities, the Legislature provided \$1 million in 2006-07 for CMD to acquire a purchase option for 30 acres of land at Mather Field in Sacramento County. (A purchase option is a mechanism used to reserve land for future purchase, in order to prevent others from buying the land.) The land was proposed to be the site of a new consolidated headquarters building that would house all headquarters staff and meet federal security requirements. In 2015-16, the Legislature provided an additional \$9 million from the General Fund to purchase the site. The Legislature provided another \$7 million in 2016-17 to develop the performance criteria for the project. At that time, CMD estimated the total project cost at \$124 million.

According to the Department, this project will provide CMD with an adequately sized and properly configured Headquarters Complex on land acquired for this purpose. The new Headquarters Complex will allow CMD to consolidate personnel located in several leased buildings throughout Sacramento to provide an operationally effective and efficient work environment for 850 soldiers, airmen, and state civil servants. The new facility will address the unique requirements of CMD, such as Anti-Terrorism/ Force Protection, physical security, sensitive item storage and management, essential services structural design, and both federal and state environmental and efficiency requirements.

Additional items that will be considered in the project package are site utilization, space utilization within the building (including consideration of space requirements and standards for represented, non-represented, and military personnel), traffic patterns, and early interface with local partners (utility providers, public infrastructure managers, local leaders, and neighbors). Significant emphasis will be put into identifying prescriptive federal and state codes, regulations, and policies that must be included in a project of this type and size.

According to CMD, approval of this request as proposed, with incorporated costs related to Zero Net Energy (ZNE) standards mandated by the Governor's Executive Order (EO) B-18-12 for state agencies and departments, and would allow CMD to:

- Provide an adequately sized and properly configured Complex that meets its administrative needs as well as all federal and state safety and security requirements.
- Deliver a sustainable high performing facility. CMD will achieve multiple elements mandated by EO B-18-12, including: (1) Greenhouse gas emissions, (2) ZNE 2025 target footage, (3) grid-based energy reduction, (4) on site generation, (5) commissioning, (6) LEED certification, (7) demand response participation, and (8) electric vehicle connectivity.
- Initial lifecycle cost analyses have shown that potential savings will be equal to—or better than— current industry standards. In addition, the anticipated 'payback' period for the green building systems is well within the 40-year lifecycle of the facility with the core solar elements.
- Design-Build Bridging provides cost-effective, quality-controlled project delivery more quickly than a traditional design-bid-build project.
- Design-Build Bridging encourages competition among prospective bidders allowing the state to receive maximum benefit from available funds.
- Saves millions of dollars in bond-related costs; issuance costs, bond counsel, insurance and interest.

Governor's Proposal

The California Military Department (CMD) requests \$146,549,000 Lease Revenue Bond funds for the design-build phase of the continuing Consolidated Headquarters Complex (Complex) project in Sacramento. The Complex will provide CMD with a 238,000 square foot (sf) consolidated headquarters building, a 25,000 sf armory, and a 22,600 sf storage facility. This proposal includes costs related to Zero Net Energy standards mandated by the Governor's Executive Order B-18-12 for state agencies and departments. Total project costs are estimated to be \$163,369,000 (\$9,931,000 for acquisition, \$6,889,000 for performance criteria and \$146,549,000 for design-build).

**LAO ASSESSMENT AND
RECOMMENDATION**

The estimated cost of the Headquarters Complex project has increased by close to \$40 million since the Legislature approved performance criteria in 2016-17—roughly one-third of the estimated project cost at that time. According to CMD, almost half of the cost increase - about \$18 million - results from the department's decision to construct the building to be ZNE. A building is ZNE if the total amount of energy used on an annual basis is equal to the amount of renewable energy created on the site. To date, the state has not constructed any ZNE buildings. CMD indicates that its decision to propose the building as ZNE is driven by the Governor's Executive Order B-18-12, which calls for 50 percent of new facilities beginning design after 2020 to be ZNE. In addition to the inclusion of ZNE, other major contributors to the cost increase include the failure to account for cost escalation (\$15 million) and the state's CalGreen building standards (\$2 million) in the 2016-17 cost estimate, as well as the emergence of some unanticipated site work (\$6 million).

The LAO recognizes that energy conservation is a worthy state goal because energy conservation can help reduce the state's environmental impact, and help it achieve its climate change-related goals. However, CMD has not been able to provide analysis to substantiate the cost-effectiveness of constructing the Headquarters Complex project as ZNE at this time. For example, it has not provided an estimate of the energy savings or other cost savings that are anticipated to be achieved by the project. Consequently, it is unclear if adding the ZNE requirement to this project is a good fiscal investment for the state. The Department indicates that it is in the process of further refining its cost estimate for the project which should include a more refined ZNE cost estimate, and that updated cost estimate may be available in the coming weeks. If this project were shown not to be cost-effective, the state could accomplish more energy savings by investing in other projects—such as energy efficiency projects or solar photovoltaic projects—with the same funding.

Recently, CMD conducted further analysis of the Headquarters Facility project. After completing its analysis, CMD revised the design of the project to remove a component of the project—a thermal storage system—that it deemed not to be cost-effective for achieving Zero Net Energy (ZNE). Accordingly, CMD reduced the estimated cost associated with constructing the project as ZNE (and reduced the estimated total cost of the project by about \$5 million). With its revised design, the department estimates the discounted payback period for the ZNE component of the project—based on installing photovoltaic (PV) panels—at just over 40 years, which it indicates is roughly the expected useful life of the equipment. We do not raise specific concerns about the payback period for the ZNE component of this project (though it is probably longer than ideal).

However, the LAO expects that the Administration will likely continue to propose additional ZNE projects in the near future. (For example, two new Sacramento office buildings in the early design phase are proposed to be ZNE, as well.) The payback period for adding ZNE to other projects could be substantially different—and likely

longer—than for this project because this project's large and unconstrained site makes it relatively well-suited to installing PV panels. Furthermore, as evidenced by CMD's proposed change to this project's design, there are some components of a ZNE project that, upon careful analysis, may not be cost effective. Accordingly, it is particularly important for the administration to conduct an analysis of the cost effectiveness of achieving ZNE for each individual project.

LAO Recommendation

The LAO recommends that the Legislature direct the administration to provide these analyses when they propose future projects as ZNE. Finally, the LAO also notes that the Legislature may wish to consider using other funding sources, such as the Greenhouse Gas Reduction Fund, for the ZNE component of the project.

STAFF COMMENTS

Previously, staff requested that the Department look into the availability of Greenhouse Gas Reduction Funds for a portion of the costs for this project. However, CMD and DOF have pointed out that the Administration already has a GGRF proposal before the legislature, and bringing forward this project component for GGRF funding would result in the elimination of funding for some portion of the existing proposal.

In response to the LAO's concerns, the California Military Department (CMD) provided the LAO with a detailed analysis that describes the annual energy usage that would be avoided as well as the emissions that would be avoided by making the building Zero Net Energy (ZNE). Annual electricity usage would be reduced by 2,694,667 kWh with ZNE. Annual natural gas usage would be reduced by 10,854 Therm. Additionally, building the headquarters as ZNE will reduce CO2 emissions by 765,809 kg every year.

The ZNE analysis shows the cost of the ZNE portion of the Headquarters project (\$7.4 million) would be recouped within 40 years, which falls within the lifespan of the solar array. Therefore, the ZNE portion of the project is cost-effective.

There is a cost difference of \$35 million between the design-build estimates submitted in last year's budget (\$106,870,000) and the current design-build estimate (\$141,883,093). The cost estimate that was included in the 2016-17 budget was completed in March 2015 by the CMD using a software tool that the Department uses to estimate federal construction projects. The current cost estimate was completed in March 2017 by Burns/McDonnell, a nationally recognized construction and engineering firm. The difference between the two estimates is explained below:

- The design-build estimate in the 2015 estimate did not include project escalation costs of \$14.5m necessary to reflect the cost of construction at the project's midpoint in 2019.
- \$8.7m in site work costs were identified earlier this year when Burns/McDonnell completed a detailed survey of the site as part of the Performance Criteria phase of the project. This information was not available when the 2015 cost estimate was completed.

- The project now includes \$7.4M for Zero Net Energy costs that were not included in the earlier cost estimate.
- The 2015 cost estimate did not include \$4.7M for costs associated with complying with California-specific laws (Cal Green and Emergency Services Act).

Staff Recommendation: Hold Open.

ISSUE 10: CAPITAL OUTLAY: SAN DIEGO READINESS CENTER RENOVATION

The California Military Department will open this issue with an overview and description of this proposal, which requests \$3,758,000 (\$1,879,000 General Fund and \$1,879,000 matching federal funds) for Phase 2 (of 3) of construction, for the continuing San Diego Readiness Center Renovation project.

PANELISTS

- California Military Department
- Department of Finance
- Legislative Analyst's Office
- Public Comment

GOVERNOR'S PROPOSAL

The California Military Department (CMD) seeks \$3,758,000 (\$1,879,000 General Fund and \$1,879,000 matching federal funds) for Phase 2 (of 3) of construction, for the continuing San Diego Readiness Center Renovation project. Total project costs are \$13,054,000 (\$1,712,000 for design, \$11,118,000 for construction, and \$224,000 for equipment). Construction of the continuing San Diego Readiness Center Renovation project is being completed in three phases to: (1) eliminate the requirement to relocate the 400 Soldiers that work in the building, and (2) allow for the proper application of federal matching funds from the annual allocation that CMD receives under the Sustainment, Restoration, and Modernization (SRM) program.

BACKGROUND

The San Diego Readiness Center is the largest National Guard training site south of Orange County, hosting over 400 soldiers every drill weekend, and will serve as a critical command and control node for operations involving National Guard troops and any other federal military units responding to an emergency anywhere in Southern California.

Renovation of the San Diego Readiness Center would improve the operational readiness of the California National Guard and greatly improves the Guard's effectiveness to respond to a state disaster or emergency in Southern California. The San Diego Readiness Center houses the headquarters for Defense Support to Civil Authorities (DSCA) for Southern California and is, therefore, the most operationally critical armory in all of Southern California.

Renovation of the San Diego Readiness Center will be completed over three phases and adds a 4,400 gross square foot addition to the existing facility; providing critically needed training and administrative space, modernizing HVAC, electrical, lighting, upgrading plumbing, abating lead and asbestos, installing energy efficient windows and systems furniture, and making Americans with Disabilities Act (ADA) and other regulation-required improvements. HVAC and electrical upgrades will be designed to meet LEED energy and atmosphere prerequisites, which will significantly lower utility costs through energy efficient mechanical and electrical systems.

STAFF COMMENTS

Staff notes no concern with this proposal at this time.

Staff Recommendation: Hold open.

ISSUE 11: CAPITAL OUTLAY: ADVANCE PLANS AND STUDIES

The California Military Department will provide an overview of the proposal to provide \$300,000 (\$150,000 General Fund), which would allow CMD to conduct design studies and programming charrettes for future capital projects.

PANELISTS

- California Military Department
- Department of Finance
- Legislative Analyst's Office
- Public Comment

GOVERNOR'S PROPOSAL

The California Military Department (CMD) seeks \$300,000 (\$150,000 General Fund and \$150,000 federal matching funds) for Architect-Engineering (A-E) services to conduct design studies and programming charrettes for future capital projects. These A-E services will allow the CMD to develop conceptual designs and validated costs estimates for future capital projects.

BACKGROUND

According to CMD, this proposal would allow the Department to acquire project-specific cost estimates to submit with future Capital Outlay Budget Change Proposals (COBCPs). To accurately estimate project costs for future construction, the CMD must obtain A-E design services and conduct programming charrettes at least a year in advance of a COBCP submission. Charrettes include face-to-face meetings between the CMD and the A-E design firm leading to the development of a conceptual design and detailed cost estimate for each project. Charrettes also produce a detailed space analysis and validation of the project's Federal programming documents. The funding requested in this COBCP will fund conceptual designs and detailed cost estimates for armory renovation projects that will be proposed for funding in future years.

**LAO ASSESSMENT AND
RECOMMENDATION**

CMD's Armory Strategic Plan calls for renovating three armories per year. This plan would allow CMD to renovate most of its roughly 100 active armories within about 30 years and also result in the consolidation of certain armories. Each of the past two budgets have included about \$300,000 for CMD to prepare advance planning documents—including conceptual designs and validated cost estimates—related to the renovation of the next couple of projects in its plan. For example, in 2016-17 the

Legislature funded advance-planning documents for three armory renovation projects that were expected to be proposed in 2017-18.

The Legislature has already provided funding for the advance planning documents for the next round of renovation projects—originally anticipated to be proposed for funding in 2017-18, but now expected to be proposed for funding in 2018-19. Accordingly, it is not clear that additional funding for advance planning is needed at this time. We note that CMD indicates that having advance-planning documents for a greater number of projects would enable the department to choose among different options when determining the next set of projects to construct. However, it is not clear that this has been necessary in the past.

LAO Recommendation

The LAO recommends that the Legislature reject CMD's proposal for \$300,000 (\$150,000 General Fund and \$150,000 federal funds) for the development of advance planning documents for future armory renovation projects. The LAO finds that the proposed funding is not needed at this time because the Legislature has already funded planning work for the next round of proposed armory renovation projects—currently expected to be proposed in the 2018-19 budget.

STAFF COMMENTS

The Subcommittee may wish to ask CMD to provide further detail as to the necessity for funding at this time.

Staff Recommendation: Hold open.

ISSUE 12: DESIGN-BUILD AUTHORITY TRAILER BILL

The California Military Department will provide an overview of the proposed trailer bill language, which would allow CMD the authority to manage capital projects.

PANELISTS

- California Military Department
- Department of Finance
- Legislative Analyst's Office
- Public Comment

GOVERNOR'S PROPOSAL

CMD has proposed trailer bill language to add the Military Department to the list of departments that have their own authority to manage capital projects within the Public Contract Code, and would remove CMD from those departments under direct control of the Department of General Services.

BACKGROUND

Public Contract Code 10106 - 10107 lists the departments, including the Military Department, that have their own authority to manage capital projects and are not under direct control of the Department of General Services. However, when the Design-Build statute (PCC 10187.5, SB 785) was approved in late 2014, only DGS and CDCR were specifically listed as departments with design-build authority. It was not the intent to exclude the CMD - it appears that there was a disconnect as to which departments needed that authority, and at the time, the CMD did not have a capital program.

However, the CMD currently has a robust and ongoing capital program that will utilize the DB procurement method on many of its projects, including statewide armory renovations. This procurement method will allow Military Department to complete these projects in a shorter period of time and will minimize costs. The CMD currently has several armory renovation projects that were appropriated with the DB procurement methods - for these projects, we anticipate that the new authority will be in place before a DB contract is awarded in late summer 2017 - and we anticipate that most future projects will continue to utilize this procurement method.

STAFF COMMENTS

CMD also noted that there is precedent for this action, as in 2015, the Department of Water Resources was added to PCC 10187.5 for the same reasons.

Staff Recommendation: Hold Open.
